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## The French Metropole: How it Gained Legal Status as a Metropolis

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# THE FRENCH MÉTROPOLE: HOW IT GAINED LEGAL STATUS AS A METROPOLIS

Janice C. Griffith\*

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### ABSTRACT:

France's long history of centralized governance has generated debates as to what powers should remain with the State and what powers should devolve to sub-national governments. To ameliorate the fragmentation resulting from the small size of France's 36,000 plus municipalities, called communes, the State authorized the creation of general-purpose, inter-communal public institutions to perform municipal functions on behalf of the communes on a greater economy of scale. The article examines the trajectory that led to the creation in 2010 of the métropole, or metropolis, the most recent of these inter-communal bodies that is designed to undertake public functions in large metropolitan areas. The article first describes France's territorial organization of sub-national units and the decentralization movements that resulted in the devolution of more power from the State to local and regional governments. The article presents the rationale for this decentralization and analyzes the conditions that led to the State's transfer of more power to the

metropolitan level of governance. It concludes that the cooperative arrangements among the communes, structured by inter-communal bodies, was instrumental to the creation of the métropole with legal status. An examination of the French experience with metropolitan governance should prove helpful to other entities or individuals engaged in the formation and evaluation of metropolitan governments.

**KEY WORDS:** municipal, metropolitan, metropolis, inter-communal, territorial, governance, economic development, urban, cooperation, innovation, sustainability, fragmentation

## INTRODUCTION

As powerful economic drivers in a globalized world, cities have come under greater scrutiny.<sup>1</sup> In the United States, 100 metropolitan areas generate seventy-five percent of the nation's gross domestic product (GDP).<sup>2</sup> Given the important role cities also play in the improvement of social cohesion and the urban physical environment, scholars have asked whether cities have been granted the powers they need to perform the myriad roles agglomeration has cast upon them.<sup>3</sup> Because metropolitan governance may achieve greater economic and political interdependency, an analysis of the new modes of regulating it should be made.<sup>4</sup> This article addresses the evolutionary process that led to the creation of the French métropole (metropolis) with legal status.

The French metropolis leaves open several questions worth exploring. Assuming this form of urban governance increases metropolitan economic competitiveness, might other countries explore it as a model for their global cities to explore? If so, would these cities follow an evolutionary path toward metropolitan-wide governance similar to the French metropolis trajectory?

In France, a debate over what powers should be devolved to local governments has been ongoing since the 1960s when a movement to decentralize national powers began in earnest.<sup>5</sup> The overly centralized State governmental apparatus came under attack as a reason why French cities, with the exception of Paris, failed to compete effectively in European and global markets.<sup>6</sup> By concentrating resources in the center close to the national seats of power, this centralization thwarted the development of provincial urban areas.<sup>7</sup> Centralization of power has also been attributed with stifling innovation from those in the closest position to find solutions to problems.<sup>8</sup>

For a number of years France has experimented with urban governance on a metropolitan basis through inter-municipal cooperation. Experience with different forms of inter-municipal structures led to the recent creation of the métropole, or metropolis.<sup>9</sup> This metropolitan-wide public body constitutes a model worth examining for its applicability to other global cities.

The article first describes the traditional French system of centralized governance and the sub-national governmental entities comprising it. Part II of the article then traces the decentralization movements that led to the evolution of metropolises through the enactment of various French laws from the 1960s through 2015. It highlights the driving forces through three decentralization movements that reallocated some national powers to the regional and local levels of governance. The article analyzes the different types of urban governance structures that emerged

or changed during the decentralization movements, including the métropole. Part III of the article points out the reasons and beliefs that underlie the French decentralization movements. Part IV then analyzes the factors that were instrumental in the achievement of greater metropolitan governance in France. This part also explores the applicability of these French conditions to potential developments in support of metropolitan-wide governments in the United States.

## **I. TERRITORIAL ORGANIZATION OF FRANCE'S SUB-NATIONAL GOVERNMENTAL BODIES**

Following a feudal period in which each French province possessed territorial power divided among land owners, the King's agents, and the Catholic Church, French monarchs, as exemplified by Louis XIV (1648-1715), sought to consolidate power through State intervention in the economic sphere and the imposition of political uniformity over the provinces.<sup>10</sup> The French revolution, which began in 1789, resulted in the destruction of the monarchy and the introduction of a republican state in which the people exercise sovereign powers.<sup>11</sup> The National Assembly's Act of 14 December 1789 established a new territorial organization of municipalities, known as communes, and departments (départements).<sup>12</sup>

### **A. COMMUNES**

Based on ecclesiastical parishes dating back to the tenth century, communes were authorized to be formed with elected bodies and public law status.<sup>13</sup> Local relations developed within cities and certain rural districts led to the formation of communes.<sup>14</sup> Today over 36,500 communes exist with 550,000 local councilors, causing considerable municipal power fragmentation.<sup>15</sup> A commune may be a city with over two million inhabitants such as Paris, a town of 10,000 people, or a small hamlet with less than 100 persons.<sup>16</sup> Communes bear responsibility, in particular, for the following matters: primary schools and pre-schools, local roads, local police, urbanism, housing, cemeteries, local social services, local transportations, and gas and electricity networks.<sup>17</sup>

### **B. DEPARTMENTS**

The territory of the Republic was artificially divided into departments in 1789 to oversee general State administration throughout France.<sup>18</sup> The term "department" was given to these administrative units to signify that they were part of a larger whole.<sup>19</sup> They replaced ancient régime provinces to strengthen national unity.<sup>20</sup> The ninety-six departments in mainland France are sufficiently large enough to provide efficient territorial administration, but not large enough to challenge the central state.<sup>21</sup> Napoleon Bonaparte's government instituted the state prefect (préfet) to represent the central government in each department.<sup>22</sup> The prefects exercised control over local communes, implemented central government policies, and maintained public order.<sup>23</sup> Despite the existence of an assembly, called the General Council, at the departmental level, the prefect until the mid-nineteenth century wielded the State's full power; the exercise of the council's limited powers were subject to the prefect's approval.<sup>24</sup> The departments' functions include social services for children, handicapped individuals, and elderly persons; secondary education; middle schools (colleges); roads; school buses; local development; water protections; museums; libraries; historical buildings; culture; and support for inter-municipal associations.<sup>25</sup>

### **C. REGIONS**

The regions, first instituted in 1959 as territorial communities, were established as State administrative districts to oversee economic development and coordinate national policies.<sup>26</sup> The regions cover larger geographical areas than the departments, and in 2016, the regions were reduced in number from twenty-two to thirteen.<sup>27</sup> In theory, matters deemed to be strategic fall under the preserve of the regions.<sup>28</sup> The regions lack the status and power given to departments, but they play a leading role in economic development, transportation, and territorial planning.<sup>29</sup> They oversee professional education and high schools, other than the management of teachers and programs,<sup>30</sup> and they exercise some competencies in the support of universities and research centers.<sup>31</sup> They have been given responsibility for transportation functions outside of cities such as regional train service.<sup>32</sup> Some regions own transportation facilities that include airports, canals, and river ports.<sup>33</sup> In addition, environmental protection falls within their domain.<sup>34</sup> Regions have also been active in promoting trans-border and international cooperation.<sup>35</sup> They possess no legislative power and did not become democratically elected bodies until 1986.<sup>36</sup>

### **D. INTER-COMMUNAL BODIES**

In addition to the three layers of government that fall below the national level of governance, the so-called “territorial collectivities”, the communes delegate authority to various inter-communal bodies that assist the communes in undertaking cooperative activities among themselves.<sup>37</sup> When a policy or infrastructure would benefit several communes, municipal councils may pool resources and turn to these inter-communal structures to undertake the project or service more effectively through economies of scale.<sup>38</sup> In effect, these inter-communal authorities compensate for the inadequacies of the communal structure.<sup>39</sup> These entities, which may undertake one or multi-functions, are comparable to public authorities in the United States that usually provide only one service thought to be best performed on a regional, as opposed to a municipal, basis. Like public authorities in the United States, these inter-communal bodies function without representatives directly elected by the citizenry.<sup>40</sup> In France, however, the communes indirectly elect the councilors for the inter-communal bodies.<sup>41</sup> Representatives of each individual commune provide input on the agenda developed by these public institutions.<sup>42</sup>

Inter-communal structures may be classified as those without fiscal power and those granted fiscal power. The traditional syndicates of communes fall into the first category. Lacking the power to tax, the syndicates depend upon the communes for financial contributions.<sup>43</sup> Syndicates may be created to perform a single function, most commonly waste management and the supply of water or energy, or they may deliver several services.<sup>44</sup>

Tax-raising inter-communal structures have been created as inter-communal public corporations (*établissements publics de co-opération intercommunale-EPCI*).<sup>45</sup> Several different types of these public corporations have been created, namely, (1) the community of communes (*communauté de communes*), which operates primarily among rural communes; (2) the community of agglomeration (*communauté d'agglomération*), aimed at middle-sized cities and their suburbs and towns; the urban community (*communauté urbaine*) formed for larger cities and their suburbs; and the new *métropole*, which has been created to operate in France's major cities.<sup>46</sup> These permanent organizations provide “inter-communal services such as fire-fighting, waste disposal, transport, economic development, [and] housing.”<sup>47</sup> The inter-communal authorities manage some services previously under the domain of the communes, such as garbage collection

or transportation, but by law they are also mandated to oversee “other areas such as economic planning and development, housing projects, or environmental protection.”<sup>48</sup>

