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Symposium on "Capital Cities Shaping National Constitutional Identities"

Introduction

by

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"The city does not tell its past, but contains it like the lines of a hand, written in the corners of the streets, the gratings of the windows, the banisters of the steps..."
— Italo Calvino, Invisible Cities (1972)

Capital cities, like the imagined metropolises in Calvino's Invisible Cities, are palimpsests of constitutional meaning and can indeed be referred to as "Westphalian constructs" (Boggero in this issue). They do not speak their constitutional role explicitly, but it is imprinted in their spatial order, institutional density, symbolic architecture, and political function. More than geographic centres or seats of government, capital cities often host the whole set of state institutions and, as such, embody the aspirations, contradictions, and historical sediment of the nation-states they represent, through the different facets. They concentrate the visible and invisible structures of power, authority, identity, and collective memory, concealing the scars in the history of their people. This ambivalence is witnessed by the *Concise Oxford Dictionary*, where the following definition can be found: a capital city is 'the most important town or city of a country or region, usu. its seat of government and administrative centre'. In purely functional terms, a capital hosts the institutions of the state or a great part of them; however, its political, economic and cultural relevance within the state usually goes far beyond this. This is true even of cities that were purposefully conceived as the seat of the federal government, as Washington D.C. within the United States of America (see Annicchino in this issue).

This symposium dives into rather uncharted territories, exploring the original connection between constitutional identity and the evolving role of capital cities across various European and non-European jurisdictions. With this, we aim to offer insights into how public law and its identitarian flank shall be called to acknowledge their structural diversity and symbolic power.

The issue stems from the panel "Capital Cities Shaping National Constitutional Identities", held at the ICON·S Austria 2024 Annual Conference, hosted on September 10–11, 2024 by WU Vienna and Sigmund Freud University in Vienna. The conference theme, "Public Law and the Cities," reflected a growing scholarly interest in the relationship between

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constitutional law and urban governance. The panel was part of the broader framework of the PRIN research project "Identitarian Public Law: Dynamics of Illiberal Exclusion and Democratic Inclusion" (CUP J53D23018930001), funded under Italy's National Recovery and Resilience Plan, Mission 4, Component 2, Investment 1.1. (Research projects of major national interest), and whose principal investigator is Prof. Giacomo Delledonne.

The conference panel originally gathered five constitutional scholars in order to develop a comparative reflection on how capital cities influence and reflect constitutional values, how their legal status is intertwined with the most traditional public law issues, shaped by historical legacies, central-local tensions, or contemporary governance challenges. Draft papers were presented and discussed by Giovanni Boggero (Università del Piemonte Orientale), Ylenia Maria Citino (Scuola Superiore Sant'Anna), and Giacomo Delledonne (Scuola Superiore Sant'Anna). The session was chaired by Florian Lehne (Universität der Bundeswehr München), with Zuzi Vikarská (Masaryk University) serving as discussant and providing a critical lens through which to analyse the normative implications of capital city status in connection with the notion of constitutional identity. Huge thanks are also due to Lando Kirchmair Universität der Bundeswehr München) for his help in the run-up to the conference.

The theoretical core of this special issue draws upon the research work and the feedback gathered at the conference and, more in general, from comparative constitutional law. While recognizing that capital cities are often central symbols of national unity, as exemplified by Article 22 of the German Basic Law ("The Federation shall be responsible for representing the nation as a whole in the capital"), we noticed that their constitutional status, in the comparative landscape, varies markedly across legal systems.

A notable distinction arises between capital cities in federal and unitary states. In federal states, capitals are frequently constitutionalised and granted significant autonomy. Besides Berlin, Article 5.1 of the Austrian Constitution also designates Vienna as "the Federal capital and seat of the highest Federal authorities". Similar provision can be found in Article 194 of the Belgian Constitution. Capital cities in federal states often possess substantial autonomy as self-governing territorial entities, accommodating multiple layers of governance. Vienna, for instance, not only serves as the capital but is also recognised as a Land (region) and a municipality according to Article 2. In unitary states, by contrast, capital cities are largely non-constitutionalised and they are often governed through ordinary law, with varying

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degrees of institutional specificity and political autonomy. Sometimes, special legislation may grant them specific governance structures, as seen in cases such as the Métropole du Grand Paris and Greater London. Rome, instead, is acknowledged under Article 114 of the Italian Constitution but only in declaratory terms. Madrid is enshrined as the capital under Article 5 of the Spanish Constitution alike.

Capital cities serve not only as seats of government but also as platforms for asserting a country's global visibility and democratic identity. Notwithstanding some idiosyncrasies, they function not only as political and administrative centres, but also as economic, cultural, and demographic hubs within a nation. Additionally, they play a pivotal role in fostering local and regional democracy. Beyond mere geographical significance, capital cities often embody the essence and complexity of a nation's identity, frequently encompassing a representative function of the unity of the Nation. Yet they are increasingly confronted with structural challenges that threaten to disrupt their unique identity roles. These challenges include climate change, ageing infrastructure, rapid urbanisation, demographic shifts such as overcrowding, depopulation or gentrification, lack of affordable housing, social inequalities, and, last but not least, the digital divide affecting marginalised populations. Effective urban governance planning could help address these issues, but without the support of a solid constitutional framework all of this could be vain.

To this end, national constitutions can foster, with tailored normative provisions, the special needs of capital cities, for instance by granting privileged status, financial autonomy or other mechanisms allowing them to bear the changes of this epoch.

In this issue, we discuss whether their autonomy shall be as such as protecting them from undue political interference from national governments, a risk exacerbated by their physical proximity to the seat of national administration. Constitutions should not only emphasise capital cities' function as bridges between national and local governance but also recognise their significance on the international stage. As symbols of national identity, capital cities represent their respective nations internationally. From time to time, such representative function may be at odds with the specific needs of local self-government.

The issue further interrogates how constitutional law can accommodate and protect the evolving reality of capital cities in this fraught context. In essence, the constitutional power vested in capital cities varies greatly, ranging from mere administrative local status to roles where they admix powers from both metropolitan cities and regional entities. This

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differentiation not only impacts abstract categorisation, making it extremely challenging, but also affects the case for a uniform approach by the state.

The essays in this special issue can be axed around four intersecting dimensions of identitarian reflection: comparative constitutional frameworks, symbolic and functional roles of the cities, religious identity and European integration.

Giovanni Boggero, in his contribution, constructs a comparative taxonomy of constitutional provisions and legal statuses of capital cities across Europe. His paper draws from research of the Council of Europe and the 1985 European Charter of Local Self-Government to demonstrate recurring legal patterns and tensions between centrality and autonomy.

Ylenia Maria Citino explores the paradoxes inherent in Rome's status. While the capital of Italy is acknowledged by the Constitution, the set of institutional rules enshrined in primary law that define its governance is at the root of the many inefficiencies and sometimes the cause of overlapping of functions between institutional actors. Constitutional design, as she argues, would be the preferable solution in order to reappraise the symbolic and identitarian value of the capital and equip the city with the autonomy it deserves, while at the same time allocating a clear share of responsibilities.

Giacomo Delledonne offers a reflection on Paris in order to analyse its role in shaping France's constitutional identity. He first notes that Paris, despite its undeniable centrality in France's political and historical development, remains a constitutional blind spot which is not even mentioned in the constitution. Delledonne paints a historic fresco while attempting to describe the causes of the normative and symbolic marginalization of Paris.

Oliver Garner investigates London's significance to and within the unwritten and flexible constitution of the United Kingdom. The position of London within the British constitutional order has been greatly affected both by the introduction of a directly elected mayor as part of the ambitious reform agenda of the New Labour government and by the multiple crises that have hit the country in the last decade, ranging from the Brexit to the uncertainties about the future of Transatlantic solidarity.

Finally, Pasquale Annicchino turns to Washington D.C., using it as a case study to examine the role of capital cities in legal and religious power projection. He situates the U.S. capital as a global hub for lawfare, strategic litigation, and religious advocacy, exploring its extraterritorial influence on global constitutional and human rights debates.

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The set of papers, even though it does not cover all potentially relevant cases in comparative public law, still provides the reader with a clear picture of how legal systems recognise, construct, or suppress the identity of capital cities within national and supranational orders. While no singular model emerges, the comparative insights underscore how capital cities increasingly function as constitutional laboratories—spaces where identity, authority, and governance intersect and sometimes collide.

In advancing this research agenda, we can complete this introduction by recalling that the special issue contributes to the broader objectives of the PRIN project on Identitarian Public Law. As stated in the opening, it interrogates the dynamics of inclusion and exclusion within constitutional frameworks. Therefore, in conclusion, capital cities, precariously poised between tradition and innovation, between national identity and global contradictions, can be truly recognised as central actors in the contemporary redefinition of constitutional space.

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Common Constitutional Patterns of Capital Cities in Europe

by

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Abstract

This paper examines the dual role of European capital cities as both symbols of national sovereignty and autonomous local government units. Despite their increasing prominence in economic and environmental spheres, capitals remain deeply embedded in their states' administrative structures, balancing their functions as political and cultural hubs with local self-government. The paper identifies key constitutional and administrative patterns across Europe, drawing on Council of Europe frameworks and comparative analyses. It highlights variations in capital city models – ranging from dominant "city-states" like Berlin and Vienna to decentralized capitals such as Bern and The Hague – while emphasizing shared challenges in governance, financial autonomy, and intergovernmental cooperation. The findings underscore the enduring diversity of capital city arrangements, shaped by historical, constitutional, and local autonomy factors, with no uniform trend emerging despite European integration efforts.

Key-words

Capital cities, Constitutions, Local autonomy, State symbols, Council of Europe

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1. Introduction – The Dual Role of Capital Cities

Despite their increasing prominence as autonomous international actors in economic and environmental spheres [Orttung, 2019], capital cities in Europe remain, first and foremost, integral components of their respective states' administrative structures. As inherently Westphalian constructs, they embody the history of nation-states, reflecting their triumphs, struggles, and aspirations. In essence, capital cities function as powerful symbols, communicating the core features of a state's identity both domestically and internationally [Delpérée, 1993]. Their symbolic role is deeply intertwined with their political and constitutional significance, as they serve as instruments for fostering unity and promoting political, social, and cultural integration among citizens [Smend, 1928; Häberle, 1990]. The role of capital cities varies significantly depending on the nature of the state and the degree of local autonomy it grants. According to a well-established framework [Claval, 2000], capital cities can be broadly categorized into two main types: (a) symbols of national sovereignty, embodying the historical and cultural heritage of the nation-state, or (b) functional centers of a state whose legitimacy derives from multiple communities. The former often serve as primary hubs for political, economic, and cultural activities, attracting the ruling elite and becoming centers of intellectual and artistic life for the entire country (e.g., Paris). The latter, by contrast, tend to focus on political and administrative control, sharing their influence with other significant cultural or economic centers (e.g., Bern, The Hague); they are sometimes referred to as "secondary capitals" [Kaufmann, 2018]. At the same time, and perhaps more importantly, all capital cities function not only as *ein Stück Staat* (a piece of the state) but also as local government units, typically in the form of municipalities. At least since the seventeenth century, capital cities have served as the most representative image of a state while increasingly acquiring self-governing powers [Shaw & Štiks, 2023]. Unlike other local government entities, they uniquely combine sovereignty and autonomy, balancing their dual roles as symbols of the state and as administrative units. In countries with a strong tradition of local autonomy – particularly federal states and common law countries – state administrative structures are typically less centralized, and the national capital assumes a more modest role [Slack & Chattopadhyay, 2011]. Conversely, in highly centralized states, the capital often emerges as a dominant urban center, resembling a "city-state" and characterized by an extensive bureaucratic apparatus. The interplay between the nature of the nation-state

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and the degree of local autonomy results in a wide variety of capital city models. Despite this diversity, a common thread is the need to reconcile state and local government functions. The aim of this short paper is to identify the most significant patterns in these reconciliation efforts throughout Europe.

2. Shared Constitutional Patterns: Insights from the Council of Europe

This reconciliation, though shaped differently across legal systems, reveals several shared patterns among capital cities in the "Greater Europe". These patterns are not merely descriptive but normative, emerging from the combination of state characteristics and local autonomy levels. The Council of Europe, particularly through its Congress of Local and Regional Authorities, has addressed this issue in two different reports, one adopted in 2007 and the other in 2021 [Tarschys-Ingre & Kössler, 2020]. These reports aim to establish a comparative framework for capital cities and provide general recommendations to member states on the role of their national capitals within the European constitutional legal order. These recommendations respect the constitutional identity of each state and therefore its margin of appreciation (discretion under international law) in arranging national capitals, while emphasizing the importance of local autonomy, as outlined in the 1985 European Charter of Local Self-Government (ECLSG) – the only international treaty setting out standards for local governments [Boggero, 2018; Himsworth, 2015].

2.1 The Legal Foundations of Capital City Status

Defining what constitutes a capital city is challenging beyond general descriptions of it as the demographic, cultural, economic, and political center of a country. While most European capitals enjoy direct or indirect constitutional or legal recognition, the specific function of this recognition is often difficult to clarify in broad terms. Historical convention and political consensus frequently play a role, but constitutions typically do not elaborate on the meaning of capital city status. Instead, they tend to recognize capitals either to establish a special administrative status (as discussed in Section 2.2) or to assign them a distinct place within the governmental system.

