Part I

A society in movement demands reform.

The need for a new organisation of the state and of the public administration has become a priority for all countries in the world.

The reform applies at the same time and separately to the state and to the administration and reflects the history and customs of the people. It is a matter of harmonising change with tradition.

1 – Why reform the state?

a / Throughout the world, societies are undergoing important changes. Communication is bringing countries closer together and developments are speeding up. Institutional frameworks cannot remain fixed.

At the same time, the institution of the state is in crisis. Previously, historical shocks brought about a reinforcement of the state: war provoked a concentration of power, and economic crisis gave birth to the welfare state.

Today the situation is reversed, and we are witnessing a weakening of the state due to liberal tendencies, the integration of countries within international entities (such as Europe), and new information and communication technologies.

However, it is not possible to speak of the state’s inevitable decline, because the public needs the state more and more for security, the quality of public services, employment, and social cohesiveness.

If the state is unpopular – in public speeches – it is because it is considered to be too distant, too burdensome and too costly.

It is no longer possible to be satisfied with the traditional state: the state is only bearable if it is reformed – in other words, if it is necessary and effective, especially in guaranteeing a synthesis between the general interest and individual interests and in mobilising the greatest number in favour of the notion of the “common good”.

b / Political and social demands of citizens are becoming urgent.

The burden of the state must be controlled so as to reduce the tax load for taxpayers and to ensure the effectiveness of the public service, which is as close as possible to reality and provided at the lowest cost.
Moreover, businesses are making economic demands that tend to reduce the global cost of institutions, as this cost affects the competitiveness of businesses and their ability to assert themselves in the international marketplace.

For all of the above reasons, the reform of the state is a prerequisite for societal change. Consideration must be given to the conception and the role of a modern, democratic state that is dedicated to basic needs and respectful of the law, rights and freedoms.

2 – Why reform the public administration mainly in the territory?

First of all, it is in the territory where citizens live and where local and human realities are found, and public policy is only meaningful if it is rooted in social reality.

Three main objectives set out the administration’s role and its legitimacy to act:

a / Reconcile national unity and local freedoms, the national interest and local initiatives, social cohesiveness and individual actions, solidarity and diversity, the centre and the periphery.

b / Enable proximity:
• by bringing the power and the public closer together;
• by placing the power at the best level for adapting to realities;
• by favouring concrete activities on the ground and the civic assumption of responsibilities at local level.

c / Encourage co-operation, which signifies making various responsible groups work together for the common good by carrying out common projects of general interest. Is it possible in this way to encourage the development of a community of interests and the membership of each individual in a unified community that warrants the efforts of all its members?

3 – How to proceed? Several paths are offered to countries in search of reform and adaptation.

a / First of all, it is important to clarify the requirements of the reform. This doesn’t mean responding to a fashion or to a global decree or submitting to imposed models. Each country is called upon to find the trajectory of its people’s history so as to better determine the direction of change for future guidance.

b / A two-phase natural movement can be observed. In a first phase, centralisation is indispensable for building a unified nation. Then, in a second phase, the sharing of power in the territory is required for two reasons: democracy calls for the participation of the greatest number in the management of public matters of local interest, and administrative effectiveness requires good performance in the provision of services.

c / Several institutional approaches are offered to countries as options.

• The unitary state, which has historically enabled and preceded the birth of the nation, is responsible for the cohesiveness of the people. It controls and directs the process of change by assigning responsibilities for administrative management to local authorities, which remain integral entities within the unitary state, according to law.

• Federalism results from another historical reference. Local authorities, former states or principalities decide to unite in order to form a national unity and, for this purpose, they create by contract a state, to which they concede a minimum of competences that they are unable to assume themselves. This system of government is set out in the Constitution, and the local authorities have state responsibilities.
• Other countries have set up regional systems (Italy, Spain) or *sui generis*, a unique system (United Kingdom).

The choice between these organisational models depends on history, customs and the needs expressed by each country’s citizens.