### **E. METROPOLISES**

Law No. 2010-1563 of 16 December 2010 created the métropole as a new inter-communal public institution.<sup>49</sup> It was envisioned as a body that would bring several municipalities together to undertake developments covering “economic, ecological, educational, cultural and social development of their territory in order to improve their competitiveness and cohesion.”<sup>50</sup> The metropolis was conceived as a step beyond the existing inter-communal bodies in that it was created to address large urbanized areas and make them economically competitive on a European and global basis.<sup>51</sup> Planning, in particular, was laid at the doorstep of the metropolis: it “is fully associated with the drafting, revision and modification of planning and planning diagrams and documents for planning, economic development and innovation, transport and the environment, [and] higher education.”<sup>52</sup>

The metropolis is granted powers in place of its member municipalities in the areas of economic development, tourism, culture, higher education, research institutions, research programs, and in the development and management of a range of facilities, including those relating to tourism, ports, airports, and sports.<sup>53</sup> It is empowered to develop metropolitan plans, create public spaces, operate telecommunications networks, facilitate mobility, establish housing policy, and improve the built housing stock.<sup>54</sup> The State has also authorized metropolises to provide a range of services, including those relating to sanitation and water, cemeteries, slaughterhouses, fire and rescue, waste disposal, and the distribution of electricity and gas.<sup>55</sup> Metropolises have been granted extensive powers relating to the protection and development of the environment that include such disparate areas as air pollution, noise pollution, energy control and demand, renewable energy production, climate-air-energy plans, flood prevention, beaches, and aquatic environments.<sup>56</sup> Other powers may be delegated to metropolises by the State, or by agreement with the department or region.<sup>57</sup>

## **II. FRENCH TERRITORIAL DECENTRALIZATION**

### **A. FIRST STAGE OF DECENTRALIZATION (1982-1983)**

Until the 1980s, the exercise of governmental power in France was centralized.<sup>58</sup> In classical French republicanism, the role played by local authorities did not promote democracy or represent community interests; rather, it was supposed “to integrate the periphery into a highly centralized system.”<sup>59</sup> Government signified sovereignty and its affairs were carried out at the center, not at the fringes.<sup>60</sup> In practice, powerful local notables obtained resources from the central state in exchange for providing valuable local information.<sup>61</sup> In 1981, the election of a socialist President, François Mitterrand, led to the first so-called decentralization movement that made changes to the distribution of power and resources from the national government.<sup>62</sup>

The Act of 2 March 1982 introduced three important changes: (1) the administrative stewardship of the department prefect, who had served as both the department’s executive and State representative until 1982, was replaced by a checks and balances system in which the administrative courts and the regional courts of audit worked with the department prefect to oversee territorial governmental functions;<sup>63</sup> (2) the executive power exercised by the departments and regions was transferred from the prefect to the president of the departments and regions, the president being elected by the council of the department or region;<sup>64</sup> and (3) regions were officially granted legal status, and the regional councils, first created in 1972, became elected bodies with

enhanced decision-making powers.<sup>65</sup> In 1984, the French local government civil service was created in connection with the decentralization process, and it includes employment in the three layers of sub-national government: commune, department, and region.<sup>66</sup>

Until the 1982 decentralization measures, the prefect served as both the department's State representative and executive.<sup>67</sup> The transfer of executive power from the prefect to the president of the department or region required a separation of those services of a State nature that stayed under the prefect's authority and those newly devolved to the president of the department or region.<sup>68</sup> The 1982 reform has been characterized as involving both decentralization and de-concentration.<sup>69</sup> Decentralization entails the vertical transfer of State power to elected local political authorities in specific areas whereas de-concentration involves the internal horizontal shifting of central powers so as to ensure continued State control.<sup>70</sup>

To prevent the undermining of the State's influence through its representatives in the department, de-concentration measures were implemented to strengthen the authority of the State's agent, the prefect, who exercises authority over representatives of the various State ministries in the department.<sup>71</sup> The prefect chairs local administrative committees and remains the only authority empowered to commit State expenditures in the department under his jurisdiction.<sup>72</sup> A prefect must undertake a number of different roles—she can submit local council acts to the administrative courts if she deems them illegal; she implements and enforces legislation; and she must prepare State services in her department for all eventualities, including natural disasters.<sup>73</sup> The prefect must explain State policy to local constituents and provide data as needed, roles that cast this official into a public relations officer. At the same time, a prefect must ensure that the department's elected officials do not encroach on the State's powers.<sup>74</sup> Successful prefects serve as problem solvers, mediators, and communication links between the State and territorial bodies.<sup>75</sup>

The role of the prefect is alien, however, to the system of local government in the United States where state governments possess their own distinct powers, separate from the federal government.<sup>76</sup> States create their own local governments as they see fit and delegate powers to them.<sup>77</sup> In most cases the locality exercises such delegated powers on its own accord.<sup>78</sup> In France, two separate administrations work side by side in the departments and regions—one represents the territorial body and the other is comprised of State representatives.<sup>79</sup>

## **B. SECOND STAGE OF DECENTRALIZATION (2003-2004)**

Constitutional reform constituted the first phase of the second decentralization movement.<sup>80</sup> The Constitution (17 March 2003) granted constitutional recognition to the regions and included them as one of the four territorial authorities.<sup>81</sup> In addition, to making the regions permanent, the Constitution recognized authorities with a "special status," a category including the different public inter-communal bodies (EPICs).<sup>82</sup> Further, the Constitution made specific reference to the decentralized organization of the French Republic,<sup>83</sup> introducing the principle of financial autonomy for the sub-national authorities.<sup>84</sup> Reference was also made in the Constitution to future merging of the sub-national authorities into larger units.<sup>85</sup>

The Act on the Decentralized Organization of the Republic established the different tiers of sub-national authorities as part of France's institutional organization and guaranteed their competency in certain areas, enabling these territorial bodies to fulfill their responsibilities.<sup>86</sup> Three other significant acts were passed during the first decentralization phase: "[t]he Act on the financial autonomy of sub-national government tiers. . . , the Act on experimentation by local

governments, [footnote omitted] and the Act on local referendums. . . .”<sup>87</sup> The latter Act allowed local referenda.<sup>88</sup>

The second legislative phase began with the enactment of the 13 August 2004 Act that provided for significant transfers of State responsibilities to the sub-national governments and their cooperative structures, the so-called “functional reforms.”<sup>89</sup> The decentralization reforms established three general areas of decision-making (blocs de compétences) to be carried out by the different sub-national tiers: immediate proximity, intermediate proximity, and strategic.<sup>90</sup> Matters deemed to be strategic lie in the competence of the regions: “economic development, vocational training, infrastructure, some secondary education, some transport (and regional rail services since 2002), with additional responsibilities in culture and the environment.”<sup>91</sup> Matters of intermediate proximity fall under the jurisdiction of the departments that deliver major services including social assistance, social services, roads, and some secondary education.<sup>92</sup> The communes and various inter-communal bodies are granted jurisdiction over matters of immediate proximity, which include low-level social assistance, planning permits, and waste disposal.<sup>93</sup>

In practice, the spheres of competence are overlapping and not always respected as the communes, departments, and regions compete with each other and design their policies to appeal to their electorates.<sup>94</sup> Moreover, because no formal hierarchy exists among the sub-national units, no single authority can exercise control over another or prevent the adoption of policies in competition with its own priorities.<sup>95</sup> French regions, for example, are dependent upon the cooperation of the geographically smaller sub-national authorities for the successful outcome of their own policies.<sup>96</sup>

### **C. THIRD STATE OF DECENTRALIZATION (2010-2015)**

Various deficiencies in the performance of local governmental functions continued to persist even after the second phase of decentralization. A decree by President Nicolas Sarkozy, under date of 22 October 2008, established a committee for local government reform, appointed former Prime Minister Edouard Balladur as chair, and stated the need for such report as follows:

The time to study and decide on a profound reform of local government has come. Everyone agrees that the current situation is unsatisfactory: proliferation of decision-making levels, confusion in the division of powers, lack of clarity in the allocation of resources, . . . uniformity of the rules applied to all the collectivities whatever their situation, complication resulting from all the efforts made rightly to incite the communities to cooperate with each other. This results in multiple disadvantages: cumbersome procedures, increased costs, ineffective public interventions and ultimately, distance from citizens.<sup>97</sup>