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More often than not, the constitutional designation of a capital is a symbolic and political act, rooted in national traditions, customary constitutional law, or political consensus. This means that relocating the capital generally requires a constitutional amendment and/or a national referendum. Constitutional entrenchment ultimately grants capitals a degree of authority and permanence [Arban, 2020; 2022], protecting them from arbitrary relocation and ensuring their position within the state structure.

Yet, such provisions rarely shed light on the selection process or the rationale behind capital city designation. A notable exception is Belgium, where Article 194 of the Constitution – mirroring Article 126 of the 1831 text – explicitly designates Brussels as the capital due to its role as the seat of major governmental institutions. This recognition stemmed from the city's resistance during the September Days of 1830, serving as a symbolic reward for its contribution to the nation's independence. Following reunification, Germany underwent a similar constitutional deliberation, moving its capital from Bonn – provisionally designated as the Regierungssitz (seat of government) after 1949 – back to Berlin, the historic capital of the German Empire. Initially a gesture of restored unity, this decision was later formalized through a 2006 amendment to the Basic Law. Article 22 now stipulates: "Berlin is the capital of the Federal Republic of Germany," followed by a functionally oriented clause: "The Federation shall be responsible for representing the nation as a whole in the capital." This implies that one of the German capital's key roles is the Selbstdarstellung (self-portrayal) of the nation-state's diversity and unity. However, it remains unclear whether this provision mandates that all federal constitutional organs be headquartered in Berlin [Weischede, 2022]. In most cases, the rationale and implications of constitutional recognition remain ambiguous, leaving the underlying reasons and consequences of capital city designation open to interpretation and subject to ordinary law.

2.2 A Trend towards a Special Administrative Status?

Capital cities are often assigned a special administrative status, yet this means different things depending on the legal order under consideration. The classical distinction [Rowat, 1973; Van Wynsberghe, 2009] includes three types of arrangements that extend beyond federal systems to various forms of state organization: A capital forming a special district (e.g., Washington DC, Canberra, Abuja), primarily found in non-European federal states; A

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capital constituting a city-state, also functioning as a region, thus with dual status as both a municipality and a federal entity or region (e.g., Berlin, Vienna, Brussels);

A capital located within a federated entity, a region, or a province having little or no special status (e.g., Bern, Rome, Kyiv). It is important to recognize that each of these three types of status within multilevel government systems has specific implications for autonomy. The first type – typically found in non-European federal states – involves a planned (rather than historically evolved) capital district intended to shield the federal government from potential interference by the host state. However, this concern now seems overshadowed by the opposite problem: federal overreach into the capital's local autonomy. The other two institutional arrangements are more common among Council of Europe member states. Within the Council of Europe's legal framework, "antifederal behavior" by capital cities does not appear to be a significant issue. In fact, granting capital cities representation in federal institutions may be a sound policy recommendation for federations. This approach could even provide stronger safeguards against antifederal tendencies than excluding them from institutional participation [Nagel, 2013].

Special status might also involve a different arrangement of the scope of responsibilities, as laid down by national or regional laws on municipal government. In this legal construction, the same rules apply to all municipal governments, possibly with some special regulations or minor modifications concerning the self-government of the capital city. Special administrative status is not always exclusive to capital cities; it may also be granted to manage the governing authorities of larger cities or urban areas. However, in some cases, institutional "bicephalism" creates governance inefficiencies due to an ambiguous distribution of functions and overlapping competences between the Capital City Mayor and the Head of the City State Administration. Since the latter holds executive authority, this dual structure undermines the autonomy and effectiveness of local self-government. This explains why, in certain parts of Europe, capital cities lack special administrative or legal status and hold the same administrative rank as other municipalities.

Notably, this uniformity is also common in most Western European countries. Such consistency suggests that the symbolic or political significance of capital cities does not inherently justify special legal status or differentiated treatment. On the contrary, in many Council of Europe member states, capitals operate under the same legal framework as other municipalities. Where capitals do enjoy special administrative status, it may derive from

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various factors beyond constitutional recognition, including historical tradition or political expediency. Recognizing this diversity, the Council of Europe Congress of Local and Regional Authorities has evolved its position from advocating a specific special status for all capitals (Recommendation No. 219/2007) to acknowledging that "the undoubtedly specific role of capital cities does not always translate into a special status" and "where granted, this status may take different forms, depending on a great variety of factors" (Recommendation No. 461/2021). The Congress now recommends that member states exercise their margin of appreciation to establish appropriate legal safeguards for their capitals' local autonomy vis-à-vis the national government, particularly as capitals are vulnerable to political conflicts. Nevertheless, the Congress continues to recommend special administrative status in cases where the statutory framework fails to account for the particular responsibilities of capital cities compared to other municipalities, as evidenced in recent reports (e.g., the report on Iceland CPL(2024)47-02 on the status of Reykjavik or the report on Romania CG(2023)44-11 on the status of Bucharest).

2.3 A Citywide Elected Administration and Its Subdivisions

National capitals are typically large municipalities characterized by high population density and expansive territories. The Council of Europe recognizes that most capital cities operate under a unified municipal government, though exceptions exist, such as Baku, the only European capital without a mayor [Shahniyarov, 2022]. The Congress of Local and Regional Authorities emphasizes the importance of an elected citywide administration as a key legal safeguard to represent and advance the unique interests of capital cities. To this end, the Congress advises against fragmenting a capital's territory into multiple independent municipalities, stating that "the management of the capital city by centrally appointed authorities or by local district authorities, without an elected municipal government at the citywide level, does not comply with the fundamental principles of the European Charter of Local Self-Government" (Recommendation No. 219/2007). This position was reinforced in Recommendation 461/2021 regarding Azerbaijan, which emphasized that dividing a capital's territory undermines the coherent representation of capital-specific interests, as historically demonstrated by London prior to the establishment of the Greater London Authority.

However, the Congress does not prescribe specific institutional features for capital city governments, as the standard provisions for elected self-government apply. For instance,

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there is no mandatory requirement under Article 3, paragraph 2 of the ECLSG for both the mayor and the council to be directly elected. Nevertheless, despite resistance – particularly from Scandinavian countries, where indirect election of executives is traditional – a trend toward the direct election of capital city mayors has emerged, especially in Central and Eastern Europe since the 1990s. This shift has been most recently observed in Zagreb (since 2009) and Warsaw (since 2002), while similar discussions have taken place regarding Paris (see Discussion Document of the Secretariat of the Congress of Local and Regional Authorities on the Direct Election of Mayors, CPL(2023)44-04).

Simultaneously, many capital cities operate under a two-tier local authority system, where governance is divided between citywide and district-level administrations. This structure is often seen as contributing to more effective and efficient administration and public service delivery at the grassroots level. The specific implementation varies considerably. Particularly in microstates, some capital cities, such as Vaduz, Valletta, Luxembourg, Nicosia, and Reykjavik, generally lack internal administrative divisions. In certain cases like London or Moscow, subdivisions function as relatively autonomous self-governing districts. Elsewhere, districts serve as administrative units established either voluntarily or by legal mandate, with governance structures that may include directly elected councils (e.g., Paris, Rome, Berlin, Vienna) or appointed councils (e.g., Madrid, Athens). The Council of Europe acknowledges that the need for "proximity governance" is not incompatible with an elected citywide administration. This can be achieved by establishing districts as internal subdivisions. Suburban districts, which are common not only in capital cities but also in other local authorities, enhance administrative efficiency and public service delivery by adhering to the principle of subsidiarity. They also foster greater citizen engagement in local affairs. Consequently, the Congress recommends establishing an administrative system that includes elected district authorities, with their competences clearly defined by law and distinct from those of the citywide administration. This approach aligns with the subsidiarity principle and is particularly advisable for larger capital cities under the Charter. However, the Congress recommendation No. 452 (2021), which pleads for a clear division of competences between city and district authorities, appears to go beyond the requirements of subsidiarity, potentially constraining the flexibility needed for effective multilevel governance. Furthermore, the dual federalistic model implied in some recommendations does not reflect common practice among Council of Europe member states, where the distribution of competences between

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city and district authorities often involves diverse institutional arrangements, frequently granting the citywide government hierarchical powers even within two-tier systems. In summary, while the Council of Europe advocates for elected citywide administrations and the establishment of districts to enhance local governance, the implementation of these recommendations must balance the principles of subsidiarity and flexibility. This approach is necessary to accommodate the diverse administrative realities of capital cities across Europe, ensuring both effective governance and the representation of local interests.

2.4 Addressing the Unique Financial Challenges of Capital Cities

Financial issues faced by capital cities are, in many respects, similar to those encountered by other local government units. However, in federal systems such as Germany or Austria, the comparison is more appropriately drawn with other *Bundesländer* rather than with local authorities. Like all subnational entities, capital cities are primarily concerned with ensuring sufficient revenue-generating capacity, including taxation powers – and securing adequate financial transfers to fulfill their responsibilities.

Nevertheless, despite the considerable economic advantages of being a national capital, these cities across Europe share a distinctive financial challenge: they typically incur higher expenditures compared to other urban centers of similar size. This increased financial burden stems from a variety of factors, including the need to host national institutions (such as government offices, parliaments, and judicial bodies), accommodate diplomatic missions (embassies and international organizations), provide infrastructure and services for national events and public demonstrations, and maintain heightened security measures, among others. In recognition of these unique financial pressures, the Council of Europe Congress has recommended that capital cities receive regular additional compensation through dedicated fiscal mechanisms. For example, the case of Andorra La Vella (CPL(2024)46-02) illustrates how a capital city's distinctive role necessitates tailored financial arrangements to address its specific needs. This compensation is essential for enabling capital cities to fulfill their dual roles as both local administrative entities and national centers. Another critical financial issue concerns the division of revenues between citywide governments and their districts in two-tier systems. While district-level authorities in many countries are eligible for equalization grants through the same mechanisms as other municipalities, the allocation of funds between citywide administrations and their subdivisions often follows different

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methods and principles. This creates potential disparities in financial resources relative to responsibilities. From the perspective of the Charter, particularly Articles 9(1) and 9(2) ECLSG, it is essential that both capital city governments and their districts have financial resources commensurate with their duties. The citywide administration must possess sufficient financial flexibility and autonomy to ensure this balance, especially as it often bears the primary burden of additional costs associated with capital city functions.

2.5 Establishing Special Channels for Horizontal and Vertical Co-operation

The relationship between capital cities and central governments exemplifies the challenge of reconciling a capital's dual role as both a state administrative entity and a local government unit. Despite this need for special coordination, capital cities typically lack dedicated formal channels for this purpose; they must generally use the same communication pathways available to all local governments, underscoring once again the prevalence of uniformity over differentiation in many Council of Europe member states.

While special bilateral channels between national governments and capital cities do exist, they are often informal and ad hoc rather than institutionalized. The Council of Europe therefore recommends formalizing cooperation both horizontally (between the capital and neighboring municipalities) and vertically (between the capital and higher levels of government), as required by Article 4(6) of the ECLSG [Vandelli, 2004]. Central-local government relations tend to be stronger and contacts more numerous when the capital city holds additional status beyond being just a local authority, such as representing an entire region or another middle-tier governmental unit (e.g., the city-states of Berlin or Vienna). In such cases, the capital participates in intergovernmental relations through established federal or regional mechanisms. Individual agreements between capital cities and national governments serve as the most common legal instrument for managing this relationship. Examples include the cooperation agreements between the federal government and the *Land* of Berlin in Germany, the coordination mechanisms between the Austrian federal government and Vienna, and the joint committees established in Brussels. Equally important are frameworks governing the capital's interactions with surrounding municipalities, particularly for addressing metropolitan-scale challenges like transportation, environmental management, and regional planning. These neighboring relations – common not only in capital cities but also in metropolitan areas – are typically established by law, creating

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frameworks for cooperation based on mutual agreements. Such partnerships may address specific administrative tasks (as in the case of the Greater Paris Metropolitan Area) or establish comprehensive, long-term collaborative frameworks (as with the Madrid Metropolitan Region).

3. Conclusions – The Enduring Diversity of European Capital Cities

The distinction between different types of capital cities, rooted in the nature of the state, has gradually evolved over time due to the standardization brought about by the rise of the nation-state in the 19th and 20th centuries. Nevertheless, fundamental differences persist today, as evidenced from the outset by the contrast between cities like Paris or Moscow, which serve as dominant national centers, and those such as Bern or Amsterdam, which share influence with other major urban centers within their countries. There is no significant – or even foreseeable significant – general trend toward the uniformization of capital city structures or organization across Europe. While European Union regulations do not directly target capital cities, they indirectly shape them as urban areas through rules applied to Local Administrative Units (LAUs) and the Nomenclature of Territorial Units for Statistics (NUTS), as well as through specific policy tools like the Urban Agenda for the EU [De Frantz, 2022].

