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## Urban government of French cities: between operational governance and logiarchical strategic management

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**Urban government of French cities :  
between operational governance  
and oligarchical strategic management**

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During the eighties, urban policies seemed to be at a turning point of their existence. As a matter of fact, the necessity to better delimit the field of such policies has increased, so that their efficiency may be improved. Thus, the pressing need for decentralization tends to be concretized, constituting, while spreading, the bases of a new emergent model of territorial management which is based on both decentralization and a policy of setting up contract-based links. Then the law about such decentralization confers this model on a legitimacy which was previously lacking. Various contractual approaches have come into being, as expressed by the case of the French urban policy (“*politique de la ville*”)

The increasing contractual trend of urban policies seems to be closely connected to the current rise in decentralization, insofar as this latter has made the recourse to contracts easier, in order to solve some confused institutional interdependencies that it has generated. Thus, this contractual trend has the advantage of fixing and clarifying mutual institutional interweavings, as to the specific field of competence and knowledge in relation to a concretely bounded territory.

As a matter of fact, it looks as if the welfare State and intervening models, formerly prevailing in France, have lost a part of their influence. Therefore, this paper intends to go thoroughly into the question of the validity of such a conjecture. Can one reasonably argue in favour of the fading of the State model about the management of French cities ? Could the noticeable current changes of the frame of urban government tally with the emergence of a new context of “urban governance”, as defined by an increasing number of current contributions to the economic literature ?

In the first place, the relative inadequacy between the theoretical frame of urban governance and the concrete realities of the management of French cities will be emphasized. Then, the second part of the paper will merely challenge this preliminary statement. Productive and operational patterns on the one hand, and more strategic

decisions on the other hand, will be distinguished one from another, which will point out the following argument : the former can be theoretically grasped by the concept of “governance”, whereas this notion does not suit the latter.

## **1 : Challenging the importance of the notion of “urban governance in the case of French cities**

The end of the eighties is characterized by a noticeable expansion of contracts, due to decentralization. This situation has been currently stressed thanks to the notion of local government. What does it really mean ? Is it possible to distinguish this kind of government from the reality which is increasingly embodied by the term of “governance” ? To which extent is it relevant to have recourse to this notion ? How could its emergence be explained ? As underlined by Le Gales (1995), modern societies would actually have become ungovernable, due to the higher complexity of social and political networks, and also to the new and raising autonomy of various local institutional actors.

### **1.1. Urban government and urban governance**

This paragraph will merely refer to Marcou Rangeon & Thiebault (1996). According to them, the current tendency in local government is, for cities, to be active rather than purely reactive entities, owing to the new power they have been granted through decentralization. *When a government consists of a wide diversity of actors, public as well as private, when it encourages the emergence of compromises and enables everyone to take part in urban policies, then it is appropriate to speak of “urban governance”*. Thus, this notion expresses merely one way (among many others) to exert some kind of government within cities. That way, numerous horizontal relations emerge (among a relatively heterogeneous and long string of potential intervening people in which the State is getting an ordinary actor).

Consequently, this notion of urban governance is not restricted to relations which would be internal to the local public area. In a few words, this notion expresses a structuring of powers for an institution the environment of which is broad, complex and hardly manageable (Ricordel 1997). This definition, although being different, is consistent with the one stressed by Williamson (1979), which is focused on the structure of contracts for an organization, without (explicitly) mentioning the problems which are raised by the local scattering of powers. However, Williamson's undertaker has to administrate to the best the specificity of the contractual structure of his firm. And in the same way the institutional "key actors" of the city have to cope with a similar situation. Actually, the main prerogatives of the function of mayor, that is to say a global management of the contractual structure which results from a more or less ended policy of delegation, generally appear to people as a special kind of (urban, rather than corporate) governance.