The Balladur Committee report (Report), published in March 2009, in effect, announced a third stage of French decentralization.<sup>98</sup> The Report set forth reasons in support of further State decentralization. Foremost, was the recognition that France’s urban areas needed to be structured so as to enable them to compete effectively in European and global markets.<sup>99</sup> The Report described the existing territorial organization as complex, costly, and deficient in fulfilling the needs of constituents.<sup>100</sup> Although the Republic’s governmental structure had accomplished national unity and deepened local rights and freedom through previous decentralization measures, the organization of local authorities had grown more complex through the multiplication of institutions of inter-municipal cooperation since 1999.<sup>101</sup> The failure to examine the type of competencies exercised by different local governmental units as well as their funding, had resulted,



according to the Report, in a loss of efficiency with respect to public actions and services, unnecessary taxpayer burdens, and a lack of transparency.<sup>102</sup>

The Report further decried the failure to reduce territorial fragmentation, pointing out that between 1950 and 2007 France had only decreased the number of municipalities by 5% whereas the reduction of municipalities during that time period was 41% in Germany and 79% in the United Kingdom.<sup>103</sup> It pointed out that structures of territorial administration had not adapted to urban growth and lifestyles marked by “mobility and a strong demand for market services, transportation, family services, culture and recreation.”<sup>104</sup> The division of powers between the mayors of communes and the councilors general of the departments made it extremely difficult to develop coherent urban policy.<sup>105</sup> The Report noted that “with a few exceptions no competence is specialized by level of territorial administration and most are shared between local authorities or between them and the State.”<sup>106</sup>

Finding the territorial administrative structures to be too numerous and fragmented, the Report lamented the failure of the 36,000 communes to merge and remarked that their geographical boundary lines often defied rationality.<sup>107</sup> The statutory diversity of the communities of communes, communities of agglomeration, and urban communities resulted not only in complexity and rigidity, but also failed to produce the economies of scale expected. Concern was expressed that the public institutions of inter-communal cooperation (EPCI), some of which exercised powers of a quasi-general competence, remained with indirect suffrage.<sup>108</sup>

The Report concluded that the regions had not accomplished the objectives sought by their creation, stating “that their relatively high numbers, limited financial weight and scattered skills are not in keeping with their role in the ongoing reorganization of State, which favors the regional level.”<sup>109</sup> Departments were criticized as poorly adapted to meet the needs of highly urbanized areas, and cantons, smaller units within the departments, were described as obsolete.<sup>110</sup> Equally as important, was the assessment that institutional coordination between the regions and departments had not met with real success.<sup>111</sup>

The Report found that the simplification of local governmental structures sought might result in two levels of administration: a regional level dedicated to the management of territorial development and activities, and an inter-communal level to meet the service needs of the population.<sup>112</sup> Laying the foundation for the métropole, the Report indicated that much thinking had gone into the creation of the “commune of the twenty-first century,” which was described as a new local authority grounded at the inter-communal level of governance.<sup>113</sup> In the spirit of transparency, the Report’s authors opined that such inter-communality could not be fully realized without making fundamental changes to the existing sub-national structures, including a redefinition of the departments’ role.<sup>114</sup>

The Report favored granting general competence to municipalities, much like the role of municipalities in the United States, called general purpose governments, which provide a comprehensive set of governmental services to protect their residents’ health and welfare.<sup>115</sup> It advocated that the exercise of specialized skills should be delegated to other governmental entities. This proposed structure was found advantageous in that several localities would be precluded from exercising identical powers within the same territory.<sup>116</sup>

Finally, the Report’s Introduction concluded that local governance structural reforms would be ineffectual without new fiscal measures and a clearer tax system.<sup>117</sup> Although the decentralization reforms in 2003 had established the principle of financial autonomy for local

authorities, they remained unable to finance their expenditures in a complete way.<sup>118</sup> Uncertainties remained as to the extent of local financial autonomy, and an excess of cross-financing continued even as local expenditures continued to increase.<sup>119</sup>

The Balladur Committee recommended twenty proposals that covered a number of areas of concern, including suggested structural local government reforms, electoral rules, local government finance, and the creation of new forms of metropolitan governance.<sup>120</sup> To increase efficiency, the Report proposed reducing the number of regions from twenty-two to fifteen and merging departments into larger entities.<sup>121</sup> It proposed the expansion of institutions of inter-municipal cooperation to cover all of France's territory and argued in favor of the direct election of these bodies.<sup>122</sup> The Report recommended that only communes and the EPCI be favored by the principle of "free administration of local authorities," which authorizes local authorities to intervene in areas as they chose.<sup>123</sup> It suggested that clarifications be made with respect to the division of responsibilities between the State and local authorities and between the regions and the departments.<sup>124</sup> It favored making clearer the areas in which either the regions or the departments would have exclusive or primary jurisdiction.<sup>125</sup> Proposal number eleven envisioned that the clause of general competence should rest at the municipal or metropolitan level of governance with specialized competencies to be exercised by the departments and regions.<sup>126</sup> The Report favored a reduction of State field services.<sup>127</sup>

The Report's significant accomplishment lay in creating the intellectual foundation for the métropole as a new metropolitan based, inter-communal body to exercise competencies transferred to it from communes, departments, and regions.<sup>128</sup> The Report advocated removing the communes' status as autonomous local authorities, but well aware that removal of the communes' general competencies would spark opposition, it left open an alternative plan that would allow the communes to retain their legal status within the metropolitan framework.<sup>129</sup> The new métropoles were envisioned as delivering city-wide services, including the social and welfare services traditionally delivered by departments. The Report proposed that the first group of eleven métropoles be created by 2014.<sup>130</sup> The Report also urged the creation of a "Grand Paris," a large new metropolis with a jurisdiction encompassing the City of Paris and several departments.<sup>131</sup>

President Sarkozy initiated the first piece of legislation to implement some of the Balladur Report recommendations.<sup>132</sup> The Law on the Reform of Territorial Authorities of 16 December 2010, known as RCT, provided for the creation of a métropole as a public body through agreement between and among public institutions in inter-communal co-operation and granted it powers of taxation.<sup>133</sup> Limited to large, urban areas of more than 500,000 inhabitants, the RCT granted the status of metropolis to bodies so created.<sup>134</sup> Further aims of the 2010 law were to clarify competences among the sub-national levels of government, simplify their structures, and facilitate local taxation reform.<sup>135</sup> The City of Nice became France's first official metropolis pursuant to the 16 December 2010 law.<sup>136</sup>

Although the third stage of decentralization lost momentum following the enactment of the 16 December 2010 law, the election of President François Hollande in 2012 led to the enactment of three new pieces of legislation.<sup>137</sup> The first law known as the MAPTAM law (modernisation de l'action publique territoriale et d'affirmation des métropoles), promulgated on 27 January 2014, clarified the responsibilities of local and regional authorities.<sup>138</sup> Secondly, MAPTAM created a new legal status for the métropoles.<sup>139</sup> By affirming the role of the metropolis as a specific regime, MAPTAM reinforced the importance of urban dynamics.<sup>140</sup> MAPTAM provided for the creation of a metropolis in Paris, Lyon, and Marseille as special cases with specific provisions that

related to them only.<sup>141</sup> MAPTAM also provided for the creation of a larger number of so-called “common law” metropolises, which are defined as

a public institution of intercommunal co-operation with own taxation uniting several communes in one piece and without enclave within a space of solidarity to elaborate and to lead together a project of development and economic, ecological, educational development, cultural and social aspects of their territory in order to improve their cohesion and competitiveness and to contribute to sustainable and inclusive development of the regional territory. It promotes metropolitan economic functions, its transport networks and its university resources, research and innovation, in a spirit of regional and interregional cooperation and with a view to balanced territorial development.<sup>142</sup>

MAPTAM reformed the status of metropolises first authorized by the law of 16 December 2010.<sup>143</sup> It authorized the creation of a number of metropolises in large urban areas by providing for the transformation of public institutions of inter-communal cooperation with taxation powers into metropolises.<sup>144</sup> A metropolis, the most integrated form of local inter-communality, may be formed by decree in territories with a population of more than 400,000 that are located in urban areas of more than 650,000 inhabitants.<sup>145</sup> Metropolises may be initiated by city decision makers.<sup>146</sup> As of January 1, 2018, nineteen cities have been reorganized as metropolises under MAPTAM’s general provisions for metropolises, and Paris and Aix-Marseille-Provence have been formed as metropolises with special status.<sup>147</sup> The Lyon metropolis, also established with a special status under MAPTAM, possesses a more integrated metropolitan form and is not an inter-communality.<sup>148</sup>

A third piece of legislation, the *Nouvelle Organisation Territoriale de la République* (NOTRe), promulgated on 7 August 2015, entrusted the regions with new competencies and redefined the competencies granted to each territorial collectivity.<sup>149</sup> NOTRe removed the general jurisdiction clause for departments and regions, thereby eliminating their right to intervene in all subject areas.<sup>150</sup> Instead, the clause of general competence was vested exclusively in the commune so as to “avoid unnecessary spending when multiple levels of communities are competing in a single area of action.”<sup>151</sup> The NOTRe reforms further increased the power of the inter-communalities in anticipation of the further integration of public operations on an inter-municipal scale.<sup>152</sup> Another law (law of 16 January 2015), which took effect on January 1, 2016, reduced the number of regions from twenty-two to thirteen.<sup>153</sup>

### **III. RATIONALE FOR METROPOLITAN GOVERNANCE**

The previously discussed Balladur Report provided a number of reasons in favor of the decentralization of power from the State to sub-national entities, including metropolises. The view that economic competitiveness could best be achieved by granting more power to sub-national public institutions constituted a widely accepted theory for decentralization.<sup>154</sup> The enhancement of democracy that could be achieved by granting greater freedom of management to local officials embodied an equally compelling argument.<sup>155</sup>

Metropolitan government has not taken hold in the United States due to a preference for localism.<sup>156</sup> Municipal officials generally oppose the creation of a metropolitan-wide government because they do not want to lose any authority.<sup>157</sup> In addition, suburban and higher-income

communities may oppose the formation of a government on a metropolitan scale because they have no desire to help finance central city infrastructure or the cost of providing social and economic support for those less affluent inner-city residents.<sup>158</sup> Thus, it may be instructive to examine some of the reasons why French lawmakers viewed the creation of metropolises more favorably than their counterparts in the United States.