Although globalization and legal transplants within the EU may have introduced some commonalities in urban governance approaches, they have not erased fundamental differences in capital city arrangements. Over the past three decades, the Council of Europe significant – particularly through its Congress of Local and Regional Authorities significant – has sought to promote certain standards for local governance by encouraging alignment of capital city arrangements in the Caucasus and Eastern Europe with principles derived from Western European models. Yet, this harmonization effort should not be interpreted as diminishing the diversity of capital cities. On the contrary, the underlying nature of the state and the extent of domestic local autonomy continue to play significant roles in sustaining varied capital city structures across Europe. The term most frequently associated with capital cities in comparative studies remains "variety" [Rossmann, 2017; Kaufmann, 2018],

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underscoring their enduring diversity despite increasing legal standardization. This diversity reflects the continued importance of constitutional identity significant – the ultimate source of legitimacy for a capital's legal order and the degree of local autonomy it enjoys – in shaping capital city arrangements. As Europe continues to balance integration with respect for national distinctiveness, capital cities will likely remain diverse expressions of their respective states' constitutional traditions while gradually incorporating shared principles of local democracy.

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Rome as a Determinant of the National Constitutional Identity

by

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Abstract

This paper explores the evolution of the constitutional status of Rome within Italy's legal and political framework, arguing that the city's symbolic and functional significance as the capital remains underdeveloped. Despite its central place in Italian history and identity, Rome's constitutional status has long been ambiguous in legal terms, only formally recognized in 2001. The author examines how this legal uncertainty has hindered effective governance and limited Rome's potential as a global capital. It suggests that Rome should not merely be treated as a municipality but recognized as a unique territorial entity with enhanced powers. The study further stresses on the need to reconcile Rome's dual identity, as both a national symbol and a functioning urban center, through a more coherent legal framework. Drawing on Rome's example and recent legislative efforts, the paper not only advocates for a constitutional reform that moves beyond piecemeal legislation, granting Rome greater autonomy and a clearer institutional identity, but more in general argues that capital cities shall be emancipated from the state-centred vision of post-war constitutions.

Key-words

Rome; Constitutional Reform; Capital Cities; Constitutional Identity; Local Governance.

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1. Introduction

Rome has long occupied a distinctive and strategic position in the historical and political evolution of Italy (Caracciolo, 1974). As the heart of multiple regimes, from the Roman Empire to the Byzantine era, from the Papal States to the Napoleonic domination, from the Kingdom of Italy to fascism and, lastly, the modern Republic, Rome changed its status many times, but as it transcends mere geography, today it embeds itself as a determinant of the Italian constitutional identity. Yet, constitutionally speaking, this role remains persistently unsettled, reflecting conflicting visions of how Rome's legal framework shall be crafted. As a consequence, the identitarian potential of Rome remains unexploited.

In this paper, I intend to enquire how constitutional design can reconcile the dual identities of capital cities as both national symbols and functional territorial entities within a unitary state framework. To this end, moving from Rome's example, I contend that capital cities shall be emancipated from the state-centred vision of post-war constitutions. As argued by Marcelli (2015, 7), the "Capital" is not always and not necessarily "the most important city, the most central city, or the seat of institutional bodies". To qualify as a Capital, a city must receive "a legal-formal designation, of symbolic significance: it is the city that the Constitution or the law declares as such"[II]. In this paper, I want to demonstrate that the identitarian value of a capital city requires a reappraisal of the function that constitutional law can exert. Only by granting more control over local governance in conjunction with a reassessment of fiscal capacity and, in the long term, national enfranchisement can the city be equipped to exercise its role as capital in a globalised world.

After highlighting the symbolic weight of Rome in the Italian constitutional identity, section 3 examines the unsettled evolution of Rome's constitutional and legal status within the Italian legal order. Section 4 then addresses the enduring challenges Rome faces in terms of governance and autonomy, despite its official recognition as the capital city.

In contrast, Section 5 explores the ongoing debate over constitutional reform, arguing that the real challenge lies in releasing Rome's management from a state-centred vision. Achieving this requires concrete measures such as devolving powers and functions, reconsidering fiscal and expenditure autonomy, and granting self-government in territorial matters.

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The paper concludes that, after repeated yet unsuccessful attempts at constitutional reform, the time is ripe for a pooled effort towards a reform that redefines Rome's constitutional status by reconciling its symbolic and functional dimensions. Such a reform should move beyond fragmented legislative adjustments and instead establish the basis for a future stable and coherent framework that guarantees effective governance. This requires a firm approach toward a model that acknowledges the city's need for self-determination in a way as to allow Rome to fully assume its role as a global capital.

2. Rome's Symbolic Weight in Constitutional Identity

According to Peter Häberle (1990, 23), "the question of the capital city brings together the penultimate, indeed the ultimate, aspects of a political community's self-image". Notwithstanding their centrality in a state polity, capital cities lay at the periphery of the constitutional debate and an inventory of their constitutional functions and meaning at large-scale is still missing. Despite their pivotal role in the constitutional framework as the number one entity of a state, only a scant legal scholarship dives into constitutional issues on capital cities.

Over the past five years, Ran Hirschl's *City, State* (2020) has stood out in the absence of competing research. Noting this scholarly gap, Hirschl explicitly seeks to break the "constitutional silence" surrounding the rise of megacities and urban agglomerations, seen as the most "burning challenge" whose "mind-boggling figures" ought to puzzle every constitutional scholar. With a fluent and compelling style, he underscores that "as the modern state has effectively eliminated the city as a formal political entity, constitutional representation of the urban—the habitat of over half of the world's population—is minimal" (Ibid., 18). More recently, Alexandra Flynn, Richard Albert and Nathalie Des Rosiers edited a volume on "*Cities and the Constitution*" (2024) exploring "the misalignment between the importance of municipalities and their constitutional status" in Canada. In the European context, an important reference is the comprehensive mapping effort by Ernst Hirsch Ballin *et al.* for the *2020 European Yearbook of Constitutional Law*, which explores *The City in Constitutional Law*. Likewise, in a report commissioned by the Council of Europe, it is shown that "the undoubtedly specific role of capital cities does not always translate into a special

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status. Where granted, this status may take different forms, depending on a great variety of factors." (Tarschys-Ingre, 2021, p. 2).

The shared view among these publications is that there is a total absence of uniform constitutional categories and common notions in the comparative landscape even though current research shows enough evidence that constitutionalisation of cities can be a solution to many problems and may help in responding to persistent challenges. A prime example of a completely overlooked subtopic is capital cities' constitutional nature as determinants of a state constitutional identity (Häberle, 1990).

Within this framework, constitutional identity should be understood as it was originally conceptualised by the first constitutional theorists who shaped the notion (such as Gary Jacobsohn and Michel Rosenfeld's decade-old works), namely, as a set of distinctive features that define the public image of a polity and the self-awareness of its political community. In this paper, I adopt an inclusive interpretation of national constitutional identity (Fukuyama, 2018), explicitly rejecting the opposing view that frames identitarian claims as a challenge to constitutionalism. This latter perspective often underpins exclusionary patterns such as ethnonationalism, separatism, or secessionism and is out of the scope of the present paper.

Rome, in this context, emerges as a particularly compelling case. Despite being the capital of Italy and hosting critical constitutional, governmental, and international institutions, Rome's recognition as the nation's capital – as it will be discussed later on – only came when a 2001 constitutional amendment rendered its status official, but the open-textured wording of the provision left significant ambiguities in its implementation. As Luciani observed (see below), for decades, the flag was the only constitutionally recognised symbol—neither the language nor the national anthem held such status.

In the origins, with the law No. 33, 3 February 1871, Rome's designation as the capital of Italy, following Turin (1861-1865) and Florence (1865-1871), signified the wish to symbolise continuity with the glorious Roman Empire. As Agnew explains (1998), "when Rome was annexed to the new Kingdom of Italy in 1870 it was only the fifth city of the new state, exceeded in population by Naples, Milan, Genoa and Palermo". However, even prior to its legal annexation in the new kingdom, Rome was declared a symbolic capital as early as 1860, and it was a vital political battle to conquer its territory and complete Italy's reunification. Consequently, historical and cultural traditions supported the legal rationale of the institutional change, associated with the myth of a magnificent and unified future.

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Amidst a progressive layering of reforms, Rome enjoys a multifaceted status today. First and foremost, as the capital of the State, Rome is a municipality (embodying an entity called *Roma Capitale*), which hosts all constitutional institutions, governmental and administrative buildings, embassies, and consulates. Rome possesses as such the *Konstituierende Elemente einer Hauptstadt*—the constitutive elements of a capital—that Häberle outlined in his seminal analysis (cit.).

Rome also serves as the regional capital, known as the *Capoluogo di Regione* in the Region of Lazio. After the entry into force of Law No. 56 of 2014, commonly referred to as the 'Delrio Law', Rome is no more a province as it was converted into a Metropolitan City (*Città Metropolitana di Roma Capitale*), whereby Metropolitan Cities were introduced to replace provinces in the country's largest urban areas. As a metropolis, Rome is responsible for coordinating economic and territorial development as well as managing wide-area public services. Lastly, Rome's jurisdiction also incorporates a separate sovereign state: Vatican City!

Beyond legal categories, it must be recalled that Rome's symbolic value is overwhelming as it displays a prodigious quantity of artistic masterpieces and historical buildings, and it also represents the centre of Christianity, welcoming thousands of tourists every day. These features make Rome distinct and unique not only with regard to other major Italian cities but also globally: a fact that requires particular consideration (Mangiameli, 2003). The symbolic and identitarian value of a capital like Rome resonates, for instance, with the German constitutional theories that place the description of capitals in textbook sections on symbols[III].

However, along with many other European cities, Rome's situation in the constitutional framework follows the Westphalian model of organisation of the society, a model that "came at the expense of untrammelled city power" (Hirsch Ballin et al., 2021, 3) repositioning the cities "as among the lowest constituent units within the overall state structure".

3. Rome's legal and constitutional journey

Building on Haberle's classification, the Italian Constitution (also, IT Const.) is an example of a constitution containing a *Hauptstadt-Klausel*, a clause on the capital city. However, this clause is not as old as the Constitution itself. Originally, the text did not specifically acknowledge Rome as the capital of the Republic (Zagrebelsky, 1993). As

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Massimo Luciani argues (2020), this omission was not primarily due to a fear of recreating institutions associated with fascism or because the unique status of a capital city seemed more appropriate for federal systems. Rather, in the author's view, it was the apparent unavoidability of choosing Rome as the Capital that led to the constitutional silence on the matter.

I rather contend that the fascist rule significantly influenced the drafting of this section of the Constitution. It must not be forgotten that with Royal Decree No. 1949 of 28 October 1925, on the 'Institution and Regulation of the Governorate of Rome', the Grand Council of Fascism gave the capital a special legal recognition for the first time (Chiola, 2012, 50-6). During the regime of Benito Mussolini, Rome was profoundly reshaped amidst the heightened awareness of its value as an identitarian factor, both in terms of physical infrastructure and ideological symbolism. It was transformed into a "fascist city" through intense urban planning and monumental architecture to reflect the regime's ideology, emphasising its connection to both ancient Roman grandeur and modern totalitarian power (Kallis, 2014). New government buildings, such as the *Altare della Patria* (Altar of the Fatherland), also called *Vittoriano*, and new districts such as the *E.U.R.* (*Esposizione Universale Roma*) used modern fascist aesthetics combined with classic Roman imagery, and the aim was to showcase the regime's strength and a vision of Italy's destiny as a great, imperial power[IV]. The fascist legislation also redefined the city's boundaries, with the aim of transforming it into the largest rural municipality in Europe, thus reflecting a strong anti-urban stance.

One must, therefore, agree that the fascist rule altered the perception of Rome as a "neutral" capital so that the city was inextricably associated with this idea of authoritarian propaganda. Concerning this, a short digression is worth noting that a militant interpretation of constitutional symbolism is a phenomenon still occurring in the present day. This is particularly evident in countries adopting constitutional reforms to incorporate identity-based elements or countries whose political majorities tend to emphasise existing identitarian elements. Militant interpretation of symbols, such as anthems, flags, national holidays and, obviously, capitals, allows for bolstering the ideological premises of illiberal political agendas in countries whose democracy is still at an infancy stage (Haberle, 2008).

As for Rome, it was not until 2001 that Italy's constitutional silence on the status of its capital was addressed with an amendment to Article 114, paragraph 3, which now states that "Rome is the Capital of the Republic" and "its status is regulated by State law". While this

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amendment appears straightforward, scholars such as Sterpa (2012, 27) have noted that it remains unclear whether Rome should be understood as a "functional" or a "territorial" entity. In other words, there has always been legal ambiguity as to whether Rome's constitutional status is inherently linked to its function as the capital, implying a form of "functional" supremacy, or whether it should be regarded merely as a territorial unit that holds the same degree of power as other local entities. That same year, Constitutional Law No. 3/2001 marked a significant shift toward a more decentralised governance structure in Italy. This reform granted regions more legislative power and reinforced the principle of regional autonomy while retaining the unity of the state.

The amendment to Article 114, underscoring in general terms Rome's legal value as the capital of Italy, signified the importance of this official designation in a unitary state whose territorial components are expressly enumerated by Article 114, paragraph 1, IT Const. Despite these efforts, however, the implementation of Rome's special status, as we would expect from a modern European city hosting 2.7 million residents, faced numerous challenges that expose the complexities of the legal and political landscape of its territory.

Notwithstanding the elementary wording of the norm, as said, its implementation has been nowhere near simple. A series of inconsistent measures have been enacted throughout the years, resulting in ongoing dissatisfaction with Rome's current legal setting (Filippi, 2023; Fontana, 2022; Romano, 2021; Orso, 2020).