---

**Part II**

The French experience of a combination of steps

**A – AN HISTORICAL PROCESS OF CONTINUAL CREATION**

**1 – The envoy on mission to the territory**

To respond to the objectives of reconciliation, proximity and co-operation, governmental powers have always – since the monarchy of the *ancien régime* – wished to designate a territorial representative, appointed *intituto personae*, close to local authorities, living in the midst of the public, hierarchically and personally answerable to the government and endowed with powers of representation, control and decision-making. This envoy had the responsibility of looking after the overall interests of the entire country and the protection of inhabitants and their freedoms.

Thus the King’s Administrator preceded the Napoleonic Prefect and then the Prefect of the Republic.

At first a political personality, in the sense of an electoral agent, he evolved towards the statute of a high-level civil servant, at the same time both impartial and faithful to the government.

**2 – A dual dynamic of change**

In the course of several centuries, nearly a millennium, change has occurred in three stages.

**a /** First of all, a deliberate will of the state to proceed with *centralisation* in order to join provinces and unite the country around the central state. The monarchy of the *ancien régime* targeted the common good of the kingdom. The revolution of 1789 encouraged the birth of the nation. Napoleon launched the building of the modern state.

**b /** Subsequently France experienced a long and tedious march towards *decentralisation*. The 3\(^{rd}\) and 4\(^{th}\) Republics granted deliberation powers to the elected councils of departments and communes. The 5\(^{th}\) Republic organised decentralisation, placing it in the domain of the administration and not of the sovereign state.

**c /** With the 5\(^{th}\) Republic, a search for synthesis brought together the state and local authorities in the territory by developing *deconcentration* as a corollary of decentralisation.

The Constitution of 1958, inspired by de Gaulle, consolidated – in article 72 – on the one hand, the principle of free administration of decentralised authorities and, on the other, the role of the prefect as the deconcentrated authority of the state.
In the course of the years 1990 and 2000 emphasis was placed on local economic development within the territory. Thus a movement of increased initiative-taking was encouraged, which was in the opposite direction to that of traditional centralisation.

3 – The French choice respects the logic of the unitary state, which is compatible with extensive decentralisation.

The process is based on a dual delegation of central power: on the one hand to local elected officials, which is decentralisation, and on the other to the appointed representative in the region, which is deconcentration.

In this way the dual objective of the administration is confirmed: national cohesion and local freedoms. This is the means by which France chose to reduce the central state in order to better serve its citizens.

4 – It should be kept in mind that the territorial system of administration in France comprises, by superposition, several levels of administration that have appeared in the course of the country’s history.

- At the base are 36,000 communes created from the parishes of the ancien régime, real democratic cells, which are more and more often grouped together as inter-communal co-operative groups responsible for the daily lives of inhabitants.
- 100 departments, created in 1790 during the revolutionary period to form the homogeneous framework of a unitary nation, are destined to ensure the management of essential public services.
- 22 metropolitan regions, established progressively on an economic basis under the 5th Republic, were officially recognised in 1982 for the implementation of territorial development.

These territorial authorities are components of the republic, integral parts of the nation-state that is in turn a member of the European Union.

B – AN INSTITUTIONAL MECHANISM PROGRESSIVELY SET UP IN STAGES THROUGHOUT THE TERRITORY

Decentralisation (local elected officials) and deconcentration (the state) together form a couple of united forces that call on each other and support one another. Thus the greater the decentralisation of competences, the easier it is to deconcentrate the functions of the central state. The objective is to organise the deconcentrated territorial state beside local elected authorities, thereby preserving the cohesiveness of all administrative forces in the country.

In fact, as a first step, the government is reduced by delegating. Then, after having clearly identified the responsibilities of local elected officials and those of the appointed representative of the state, it is necessary to encourage co-operation, through a horizontal exchange, between the state and local authorities on behalf of the national interest and service to citizens.

Thus France wished at the same time to balance and harmonise a very intensive decentralisation and the effective presence of the state in the territory through a mutual respect of competences.