A number of commentators have argued that the French métropole should be instituted and strengthened for the following reasons: (1) enhancement of territorial competitiveness and economic growth; (2) increased political cohesion at the metropolitan level through an integrated metropolitan structure; (3) opportunities for greater innovation; and (4) the necessity to build more sustainable and coherent metropolitan spaces. The article next discusses these views that favor the creation of the metropolis.

Large-scaled urbanized areas have become the primary geographic unit underpinning the global economy.<sup>159</sup> If the economy operates over the larger metropolitan area encompassing more territory than just the geographical area of the central city, a broader range of private and public actors can be mobilized to generate economic growth.<sup>160</sup> Metropolitan economies of scale are said to be the pillars of industrial policy in Italy as well as in France because they enable networking and the building of innovation systems on a territorial basis.<sup>161</sup> The Paris métropole (Métropole du Grand Paris, MGP), the first French inter-communal structure that combined the central city and its suburbs, for example, can spur new economic growth by demonstrating its commitment to further science, technology, and market linkages as part of its economic strategy to create new companies and jobs.<sup>162</sup>

Political structures integrated on a metropolitan-wide basis possess the advantage of being able to set a coherent political agenda that can promote economic development, protect the environment, and improve social cohesion.<sup>163</sup> A metropolis should be able to strengthen inter-communal cooperation that will vitalize the region's territorial competitiveness and attractiveness.<sup>164</sup> Paris's transformation from a city center and outlying suburbs into a métropole grew out of territorial coalitions that sought to strengthen the role of Paris as a major world city.<sup>165</sup> Operating on a metropolitan scale was viewed as necessary to attract State investment in large infrastructure projects costing billions of euros, such as the light-rail network to link the Paris region's communes in a circular orbit.<sup>166</sup> Major cities are now positioning themselves as global cities that spearhead economic development for their wider region.<sup>167</sup>

The issue of innovation has become framed at the metropolitan level.<sup>168</sup> The European Council, meeting in Lisbon, Portugal, in March 2000, laid out the so-called "Lisbon Strategy" that called for the integration and coordination of research activities to foster innovation as a key component of economic policy.<sup>169</sup> This document cautioned that the Lisbon Strategy objectives should be pursued in a flexible and decentralized manner.<sup>170</sup>

Innovation stems from mobilizing the activities of a diverse group of people whether from business, the government, or universities.<sup>171</sup> These actors frequently connect through networks better facilitated on a broader basis than the geographical jurisdiction of one local government.<sup>172</sup> In addition, the specialization and resources necessary to spur innovation will more likely be found on a metropolitan scale.<sup>173</sup> Innovation has been found to be overwhelmingly present in metropolitan areas where it is accompanied by strong human capital, modern infrastructure, and places that prize quality.<sup>174</sup>

A metropolitan-wide planning framework can also improve the quality of life in urban areas and create a more sustainable environment. More coherent metropolitan spaces can be built when guided by a larger territorial plan that extends beyond the reach of one municipality. The European Commission's Initiative on Smart Cities and Communities calls for integrated planning as a key component to achieve greater sustainability in the areas of urban mobility, the built environment, and infrastructure.<sup>175</sup> Integrated planning, according to the Commission, will succeed only if it involves "greater collaboration within and across traditional administrative and industry boundaries."<sup>176</sup> Planning on a metropolitan scale enables setting aside areas for parks and open space buffers to improve sustainability and livability in dense urban areas.<sup>177</sup> In the absence of such planning, uncontrolled development takes place.<sup>178</sup> Metropolitan-wide planning should result in connected greenways spanning a number of municipalities as well as prevent parochial land use policies that thwart balanced, reasonable growth management.<sup>179</sup>

#### **IV. METROPOLITAN GOVERNMENTS' FUTURE: LESSONS LEARNED FROM THE DEVELOPMENT OF THE FRENCH MÉTROPOLE**

Some of the developments that led to the creation of the French métropole have previously been traced in the article. A complete analysis of the benefits and detriments of metropolitan governance are beyond the scope of the article, but it seems likely that more metropolitan-wide governmental structures will be created in other countries. The article next addresses what conditions, given the French experience, might pave the way to greater adoption of this form of governance.

##### **A. INTER-MUNICIPAL PUBLIC BODIES TO AMELIORATE THE ADVERSE EFFECTS OF MUNICIPAL FRAGMENTATION THROUGH JOINT MUNICIPAL FUNCTIONS ON A METROPOLITAN SCALE**

Cooperation among the French communes over many decades to combine resources was a key factor in the development of the concept of a métropole. Due to the small size of the communes and the significant number of them, inter-municipal cooperation became a necessity for the provision of needed public services and goods. Authorization for the creation of inter-communal structures, which operate on a greater economy of scale than the communes, facilitated joint communal projects and services. By working together, the communes most likely built stronger relationships among themselves and came to realize the benefits of inter-municipal cooperation. Thus, from the French experience, one can surmise that metropolitan governance can best be built upon pre-existing cooperative arrangements among municipalities.

In particular, the creation of the public institution of inter-communal cooperation (EPCI) with general powers and tax-raising ability established a successful prototype for the later métropole. Still lacking institutional status as a fully operational local government, the French metropolis follows the path of the EPCIs.<sup>180</sup> In fact, with the exception of Lyon, a fully fledged local authority that exercises extensive powers over the communes within its territorial reach,<sup>181</sup> most French metropolises take the form of the EPCI with taxing powers.<sup>182</sup> Metropolises have been described as "EPCIs that bring together communes in a contiguous and uninterrupted unit to form an entity of over 400,000 inhabitants, in an urban area of 650,000 inhabitants."<sup>183</sup> Marseille's metropolis was formed by the merger of six EPCIs into a single EPCI structure.<sup>184</sup>

In the United States, nearly all the states have enacted enabling legislation that authorizes intergovernmental cooperation.<sup>185</sup> In some instances, cities have joined together to create a separate public authority to undertake a joint project on their behalf.<sup>186</sup> Voluntary regional councils of government, regional planning agencies, and metropolitan planning organizations, also exist.<sup>187</sup> Nonetheless, the latter primarily provide advice on regional planning rather than carry out metropolitan-wide functions.<sup>188</sup> Only the Portland, Oregon's Metropolitan Service District (Metro) and the Twin Cities Metropolitan Council operate on a scale comparable to the métropole.<sup>189</sup> Instead, the states rely upon single-purpose regional agencies, which generally do not interact with the citizenry, to address problems arising from fragmented local governments.<sup>190</sup>

Due to their narrow focus on the provision of only one public service, single-purpose agencies have been criticized for failing to coordinate and implement their activities with other governmental entities.<sup>191</sup> In effect, single-purpose regional bodies undercut rather than promote the type of municipal cooperation that would lead to creation of metropolitan-wide governance.<sup>192</sup> In sharp contrast, the EPCIs, formed as "public administrative bodies for intermunicipal cooperation . . . with their own tax system," are general-purpose bodies deemed essential for the promotion of cooperation rather than competition among cities and towns.<sup>193</sup>

## **B. BELIEF THAT METROPOLITAN GOVERNANCE MAKES URBAN CENTERS MORE ECONOMICALLY COMPETITIVE IN A GLOBAL ECONOMY**

Since the 1960s the desirability of building metropolitan frameworks has been actively debated in France.<sup>194</sup> Various decentralization policies and high-profile national reports, such as the Balladur Report, have kept alive the issue of finding the right balance between national, regional, and local authority.<sup>195</sup> Paris's success as a global city spurred initiatives to create strong metropolitan governments in other French regional urban areas to both counteract Paris's dominance and to make them competitive in European and international economies.<sup>196</sup> This policy, known as "métropoles d'équilibre," of counterbalancing Paris's predominance by strengthening other regional centers, resulted in the creation, in 1963, of a State agency, known as DATAR (délégation à l'aménagement du territoire et à l'action régionale) (Delegation for Territorial Development and Regional Actions),<sup>197</sup> that stimulated metropolitan planning.<sup>198</sup> Thinking and planning beyond the municipal order appears to have been widely accepted as necessary to tackle agglomeration effects.<sup>199</sup> Pro-metropolitan advocacy served to justify urban reforms and the creation of the EPCIs.<sup>200</sup>