The functioning of urban governance, although quite often associated to the resort to contracts, cannot be restricted to such tools. As a matter of fact, urban governance can be conveyed by non-contractual tools. Moreover, numerous contracts are not characterized by the real intervention of private actors. Accordingly, there is no bijective link between contracts and governance, despite the existence of an implicit prevailing relation. In fact, given the diversity of participating actors, governance strongly refers to compromises. Thus, at first sight, contracts seem to make the emergence of such compromises between antagonistic actors easier.

Nevertheless, one may wonder whether the use of the notion of governance, which has just been defined, suit the apprehension of the concrete realities of the management of French cities. It seems that some patterns can be emphasized in order to qualify the relevance of this notion in this national context. In this respect, four main ideas will be pointed out.

## **1.2. Managing French cities : the unsuitability of the theoretical frame of urban governance**

First, the symbolic character of the increasing involvement of people as to local public policies will be stressed. Then, the weakness of the involvement of private actors will also be contended, which will be mainly explained by the weakness of lobbies, relating to these policies, in the French institutional context. This statement will lead us to underline the prevailing role of key actors (mayors, experts, presidents of district areas, ...), their influence and strategic power. Finally, the last paragraph will consider to which extent the continuous importance of State actions on urban affairs markedly qualifies the range of application of a potential urban governance.

### **1.2.1. The increasing involvement of people remains mainly symbolic**

Very few examples express a real involvement of people in the government of French cities, like in Nancy. In this city, the advice of the population has been currently asked, in order to choose between the end of new local taxes (which implies no additional investments) and wide-spreading economic investments (on the condition of a rise of local taxes). Despite this uncommon case, all-powerful mayors still characterize one of the main facets of the French local institutional context. In support of this fact, the increasing trend of creating inter-municipality entities, the members and directors of which are not elected, can be cited (Faure 1993).

Indeed, not even an ex-post electoral “participation” is available for the moment. Consequently the will to arouse people’s initiative and to encourage people to work together remains, quite often, a pure ideal. For instance, according to Le Bart (1992), each citizen hardly knows anything about the rules of the P.O.S. (cadastral development survey), because of imperfect information. Moreover, when some apprehensive effort at participation is made, to what extent does it effectively lead to a significant influence on the results to be achieved ?

In fact, a substantial filtering of the people taking part in the negotiation can be observed. Besides, this selection seems to strengthen on its own accord due to the strategic and/or technical complexity of urban issues, which lies beyond the competence and specific skills of the majority of the population. Accordingly, this generates a catch-22 situation to their real participation, as compared to a few “key-actors” who hold specific abilities and power (whatever election or expert-appraisal to which it may be due).

### **1.2.2. Weakness of the involvement of private actors**

Productive members of cities (manufacturers, producers’ associations, lobbies...) also play a somewhat marginal part as to the creation of urban policies. Broadly speaking, the legitimacy of French chambers of commerce appears to be very weakly significant in the local area, relating to the genesis of a dynamic economic environment. In the same way, professional lobbies and employers’ associations, which may exert some influence, are focusing their latitude at the national level, rather than at an urban scale.

In other words, French industrial lobbies (outside the public area) have a very restricted latitude. For instance, conversely to the American context, they cannot exert any influence on the choice of candidate for local elections (Harding 1991), because of the relative importance of local taxes levied on households, compared to the “handicapping” fiscal “monopsony” of productive taxes with which American local authorities have to deal. Consequently, a blind transposition of notions such as “urban growth coalitions” or “urban regimes” (Stoker & Mossberger 1994) would be misleading and irrelevant.

As underlined by Le Gales (1995), while describing the French contractual “*politique de la ville*”, theoretical models, aiming at analysing public policies, which have recourse to lobbies does not seem to suit the context in which French urban policies are embedded. “Lobbies press on political choices only when people’s representatives have a stake in it” (Davezies 1993 p 37). One has to emphasize the increasing prerogatives with which urban mayors have been granted, as a result of the decentralization during the last

decade. Urban key actors are still possessing specific skills, which provide them with a peculiar power of generating strategic urban plans.