1 – The policy of decentralisation, which consists of assigning competences to local elected officials, passed through several phases after the Constitution of 1958 had established its principles.

a / In 1982, under the presidency of François MITTERAND, an important reform (law of March 1982) gave a strong impetus to decentralisation, which had become irreversible.
Local freedom is expressed by taking responsibility, which presupposes effective competences and appropriate means.

- **The reform** put into practice the constitutional principle of free administration by elected councils.
  - The executive of the department (and of the region) was transferred from the prefect to the elected president of the general council or regional council.
  - The advisory (a priori) tutelle was replaced by a posteriori control, limited to legality, exercised by the prefect, who has the power to submit an act for illegality to the administrative judge, who alone has the power to annul. Without waiting for the two-month delay given to the prefect to carry out such control, the acts of local authorities are immediately enforceable upon submission to the prefect.
  - Local elected officials have full general administrative competency for managing matters of local interest.
  - No hierarchy exists between local authorities, who are subject only to the control of the state.

- **Competences** are of two kinds: on the one hand, the management of local matters responding to the needs of the public, and on the other, state competences that are transferred to local authorities.
  - Thus the commune has competency for urban affairs and the property management of schools.
  - The department is responsible for social actions and for the property management of lower-level secondary schools (collèges).
  - The region has competency for economic development, technical training of youth, and property management of upper-level secondary schools (lycées).

- **The means** condition the reality of decentralisation. The law specifies the freedom of choice and the use of available resources, within legal limitations.
  - **Financial means** are thus defined as follows:
    - local taxes, the level and volume of which may evolve depending on the decisions of local assemblies: property taxes for owners, residential taxes for tenants, professional taxes for businesses;
    - state taxes that have been transferred to compensate for the transfer of competences;
    - state subsidies, in the form of untied global contributions;
    - loans.
  - **Personnel means** are subject to the freedom of choice of elected senior officials, in the framework of a territorial public service that is distinct from the state public service.

b / In 2003-2004, twenty years after the great reform of 1982, a new impetus was given to decentralisation, still in the same spirit of progressiveness, consolidation and a search for balance between central and local powers.

- First of all, following the constitutional reform of March 2003, decentralisation was confirmed in the Constitution, where it was specified that “the organisation of the Republic is decentralised”.
Thus the Constitutional Council is the guarantor and the guardian of respect for the transfer of competences and means.

- Moreover, decentralisation is reinforced by the increase in responsibilities of local authorities. The principle of free administration is complemented by the allocation of some regulatory powers, which are entrusted to elected senior officials, and by the possibility of undertaking experiments that are adapted to local interests and within the limits fixed by law.

- **Transferred competences** are enlarged and enhanced. The region becomes the cornerstone of economic development and professional training. On the basis of the regional plan, local authorities may choose to take over some infrastructural management: national (or departmental) roads, airports, ports, etc. Local authorities may take responsibility for some services or equipment: education, culture, tourism, health and housing. Contracts are established and signed with the prefect.

- **Compensation for the transfer** of financial resources and human resources must be total and correspond to the real cost of the transferred competences. Guarantees are established in the Constitution and fixed by law, and in particular the portion of local fiscal revenues that define real financial autonomy must constitute a major part of all financial resources.

- Finally, the **reinforcement of local democracy** is a factor in maintaining the equilibrium and attaining the objectives of decentralisation.

Thus direct democracy is facilitated by the local referendum, on the initiative of the mayor and based on the citizens’ right to an open petition for the inscription of an issue on the local assembly agenda.

2 – **Deconcentration** evolves in parallel and jointly with decentralisation. Its first objective is to facilitate a responsible dialogue between the state and local elected officials within the region itself.

This does not constitute a counterweight but a corollary and an indispensable aid to ensure that decentralised decisions are in keeping with the cohesiveness of national interests.

Deconcentration, which consists of the delegation of ministerial functions to prefects as ministerial heads of services in the territory, responds to two other motivations: ordering the functioning of state administrations so as to provide the best service to citizens and promoting the reform of the state and the administration in a practical and complete way.