In contrast, in the United States, little debate occurs about the complexities of finding the right-sized metropolitan or municipal structures. In public policy areas outside of the federal domain, the states as sovereign bodies possess the freedom to develop their own local governmental structures and metropolitan preferences.<sup>201</sup> The federal government's dismantling, in 1996, of its Advisory Commission on Intergovernmental Relations, which had conducted studies on intergovernmental relations among federal, state, and local units of government, demonstrated its lack of interest in intergovernmental coordination.<sup>202</sup> The federal government, however, has made some attempts to encourage regional planning by making federal transportation funding contingent upon the creation of metropolitan planning organizations.<sup>203</sup> Non-public bodies fill some of the metropolitan debate void. The Brookings Institution, a nonprofit policy organization, through its Metropolitan Policy Program, serves as a strong advocate for metropolitan-wide solutions to urban problems.<sup>204</sup>

### **C. SUPPORT OF THE FRENCH NATIONAL GOVERNMENT FOR METROPOLITAN GOVERNANCE**

The French government's willingness to spearhead and experiment with metropolitan-wide solutions to municipal fragmentation led to the eventual creation of the métropole. The French Ministry of the Interior, responsible for relations between the State and local governments, possesses the institutional clout to set urban policy.<sup>205</sup> DATAR, as a State planning agency, was actively involved in promoting metropolitan-wide solutions to urban problems; it favored, for example, the creation of a Greater Paris planning project that launched a vast transport infrastructure project in 2007.<sup>206</sup>

As outlined earlier in the article, numerous decentralization reform movements occurred over the past fifty years. Different institutional forms of inter-municipal cooperation evolved to address the effects of agglomeration.<sup>207</sup> It has been hypothesized that "the potential for metropolitan reform increases with the degree of prior institutionalisation of the local political scene."<sup>208</sup>

The French national government has also shown a willingness to intervene, if necessary, to ensure the creation of integrated metropolises.<sup>209</sup> Such was the case with respect to Marseille when Prime Minister Jean-Marc Ayrault, in 2012, firmly steered the creation of the Aix-Marseille-Provence metropolis.<sup>210</sup> The French State, however, has shown flexibility in letting local governments shape the metropolis's contours.<sup>211</sup> In Lyon, an integrated métropole, exercising the powers of both a municipality and a department, is in place due to a prominent role played by the pre-existing Urban Community and an alliance formed by two leading local politicians.<sup>212</sup> Marseille, on the other hand, remains as an EPCI, a more loosely formed metropolis with weaker control over its six territorial components, following their merger as six EPCIs into one.<sup>213</sup>

In the United States, state legislatures have shown little willingness to debate the issues of centralized metropolitan planning and the creation of multi-purpose metropolitan governments to undertake regional functions such as transit, housing, solid waste disposal, sewerage, water supply, wastewater treatment, and climate change adaptation.<sup>214</sup> Local politicians can be expected to resist metropolitan controls because they weaken or displace their power.<sup>215</sup> State legislators have withered in the face of such vested interests when joined by other powerful localism coalitions, including prosperous suburbanites, county officials, and those seeking to distance themselves from inner-city poverty and racial minorities.<sup>216</sup> Suburban legislators, for example, put an end to the "Boston—1915" metropolitan campaign that proposed a metropolitan body with purview over land-use planning, zoning, transportation, and parks.<sup>217</sup>

### **D. RECEPTIVITY TO PLANNING AS AN INSTRUMENT TO MANAGE URBAN GROWTH AND IMPROVE ECOLOGICAL SUSTAINABILITY**

Planning on a metropolitan-wide basis underpins the rationale for metropolitan governance. The problems of coordinating regional functions between the City of Paris and the suburban municipalities surrounding it, received the attention of the State as early as 1910.<sup>218</sup> Recognizing cross-communal interdependence between Paris and its Seine suburbs, the department of the Seine steered the coordination of urban policies and organized inter-municipal service delivery.<sup>219</sup> It "staked its legitimacy on coordinating urban planning policy."<sup>220</sup> By the 1930s, the State's intervention in urban planning resulted in the creation of its own bureaucratic units devoted to the development of the Parisian region.<sup>221</sup> Growth management was not limited

to Paris. In 1919, the enactment of national legislation required municipalities of over 10,000 inhabitants to develop a growth plan.<sup>222</sup> France has been considered a “pioneer in the field of spatial policies” since the 1960s.<sup>223</sup>

Urban planning entails faith in experts drawn from a number of different fields, including transport, engineering, housing, demography, and urban planning. The coordination of urban policy between departmental and municipal governments resulted in an accumulation of knowledge about the phenomenon relating to urban interdependence that led to the elaboration of urban development laws.<sup>224</sup> The reliance upon and sharing of this urban expertise undoubtedly assisted in the development of new French forms of urban governance.<sup>225</sup>

In the United States, metropolitan governance in which a general-purpose regional government exercises control over urban planning and the imposition of growth management controls for the entire region has yet to materialize.<sup>226</sup> Federal aid formulas and other incentives, however, have resulted in some metropolitan integration such as the sharing of an airport between Dallas and Fort Worth, Texas.<sup>227</sup> Because land uses in the United States are regulated largely at the local level, “no European-style central government . . . can make regions do right and eat their planning spinach.”<sup>228</sup> In the 1990s, a state-directed approach to urban planning was viewed as fairly new,<sup>229</sup> but today more states now require planning.<sup>230</sup> Thus, more credence in the desirability of urban planning is emerging in the United States, albeit slowly.

#### **E. DECISION MAKERS WITH LOCAL GOVERNMENT EXPERIENCE**

In France, the practice of multiple office holding can result in a better understanding of urban governance issues. Michel Mercier and Gérard Collomb, for example, were both members of the national Senate and prominent local politicians, serving as Mayor of Lyon and President of Urban Community/Grand Lyon, respectively, at the time they brokered the creation of the Lyon metropolis.<sup>231</sup> Nicolas Sarkozy served as Mayor of Neuilly-sur-Seine, Minister of the Budget, Minister of the Interior, and Minister of Finances before his election to the French presidency.<sup>232</sup> Whereas many early United States presidents served at the state and local levels of government before assuming national office, mass media has enabled the election of federal office holders without any prior experience at the local level. Thus, the French form of governance would seem to outpace that of the United States in the election of officials with an understanding of urban growth issues.

#### **CONCLUSION**

Nations depend upon general-purpose local governments to perform a range of public services and to administer regulations in furtherance of the public health, safety, and welfare. These governmental units, often formed during eras of less agglomeration, frequently do not possess the territorial size to undertake these functions expeditiously. Today, many governmental operations must be conducted on a regional basis overlapping municipal boundary lines. In France, the State has authorized communes, French municipalities, to create inter-communal structures tasked with performing joint services or projects on their behalf. Although these inter-communal public institutions are similar to public authorities in the United States, they are likely to be more closely connected to municipal governance because they perform functions delegated to them by the communes. In addition, many French inter-communal bodies provide a range of



services whereas in the United States most metropolitan public authorities are assigned only one function, such as transit service or the supply of water.

Over several decades, France's experience with inter-communal cooperative efforts led to the creation of the French métropole, a more integrated inter-communal entity created specifically to perform governmental functions in large urban, metropolitan areas. Through several decentralization movements, a rationale emerged for the delegation of more powers to a general-purpose public institution operating on a metropolitan-wide basis. French national leaders strongly believed that State decentralization of power would result in greater territorial competitiveness and economic growth. To their way of thinking, sub-national units of government were in the best position to stimulate innovation given political and economic interdependency on a metropolitan scale. In addition, the greater territorial reach of a metropolitan public body was felt to expedite the institution of a framework to build a more sustainable physical environment.

France's experience with inter-communal structures, including the métropole, prove instructive. The knowledge gained from French decentralization reforms sheds light on the type of developments that facilitate the institution of metropolitan-wide governance. The article argues that the following conditions, based on the French experience, most likely produce greater receptivity to the institutionalization of the metropolis: (1) the existence of joint municipal cooperative activities overseen by an inter-municipal public institution that gains respect through effective and transparent operations; (2) belief that the metropolis will improve economic competitiveness by operating on the same scale as the regional networks underlying the global economy; (3) State support and incentives for inter-communal cooperation; (4) willingness to rely on more centralized planning and expertise to make metropolitan government competitive; and (5) political leaders willing to promote metropolitan governance through their understanding of its advantages. While each country will pave its own particular path to metropolitan governance, France's experience provides useful insights on both the circumstances that enhance the creation of metropolitan governance as well as the obstacles its proponents face.

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<sup>1</sup> See EDWARD GLAESER, TRIUMPH OF THE CITY: HOW OUR GREATEST INVENTION MAKES US RICHER, SMARTER, GREENER, HEALTHIER, AND HAPPIER 40 (2011).

<sup>2</sup> See BRUCE KATZ & JENNIFER BRADLEY, THE METROPOLITAN REVOLUTION 1 (2013).