### **1.2.3. The prevailing role of “key-actors” as to strategic urban planning**

Let us consider two actual cases in support of this : Lyon and Paris. As to the French capital, “the making of the city has been achieved at best without, at worst against, but at least never with local actors” (Martayan 1997 p 31). Relating to the “Lyon 2010” strategic plan, which is the canonical frame and model of French projectual dynamics, this situation is caricaturely magnified, since it has been revealed that the enacting of the project has been endeavoured in the absence of any commitment from the productive area, whoever could have carried it out, contrary to the opinion which is merely assumed. There were “no manufacturers, no bankers, no shopkeepers, no service executives among the members of the planning syndicate, its partners, its guests, or among the ten experts whose advice has been asked for... one has to be one of the people’s representatives in a city to take part in these choices” (Davezies 1993 p 49). This frame, indeed, is closely related to the “making of public policies by the elite” (Warin 1995 p 86).

Accordingly, it would be irrelevant to refer to the notion of urban governance which is merely based on partnerships between public and private actors, and also on dialogue between any kind of local actors. As a matter of fact, the definition of “governance” is inconsistent with the prevailing domination which may be exerted by a few key actors (the mayor for instance, relating to his deciding influence for the choice of the global strategy of “his” city). Nevertheless, such a statement expresses a major and dominating trend which can be observed in various actual cases.

Despite the strength of this tendency, it is obviously advisable not to contend that public policies cannot irreparably and totally belong to the people to whom they apply. However, there is no denying that the mayor is the real keystone, the main instigator and the foreman of urban strategy. The final decision will often be taken by the mayor, regarding the more strategic and sensitive political questions, even though this latter is obviously and frequently advised by a set of experts and representatives.

Nevertheless, an influence of private actors on the actual urban government can be emphasized in very few urban specific examples. Let us consider the case of an important firm which is (or is going to be) located in a given city. Although the firm will not concretely take part to the government of this city, local public managers will be implicitly prompted to take what the firm can reasonably expect from its location into account. Eventually, these forecasted expectations will have an indirect influence on the policy that urban managers will try to achieve. However, the fact that such a situation is very peculiar should not be overlooked.

#### **1.2.4. Recurring dependencies on the State**

Moreover, the latitude of key actors may be highly restricted. As a matter of fact, State intervention cannot be challenged and twisted, even if it is not prevailing anymore. Thus cities remain dependent upon numerous monetary grants from the State, whose levels may decrease in order to meet the European standards for public deficit. Given this dependence, the State can guarantee the pace of the rise of some grants (DGF : functioning global grant) while doing away with other subsidies (investing grant : DGE), or also with offsets for tax relieves which were previously awarded.

Besides, in most cases, the economic stability of French cities depends on the fact that State organizations (schools, hospitals, ...) are located or not in a city. Indeed, such entities appear to be the most important employers, which means that they constitute a key

force of local wealthes (insofar as the existence of a kind of keynesian local multiplier can reasonably be assumed).

The French law for planning and development of Territory (LOADT) embodies perfectly the emerging gap between decentralization and an insidious propensity towards recentralization. Decentralization is mostly advovated thanks to speech and intentions, rather than real modifications while allocating political powers. This creates an increasing gap between power-holders (statemen) and the actors who are responsible for the policies (local actors). Thus, the consequences of this lowly democratic recentralization trend have to be underlined, as shown by the renewal of the French territorial planning policy. It results from this trend that some standard models of contracts (which embody this policy) are devoid of any strategic dimension. As the mayor of a city states, “the *prefecture* compelled us to enter into this agreement... this signing was compulsory to get subsidies”. Thus, even if at first glance contracts appear to represent voluntary and controlled actions, they by no means entail the dissapearance of dependence on the State.