**a / The position of prefect:**

The function of prefect is performed by high public officials appointed on a discretionary basis by the Council of Ministers, belonging to a prefectural corps and carrying out an administrative career from one post to another.

Created by Napoleon to serve as a reinforcement of the state, the prefect has progressively been depoliticised and professionalized. He has become the specialist of general administration in the territory.

Chosen *intuitu personae* by the government, the prefect represents both the state in its continuity beyond elections and the government elected by the majority of the nation. His loyalty is a function of the government’s confidence. The function of prefect is interministerial in nature. The prefect is the agent of the state’s authority and the delegate of the prime minister and of each minister in the territory.

There are 22 regional prefects and 100 departmental prefects, as well as sub-prefects in 400 districts.

**b / The role of the prefect follows from the role of the state and evolves as a function of national priorities.**
The Constitution stipulates that “the Prefect is responsible for national interests, administrative control and respect of the law.”

- As representative of the state, he is the guardian of the law. He performs the functions of control of legality and maintenance of public order and security.

- As representative of the government, he is responsible for “implementing national and Community policies” (as representative of a Member State of the European Union).

In this respect, he monitors economic development (employment), social solidarity, and management of the national territory (territorial development, environment, major public facilities).

c / The prefect’s means of operation are based on his interministerial role.

- He ensures the management of activities of ministerial services in the territory, where he is the hierarchical head on behalf of ministries.

- In this respect, it should be mentioned that the objectives are to ensure the best coherence of the state administration’s activities and the closest attention to citizens’ expectations. Moreover, the prefect participates in the reform of institutions through his responsibility for regrouping the functions of ministerial services in accordance with the main roles of the state, based on areas of competence, at both departmental and regional levels. In the event of crisis management (civil security, social crisis, etc.), the prefect is in a position to mobilise all public services.

- The prefect has the legal power to apply police regulations, administrative measures, legislative or regulatory texts and to make financial decisions affecting the budget of the state and competent ministers.

In the financial area, the regional prefect distributes global contributions among departmental prefects, who in turn use budget envelopes to finance individual activities or priority actions (employment, environment, social problems, etc.).

In general, because of his interministerial position and his proximity to the public, the prefect appears more and more as an arbitrator between local authorities, as a mediator in the case of social conflict, as a facilitator to mayors in the elaboration of projects, as a recourse for citizens, and as a partner for businesses. In this way, the state is able to show a human face in the territory.

3 – Relations between the state and decentralised local authorities are based on the necessary co-operation between responsible republicans dedicated to providing the best service to the nation.

In a unitary state, decentralised authorities participate in the overall administration of the country.

In France the decentralisation legislation of 1982 stipulated that “territorial authorities unite with the state for territorial administration and development”. The concept of territorial administration signifies the solidarity of objectives and means.

Relations between the deconcentrated state (the prefect) and decentralised authorities are based on three orientational axes:

- Permanent dialogue allows for the exchange of information and reciprocal participation in working meetings.

- Control of legality is an essential condition of local responsibilities and freedoms. The prefect can thus monitor the fight against corruption since his personal status necessarily keeps him apart from any compromises with local interests. This control includes an informal function of legal
advice, which is provided for the benefit and support of local elected officials, and an overall function of regulation of the activities of public powers.

- **Common actions** enable the association, on the one hand, of a portion of state services with local initiatives and, on the other, of local elected officials with national policies.

These actions are at several levels: from co-ordination of projects to consultation on common actions, establishment of contracts and pooling of resources to meet priority objectives.

In France the prefect negotiates, signs and implements on behalf of the state contracts with communities (security), departments (housing, employment) and the region (surveyors’ contracts).

Common actions depend more and more on sustainable local development based on the territory’s assets. Thus local development charters are elaborated to implement development plans concerning natural regions that have united their future projects.

In this respect, the regional space becomes a crossroads for strategies, in particular national policies of the state, initiatives of local authorities and European directives.

---

**Part III**

---

**Evaluation of the process of territorial administration**

1 – The two movements of decentralisation and deconcentration are essential drivers for the reform of the state and territorial administration.