<sup>3</sup> See e.g., Richard Briffault, *Our Localism*, 90 COLUM. L. REV. 1, 7-8 (1990) (describing a United States local government's role as a state agent to exercise powers on the state's behalf over an assigned territory); Gerald E. Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1059, 1059-60 (1980) (arguing that legal doctrine has led to city powerlessness in the United States).

<sup>4</sup> See Alistair Cole & Renaud Payre, *Cities as Political Objects*, in CITIES AS POLITICAL OBJECTS: HISTORICAL EVOLUTION, ANALYTICAL CATEGORIZATIONS AND INSTITUTIONAL CHALLENGES OF METROPOLITANISATION 1, 24 (Alistair Cole & Renaud Payre eds., 2016).

<sup>5</sup> See Andreas Faludi, *From European Spatial Development to Territorial Cohesion Policy*, 40:6 REGIONAL STUDIES 667, 671 (2006); Christophe Parnet, *Two Faces of the City: Varieties of Metropolitanisation in Lyon and Marseille*, in CITIES AS POLITICAL OBJECTS: HISTORICAL EVOLUTION, ANALYTICAL CATEGORIZATIONS AND INSTITUTIONAL CHALLENGES 241, 241 (Alistair Cole & Renaud Payre eds., 2016).

<sup>6</sup> See Guillaume Protière, *The Status of Metropolises in France*, 12:1 CROATIAN & COMPARATIVE PUB. ADMIN. 129, 130 (2012).

<sup>7</sup> *Id.* at 130.

<sup>8</sup> See ALICE M. RIVLIN, REVIVING THE AMERICAN DREAM: THE ECONOMY, THE STATES & THE FEDERAL GOVERNMENT 18-19 (1992).

<sup>9</sup> See Protière, *supra* note 6, at 131.

<sup>10</sup> See CONGRESS OF LOC. & REGIONAL AUTHORITIES, COUNCIL OF EUROPE, *Local and Regional Democracy in France, Historical, Political and Constitutional Context* § 2.1(8) (22 Mar. 2016), [https://wcd.coe.int/ViewDoc.jsp?p=&id=2420179&Site=COE&direct=true#P209\\_18438](https://wcd.coe.int/ViewDoc.jsp?p=&id=2420179&Site=COE&direct=true#P209_18438) [hereinafter *Local and Regional Democracy*].

<sup>11</sup> See *id.* § 2.1(9).

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.*

<sup>15</sup> See Alistair Cole, *France: Between Centralization and Fragmentation*, OXFORD HANDBOOK OF LOC. & REG'L DEMOCRACY IN EUROPE 8 (Frank Hendriks, Anders Lidström & John Loughlin eds., 2011), <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199562978.001.0001/oxfordhb-9780199562978-e-14?print=pdf>.

<sup>16</sup> See ARRICOD, *The French Experience of Decentralization* § 3.3.1, at 10, <https://www.arricod.fr/wp-content/uploads/The-French-Experience-of-Decentralization.pdf> (last visited Feb. 11, 2018).

<sup>17</sup> See *id.*

<sup>18</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.1(9).

<sup>19</sup> See *Departments of France*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Departments\\_of\\_France](https://en.wikipedia.org/wiki/Departments_of_France) (last visited Jan. 8, 2018).

<sup>20</sup> See *id.*

<sup>21</sup> See Cole, *supra* note 15, at 5.

<sup>22</sup> See *id.* at 3.

<sup>23</sup> See *id.*

<sup>24</sup> See *id.* at 7; ARRICOD, *supra* note 16, § 5.1, at 19.

<sup>25</sup> See ARRICOD, *supra* note 16, § 3.2, at 10; Cole, *supra* note 15, at 7.

<sup>26</sup> See *Local and Regional Democracy*, *supra* note 10, § 73.

<sup>27</sup> See ARRICOD, *supra* note 16, § 3.1.1, at 7-8.

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<sup>28</sup> See Cole, *supra* note 15, at 7.

<sup>29</sup> See *id.* at 9.

<sup>30</sup> See ARRICOD, *supra* note 16, § 3.1.1, at 8.

<sup>31</sup> See *Local and Regional Democracy*, *supra* note 10, § 73.

<sup>32</sup> See ARRICOD, *supra* note 16, § 3.1.1, at 8.

<sup>33</sup> See *Local and Regional Democracy*, *supra* note 10, § 73.

<sup>34</sup> See ARRICOD, *supra* note 16, § 3.1.1, at 8.

<sup>35</sup> See *Local and Regional Democracy*, *supra* note 10, § 73.

<sup>36</sup> See *id.*

<sup>37</sup> See ARRICOD, *supra* note 16, § 3.3.2, at 11-12; COLE, *supra* note 15, at 7.

<sup>38</sup> See ARRICOD, *supra* note 16, § 3.3.2, at 11-12.

<sup>39</sup> See *id.*

<sup>40</sup> See *id.*

<sup>41</sup> See Cole, *supra* note 15, at 5.

<sup>42</sup> See ARRICOD, *supra* note 16, § 3.3.2, at 12.

<sup>43</sup> See *id.* § 3.3.2, at 11.

<sup>44</sup> See *id.*

<sup>45</sup> See Cole, *supra* note 15, at 9.

<sup>46</sup> See ARRICOD, *supra* note 16, § 3.3.2, at 12.

<sup>47</sup> See Cole, *supra* note 15, at 8.

<sup>48</sup> ARRICOD, *supra* note 16, § 3.3.2, at 12.

<sup>49</sup> See Loi n° 2010-1563 du 16 décembre 2010 de réforme des collectivités territoriales [Law n° 2010-1563 of December 16<sup>th</sup>, 2010 of the reform of the territorial collectivities], [JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE] [J.O.] [OFFICIAL GAZETTE OF FRANCE], art. 12, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023239624&categorieLien=id> (originating in French).

<sup>50</sup> *Id.*

<sup>51</sup> See Protière, *supra* note 6, at 133.

<sup>52</sup> CODE GÉNÉRAL DES COLLECTIVITÉS TERRITORIALES [GENERAL CODE OF LOCAL AND REGIONAL AUTHORITIES] art. L5217-2 (VI),

[https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=23D6D3BE79A681A3EAECA83AAF7621C0.tplgf r26s\\_1?idArticle=LEGIARTI000028538085&cidTexte=LEGITEXT000006070633&dateTexte=20141231](https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=23D6D3BE79A681A3EAECA83AAF7621C0.tplgf r26s_1?idArticle=LEGIARTI000028538085&cidTexte=LEGITEXT000006070633&dateTexte=20141231) (last visited Feb. 17, 2018) (originating in French).

<sup>53</sup> See *id.* art. L5217-2 (I) (1).

<sup>54</sup> See *id.* art. L5217-2 (I) (2)-(3).

<sup>55</sup> See *id.* art. L5217-2 (I) (5)-(6).

<sup>56</sup> See CODE GÉNÉRAL DES COLLECTIVITÉS TERRITORIALES [GENERAL CODE OF LOCAL AND REGIONAL AUTHORITIES] art. L5217-2 (I) (6),

[https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=23D6D3BE79A681A3EAECA83AAF7621C0.tplgfr26s\\_1?idArticle=LEGIARTI000028538085&cidTexte=LEGITEXT000006070633&dateTexte=20141231](https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=23D6D3BE79A681A3EAECA83AAF7621C0.tplgfr26s_1?idArticle=LEGIARTI000028538085&cidTexte=LEGITEXT000006070633&dateTexte=20141231) (last visited Feb. 17, 2018) (originating in French).

<sup>57</sup> See *id.* art. L5217-2 (IV)-(V).

<sup>58</sup> See ARRICOD, *supra* note 16, § 1, at 4.

<sup>59</sup> Cole, *supra* note 15, at 12.

<sup>60</sup> See *id.*

<sup>61</sup> See *id.*

<sup>62</sup> See ARRICOD, *supra* note 16, § 1, at 4.

<sup>63</sup> See *id.*

<sup>64</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (15).

<sup>65</sup> See ARRICOD, *supra* note 16, § 3.1.1, at 7-8; *Local and Regional Democracy*, *supra* note 10, § 2.2 (15).

<sup>66</sup> See ARRICOD, *supra* note 16, § 4.4.2, at 16.

<sup>67</sup> See *id.* § 3.2, at 10.

<sup>68</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (15).

<sup>69</sup> See ARRICOD, *supra* note 16, § 5.3, at 20.

<sup>70</sup> See *id.*

<sup>71</sup> See *id.* § 5.3, at 20-21.

<sup>72</sup> See *id.* § 5.3, at 21.

<sup>73</sup> See ARRICOD, *supra* note 16 §§ 5.4, 5.5, at 21-22.

<sup>74</sup> See *id.* § 5.3, at 21.

<sup>75</sup> See *id.* § 5.5, at 21-22.

<sup>76</sup> See DANIEL R. MANDELKER, JUDITH WELCH WEGNER, JANICE C. GRIFFITH, KENNETH BOND & CHRISTOPHER J. TYSON, *STATE AND LOCAL GOVERNMENT IN A FEDERAL SYSTEM* 5-6 (8<sup>th</sup> ed. 2014).