## **2 : Operational governance and oligarchical urban management**

The four items previously considered contend that the notion of governance must be used carefully when characterizing the management of French cities. However, the second part will merely be concerned with qualifying this introductory statement, distinguishing productive and operational concerns from strategic and more global ones. As a matter of fact, taking empirical and symptomatic changes of the current urban management into account matters in the French case. Thus, several examples of horizontal relations, of compromises and partnerships between public and private actors.... will be emphasized in the first paragraph of this last section.

Nevertheless, analysing both misleded contracts and the actual way of generating strategic urban plans will reveal the existence of two different (although accompanying) realities: the suitability of the theoretical frame of “governance” to productive and

standardized concerns on the one hand, the inadequacy of this frame to apprehend more global and strategic issues on the other hand.

## **2.1. The areas in which urban governance stands for a relevant analysis of urban contexts**

There is no denying that urban governance, as previously defined, has taken a more and more important part in the contractual way to manage urban policies and issues. This statement stems from the current planning dynamics which is expressed by various new strategic urban plans, and also from the renewal of cadastral development surveys. In fact, strategic urban plans have various things in common with corporate plans : genesis, methods, tools, language, psychology. In other words, the current unprecedented development of strategic urban plans (Bermils 1993) thanks to their increasing similarity with corporate planning, seems to represent a kind of footbridge between local-public and private worlds.

Since strategic urban plans appear to stem from a method which is familiar with corporate concerns, people's taking part to urban government becomes easier. Other phenomena, which also increasingly spread the spirit of governance to the whole urban environment, are emerging (Warin 1995) : the endless spreading of European influences, the breaking up of experts abilities, the creation of "ad hoc" institutions, etc...The wide dependence of some cities upon one powerful and sole manufacturer (Michelin in Clermont-Ferrand, Fabre laboratories in Castres) may also be evoked, as can plans emanating from public entities which have most of the time a significant influence on urban general management (Universities, public hospitals (CHU), national railway company (SNCF)...).

Accordingly, public policies are not totally independent of the industrial plans which apply to the same local area, as pointed out by Barthélémy (1997 p 40) with the example of the Autonomous Harbour of Bordeaux. " The way the Harbour intervenes and

influences the whole management of the Urban Community of Bordeaux (C.U.B.) always disturbs any kind of potential plans”. Finally, the multiplication of public-private partnerships, materialized by joint firms (SEM) in which citizen’s representatives restrict themselves to exerting a symbolic role, must be taken into account (parking garages, urban public transports, households rubbish collection...). Despite the emergence of these trends, it seems nevertheless untimely speak of French urban governance for the whole management of cities. Dealing with the more strategic part of this latter would entail a necessary restriction of the range of this notion of urban governance.

Thus the analysis of the goals and the means of urban policies (which aim at attracting firms, at enhancing trade in central urban areas, at building and organizing new quarters, at choosing how to financenew investments - debts or taxes-) would lead to qualify the suitability of the bases of urban governance to the French current urban context.

## **2.2. The inadequacy of urban governance to strategic urban management**

As a matter of fact, let us consider the case of “false contracts” (§1.2.4) in which the State is able to compel cities to take part in an agreement, determining its members, rules and clauses. In this case, the “misleading” contract only stands for an unconsciously complicit disguise of actions which continue to be managed separately (Gaudin 1995 p 44). The actual case of what is called urban contracts (“*contrats de villes*”) can be stressed in order to illustrate this purpose. These contracts are supposed to gather different cities belonging to the same metropolitan area. However, the empirical analysis of the content of such contracts reveals that 40% of them include only one city (Novarina 1997). Thus, independently of a global federating and organizing goal for the whole metropolitan area, many contracts only aim (rather implicitly) at collecting public funding. In fact, various institutional entities are only equivalent to financial letterboxes.

Accordingly, those opportunist (and even sometimes unwillingly drawn up) contracts do not suit the theoretical participating voluntarism that strategic plans are expected to express. As a matter of fact, such contracts, which may be devoid of any strategic pattern, can be “sold” by the State to cities, with strict and rigid rules which are to be respected (Vant 1995). This revival of the strength of State intervention, in spite of a context which is shaped by a will of decentralization, is quite often facilitated by the increasing variety and complexity of contracts which apply to urban management.