In 2009, Law No. 42 on fiscal federalism delegated the Government with the power to establish a regulation to grant autonomy to Rome, setting up a temporary system that entitles special functions to Rome as a municipality (*Comune di Roma Capitale*) waiting for a permanent system that devolves such functions to Rome as a Metropolitan City (*Città Metropolitana di Roma Capitale*). Article 24 of this law, enacted to implement Article 114, paragraph 3, IT Const., spells out that "Rome, as the capital, is a territorial entity whose current boundaries correspond to those of the Municipality of Rome. It enjoys special statutory, administrative, and financial autonomy within the limits established by the Constitution". As Sterpa notes (cit., 90), "The regulation of *Roma Capitale Comune* should have been conceived and drafted as a temporary measure, serving as a transitional framework toward the establishment of the Metropolitan city"[V]. Instead, this derogatory regime remains in force 14 years later.

After the 2009 law, two legislative decrees were issued: Legislative Decree No. 156 of 2010, which established *Roma Capitale*'s institutional governance structure (comprising the

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Capitoline Assembly, the Capitoline Council, and a directly elected Mayor), and Legislative Decree No. 61 of 2012, which regulated the transfer of administrative functions to *Roma Capitale*. Nonetheless, Rome's status still remains unsettled amidst this temporary regime.

4. The disconnect between the constitutional façade and the reality of urban Rome

Until now, I have discussed the persistent governance challenges that Rome faces due to the inherent ambiguity associated with the wording of Article 114.3 IT Const. The norm failed to clarify whether Rome should be considered a functional or territorial entity, as doctrinal debate estimated. A noteworthy point is that such criticisms continue despite the fact that an implicit interpretation has in the meantime sedimented over the norm, as scholars and practitioners, after many years, are convinced that the Constitution refers to Rome as a municipality (*Comune*) and that the reservation of law as the exclusive source of regulation (*riserva di legge*) does not extend to the other layers of the territorial governance.

The lack of formal precision left the task of defining the capital's territorial scope to parliamentary legislation, which ultimately relegated Rome's governance to the lowest possible level, treating it primarily as a municipality rather than a distinct institutional entity. Subsequent state legislation failed to leverage the potential benefits of its constitutional recognition and left many issues unresolved.

To illustrate the issue from a practical standpoint, I can bring the example of the Capitoline Assembly's regulatory authority. The innovative potential of Article 114 IT Const. was not fully exploited by Law 42/2009. Article 24 of this law provides Rome with administrative and regulatory autonomy that is "special" in its scope but remains formally aligned with the standard regulatory framework of other local entities (Sterpa, 2012, 62). In other words, rather than granting Rome a unique regulatory power with only constitutional principles as its limit, the law constrained its autonomy within the boundaries of national and regional legislation. This means the Assembly cannot override national laws to address Rome's unique needs as the capital. Additionally, its regulatory authority is strictly bound by a parallelism with the special administrative powers granted to Rome which, according to said law no. 42, include the enhancement of historical, artistic, and environmental assets,

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along with responsibilities in economic development, tourism, urban planning, public and private housing, urban services (particularly public transport and mobility), and civil protection. Despite this broader mandate, the authority of the Capitoline Assembly remains quite limited.

This complex legislative journey has resulted in a hybrid territorial entity, where the functions and characteristics of a metropolitan city coexist with the special prerogatives occasionally granted to *Roma Capitale*, initially conceived as a temporary arrangement. This situation has led to a layering of legislation that has created significant legal and administrative confusion, weakening the entity and hindering the effective exercise of its powers.

At the core of the issue remains the city's multifaceted institutional identity, as highlighted at the outset of this analysis. The boundaries of Roma Capitale are those of a municipality, whereas the Metropolitan City of Rome encompasses the much larger area of the former Province of Rome. This misalignment creates a blurred distribution of metropolitan functions, as the powers granted to Roma Capitale apply solely to the municipality and do not extend to the broader metropolitan area. Consequently, the governance of the territory remains fragmented, strengthening the urgent need for structural reform.

5. The struggle for a constitutional reform redefining Rome's status

The ongoing struggle for a constitutional reform that strengthens Rome's status as the capital city reflects the discussed institutional ambiguities and mirrors current governance challenges: the main sensitive issue concerns, in fact, the need for a constitutional qualification of Rome's level of governance, be it a municipality, a metropolitan city, a region or a new hybrid entity. Many commentators recognise the fiasco of the Delrio Act, which transformed the province of Rome into a metropolitan city while failing to design a specific institutional asset that distinguished Rome from other metropolitan cities by reason of its being a capital. This failure deprived Rome of its identity, as it established instead a strong local competition between the other territorial entities such as Roma Capitale and the Region of Lazio, not to mention a risk of overlapping the exercise of functions.

Several constitutional reform proposals are currently under discussion in the Parliament — draft bills A.C. 278[VI], A.C. 514[VII], A.C. 1241[VIII], A.C. 2001 at the Chamber of Deputies

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and draft bill A.S. 172 at the Senate of the Republic — and they seek to address the necessity to empower the capital of Italy by redefining Rome's legal and administrative framework within the legal order[IX]. While two proposals are introduced by former municipal councillor and MP from Democratic Party (PD) Roberto Morassut (A.C. 278 and A.C. 1241), A.C. 2001 is sponsored by Italia Viva's MP Roberto Giachetti, who previously ran as the center-left candidate for Mayor of Rome, another is a joint text tabled by Forza Italia's MP Paolo Barelli and Fratelli d'Italia's MP Luca Sbardella (A.C. 514). Lastly, draft bill A.S. 172 in the Senate is proposed by Forza Italia's senator Maurizio Gasparri. It shall be considered that the initiation of parliamentary debate is taking place at the Chamber of Deputies, signalling that debates in that Chamber will be relevant to place the issue on top of the legislative agenda.

More importantly, according to recent news (De Rosa, 2024), the synthesis of these proposals may ultimately take shape through a government-sponsored bill. Prime Minister Meloni declared her personal involvement in the initiative, particularly given the broad, cross-party consensus on key aspects of the reform. This consensus is reflected in the significant similarities between the centre-right and the centre-left proposals.

It is my contention that this reform is very likely to have a positive outcome, not only because of its broad support but also because, from a political and cultural standpoint, this is a one-of-a-kind reform that can be easily heralded by a centre-right government. By taking the lead on it through a government-sponsored bill rather than a parliamentary-initiated text, the centre-right ensures steering power in the debate. Furthermore, a government with a wide consensus, underpinning nationalist or sovereigntist tendencies, may see reinforcing the capital as a way to bolster national identity and state prestige.

The outcome of the parliamentary debate and the trajectory of the reform process remain uncertain. One possible avenue, as most ambitiously outlined in A.C. 278, is the establishment of *Roma Capitale della Repubblica* as a distinct region, thereby incorporating it into the list of Italian regions under Article 131 of the Constitution and creating an enclave within the Lazio Region. Alternatively, proposals such as A.C. 514 and A.C. 1241 advocate for the constitutional entrenchment of Rome's special autonomy, as they propose to amend Article 114 to enhance the normative, administrative, and financial autonomy of Rome as the capital, including granting it legislative powers in areas of concurrent legislative competence (with the exclusion of healthcare) and all residual regional competences. They

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also underscore the necessity of a constitutional guarantee ensuring the provision of adequate financial resources for the effective exercise of Rome's institutional functions.

Before reaching my conclusions, allow me to share some perplexities annexed to the possibility that Rome acquires the status of a region with ordinary regime (i.e., not a special region). In this case, Rome's institutional framework would be outlined directly by the Constitution, but one of the proposals establishes that Rome's basic Statute, instead of being enacted by ordinary law, as is the case with ordinary Regions, would be enacted through a two-thirds deliberation of the Capitoline Assembly. By such means, the authority of the Parliament would be overridden by that of a local assembly, creating friction with the normal hierarchy of legal sources. Furthermore, the transformation of Rome into a Region could enable the new entity to access the Constitutional Court and challenge the constitutionality of laws or raise jurisdictional conflicts, much like other Italian regions: such a consequence would perhaps require an explicit acknowledgement in the corresponding articles of the IT Const. (Articles 127 and 134).

All in all, incorporating Rome into the rigid institutional framework established by the Constitution for the Regions may not be the most suitable solution unless accompanied by appropriate adaptations and differentiation.

6. Conclusion: Rome, an eternal city in eternal legal uncertainty?

The debate over Rome's constitutional reform has been ongoing for more than twenty years (Marcelli, 2003; Mangiameli, 2003) and at every political shift in the government the emphasis on the reform was relaunched again (Caravita, 2010; 2015). Clarifying the position of Rome in the constitutional order by taking into account the necessary changes to the vertical and horizontal distribution of power is essential to reconcile the dual identities of capital cities, as local entities and formants of the national constitutional identity. This requires a constitutional design that moves beyond a purely state-centric approach, embracing a model of governance that fosters the emergence of a functional dimension of the capital (Romano, 2021). Capital cities in federal states tend to be characterised by the highest level of autonomy: Berlin, Vienna and Brussels are granted a regional status.

Even in unitary states, capital cities are often granted a special status. Notable examples include *Greater London*, established by a parliamentary act in 1999, and the *Ville de Paris*, which,

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since 2019[X], has been structured as a special-status entity (*collectivité à statut particulier*) under Article 72 of the French Constitution and is also part of the *Métropole du Grand Paris*, a functional public body for inter-municipal cooperation. In Spain, the Constitution designates Madrid as a *Villa* (Article 5), while Organic Law No. 3/1983 established the *Comunidad Autónoma de Madrid*, also granted with specific functions. These cases illustrate how capital cities adapt their governance structures to evolving challenges within their national contexts (Fucito, 2021).

At present day, the Italian system singles out as having adopted a minimalist approach. However, prospectively, it is reasonable to argue that the reforms under debate present a unique opportunity to enhance Rome's governance and autonomy, positioning it more closely with its status as the capital of a major European nation. However, a well-thought-out constitutional amendment, while necessary to strengthen Rome's identitarian role in the Italian legal order, must be carefully crafted to ensure consistency with the existing constitutional setting, particularly in relation to the role of the Regions and the distribution of power between "ordinary" regions and regions with special autonomy.

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[II] Translation of the author.
[III] See for instance the textbook quoted by Haberle (1990, 23): K. Stern, *Das Staatsrechte der BR Deutschland*, Bd, I, 2. Aufl. 1984, S. 281 f.
[IV] As Agnew describes at 233, «Piazza Venezia became the key space in Rome for performing the ceremonies and ritual
speech-making of Italian Fascism. It was from the balcony of the Palazzo Venezia that Mussolini made the speeches proclaiming the "victories" won by Fascism and Italy and commanding Italians to faith and obedience. The sacralization of the Vittoriano as the site of the burial of Italy's Unknown Soldier (1921) was used by the Fascist regime to further reinforce the symbolic centrality of Piazza Venezia to the "nationalization" of Rome».
[V] Translation of the author.
[VI] Available online, https://documenti.camera.it/leg19/pdl/pdf/leg.19.pdl.camera.278.19PDL0006330.pdf.
[VII] Available online, https://documenti.camera.it/leg19/pdl/pdf/leg.19.pdl.camera.514.19PDL0008670.pdf.
[VIII] Available online, https://documenti.camera.it/leg19/pdl/pdf/leg.19.pdl.camera.1241.19PDL0042230.pdf.
[IX] It should be also mentioned a legislative proposal that aim at implementing Article 144 IT Const. through ordinary legislation: A.C. 1593, available online at camera.it.
[X] The reform of the Statute of Paris is established by the law n° 2017-257 of 28 February 2017, in JORF n°0051 du 1 mars 2017, but entered into force in 2019.

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Paris: Epitome or Blind Spot of the Constitutional Identity of France?

by

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Abstract

This short piece aims to make sense of the place of Paris within the French constitutional order and to analyse the role of the capital city in defining the constitutional identity of the country. The paper is organised around two main axes: first, the specific features of the legal status of Paris within the French legal order, and second, how this contributes to shaping the constitutional identity of France

Key-words

Paris, French constitutional order, constitutional identity, Fifth Republic, metropolitan governance

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1. A paradox

Unlike many other constitutions, both in Europe and elsewhere (see Häberle 1990)[II], the Constitution of 4 October 1958 does not make reference to Paris as the capital of the French Republic. This was also the case with the previous regimes: the capital city is not mentioned in any of the constitutions enacted since 1791.

The 'silence' of the Constitution of 1958 is all the more striking as Article 2 mentions a number of identity-related symbols of the French Republic, including language (paragraph added in 1992), the national emblem (i.e. the flag), the national anthem, and the motto of the Republic[III]. In its original wording, Article 2 also proclaimed the fundamental principles of the constitutional order, which were moved to Article 1 in 1995 and further amended in 2003: 'France shall be an indivisible, secular, democratic and social republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. It shall be organised on a decentralised basis'. In this respect, there is strong continuity between Articles 1 and 2 of the Constitution of 1958 and Articles 1 and 2 of the Constitution of 27 October 1946.