France invented the evolution of a unitary state towards decentralisation, without recourse to federalism, thanks to deconcentration.

Thus the development of local autonomy does not adversely affect national cohesiveness.

In a climate of confidence and mutual respect of competences, the prefect – in relation with elected managers – reduces the risk of feudalism and corruption and encourages the convergence of distinct public responsibilities, national and local.

This constitutes the merit of a deconcentrated state in a decentralised nation.

2 – The French experience, which has been ongoing for many years, remains a permanent building site that is never completed, evolving at the demand of citizens and under the pressure of competitiveness required by the international marketplace towards a modern, human and efficient administration. Thus, at present in France two axes of reform have been established: at central level, ministerial reform strategies at the initiative of ministers, and at the territorial level, administrative organisation plans and centres of competition managed by prefects.

3 – **The demands of territorial reform**

a / In order to succeed and therefore overcome the obstacles of traditional conservatism and resistance to change, the territorial administrative organisation must respect some precise conditions.
• **Structural conditions**: the reform of the state, in particular the central administration, must accompany, if not precede, the reform of the administration. The driving force of a responsible territorial administration must reduce the burden of central services and prevent decisions from rising again to the government. Moreover, the superposition of too many levels of decision-making harms administrative effectiveness. Consideration must be given to the choice between the region and the department.

• **Legal conditions**: the control function cannot be separated from the freedom to administrate.

• **Human conditions**: the requirement of a professional and impartial public service is as necessary as the training of elected officials in modern management.

• **Technical conditions**: new information and communication technologies must be applied in order to streamline procedures.

• **Financial conditions**: the overall equilibrium between national and local taxes is a concern that must take priority so as to protect the capacities of the individual taxpayer, who is confronted with multiple obligatory deductions by various public authorities.

• **Civil conditions**: the participation of citizens is obtained through the comprehension of the administration, which requires a constant effort to simplify standards and procedures.

• **Psycho-social conditions**: no reform can be achieved without a change of mentality and behaviour at all levels, and national and local leaders must first set an example in this respect.

b / All in all, the reform must be accompanied by three connecting steps:

• A **global strategy**, determining the issues at stake, objectives and stages, supported by a commitment that is solemnly displayed by the government;

• The **enthusiasm and awareness** of citizens, who must be informed and mobilised so as to obtain their support;

• **Intermediaries in the territory**, in other words militant state civil servants and motivated local elected officials. It is in the territory that reforms become alive and take shape, as otherwise they become bogged down and blocked in the face of unchanging behaviour.

4 – **The comparative approach** is instructive and indispensable.

a / The observation of experiences reveals the relativity of proposed systems. In fact, there are no imposed models that would correspond to both the orthodoxy and the fashion of the day. There are rather only mechanisms to be adapted or invented to respond to the history, customs and expectations of each people. Moreover, all systems are obliged to evolve.

Thus some traditionally centralising countries have become involved, like France, in extensive decentralisation. Moreover, countries with a federal tradition are experiencing a recentralisation, beginning with the allocation of financial resources.

The United Kingdom, an apostle of self-government, has only recently granted electoral representation to Scotland and Wales.

The countries of Eastern Europe that have recently regained political freedom are searching for a way of encouraging freedoms while at the same time preserving national unity.
African countries are attempting to build nations from egocentric tribal structures.

b / Global solidarity of the issues at stake, which are comparable across the diverse countries, results in promoting the exchange of good practices.

Perhaps the specific steps taken by each people to reach similar objectives could create a kind of global crossroads where experiences would be more and more similar as a result of the solidarity of citizens.

In conclusion, it must never be forgotten that the purpose of decentralisation is not to reinforce local powers or to preserve central power but basically and exclusively to ensure the best service to the citizen, service that is closer, more comprehensible and less costly.

Decentralisation cannot be forced. It must be made alive for and by the inhabitants of the City of Mankind.

Translated from French
Sigma, Paris, October 2005