Indeed a rise of the power of coordinating statemen results from such a complexity. These latter are the only people who dispose of a global and synoptic vision of this multiform contractual dynamics. Thus, contracts would merely stand for a skilful way to create a kind of consistency between various local and public policies, to the prejudice of the enhancement of local strategic specificities. Given this particular context, it seems that the actual existence of both State management and urban governance models must be contended for French cities.

What matters most is that the governance-tools previously mentionned (§2.1) appear to be functional, operational, productive rather than strategic, contrary to urban strategic issues. In other words, they concern pinpoint problems about urban management, contrary to the definition of the main goal of the city, to the connexion between the different policies, to the genesis of the global strategy of the city (for instance enhancing economic growth, choosing relevant investments, choosing the best way to finance these investments, ...). Creating strategic urban plans on the one hand, and delegating some services to private actors on the other hand, have very few things in common.

Indeed, some major groups, producing urban services, have undoubtedly gained ground during the last decades. Nevertheless, those groups only become involved in urban management because their specific abilities are required. Moreover, they naturally do not interfere in the main political issues and debates, because of their risk-averse behaviour. Thus, for instance, Vivendi does not deal with the best way to promote trade activities in

the center of the cities where the firm is located. At the end of the division of labor and tasks, each urban member is entrusted with the activity whose required qualifications suit his own abilities. Such an urban division of tasks is unavoidable as they become more various and complex, but is confined to an emerging operational governing pattern, for strategic issues remain the apanage of a few key actors.

Although being different from the French national context, the Portuguese example stressed by Figueiredo (1997) clearly illustrates the strategic and main importance of key-actors. That was the case for the experience of strategic urban planning in the metropolitan area of Lisbon in the beginning of the 90's. As its emergence seemed merely attributable to one man in particular, Jorge Sampaio, the mayor, in this occasion, as this latter's becoming President of the Portuguese Republic created a noticeable thwart to this projectual dynamics, though already quite advanced and well initiated. Thus we're facing once again the statement (often stressed) of the nearly emblematic case of Lyon with the unavoidable character of Jean Frébault and the lack of involvement of non-institutional actors in the genesis of the urban planning process (§1.2.3).

## **Conclusion**

This paper was initially aiming at questioning the relevance of the theoretical notion of urban governance, relating to the analysis of the current government of French cities. Eventually, we can come to the conclusion that this relevance has to be challenged. First, defining the notion of urban governance has led to emphasize arguments which convey the inadequacy of governance to the actual management of French cities. As a matter of fact, the lack of partnerships between public and private actors, beyond the boundaries of the political public area, etc... has been pointed out.

Thus a qualified analysis of this preliminary statement and belief has been developed in the second part of this paper. The facets of urban government which are merely in relation to productive and operational concerns have been distinguished from the

strategic dimensions of urban management. Consequently, this showed to what extent the former suits the governance pattern whereas the latter is not relevant to such an analytic frame, for an oligarchical context is still prevailing as to strategic urban management. In this respect, it seems that few key-actors hold the specific ability to organize and coordinate such strategic policies aiming at managing the economic dynamics of the whole city.

### **References**

Abers R. (1998) : “La participation populaire à Porto Alegre au Brésil”, Les Annales de la Recherche Urbaine, n°80/81, pp 43-54.

Atkinson R. (1998) : “Les aléas de la participation des habitants à la gouvernance urbaine en Europe”, Les Annales de la Recherche Urbaine, n°80/81, pp 75-84.

Barthélémy J.R. (1997) : “Le rôle des acteurs techniques à Bordeaux” in Plan Urbain: “Qui fait la ville aujourd’hui ?”, pp 17-43.