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2. Making sense of the Constitution's silence

As I have mentioned in the preceding paragraph, the French Constitution is quite precise in defining the symbols of the Republic, except for the capital city. The ensuing question is how the silence of the Constitution should be interpreted. The silence of constitutional documents has been widely discussed, as it highlights 'the inevitable and irreducible role of conventions and culture in constitutional law' (Albert and Kenny 2018: 881). Interestingly, provisions on capital cities are one of the few exceptions to the 'near-absolute silence of constitutions and constitutional thinkers on city power' (Hirschl 2020: 37). Why did the drafters of the Constitution of the Fifth Republic, as well as their predecessors since the Revolution, refrain from entrenching references to the capital city? Different answers are

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possible. First, in a highly centralised state the role of Paris as the political, administrative, cultural and economic hub of France[V] is so self-evident that no explicit entrenchment of its role is needed. In this respect, there are similarities and differences with the *legal* status of Rome as the capital of Italy. Since the age of the Capetian kings, the emergence of Paris has gone hand in hand with the century-long process of formation of the French state (see Delpérée 1993: 132). By contrast, when the Kingdom of Italy was established in 1861, the idea that the capital of the new state would be Rome was almost unanimously viewed as ineluctable (see Luciani 2020: 1). Paris clearly embodies the continuity of the French state, also at international level, but its relevance to the constitutional order is less easy to decipher. This may open up further questions on the interaction between statehood and constitutions and their respective roles in European public law systems. In practical terms, the fact that Paris is a 'constitutional unthought-of' (*un impensé constitutionnel*: Chauvel and Renaudie 2022) means that the regulation of its status is reserved for ordinary legislation. In the last fifteen years, the relevant legislative framework has been frequently modified[VI], which suggests that the position of the city of Paris within the legal order, aside from its status as capital, is more problematic than it used to be.

A second explanation has to do with the fact that French public law has generally been very suspicious of particularism[VII]. In fact, a closer look at the French legal order reveals that its territorial organisation is quite complex, with the coexistence of a common regulatory framework for local government authorities and the legislative entrenchment of a number of specific regimes, both in metropolitan and overseas regions (Plessix 2024: 317-318). The promotion of differentiation has been a defining feature of the legislative reforms of local government since the 2010s; still, the constitutional entrenchment of special statuses is a more delicate step, as the long-standing debate about the constitutional recognition of Corsica's specificities shows (see, among others, Mastor 2021)[VIII]. Therefore, the fact that the Constitution says nothing on a specific legal status for Paris *as the capital of the French Republic* may sound less surprising.

Finally, a third possible answer to the initial question is that the role of Paris as the capital of France is inherently problematic and has affected the regulation of its regime and, more generally, the attitude of the central government(s). It remains to be seen what this entails for the constitutional identity of France.

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3. A complex evolution

Over the tumultuous course of French constitutional history, Paris played a crucial role from the outbreak of the Revolution until the founding years of the Third Republic. This point was powerfully presented by literary critic Albert Thibaudet in his essay *La République des Professeurs*, which was first published in 1927: 'La Révolution ce fut Paris, la Commune de Paris, la dictature de Paris. Ou plutôt les Révolutions, 1789, 1830, 1848. Tout se passait alors comme si la France eût été, comme l'Autriche d'aujourd'hui, hydrocéphale' (Thibaudet 2007: 87). In the revolutions that put an end to the *ancien régime*, the Bourbon Restoration and the July Monarchy, uprisings in Paris played a crucial part. In this respect, Tocqueville noticed that the 'Parisian omnipotence' in the political sphere was further highlighted by the centralised organisation of France (Tocqueville 2011: 75). For the same reason, however, when new regimes settled down, the municipal autonomy of Paris was viewed with suspicion. Both in 1848 and 1870, the overthrow of a monarchic regime was followed by the appointment of a mayor of Paris, as this figure was supposed to embody the emergence of a new, republican regime (Granier 1982: 119). However, in 1848, when the first stage of the democratic revolution came to an end, no mayor was elected after Armand Marrast left the office. In the mature stage of the Second Republic and under the Second Empire, the capital was administered by the Prefect of the Department of Seine and the Prefect of Police, and the members of the municipal assembly were appointed by the state executive. Aside from the 'fear of revolutionary Paris', Baron Haussmann, who served as Prefect of Seine from 1853 of 1870, held that state authorities should be directly involved in the government of the capital city (Nivet 2004: 10; see also Prétot 1986: 719). Some years later, during the parliamentary discussion that led to the adoption of a reform of municipal government, liberal statesman Pierre Waldeck-Rousseau argued that Paris could not benefit from municipal autonomy and the special status of a capital at once (Renaudie 2019: 1470), as these two concepts appeared to be contradictory.

Developments in the nineteenth century point to a double paradox. On the one hand, after taking the lead in many of the upheavals that led to the end of monarchy and the advent of a republican regime, Paris was placed under state control. On the other hand, in a country in which administrative uniformity was the logical corollary of centralisation (Vandelli 2003)[IX], the capital city was quite often subject to a specific regime that made it distinct from

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other French cities and towns (Souchon-Zahn 1986: 101). This approach was also influenced by opportunistic concerns. Although the Third Republic marked a break with the authoritarian model of the Second Empire, among republican forces there was little consensus on a decisive transformation of the capital's regime. Once a revolutionary bastion, Paris turned into a stronghold of conservative groups by the end of the nineteenth century. This ultimately dissuaded the republican elites from clinging to their long-standing idea of strengthening the capital's municipal autonomy (Nivet 2004: 11). The municipal council was elected by universal suffrage, but its chair was a relatively weak figure; meanwhile, the mayors of Paris's twenty boroughs (*arrondissements*) would be appointed by the state executive until 1975. On a different note, the emergence and consolidation of universal male suffrage clearly reduced the relative weight of Paris and its inhabitants at national level and contributed to putting an end to the 'Parisian omnipotence' (Granier 1982: 122). The marginal role of Paris in the political landscape of the Third Republic was persuasively summarised, once again, by Albert Thibaudet: 'On ne gouverne que contre Paris … Seulement on ne gouverne pas contre la province. On ne gouverne pas contre Lyon et Toulouse. On ne gouverne pas aujourd'hui contre *La Dépêche*' (Thibaudet 2007: 110).

A significant change in the legal regime of Paris would not occur until the advent of the Fifth Republic. Even in that case, the gradual, partial normalisation of the legal status of the capital city, with a diarchic executive composed of an elected mayor and the Prefect, was favoured by practical concerns (Nivet 2004: 15-16). Due to the predominance of conservative forces at the national level, by the 1960s the majority within the municipal council was no longer at odds with the state government. In spite of a few remaining suspicions, law no. 75-1334 of 31 December 1975 democratised the legal status of Paris and provided for a mayor elected by the municipal council. However, democratisation did not result into full normalisation, and the Prefect of Police kept his powers in the field of local police, that is, public order, civil protection, etc. In 2002 and 2017, the Prefect of Police was stripped of some of these competencies, which were attributed to the mayor[X]. There are similarities between these developments and the evolution of the status of London until the adoption of the Greater London Authority Act in 1999: little by little, the idea that the status of capital city per se did not justify the non-recognition of local autonomy gained traction both in France and the United Kingdom (Chauvel and Renaudie 2022).

Since the 1980s, a few relevant trends have been observed. On the one hand, the possible

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emergence of Paris as a counterpower continued to cause occasional concern. At a time when Gaullist leader Jacques Chirac was mayor of Paris, which office he left after being elected President of the Republic, the Socialist government that had been installed in 1981 sought to reduce the influence of a much-feared counterpower. In 1982, the *loi PLM* redefined the municipal governance of Paris, Lyon and Marseille by devolving power to their boroughs[XI]. In providing a common legislative framework for three most populous cities in the country, the legislature focused on Paris not as the capital of France but as a very important city (in fact, the most important one). In the past four decades, the handling of the typical problems of metropolitan governance has coincided with a dilution of the specific features of a capital city (Renaudie 2019: 1474-76): by now, the focus of policymaking is not so much on the city of Paris as bounded by the Thiers wall as on its wider metropolitan area. The establishment of the Metropolis of Greater Paris (*Métropole du Grand Paris*) in the 2010s is a powerful illustration of this trend (see De Donno 2014: 13-24). The Metropolis of Greater Paris includes 131 municipalities within Île-de-France, with twelve internal subdivisions known as *Établissements publics territoriaux* and three times as many people as in Paris proper.

4. The symbolic function of the capital city

Aside from constitutional and legislative provisions, the capital city has always been affected by the exercise of state power. From a functional viewpoint, the capital city is unique in that it hosts the main institutions of the state; from a symbolic viewpoint, it is supposed to stand out for its exemplary character (see Renaudie 2019: 1471). In this respect, the case of Paris is of great interest. Since the second half of the twentieth century, French political leaders have taken particular care in enhancing the symbolic function of the capital city. This is illustrated by the management of the Panthéon and the so-called Great Works policy (*grands travaux*). For all their differences, the management of the former church in the fifth borough and the launch of daring projects like the construction of a pyramid in the courtyard of the Louvre Palace have one thing in common, that is, they are the product of presidential decision-making.

In 1964, President de Gaulle announced that the remains of Jean Moulin, the leader of the Resistance who had been executed by the German occupying forces in 1943, would be

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translated to the Panthéon. This marked a break with the Third and Fourth Republics, when *panthéonisations* were proposed by the legislature; since 1964, the decision to translate the remains of a well-known figure from the (recent or remote) past has fallen within the President's tasks. Scholars have highlighted that the head of state resorts to *panthéonisations* to spell out his or her own view of the national history (Garcia 2004). Furthermore, the President of the Republic may take advantage of these ceremonies to highlight specific aspects of the ever-evolving constitutional identity of France. Such is the case, for instance, of Jean Monnet, one of the architects of European integration, and Simone Veil, who was responsible for the adoption of the ordinary law that partially decriminalised abortion. The *panthéonisation* of Simone Veil in 2018 predated by five years the entrenchment of the 'woman's guaranteed freedom to have a voluntary interruption of pregnancy' in Article 34 of the Constitution. Abortion is rarely mentioned in constitutions (see Suteu 2020), and the constitutional entrenchment of the 'guaranteed freedom to have a voluntary interruption of pregnancy' in France, aims to highlight a distinctive component of the country's constitutional identity (see Cavino 2024: 22-23).

The involvement of the head of state in the Great Works has been a defining feature of the Fifth Republic since Georges Pompidou's term of office. The relevance of these architectural projects to the definition of France's constitutional identity is less straightforward. This, however, is another example of how state authorities think of the capital city as a place that epitomises the whole country in front of the world. Even in absence of codified powers, the head of state is supposed to take the lead, while the Mayor of Paris has little room for manoeuvre.

5. Concluding assessment

In the preceding paragraphs, I have analysed some key steps in the evolution of Paris and its institutions. I have shown that there is a clear link between crucial components of the identity of France, first and foremost its republican form of government, and the place of Paris within the legal order. Quite often, this connection led the governments of the day to view with suspicion the possible implications of a fully-fledged municipal autonomy for Paris. This was the case not only under the Second Empire but also in the founding years of the Third Republic, when the French army defeated and repressed the revolutionary

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Commune in Paris: 'une armée de ruraux, en 1871, a écrasé la Commune et … Paris est réduit, dans la vie politique de la France, à un quatre-vingt-troisième d'influence, selon le vœu des Girondins' (Thibaudet 2007: 87). By the end of the twentieth century, these concerns had lost much of their relevance. In recent times, lawmakers have mostly focused on Greater Paris and the typical problems of metropolitan governance. In this respect, Paris is no exception to a global trend that has put in the spotlight cities and their (lack of) role in public law (see Boggero 2018: Chapter 4; Hirschl 2020; Arban 2022).

Due to the centralised organisation of France, Paris is supposed to embody the country's history and identity. As I have argued above, under the semi-presidential regime of the Fifth Republic the head of state plays a primary role in this field. Here again, the peculiar position of Paris, which is set to highlight specific components of the national identity, is reflected in the fact that the President of the Republic, who ensures 'the continuity of the state' (Article 5(1) of the Constitution), has quite important decision-making powers that impact directly on the capital city. This is related not only to the need to ensure the proper functioning of the French institutions and administrative machine but also to the national and international visibility of Paris, its urban landscape, and its symbolic value. In sum, some of the specific traits of Paris's regime have been superseded, but the peculiar role of the capital *within the constitutional order* is here to stay.

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[II] Examples include Article 114(3) of the Constitution of the Italian Republic, Article 22(1) of the Basic Law of the Federal Republic of Germany, and Article 5 of the Spanish Constitution.

[III] As Carcassonne and Guillaume (2022: 48) put it, monarchy is, by definition, a symbol of tradition, and the ruling dynasty embodies national unity. A republic, in turn, needs to create its own symbols.

[IV] For the purpose of this paper, I will refer to national (constitutional) identity in a twofold meaning. On the one hand, 'constitutional identity represents the essential core of a given constitutional order and consists of the (explicitly or implicitly) unamendable provisions' (Drinóczi and Faraguna 2023: 67). In the case of France, the unamendability clause in Article 89(5) of the Constitution of 1958 only mentions the 'republican form of government'. On the other hand, I will occasionally refer to a typically French notion of constitutional identity, that is, *crucial* and *distinctive* principles that make the French constitutional order unique (see Zoller and Mastor 2021: 94-95). An example of this is a speech given by Pierre Mazeaud, then President of the *Conseil constitutionnel*, in 2005: on that occasion, President Mazeaud referred to *laïcité* as a crucial and distinctive component of France's constitutional identity – 'Autrement dit: l'essentiel de la République'.

[V] On Paris as a religious capital, see Boudon 2002.