<sup>77</sup> See *id.* at 32, 41.

<sup>78</sup> See *id.* at 32-33.

<sup>79</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (15).

<sup>80</sup> See *id.* § 2.2 (16).

<sup>81</sup> See 1958 CONST. art. 72 (Fr.), available at [https://www.constituteproject.org/constitution/France\\_2008.pdf?lang=en](https://www.constituteproject.org/constitution/France_2008.pdf?lang=en);

*Local and Regional Democracy*, *supra* note 10, § 2.2 (16). The four recognized subnational authorities are the regions, the departments, the communes, and the authorities created with a special status, including the different inter-communal bodies. See *Local and Regional Democracy*, *supra* note 10, § 2.2 (16).

<sup>82</sup> See 1958 CONST. art. 72 (Fr.); Cole, *supra* note 15, at 7.

<sup>83</sup> See 1958 CONST. art. 1 (Fr.).

<sup>84</sup> See *id.* art. 72-2; ARRICOD, *supra* note 16, § 1, at 5; Cole, *supra* note 15, at 7.

<sup>85</sup> See 1958 CONST. art. 72 (Fr.); *Local and Regional Democracy*, *supra* note 10, § 2.2 (16).

<sup>86</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (16).

<sup>87</sup> *Id.*

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<sup>88</sup> See Cole, *supra* note 15, at 7.

<sup>89</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (16).

<sup>90</sup> See Cole, *supra* note 15, at 6-7.

<sup>91</sup> See *id.* at 7.

<sup>92</sup> See *id.*

<sup>93</sup> See *id.*

<sup>94</sup> See Cole, *supra* note 15, at 7.

<sup>95</sup> See *id.*

<sup>96</sup> See *id.*

<sup>97</sup> See Décret n° 2008-1078 du 22 octobre 2008 portant création du comité pour la réforme des collectivités locales [Decree n° 2008-1078 of October 22<sup>nd</sup>, 2008 creating the committee for the reform of the local authorities], [JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE] [J.O.] [OFFICIAL GAZETTE OF FRANCE], Oct. 22, 2008, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000019679795> (originating in French) (creating the committee for the reform of the local authorities).

<sup>98</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (20).

<sup>99</sup> See generally Rapport du Comité pour la réforme des collectivités locales au Président de la République en date du 5 mars 2009,

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020347348> (last visited Feb. 12, 2018) (originating in French) [hereinafter *Balladur Report*].

<sup>100</sup> See *Balladur Report*, *supra* note 99, at Introduction.

<sup>101</sup> See *id.*

<sup>102</sup> See *id.*

<sup>103</sup> See *id.*

<sup>104</sup> *Balladur Report*, *supra* note 99, at Introduction.

<sup>105</sup> See *id.*

<sup>106</sup> *Id.*

<sup>107</sup> See *id.*

<sup>108</sup> See *Balladur Report*, *supra* note 99, at Introduction.

<sup>109</sup> *Id.*

<sup>110</sup> See *id.*

<sup>111</sup> See *id.*

<sup>112</sup> See *Balladur Report*, *supra* note 99, at Introduction.

<sup>113</sup> See *id.*

<sup>114</sup> See *id.*

<sup>115</sup> See MANDELKER ET AL., *supra* note 76, at 33, 64.

<sup>116</sup> See *Balladur Report*, *supra* note 99, at Introduction.

<sup>117</sup> See *id.*

<sup>118</sup> See *id.*

<sup>119</sup> See *id.*

<sup>120</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (20).

<sup>121</sup> See *id.*

<sup>122</sup> See *id.* § 2.2 (20-21).

<sup>123</sup> See *id.* § 2.2 (22).

<sup>124</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (22).

<sup>125</sup> See *id.*

<sup>126</sup> See *Balladur Report*, *supra* note 99, at Proposal No. 11.

<sup>127</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (22).

<sup>128</sup> See Jacques Caillosse, *The City as Legal Category and Legal Archive*, in *CITIES AS POLITICAL OBJECTS: HISTORICAL EVOLUTION, ANALYTICAL CATEGORIZATIONS AND INSTITUTIONAL CHALLENGES OF METROPOLITANISATION* 99, 106 (Alistair Cole & Renaud Payre eds., 2016); Protière, *supra* note 6, at 31.

<sup>129</sup> See Caillosse, *supra* note 128, at 107.

<sup>130</sup> See *Balladur Report*, *supra* note 99, at Proposal No. 8. The cities to be reorganized as metropolises were Lyon, Lille, Marseille, Bordeaux, Toulouse, Nantes, Nice, Strasbourg, Rouen, Toulon, and Rennes. See *id.*

<sup>131</sup> See *id.* at Proposal No. 18.

<sup>132</sup> See Caillosse, *supra* note 128, at 106-08; *Local and Regional Democracy*, *supra* note 10, § 2.2 (25).

<sup>133</sup> See Stéphane Cadiou, *The Métropole as a Contested and Partisan Institution: Reflections on the Case of the French City of Nice*, in *CITIES AS POLITICAL OBJECTS: HISTORICAL EVOLUTION, ANALYTICAL CATEGORIZATIONS AND INSTITUTIONAL CHALLENGES OF METROPOLITANISATION* 175, 178-79 (Alistair Cole & Renaud Payre eds., 2016).

<sup>134</sup> See Loi n° 2010-1563 du 16 décembre 2010 de réforme des collectivités territoriales [Law n° 2010-1563 of December 16<sup>th</sup>, 2010 of the reform of the territorial collectivities], [JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE] [J.O.] [OFFICIAL GAZETTE OF FRANCE], art. 12, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023239624&categorieLien=id> (originating in French).

<sup>135</sup> See *Local and Regional Democracy*, *supra* note 10, § 2.2 (25).

<sup>136</sup> See Cadiou, *supra* note 133, at 178.

<sup>137</sup> See Pauline Prat, *The Greater Paris Debate: the French State and its Capital Region*, in *CITIES AS POLITICAL OBJECTS: HISTORICAL EVOLUTION, ANALYTICAL CATEGORIZATIONS AND INSTITUTIONAL CHALLENGES OF METROPOLITANISATION* 56, 72-73 (Alistair Cole & Renaud Payre eds., 2016).

<sup>138</sup> See *Modernisation de 'l'action publique territoriale et affirmation des métropoles*, SÉNAT, <http://www.senat.fr/dossier-legislatif/pj12-495.html> (last visited Feb. 12, 2018) (originating in French) [hereinafter SÉNAT-MAPTAM].

<sup>139</sup> See Caillosse, *supra* note 128, at 108.

<sup>140</sup> See SÉNAT-MAPTAM, *supra* note 138.

<sup>141</sup> See *id.*; Parnet, *supra* note 5, at 243.

<sup>142</sup> CODE GÉNÉRAL DES COLLECTIVITÉS TERRITORIALES [GENERAL CODE OF LOCAL AND REGIONAL AUTHORITIES] art. L5217-1,

[https://www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=23D6D3BE79A681A3EAECA83AAF7621C0.tplgfr26s\\_1?idArticle=LEGIARTI000028538085&cidTexte=LEGITEXT000006070633&dateTexte=20141231](https://www.legifrance.gouv.fr/affichCodeArticle.do?jsessionid=23D6D3BE79A681A3EAECA83AAF7621C0.tplgfr26s_1?idArticle=LEGIARTI000028538085&cidTexte=LEGITEXT000006070633&dateTexte=20141231) (last visited Feb. 17, 2018) (originating in French); see *Métropole (Intercommunalité Française)*, WIKIWAND, [http://www.wikiwand.com/fr/M%C3%A9tropole\\_\(intercommunalit%C3%A9\\_fran%C3%A7aise\)](http://www.wikiwand.com/fr/M%C3%A9tropole_(intercommunalit%C3%A9_fran%C3%A7aise)) (last visited Feb. 21, 2018) (originating in French).

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<sup>143</sup> See *Loi de modernization de l'action publique territoriale et d'affirmation des métropoles*, WIKIWAND, [http://www.wikiwand.com/fr/Loi\\_de\\_modernisation\\_de\\_l%27action\\_publique\\_territoriale\\_et\\_d%27affirmation\\_des\\_m%C3%A9tropol%C3%A9s](http://www.wikiwand.com/fr/Loi_de_modernisation_de_l%27action_publique_territoriale_et_d%27affirmation_des_m%C3%A9tropol%C3%A9s) (last visited February 17, 2018) (originating in French).

<sup>144</sup> See *id.*

<sup>145</sup> See *id.*

<sup>146</sup> See Caillosse, *supra* note 128, at 108.

<sup>147</sup> See *Métropole*, *supra* note 142. As of October 25, 2016, fourteen metropolises had been created. See Hugo Bessis, *What Can the New French Metropolises Teach Us about English Metro Mayors?*, CITYMETRIC (Oct. 25, 2016), <https://www.citymetric.com/politics/what-can-new-french-metropolises-teach-us-about-english-metro-mayors-2473>.