Bermils B. (1993) : “Le partage du projet de ville avec les entreprises”, in Bouinot J. & Bermils B. , eds: “Projet de ville et projets d’entreprise”, LGDJ, pp 107-131.

Borraz O. (1993) : “Le changement dans le mode de gouvernement des villes” in Biarez & Nevers : “Gouvernement local et politiques urbaines”, CERAT, PIR Villes, pp 319-338.

Bouinot J. (1993) : “La transposition de la démarche projet de la gestion privée à la gestion urbaine”, in Bouinot J. & Bermils B. : “Projet de ville et projets d’entreprise”, LGDJ, pp 5-29.

Chevalier D. (1998) : “La politique urbaine, domaine réservé du maire ?”, Les Annales de la Recherche Urbaine, n°80/81, pp 121-128.

Davezies L. (1993) : “Le partenariat public-privé dans le développement urbain”, in Bouinot J. & Bermils B, eds : “Projet de ville et projets d’entreprise”, LGDJ, pp 31-51.

Faure A. (1993) : “Regards croisés sur le discours des élites du système politique en France” in Biarez & Nevers : “Gouvernement local et politiques urbaines”, CERAT, PIR Villes, pp 537-559.

Figueiredo A.M. (1997) : “Urban strategic planning reconsideration and economic and territorial policies in Oporto and Lisbon Metropolitan Areas”, 38° congress of the European Regional Science Association (ERSA), Rome, august, 20 pages.

Goldsmith M. (1992) : “Local Government”, Urban Studies, vol 29, n°3/4, pp 393-410.

Harding A. (1991) : “The rise of growth coalitions, UK style ?”, Environment and Planning C, n°9.

Le Bart C. (1992) : “La rhétorique du maire entrepreneur - critique de la communication municipale”, Centre d’Études et de Recherche sur la Vie Locale, Pedone, 190 pages.

Le Gales P. (1995) : “Du gouvernement des villes à la gouvernance urbaine”, Revue Française de Sciences Politiques, vol 45, n°1, pp 57-95.

Levy A. (1995) : “Crise et dysfonctionnements de la ville de l’âge démocratique : l’urbanisme en question”, communication au colloque CESURB “villes en projet(s)”, 23 & 24 mars, Bordeaux , 6 pages.

Lorrain D. (1993) : “Après la décentralisation, l’action publique flexible”, Sociologie du Travail, n°3.

Madies T. (1997) : “Concurrence fiscale et intercommunalité”, communication au XXXIII<sup>e</sup> colloque ASRDLF “renouveau régional urbain”, Lille, 1-3 septembre, 35 pages.

Marcou G. , Rangeon F. & Thiebault J.L. (1996) : “Le gouvernement des villes et les relations contractuelles entre collectivités publiques”, rapport, programme “Gouvernement urbain : contrats et conventions”, PIR-Villes / CNRS, 50 pages.

Martayan E. (1997) : “Aventures et mésaventures du projet urbain parisien”, Urbanisme, n°297, novembre-décembre, pp 23-32.

Novarina G. (1997) : “Les réseaux de politique urbaine. Concurrences et coopérations entre acteurs” in Godard : “Le Gouvernement des Villes, Territoire et Pouvoir”, Descartes & Cie, pp 213-254.

Ricordel P. (1997) : “La gestion publique locale : partenariat et performance”, Revue d'Économie Régionale et Urbaine, n°3, pp 425-448.

Stoker G. & Mossberger K. (1994) : “Urban regime theory in comparative perspective”, Environment and Planning C, n°12, 2.

Warin P. (1995) : “Les politiques publiques, multiplicité d’arbitrages et construction de l’ordre social” in Faure, Pollet & Warin, eds : “La construction du sens dans les politiques publiques”, L’Harmattan, pp 85-101.

Williamson O.E. (1979) : “Transaction-cost economics, the governance of contractual relations”, Journal of Laws and Economics, vol XXII, n°2, december, pp 233-262.