[VI] See law no. 2014-58 of 27 January 2014 (*loi MAPA*M or *loi MAPTAM*), law no. 2015-991 of 7 August 2015 (*loi NOTRe*), and law no. 2017-257 of 28 February 2017.

[VII] This is exemplified by the suspicious attitude of France vis-à-vis the European Charter of Local Self-

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Government. Although France signed the Charter in 1985, it only ratified it in 2007 (see Boggero 2018: 15).
[VIII] The regulation of basic aspects of the New Caledonian regime in Title XIII of the Constitution is a very peculiar exception (see Alber 2024).
[IX] However, see critical discussion by Plessix (2024: 320-324).
[X] See, respectively, law no. 2022-276 of 27 February 2002 and law no. 2017-257 of 28 February 2017.
[XI] See law no. 82-1170 of 31 December 1982.

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London: The Past, Present, and Future of the Seat of Constitutional Monarchy

by

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Abstract

London is the capital city of the United Kingdom. This unitary state is composed of four constituent nations under the 'devolution' arrangements, that may be regarded as 'asymmetric federalism'. This unorthodox constitutional structure results from the centuries of development from separate feudal autocracies, through imperial expansion, and into a modern constitutional monarchy. The last decade has seen these arrangements challenged by the irruptions caused by 'Brexit', the United Kingdom's withdrawal from the European Union. This article traces the past, present, and potential future of London's role as the geographic and symbolic seat of power in the United Kingdom's hybrid aristocratic-democratic constitutional system.

Key-words

United Kingdom; Constitutional Monarchy; London; Devolution; Brexit: Globalisation

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1. Introduction

"London calling to the imitation zone/Forget it, brother, you can go it alone."

John Graham Mellor (A.K.A 'Joe Strummer'), 1979.

The United Kingdom of Great Britain and Northern Ireland is a unitary state. The very name of this state, however, indicates that it is a composite of four different nations. The present 'devolution' arrangements, whereby the UK's Parliament in Westminster, London has transferred power to the devolved capitals of Edinburgh, Cardiff, and (Stormont, just outside of) Belfast has resulted in territorial arrangements that have been termed 'asymmetric federalism' (McGarry 2007; Zuber 2011).[II] However, it should be noted that this distribution of power to the constituent nations is becoming increasingly symmetrical. Before devolution, these regions and nations remained represented only by their Westminster MPs. Devolution may have challenged the material claim to dominance of England within the arrangements that govern life on the British and Irish isles. Legally, however, constitutional orthodoxy –as supported by dicta of the UK apex court[III] – holds that Westminster retains the ultimate decision-making authority over whether devolution continues. And Westminster Palace, the geographical residence for the UK's Parliament's two chambers of the House of Commons and the House of Lords, is perhaps the most recognisable geographical landmark in the capital of the United Kingdom – London.

This article considers London's significance to and within the UK's unwritten and flexible constitution. The first section provides a brief historical overview of how the city named by the Romans as 'Londinium' came to be the central seat of the United Kingdom's constitutional monarchy. The next section delineates the modern volta towards 'devolution', following the gradual creation of the United Kingdom through domestic (material and legal) acts leading to union from the 13th to the 19th century. Section III considers the 'regionalist' (Stanton and Craig, 2022) aspect of devolution, focusing prominently upon the creation of a political figurehead for the governance of London itself. The penultimate section reflects upon the future for London and considers the extent to which there is now a *Dis*united Kingdom. The final section concludes. London was an ancient colonial outpost which, over the course of a millennium, become a global imperial capital. It is and will continue to be a global modern city, but with a power based upon culture and diplomacy rather than military

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force. The questions remain, however, of whether the dialectic challenges generated by London's globalist modernity, the tense accommodation of the Kingdom's four other national capitals, and the state capital's status as the primary geographical seat of a constitutional monarchy that derives its legitimacy from ancient sanctity (Godolphin 2025) may be a creative and constructive tension, or a destructive and deconstructive one (Agamben and Wakefield 2014; Patberg 2020; Garner 2025).

2. History: From 'Londinium' to the 'Global(isation) Capital'

'Londinium' constituted one of the Roman Empire's more far-flung outpost citadels. The conquest of Celtic Britain remains a testament to the formidable military strategic power of Ancient Rome, as evidenced by the (claimed) inability for any other foreign power to conquer the territory of the British isles for 959 years (Tombs 2022).[IV] The dynamics precipitated by successful defences of the territory from the Spanish and French empires in the 16th and 19th centuries respectively greatly accelerated Britain's own ascent to global imperial dominion in the 'long 19th century' (Hobsbawn 1962). The most recent such defences, mounted from 1914-1918 and 1940-45 against the second and third *Deutsche Reiche* during what certain historians term a 'European Civil War' (Payne 2011) in turn disturbed the equilibrium of Empire, leading to a slow and incremental process of de-imperialisation, a wave of independences, and efforts to reorganise into a 'Commonwealth', through the transitional phase of 'Dominions'.[V]

Empire also greatly impacted the internal dynamics of the development of the constitutional order, and London's place therewithin; however, it would be reductive to look only to such international dynamics for the causes of these processes. Instead, quotidian domestic and local issues played a driving role.

Empire accelerated into the 17th, 18th, and 19th centuries and the engine-room could be found not in the public constitutional halls of power, but instead in the *(hybrid public-)private* hands of the East India Company.[VI] Young ambitious '*nabobs*' (Dalrymple 2019) travelled from the regions of the United Kingdom on to the sub-continent, via the capital nerve centre of the various London-centric docks and ports, to make their fortune – via trade, and exploitation (Sanghera 2021; Sanghera 2025). The irony of empire in the sub-continent is that the seat of constitutional authority, the Crown, only officially took material territorial

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control following the abject failure of private preferences to ensure order – the British Raj was established as late as 1858 under Queen Victoria, who thus styled herself 'Empress of India' from 1876, and so lasted for less than a century until the social and physical disintegration wreaked by the haste of British withdrawal and 'partition' into India and Pakistan directly following the end of World War II (Khan 2017).[VII]

As Empire expanded and mutated abroad (Douglas Scott 2023), London and the executive and legislative arms of power contained therewithin would be the steering wheel for the vehicle of the Industrial Revolution that would literally drive through the geography of the land, and metaphorically drive through the settled socio-economic dynamics of the nation's cities, towns, villages, and hamlets (Blake 1886).[VIII] Labour and capital drained to the imperial centre of London from the peripheral regions.[IX] Parliaments in Westminster extended the electoral franchise, incrementally, so that within two centuries those eligible to vote expanded from land owning men to (nearly) all individuals over the age of 18[X] – including women, following the protest activities of the Suffragette and Suffragist movements including the infamous suicide of Emily Davison at the 1913 Epsom Derby. Constitutionally, the Westminster Parliament took control over the executive following the upheaval of the Glorious Revolution of 1688, and the longer-term legacy of Parliamentary and Royalist conflict that drove the English Civil War, resulting in the *interregnum* of Cromwell,[XI] and the Restoration. Parliamentary Sovereignty would evolve, arguably, into the '*grundnorm*' (Kelsen 2024); 'rule of recognition' (Hart 2012), and 'meta-master-principle' (Dworkin 1986) of the United Kingdom Constitution.

Imperial wars *inter alia* in Crimea and present-day South Africa in the 19th century were followed by World Wars in the early 20th century, and post-colonial Cold War proxy conflicts *inter alia* in Singapore, Korea, and (arguably) the Falkland Islands (Mercau 2019).[XII] London remained the seat of executive governance by which these wars were prosecuted, the use of the armed forces remaining a 'prerogative power' of the Crown to be exercised by His or Her Majesty's Government rather than being a power that had been placed into 'abeyance' by the decision by Parliament to overwrite it and take the power for itself.[XIII] Pre- and inter-war dynamics were dominated by various economic crises, contractions, and expansions leading to what has been termed as 'political nightmares' (Tinline 2022) at various *volte*. Fears of inflation and growing unemployment in the 1930s following the Weimar socioeconomic, political, constitutional, and moral collapse in Germany prompted decisions with great

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import for the macroeconomic material constitution; similar dynamics would replicate themselves following the decision to join the European Economic Communities in 1973, leading through 'Black Friday' crashes and reversals of decisions to join European monetary constructions, through the 'wait and see' and 'prepare and decide' policies of the Major and Blair/Brown administrations respectively in relation to adoption of the Euro, and eventually decisions to engage in 'big bang' deregulation of the City of London by the New Labour government – in continuation of Thatcher's Hayekian globalist pursuit of 'comparative advantage' by making the UK the 'service provider' to the world, and thus the dismantlement by (literal and metaphorical) force of the country's primary and secondary industry in the 1980s (Bolick 1995). Gordon Brown's decision whilst Chancellor of the Exchequer to engage in further deregulation regarding financial services did not cause the Global Financial Crash of 2008, but it arguably did leave the United Kingdom's economy, and specifically financial and banking sector greatly exposed, as certain providers collapsed whilst others were nationalised (Mackintosh 2015).

All of these decisions were taken in London. Before devolution, those regions and nations who were most greatly affected by these executive choices – including the North East, Wales, and the North West[XIV] – remained represented only by their Westminster MPs. The New Labour socioeconomic irritations saw a nascent representation for the devolved nations, but greater *regional* devolution and the creation of local mayors in 'powerhouse' regions would come only during the Conservative governments of the mid-2010s.[XV] Regional equalisation was a driving policy of the Boris Johnson administrations, with its flagship slogan and agenda of 'levelling up' (Martin et al 2022). It may be debated whether the true objective behind 'levelling up' was a return to autarky and self-sufficiency by reconstructing primary and secondary industry within the United Kingdom as part of Johnson's Svengali Dominic Cumming's 'super-forecasting' (Tetlock and Gardner 2016) of the long-term threats to the country.

Attempts by the David Cameron-George Osbourne regime to empower the UK's regions through the 'Northern Powerhouse' scheme have not come to fruition, as evidenced by the eventual scrapping of plans for High Speed Railway to connect London to the North by Rishi Sunak in 2023. The Cameron-Osbourne policies of 'austerity' over public spending (Keegan 2014) – with an attendant nebulous commitment to the 'Big Society' as a form of quasi-governmental solidarity rebalancing (Norman 2010) – have been criticised by

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economists as unnecessary economically and incredibly negatively consequential societally (Deleidi and Mazzucato 2019). London experienced these frissons viscerally, as broken promises from the junior Liberal Democrat coalition party regarding abolishing student fees, with a referendum on 'alternative voting' instead being held unsuccessfully in an apparent example of their leader Nick Clegg putting 'party above country', led to youth-driven riots and looting in the capital and beyond in 2011 (Briggs 2012).

The Cameron majority regime established following the 2015 election would come to a premature end before breakfast.[XVI] His fate was sealed by the decision to open up to the country in a popular plebiscite the question of whether constituent power that had been delegated to Brussels and Strasbourg should be repatriated to London.[XVII] After succeeding in a similar *internal* constituent gamble regarding whether popular constituent power should be repatriated to Edinburgh through 'independence' thus reversing the Acts of Union of 1707, Cameron failed in his wager in favour of continuing adherence to *supranational* delegation. The Conservative political gambler who, *au contraire*, succeeded in his own gambit as a result was Boris Johnson. In the first example of a leader parlaying the Mayoralty of London into the position of Prime Minister of the United Kingdom, Johnson took over from the troubled transitional caretaker regime of former Home Secretary Theresa May upon her resignation in 2019 after multiple landslide defeats in Parliament for her administration's attempts to secure approval for the EU-UK Withdrawal Agreement (Shipman 2024a).

The sequel to the 2016 'Take Back Control' slogan in the snap December 2019 election – 'Get Brexit Done' – would become totemic for Boris Johnson's landslide victory (Shipman 2024b). 'London', as the diplomatic metonym for the UK's exercise of sovereign authority in international law, sought to challenge and redraft the terms of withdrawal and future relations from the EU under the stewardship of Lord Frost. Meanwhile, London as the internal metonym for executive and parliamentary authority, and specifically 'Whitehall' therewithin as the metonym for executive power, pursued the socioeconomic policy of 'Levelling Up'. The language of 'gamification' (Werbach and Hunter 2020) obscured, for many commentators who did not have eyes to see, the objectives behind this policy. One may interpret the agenda as part of a *revanchist* anti-globalist, anti-neoliberal Johnsonian neo-Victorian, neo-One Nation(alist) drive to reupholster the fabric of the society and economy that had been torn asunder under Thatcher's radical Hayekism, a socioeconomic approach that was continued under the New Labour governments (Jenkins 2007). An underlying

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premise of this ideology – the irreversible march of globalisation – has arguably been catastrophically dispelled by the COVID-19 pandemic, the responses thereto, the attendant disruption to global trade flows, and the Trade War unleashed by the tariffs of the Trump 2.0/47th presidency, following the interregnum of the Biden/Harris 46th presidency of the United States of America. The potential success of the Johnson's premiership's policy to guarantee re- and upskilling for any adults who were willing to take up the offer of lifelong (re-)education and training could never be judged, for Johnson resigned due to his and others' (including future Prime Minister Rishi Sunak's) violation of pandemic restrictions (see Shipman 2024b).