<sup>148</sup> See Cadiou, *supra* note 133, at 178; Parnet, *supra* note 5, at 256, 260-61.

<sup>149</sup> See *La réforme territoriale*, GOUVERNEMENT.FR (Updated Oct. 4, 2017), <http://www.gouvernement.fr/action/la-reforme-territoriale> (originating in French).

<sup>150</sup> See *id.*

<sup>151</sup> See *id.*

<sup>152</sup> See *id.*

<sup>153</sup> See GOUVERNEMENT.FR, *supra* note 149.

<sup>154</sup> See *supra* note 99 and accompanying text.

<sup>155</sup> See *supra* notes 979, 100-102 and accompanying text.

<sup>156</sup> See MANDELKER ET AL., *supra* note 76, at 146-48.

<sup>157</sup> See JAMES C. O'CONNELL, *THE HUB'S METROPOLIS: GREATER BOSTON'S DEVELOPMENT FROM RAILROAD SUBURBS TO SMART GROWTH* 97 (2013).

<sup>158</sup> See *id.* at 98.

<sup>159</sup> See ARTHUR C. NELSON & ROBERT E. LANG, *MEGAPOLITAN AMERICA: A NEW VISION FOR UNDERSTANDING AMERICA'S METROPOLITAN GEOGRAPHY* xxxi (2011).

<sup>160</sup> See Clément Pin & Déborah Galimberti, *Making Metropolis: Innovation and Local Governance Issues in Paris and Milan in CITIES AS POLITICAL OBJECTS: HISTORICAL EVOLUTION, ANALYTICAL CATEGORIZATIONS AND INSTITUTIONAL CHALLENGES OF METROPOLITANISATION* 197, 206 (Alistair Cole & Renaud Payre eds., 2016).

<sup>161</sup> See *id.* at 199; MANDELKER ET AL., *supra* note 76 at 146.

<sup>162</sup> See Pin & Galimberti, *supra* note 160, at 204.

<sup>163</sup> See MANDELKER ET AL., *supra* note 76, at 146.

<sup>164</sup> See Pin & Galimberti, *supra* note 160, at 203.

<sup>165</sup> See *id.* at 203-04.

<sup>166</sup> See *id.* at 203-04. The estimated cost of the train network was 26 billion euros. See *id.*

<sup>167</sup> See *id.* at 213. Milan seeks to spur economic development in northern Italy. See *id.*

<sup>168</sup> See Pin & Galimberti, *supra* note 160, at 213.

<sup>169</sup> See *Lisbon European Council 23 and 24 March 2000: Presidency Conclusions, Establishing a European Area of Research and Innovation*, § I. (12), EUROPEAN PARLIAMENT, [http://www.europarl.europa.eu/summits/lis1\\_en.htm](http://www.europarl.europa.eu/summits/lis1_en.htm) (last visited Feb. 5, 2018).

<sup>170</sup> See *id.*

<sup>171</sup> See Pin & Galimberti, *supra* note 160, at 198.

<sup>172</sup> See *id.* at 197-98, 212.

<sup>173</sup> See *id.* at 198.

<sup>174</sup> See Bruce Katz, Amy Liu & Steve Wray, *Op-Ed: Pennsylvania Economic Revival Lies in Metro Areas*, BROOKINGS INSTITUTION (Apr. 14, 2008), <https://www.brookings.edu/opinions/pennsylvania-economic-revival-lies-in-its-metro-assets/>.

<sup>175</sup> See *Strategic Implementation Plan, European Innovation Partnership on Smart Cities and Communities*, EUROPEAN COMMISSION 7 (Oct. 14, 2013), <http://ec.europa.eu/eip/smartcities/>.

<sup>176</sup> See *Id.* at 14.

<sup>177</sup> See O'CONNELL, *supra* note 157, at 102.

<sup>178</sup> See *id.* at 91.

<sup>179</sup> See *id.* at 90-92; MANDELKER ET AL., *supra* note 76, at 146.

<sup>180</sup> See Cadiou, *supra* note 133, at 176.

<sup>181</sup> See Parnet, *supra* note 5, at 260-61.

<sup>182</sup> See Cadiou, *supra* note 133, at 176; Caillosse, *supra* note 128, at 110 (stating that the Greater Paris Metropolis has taken the form of an EPCI with its own tax-raising powers).

<sup>183</sup> Caillosse, *supra* note 1328, at 108.

<sup>184</sup> See Parnet, *supra* note 5, at 256.

<sup>185</sup> See MANDELKER ET AL., *supra* note 76, at 196.

<sup>186</sup> See *Goreham v. Des Moines Metropolitan Area Solid Waste Agency*, 179 N.W.2d 449, 461 (Iowa 1970) (upholding a contract entered into among 13 municipalities to create a separate public agency to collect and dispose of solid wastes in the Des Moines metropolitan area).

<sup>187</sup> See MANDELKER ET AL., *supra* note 76, at 163.

<sup>188</sup> See *id.*

<sup>189</sup> See *id.* at 158-60.

<sup>190</sup> See *id.* at 161-62.

<sup>191</sup> See Laurie Reynolds, *Local Governments and Regional Governance*, 39 URB. LAW. 483, 511 (2007).

<sup>192</sup> See *id.* at 512-17.

<sup>193</sup> See Parnet, *supra* note 5, at 242.

<sup>194</sup> See *id.* at 241-42.

<sup>195</sup> See *supra* notes 97-119 and accompanying text.

<sup>196</sup> See Parnet, *supra* note 5, at 241-42.

<sup>197</sup> See *id.* at 242.

<sup>198</sup> See Cadiou, *supra* note 133, at 181.

<sup>199</sup> See Parnet, *supra* note 5, at 242.

<sup>200</sup> See *id.*

<sup>201</sup> See MANDELKER ET AL., *supra* note 76, at 5-6.

<sup>202</sup> See *Intergovernmental Relations Advisory Commission*, FED. REG., <https://www.federalregister.gov/agencies/intergovernmental-relations-advisory-commission> (last visited Feb. 15, 2018).

<sup>203</sup> See *id.* at 163.



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- <sup>204</sup> See *Metropolitan Policy Program*, BROOKINGS INSTITUTION, <https://www.brookings.edu/about-the-metropolitan-policy-program/> (last visited Feb. 2, 2018).
- <sup>205</sup> See Prat, *supra* note 137, at 63-64.
- <sup>206</sup> See Pin & Galimberti, *supra* note 160, at 203.
- <sup>207</sup> See Caillosse, *supra* note 132, at 103-08.
- <sup>208</sup> See Parnet, *supra* note 5, at 245.
- <sup>209</sup> See *id.* at 256.
- <sup>210</sup> See *id.*
- <sup>211</sup> See *id.* at 250, 260.
- <sup>212</sup> See Parnet, *supra* note 5, at 243, 245.
- <sup>213</sup> See *id.* at 251, 256, 261.
- <sup>214</sup> See Garrett Dash Nelson, *How Boston Dreamed of its Future a Century Ago*, BOS. GLOBE, Jan. 2, 2015, <https://www.bostonglobe.com/ideas/2015/01/02/how-boston-dreamed-its-future-century-ago/28AZpbZkcrp8fgbS4PawpL/story.html>.
- <sup>215</sup> See Parnet, *supra* note 5, at 256-60 (discussing the strong opposition of local politicians to the creation of the Aix-Marseille-Provence metropolis).
- <sup>216</sup> See Nelson, *supra* note 214.
- <sup>217</sup> See O'CONNELL, *supra* note 157, at 97-98.
- <sup>218</sup> See Prat, *supra* note 137, at 60.
- <sup>219</sup> See *id.* at 62.
- <sup>220</sup> See *id.* at 63.
- <sup>221</sup> See Prat, *supra* note 137, at 65.
- <sup>222</sup> See *id.* at 63.
- <sup>223</sup> Sophie Deraëve, *Pôles Métropolitains: The French Approach Towards Inter-city Networking*, 1 REG'L STUDIES, REG'L SCI. 43, 43 (2014), <http://www.tandfonline.com/doi/full/10.1080/21681376.2014.892729?scroll=top&needAccess=true>.
- <sup>224</sup> See Prat, *supra* note 137, at 60.
- <sup>225</sup> See *id.* at 60-61.
- <sup>226</sup> See NELSON & LANG, *supra* note 159, at 13.
- <sup>227</sup> See *id.* at 14.
- <sup>228</sup> See *id.* at 15.
- <sup>229</sup> See Peter A. Buchsbaum & Larry J. Smith in *STATE & REGIONAL COMPREHENSIVE PLANNING* ix (Peter A. Buchsbaum & Larry J. Smith eds., 1993).
- <sup>230</sup> See NELSON & LANG, *supra* note 159, at 18 and accompanying Table 2.1. *Ranking States by Planning Rigor and Content Requirements of Local Government, 2002*, at 19.
- <sup>231</sup> See Prat, *supra* note 137, at 60-61.
- <sup>232</sup> See Nicolas Sarkozy, BIOGRAPHY, <https://www.biography.com/people/nicolas-sarkozy-37799> (last visited Feb. 17, 2018).