Johnson's increasingly frenetic attempts to quell the scandal, which just so happened to coincide with Russia's full-scale invasion of Ukraine and saw the Prime Minister pledging support unwaveringly and almost unconditionally in neo-Churchillian fashion, has created a pathway dependence for the UK's foreign policy in relation to the Western Eurasian conflict, following by the Truss, Sunak, and now Labour Starmer regimes, and culminating legally in 'London' and 'Kyiv' signing a 100 year security partnership agreement. The Johnsonian reported proposals for an Anglicisation of continental intergovernmental relations through a 'European Commonwealth',[XVIII] that would also include resistant EU Member States most prominent amongst them Poland and Hungary,[XIX] would not come to fruition. However, the French President Emmanuel Macron's proposal for a 'European Political Community' has arguably been subtly taken over by the UK government, as evidenced by the summer 2024 conference at Blenheim Palace, the birthplace and ancestral home of Winston Churchill. These international ruptures, developments, and irritations continue apace, conducted from Whitehall and discussed in Westminster, all while socioeconomic distress through the 'cost of living crisis' and physical violence through the gang knife-crime epidemic continue apace in the London that is currently governed from the Mayoral office of Sir Sadiq Khan.

3. Power to the Nations and Regions?

The constitutional, economic, and societal dominance of London may be compared to and contrasted with the capitals of its European neighbours. Paris is the seat of executive, legislative, judicial, historical, societal, and cultural power in the Republic of France;[XX] by contrast, in the Federal Republic of Germany, the federal legislature and executive remain in

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the previous *Reichskapital* of Berlin, but apex *constitutional* adjudicative authority is ensconced within Karlsruhe,[XXI] with strong executive federalism through the *Ministerpräsidenten* of the sub-state *Lände* units.[XXII]

London remains the seat of monarchical, Prime Ministerial, parliamentary, regulatory, economic, and (cosmopolitan-)cultural power within the United Kingdom. However, the unfolding story of devolution since the New Labour governmental reforms following their general electoral victory in 1997 has carved out new sites of power and authority in the United Kingdom's devolved nations and regions, resulting in parliaments, assemblies, mayoralties, and more within Wales, Scotland, Northern Ireland, and a choice selection of relevant English regions.[XXIII] The story has been one of gradually unfolding delegation of powers – symbolic, titular and linguistic,[XXIV] and functional – from the Sovereign Parliament in Westminster to these regions. The constitutional disintegration from supranationalism contained within the 'Brexit' process of EU withdrawal challenged this equilibrium. Responses thereto, from Labour Prime Ministers past and future-present, have sought refuge in the simpler and more easily digestible concepts of pure federalism, drawing also from the experience of a potential secession embodied in the Scottish independence referendum in 2015 (see Brown 2015). As the United Kingdom adjusts itself to a reality of a Parliament that has re-established material Sovereignty after four decades of delegation to the *supra*national level with regard to certain conferred competences, the effects upon delegation *down* to the *sub*national and -state level will continue to unfold, and all may be up for grabs for those with particular agenda regarding the independence or otherwise of these nations and regions. Arguably the United Kingdom's constitutional identity of 'hybrid aristocratic-democratic constitutional monarchy' would have been threatened if the House of Lords had indeed been replaced by an 'Assembly of the Nations and Regions', as proposed by the Labour party before their electoral victory in 2024.[XXV]

4. The future-present-past of the constitutional monarchical capital

London generates and regenerates as the United Kingdom recovers from and adapts to its new symbolic and material 'independence' from the supranationality of European integration. Constitutionally, the Westminster Parliament is free again to legislate in areas of competence that were previously 'conferred' to the EU institutions, and exercised thereby in

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Brussels, Strasbourg, and Frankfurt with adjudication thereupon in Luxembourg. Legally, the previous Conservative governments from May to Johnson chose first to 'retain' the 'overriding and binding domestic source'[XXVI] of EU law, before 'assimilating' it through a process of incremental stripping of its special features, and the creation of extensive 'Henry VIII' powers enabling modification thereof – albeit with very limited use in practice.[XXVII]

Macro-economically, attempts to 'unleash' growth in the UK economic through radical deregulation during Liz Truss' short and ill-fated premiership led to global institutional revolt, and a restoration of (a semblance) of economic unorthodoxy under Rishi Sunak (see Shipman 2024b). Today, the Labour government of Sir Keir Starmer and his Chancellor of the Exchequer Rachel Reeves must wrestle with the dynamics of 'passive divergence' as the EU moves forward in areas of competence such as product regulation, and assessments of compliance in key areas such as data protection loom large. The mechanisms created to address this phenomenon[XXVIII] may be criticised for undermining principles of the Rule of Law – ironically, in the same vein as criticisms of executive power from previous Conservative governments in relation to what used to be EU law, albeit with a diametrically opposed policy purpose.

At the micro-economic and socio-individual level, those nationals of the EU Member States who previously had the right to move to and establish themselves freely, both for economic and democratic purposes (see Garner 2018), in the United Kingdom have been stripped of any such capacity.[XXIX] Those who qualified under the transitional arrangements to enable gradual disintegration under the EU-UK Withdrawal Agreement can now acquire 'settled status' – an ossified time-capsule of the free rights of movement that they previously enjoyed in relation to and within the British isles (albeit with the exception of the region of Northern Ireland with its de facto status within the EU's internal market under the 'Windsor Framework' (see Fabbrini 2022). The locus of EU-UK relations has been transferred back to the geopolitical level of diplomatic relations conducted on the basis of the logic of intergovernmentalism, as evidenced by the EU-UK summit on 19 May 2025, in London. The subject-matter has been firmly dominated by the existential threat posed to Europe by Russia's full-scale invasion of Ukraine, and the attendant external security and defence cooperation between the nuclear power of the United Kingdom and the international organisation of which it used to be a member.

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5. Conclusion

London has evolved from Roman backwater outpost at the farthest North Western regions of that Empire, to the seat of governance first of a formal global British Empire, before transitioning into a capital of the New Global(ised) Order post-war – an order that is now undergoing sustained challenge from *revanchist* autarky economically, and pre-Medieval anti-liberal pro-hierarchical movements constitutionally. It remains and will remain a global city despite – and perhaps even because – of Brexit. Perhaps the greatest challenge to the current constitutional identity of the United Kingdom as a hybrid aristocratic-democratic constitutional monarchy will not, however, come from without, but rather from within, as movements towards 'modernisation' in constitutional reform could drive the polity towards standardisation and the simpler conceptual norm of 'federalism'. However, if any lessons have been learned from the decade of socio-economic, political, and legal irruption prompted by Brexit, then surely the most prominent amongst them is that society and the electorate *must* be taken along in any such grand plans for constitutional transformation – regardless of the support that may be expressed therefor from the cosmopolitan elites who are based within the M25 boundaries of the nation's capital.

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[II] For the claim of growing symmetry, see discussion below of recent legislation pertaining to Northern Ireland, Wales, and Scotland.

[III] See *Reference by the Lord Advocate of devolution issues under paragraph 34 of Schedule 6 to the Scotland Act 1998* [2022] UKSC 31.

[IV] William 'the Conquerer' of Normandy defeated Harold Godwinson ('Harold II') to claim the throne in 1066. Debates may be held over whether the 'Glorious Revolution' through which William of Orange came to the throne may similarly be regarded as a 'conquest' by the then great power of the Netherlands. More flamboyant rhetorical claims abounded during the Brexit referendum process, and previously in academia, regarding the extent to which accession to the then-European Economic Communities in 1973 similarly constituted a 'revolution' through which the London Westminster Parliament ceded sovereignty to a 'foreign' supranational entity (see Wade 1996).

[V] The choice of the term 'Commonwealth' was auspicious, given that this was the moniker chosen by the 'Lord Protector' Oliver Cromwell for his regime following the English Civil War, one of the only periods in the last millennium in which constitutional monarchy was disrupted within the territory of the now-United Kingdom of Great Britain and Northern Ireland.

[VI] The extent of this hybridity is evidenced by the fact that the Foreign, Commonwealth, and Development Office retains furniture from the headquarters of the East India Company.

[VII] The last Viceroy of India who was ultimately responsible for partition, Louis Mountbatten, was assassinated by the Irish Republican Army on 29 August 1979 in Co Sligo, Eire.

[VIII] William Blake provides a literary account of these effects upon the psychospiritual-geography of the nation, which was later set to music by Sir Hubert Parry: "And was Jerusalem builded [sic] here,/Among these dark

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Satanic Mills? (…) "I will not cease from Mental Fight,/Nor shall my sword sleep in my hand:/ Till we have built Jerusalem,/ In Englands green & pleasant Land" (Blake 1886).

[IX] For an example of the reflexive effects of Empire and the Industrial Revolution upon the cities of the UK, see how the Manchester cotton industry was disrupted by the colonial cotton industry established in India, and built upon quasi-slave labour, as gathered via oral history from an anonymous interlocutor on Piccadilly Square, Manchester, England, United Kingdom (c. 16 January 2025).

[X] For example, the Representation of the People Act 1832, also known as the first Reform Act or Great Reform Act.

[XI] Almost literally, as Cromwell mused about making himself King, in a historical hypothetical that may be compared to Napoleon Bonaparte crowning himself the Emperor of France in 1804 (see Lay 2020).

[XII] The Falklands War in 1982 may be regarded as a special case of the Cold War proxy conflicts, the most famous of which remains the USA's war in Vietnam, but which also includes engagements in which the USSR were the primary superpower protagonist, in Afghanistan. The dispute over the sovereignty of the Falklands/*Malvinas* may, instead, be regarded as an 'echo' conflict– ideologically as a struggle between democracy (with the caveats of the authoritarian trappings of the Thatcher years) and autocracy (the Argentinian *junta*), territorially as a post-colonial conflict over far-flung territory more akin to the Napoleonic Wars, and more materially a struggle between a formed 'Allied' power, and a power that had benefitted materially from the legacy of the primary 'Axis' power of *Das Dritte Reich*, in terms of capital and human resources (see Mercau 2019).

[XIII] See *inter alia Attorney General v De Keyser's Royal Hotel* (1920) AC 508, UKHL 1; *Laker Airways v Department of Trade* [1977] 2 All ER 182; and *R v Secretary of State for the Home Department, ex parte Fire Brigades Union* [1995] UKHL 3.

[XIV] For discussion of the impact upon Liverpool, the actions by that Council in the fact of bankruptcy under the influence of the *Militant* movement, and the reaction of the Labour leader Neil Kinnock, see Hayter 2022.

[XV] For example, see the Cities and Local Government Devolution Act 2016 for the creation of 'metro-mayors'.

[XVI] David Cameron resigned as Prime Minister on 24 June 2016, the morning of the EU referendum result, meaning that he was barely able to start let alone finish his second helping of 'Shredded Wheat', having stated in a 2015 BBC interview that 'terms [as Prime Minister] are like Shredded Wheat. Two are wonderful, but three might just be too many' .

[XVII] These (intellectual) concepts were not employed explicitly during the referendum campaign. However, the Machiavellian political genius of the 'Take Back Control' slogan was its ability to encompass both 'high' (for example see Wade 1996) and 'low' concerns over sovereignty and self-determination.

[XVIII] This plan was reported in the Italian press, see Federico Fubini, 'Il piano segreto di Boris Johnson per dividere l'Ucraina da Russia e Ue: il Commonwealth europeo' (*Corriere della Sera,* 26 May 2022) <https://www.corriere.it/economia/finanza/22_maggio_26/piano-segreto-boris-johnson-dividere-l-ucraina-russia-ue-commonwealth-europeo-02d3b232-dc6b-11ec-b480-f783b433fe60.shtml> accessed 9 May 2025; for an account in English see Alvise Armellini, 'UK wants to include Ukraine in 'European Commonwealth': Report' (*AA.com,* 27 May 2022) <https://www.aa.com.tr/en/europe/uk-wants-to-include-ukraine-in-european-commonwealth-report/2599081> accessed 9 May 2025.

[XIX] For analysis of the constitutional 'resistance' of these states to the European Union, most prominently in relation to the EU's 'value' of the Rule of Law, within the context of Brexit see Garner 2024.

[XX] One may consider the interest inherent in the *ancien regime* in France before the revolution of 1789 being nested within the Versailles estate, functioning in all but name as a separate settlement (see Ferrari 2025).

[XXI] One may compare this to the structure of the (non-state) constitutional order of the European Union, with executive functions contained within Brussels, legislative functions spread between Brussels and Strasbourg, economic executive functions enshrined within Frankfurt, and judicial power seated in the 'fairyland Duchy of Luxembourg' (see Stein 1981).

[XXII] Deustscher Bundestag, 'Basic Law for the Federal Republic of Germany', 23 May 1949, last amended on 22 March 2025.

[XXIII] One may consider the historical significance of the regions that have had mayoral power devolved thereto from London, bearing in mind historico-constitutional developments (as captured in the 'history' plays of William Shakespeare including *Richard II, Henry IV Part I and II, and Henry V*), and present sporting-cultural domination (football teams from the North West of England have won 22 of the 31 English Premier League titles since the reorganisation of the top flight of English football in 1992).

[XXIV] For example, the Welsh Legislative Assembly has now become the Senedd (see the Wales Act 2017).

[XXV] See Labour, 'A New Britain: Renewing our Democracy and Rebuilding our Economy' Report of the Commission on the UK's Future, December 2022.

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[XXVI] See *R(Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5.
[XXVII] See the European Union (Withdrawal) Act 2018, the European Union (Withdrawal Agreement) Act 2020, the European Union (Future Relationship) Act 2020, and the Retained EU Law (Revocation and Reform) Act 2023.
[XXVIII] See the Product Regulation and Metrology Bill [HL], Session 2024-25 and the Data (Use and Access) Bill [HL], Session 2024-25.
[XXIX] A vast number of such individuals chose London as the city in which they would so establish their lives – cite statistics. For a snapshot from 2019 see The Office of National Statistics, 'The number of EU citizens living in London' (Census 2021, 16 July 2019) https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/thenumberofeucitizenslivinginlondon> accessed 9 May 2025.

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Washington D.C. as a global center of power projection and its relevance for the interaction of State(s) and religion(s)

by

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Abstract

This contribution explores Washington D.C.'s unique role as a global epicenter in the production and dissemination of legal ideas, particularly in the context of U.S. power projection and the interaction between law and religion. From this perspective Washington D.C. represents a unique place in global legal culture and constitutional imagination.

Key-words

Washington D.C.; Law and Religion; Global legal culture; Mega-cities; Constitutional imagination

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I. Introduction

In positive law, States have always been at the center of the analysis of legal scholars. Recently it has been highlighted how a "(...) stark gap in constitutional scholarship on cities, amid ever-expanding urban agglomeration worldwide, reflects a long-standing state-centered vision of constitutional order" (Hirschl 2020, 30). If one moves from a pure positivistic understanding of the law and tries to assess cities relevance in the production of legal ideas and legal imaginary, Washington D.C. is one of the few cities that cannot be missed from the selection. This contribution highlights the role of Washington D.C. as a global center of U.S. power projection and hub for the production of legal narratives with a particular focus on the interaction of law and religion at the global level. Paragraph II focuses on the role of power projection theories in understanding the law. Paragraph III situates Washington D.C. in the current debate on megacities, highlighting how megacities contribute to shaping legal narratives and imagination. Paragraph IV points at the unique role of Washington D.C. and American legal culture in global debates on role and religion. Paragraph V concludes.

II. The United States and power projection

The United States occupies a central role in power projection theories, which focus on the ability of a state to influence others and assert its interests across the globe. The United States are an essential case-study in understanding how states utilize different tools-diplomatic, cultural, economic, military, or legal-to project their influence and maintain hegemonic power in international relations. As highlighted by Katz: "The United States must campaign against adversarial states and nonstate actors, organizations, and individuals. The United States must successfully operate in environments of intentional ambiguity, opacity, and asymmetry, and do so without its most powerful weapons" (Katz 2018, 25). Power projection implies an interdisciplinary understanding since the tools deployed in this context are several (law, of course, can be one of them): "America must be able to orchestrate the interaction between its power and its projection of that power on guidance, delivery, and effects by employing spatial, nonspatial, hybrid, and complex projection means" (Katz 2018, 25). In this complex scenario, capital cities, especially Washington D.C., become sites for producing legal narratives and imagination. Washington D.C., for its history, architecture, and global position, is at the center of US power projection and can be analyzed as the main

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place of production of legal imagination not only for the United States but, in different contexts, for the Western world. Since when with the approval of the Residence Act of 1790 Congress decided that a "district of territory, not exceeding ten miles square, to be located as hereafter directed on the river Potomac, at some place between the mouths of the Eastern Branch and Connogochegue, be, and the same is hereby accepted for the permanent seat of the government of the United States"[II] Washington D.C. has been the headquarters of the production of legal ideas and tools in the United States, being a central knot of American law and culture in the context of the special relationship that binds them together in the United States. (Rosen 2006). We could argue that law deserves an essential place in power projection theories in understanding how States and other actors try to influence the national and international arena. Law can legitimize power and States' actions on the global stage, but it can also serve as a site for contesting power and interests. Examples are constantly offered in cases of military crises and civil wars where law is used to justify the conduct of state and non-state actors through reliance on international treaties, United Nations resolutions, or customary legal norms. Legal norms are, therefore, essential tools not only at the technical level because of the concrete consequences they determine, but also because they help contribute legal narratives that shape legal and political frameworks and imaginaries. In producing these narratives, they support or undermine the different states' credibility in the context of international community. By examining the sites and contexts of legal production and dissemination, we can assess the role of law in different social contexts that escape a pure positivistic understanding that is traditionally adopted by legal scholars (Annicchino 2021). The concept of "lawfare" has been adopted to describe the extent to which legal norms are mobilized to reach political or military goals without direct confrontation (Kittrie 2016). Lawfare acknowledges how law can be weaponized to project power more complexly yet effectively. The role of law in power projection is also illustrated by the influence that States seek in the context of international legal institutions like the United Nations and its agencies or the World Trade Organizations. Law often plays this dual role of power enabler and power constrainer, which is, therefore, at the core of power struggles. If one looks at the global influence of American legal culture in 1988, Antony Lester argued that: "The Bill of Rights is more than an historical inspiration for the creation of charters and institutions dedicated to the protection of liberty. Currently, there is a vigorous overseas trade in the Bill of Rights, in international and constitutional litigation involving norms derived from

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American constitutional law. When life or liberty is at stake, the landmark judgments of the Supreme Court of the United States, giving fresh meaning to the principles of the Bill of Rights, are studied with as much attention in New Delhi or Strasbourg as they are in Washington, D.C., or the State of Washington, or Springfield, Illinois". Today, as a result of the new polycentric nature of the world, this influence is probably diminishing (Liptak 2008) and the capacity to project power of the United States is as well. Washington is becoming globally less relevant, but it is still at the center of Wester legal developments. The recent decision of the U.S. Supreme Court in the case involving the social media platform Tik Tok[III] is, for instance, yet another example of how legal ideas and doctrines elaborated in Washington D.C. will affect legal developments and debates in other countries especially in the West. It is for these reasons that if we look at law as culture what happens in Washington deserves special attention.

III. Washington in the context of mega-cities

Washington, as such, cannot be characterized as a mega or global city (Sassen 2001). It has been argued that we can identify a North-East Megalopolis or Boston-Washington corridor, which, in fact, served as the first example when the word megalopolis was coined[IV]. As Richard Florida has argued: "Bos-Wash, which extends from Boston through New York and Philadelphia down to Washington, D.C., is the world's largest mega-region of nearly 50 million people, generating almost $4 trillion in economic output. If this mega-region were its own country, the economy would be equivalent to the world's seventh largest, bigger than the United Kingdom's or Brazil's" (Florida 2019). As the seat of the U.S. federal government, the city is home to institutions such as the White House, Congress, and the Supreme Court. These institutions make it a hub for policymaking far beyond national borders. The city's international relevance is further amplified by the presence of global organizations like the World Bank, the International Monetary Fund (IMF), and numerous embassies. Washington's legal culture and the legal profession have caused scholars to ask themselves why Congress has so many lawyers. (Bonica 2020). A simple fact that brings distinctive cultural consequences on how public policies are thought and designed. Therefore Washington D.C., in the context of the study of the production of legal ideas and imaginary, deserves a unique place. Decisions like *Roe v. Wade*[V] or *Obergefell v. Hodges*[VI] are the products

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of a distinct elite legal culture of Supreme Court specialists that affects the United States and the world (McGuire 1993). This legal culture produced in Washington D.C. in litigation, adjudication and law-making has an effect not only in legal circles, but also in popular culture. As Maxwell Bloomfield noted already in 1981: "In surveying the cultural scene today, one is most forcibly impressed by the continued outpouring of Court-related materials of all kinds. The public, it appears, has an insatiable desire to know more about the institution and its personnel" (Bloomfield 1981). The global influence of Washington D.C. and, for legal scholars, of the U.S. Supreme Court, still has ripple effects worldwide, shaping other legal orders, global governance structures and celebrity culture (Posner 2013). To that extent, if we analyze Washington D.C.it might be true that we may not meet the strict population criteria of a mega-city but, from the perspective of projecting power theories, Washington ascends to a status of global relevance in global constitutionalism.

IV. The impact on the interaction of State(s) and religion(s)

The interaction of law and religion as a distinct field of legal inquiry (Berman 1974) witnesses the relevance and influence of legal ideas and imaginaries produced in Washington D.C. This is also the result of the amount of the advocacy efforts of religious groups[VII] that make of Washington one of the global epicenters for the productions of laws with a distinct focus on freedom of religion or belief (Annicchino 2016). The city's legal institutions think tanks, and international organizations collectively generate, refine, and disseminate ideas that influence governance worldwide and the laws on the religious phenomenon are a distinct example of this contribution (Hertzke 1988). Scholars have also used the distinctive place of Washington as the city of secular power to argue that religious groups are present and part of the process, but they are not of it. A book from 1995 was, in fact, titled "*In Washington but Not of It: The Prophetic Politics of Religious Lobbyist*" (Hofrenning 1995). However, as Allen Hertzke has argued, reviewing the book: "But if we look at the actual agenda, we find religious groups battling over such issues as single-payer health care or a $500 child tax credit. Perhaps they are more *of Washington* than they would like to admit" (Hertzke 1996, 431). When the author suggests a distinctive approach by religious groups to lobbying and advocacy, Hertzke rightly points out: "But do they really live like prophets in the biblical tradition? Are they immune to the blandishments of power, such as an invitation to the White

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House or a citation in the *Washinton Post?* These are questions left unanswered" (Hertzke 1996, 431). The presence of this secular power is a fundamental characteristic of Washington D.C., which is the seat of the U.S. Supreme Court, Congress, and the Executive Branch, all of which play pivotal roles in formulating and interpreting legal norms. The Supreme Court, for instance, produces landmark decisions that redefine the constitutional framework of the United States. Cases such as *Brown v. Board of Education* (1954)[VIII] and *Roe v. Wade* (1973)[IX] not only transformed American society, but also inspired global debates on equality and human rights with direct consequences in other legal orders (Annicchino 2015). These decisions, emerging from Washington's legal ecosystem, often serve as reference points for other countries grappling with similar issues and strategic litigation engineered by American religious groups has also shaped legal developments in other countries. The well known *Lautsi* case decided by the European Court of Human Rights[X] has been a classical example of this process which is also confirmed by the relevant amount of American NGOs and public interest law firm that contribute to the European legal discourses with interventions before the European Court of Human Rights (Annicchino 2011). A distinctive contribution made especially to European legal developments has been the culture of strategic litigation which religious groups have largely embraced making of it a distinctive feature of transnational culture wars (McCrudden 2015). To this extent transnational culture wars can be understood as a transplant of American culture wars on a global scale. Not a repetition, because the cultural context always different. But a paradigm to understand societal cultural and political development in the context of which mobilization and change through the strategic use of legal tools plays a distinctive role (Annicchino 2018).

V. Conclusion

Washington, D.C., stands as a pivotal nexus for producing and disseminating legal ideas that resonate far beyond its geographic confines. Its institutional density and its unique place right at the center of the developments of power projection in the Western world have made it a distinctive place to study the role of law in this context, which shapes legal narratives and imagination on a global scale. Washington's legal ecosystem is key to this process and deserves unique attention, especially for those with a particular interest in the interaction of law and religion.

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[II] U.S. Congress, *An Act for establishing the temporary and permanent seat of the Government of the United States-Residence Act*, 16th July 1790, Section 1.
[III] U.S. Supreme Court, *TikTok Inc., et al., Petitioners v. Merrick B. Garland, Attorney General* (24-656) *Brian Firebaugh, et. al., Petitioners v. Merrick B. Garland, Attorney General* (24-657), (2025).
[IV] As Richard Florida has argued: "Back in 1961, the economic geographer Jean Gottmann coined the term "megalopolis" to describe the emerging economic hub that stretched from Boston to Washington, D.C. The term came to be applied to a number of regions in the world, including the vast Midwestern megalopolis that extends from Chicago, through Detroit and Cleveland, and south to Pittsburgh, which Gottmann dubbed "Chi-Pitts", R. Florida, *The Real Powerhouses That Drive the World's Economy*, Bloomberg, 28/2/2019, available at: https://www.bloomberg.com/news/articles/2019-02-28/mapping-the-mega-regions-powering-the-world-s-economy.
[V] U.S. Supreme Court, *Roe v. Wade*, 410 U.S. 113 (1973).
[VI] U.S. Supreme Court, *Obergefell v. Hodges,* 576 U.S. 644 (2015).
[VII] The Pew Forum has defined religious advocacy as encompassing "(...) a wide range of efforts to shape public policy on religion-related issues. It includes lobbying as strictly defined by the Internal Revenue Service - attempts to influence, or urge the public to influence, specific legislation, whether the legislation is before a legislative body, such as the U.S. Congress or any state legislature, or before the public as a referendum, ballot initiative, constitutional amendment or similar measure. But it also includes other efforts to affect public policy, such as activities aimed at the White House and federal agencies, litigation designed to advance policy goals, and education or mobilization of religious constituencies on particular issues", Pew Forum on Religion & Public Life, *Lobbying for the Faithful: Religious Advocacy Groups in Washington D.C.*, 2012, disponibile su: https://www.pewresearch.org/wp-content/uploads/sites/20/2011/11/ReligiousAdvocacy_web.pdf.
[VIII] U.S. Supreme Court, *Brown v. Board of Education*, 347 U.S. 483 (1954).
[IX] See supra at footnote 5.
[X] European Court of Human Rights, *Lautsi v. Italy*, 30814/06 (2011).

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