From Eloi to Europe: Interactions with the ballot box in New Caledonia

By Nic Maclellan

In November 1984, Kanak independence leader Eloi Machoro raised an axe and brought it smashing down on a ballot box, launching a boycott of elections held in the French Pacific territory of New Caledonia. The photo, flashed around the world, became an important symbol of the Kanak independence movement.1

Two decades later, the violent clashes that followed the 1984 election boycott have been replaced by a new engagement with electoral institutions, following the 1988 Matignon-Oudinot Accords and the 1998 Noumea Accord. The independence movement Front de Libération Nationale Kanak et Socialiste (FLNKS) has entered the institutions of government, and Kanak independence leaders serve in a multi-party government alongside their conservative opponents.

This paper will outline the institutions created under the Noumea Accord, and discuss the ways that they seek to transcend the legacies of 150 years of colonial rule in New Caledonia. It will also discuss issues relating to systems of government in New Caledonia, including the parity law on women’s participation in the legislature, the success of the multi-party government, questions of ethnicity and voting rights, and the implications of European Union membership on voting and governance.

PART 1: Colonial heritage

This paper cannot cover the rich heritage of political conflict leading to the creation of New Caledonia’s current institutions.2 But it is worth noting a few features of social, political and economic life that impact on current policies and structures:

a) Colonial relations

In 1986, the United Nations General Assembly relisted New Caledonia as a non-self-governing territory with the UN Special Committee on Decolonisation.3

This recognition of the ongoing colonial relationship between France and New Caledonia has important implications for the way that electoral politics and systems of governance are created, administered and reviewed, especially as key legal and political decisions are taken in Paris. While rejecting the involvement of the UN Special Committee, the French government has acknowledged that decolonisation is the solution to New Caledonia’s political conflicts, by signing the Noumea Accord in May 1998.4 But competing political forces in New Caledonia still perceive the agreement in a different light: some see it as a guarantee that there will be a transition to a referendum on self-determination; for others, the question of political independence can be delayed for decades, if not forever.5

After colonisation in 1853, New Caledonia was administered as a colonial territory of the Republic of France. New Caledonia’s political status has evolved over the last 150 years: through the ending of the Indigénat in 1946; the referendum in 1958 on whether to accept the new Constitution under General de Gaulle’s Fifth Republic; the evolving status as a territoire d’outre-mer (overseas territory); and the current sui generis status within the French Constitution after the 1998 Noumea Accord.

In March 2003, the French government introduced a policy of decentralisation for its regions and overseas dependencies in the Caribbean, Pacific, Atlantic and Indian Oceans, creating new legal complications for its network of overseas departments and territories. Now, under articles 72-73 of the French Constitution, most “overseas territories” (territories d’outre-mer) become “territorial collectivities” (collectivités territoriales). French Polynesia’s 2004 autonomy statute makes it a pays
d’outre-mer, an “overseas country within the French republic”; while Wallis and Futuna is an “overseas collectivity.” However New Caledonia has a sui generis status, defined in its own section XIII of the French Constitution. As detailed below, New Caledonia has unique political and legislative powers not available to other French “territorial collectivities”, and is the only French territory with a fixed timetable towards a vote on self-determination to decide its future political status.

b) Demography and geography

New Caledonia’s population has evolved through the process of colonial settlement and ongoing immigration, and the indigenous Melanesian population is currently a minority in its own land. The political institutions and electoral system under the Noumea Accord are the latest attempt to recognise the rights of the indigenous Kanaks, but also those of the “victims of history” – the descendants of convicts and settlers who have been born in New Caledonia, and those immigrants from other French colonies (such as Wallis and Futuna and the New Hebrides) who have made New Caledonia their home. The ethnic, geographic and socio-economic diversity of the country has important implications for voting rights. The capital Noumea and nearby towns such as Paita, Dumbea and Mont Dore have long been the centre of economic and political power, and the southern part of New Caledonia’s main island Grande Terre hosts major economic infrastructure (the international airport; the only nickel smelter; the main hydro-electricity scheme; major tourist hotels).

In contrast, the north of the main island and the outlying Loyalty Islands have had less economic development, and the process of colonial settlement pushed the bulk of the indigenous Kanak population into tribal reserves. Kanaks make up the overwhelming majority of the population of the Loyalty Islands (97 per cent) and Northern Province (85 per cent), while settlers and immigrants from France, Wallis and Futuna and other areas make up nearly three quarters of the Southern Province population. Eighty eight per cent of paid workers reside in the Southern Province but only 2 per cent in the Loyalty Islands, with most people involved in subsistence farming.

For many years, Noumea was dubbed “ville blanche” (white city), but the demography of the southern province has been changing in recent years. Even though many Kanaks have moved to Noumea and its outskirts over the last fifteen years, many are still registered to vote in their commune (municipality) in the North or Loyalty Islands – so while they live in the south, they vote for candidates in other provinces.

Since the 1970s, there have been a series of legislative and administrative changes to New Caledonia’s institutions (the Nucci plan, the Dijoud plan, the Lemoine statute, the Pisani plan, the Pons statute, the Matignon-Oudinot Accords, the Noumea Accord). Since the mid-1980s, these plans have involved some recognition of the gulf between Noumea and the bush, and created decentralised regional administrations to allow a level of self-government in the north and Loyalty Islands (initially four “regions” in the 1980s, then three “provinces” under the 1998 Noumea Accord).

A central feature of the Noumea Accord process is economic, social and political re-equilibre (rebalancing), to bridge the gap between the southern province, and the rural areas and outer islands where the bulk of the Kanak population live.

c) Access to voting

From 1887 until 1946, Kanaks could not vote and suffered under measures of social and political discrimination through the native affairs system known as the Indigénat. The indigenous Kanak population was governed by a regime of poll taxes, corvée labour and restriction within tribal reserves.
But the colonial regime was transformed by the cataclysm of the Second World War, interaction with tens of thousands of US G.I.s based in the country, and the post-war transformation of the French Republic under new Constitutions in 1946 and 1958.

New Caledonian historians like Ismet Kurtovich have documented the increasing engagement of the Kanak population in post-war era political institutions: the granting of French citizenship to Kanaks in 1946; the support of Catholic and Protestant churches for Kanak political action, to distance them from a burgeoning communist movement; the 1953 creation of Union Calédonienne (UC), one of the oldest political parties in the Pacific islands; UC’s adoption of a pro-independence policy in 1977, influenced by a Kanak cultural revival and radical groups like the Foulards Rouges and Groupe 1878; the creation of a government between pro-independence and centrist parties in 1982; and the formation of the independence coalition FLNKS in September 1984.¹⁰

As discussed below, the question of voting rights is still a vexed issue, with pro-independence Kanaks demanding a halt to immigration and restrictions on voting rights for short-term residents, while non-indigenous New Caledonians claim their rights as “Oceanians of European heritage.”¹¹

Central features of New Caledonia’s systems of government include:

- mechanisms by which the indigenous Kanak population have engaged in the political institutions of the colonial State;
- attempts to decentralise political institutions, to reflect the socio-economic and political gap between Noumea, the rural areas and outlying islands
- the ways that New Caledonia has taken on unique features in comparison to other French overseas dependencies.

PART 2: Noumea Accord Institutions

“Nos politiques qui s’en vont à Paris
Pour préparer avec la mère patrie
Les Accords qui feront le bien du pays
D’accords en accords et ce n’est pas fini

“C’est qui qui paye, qui paye
C’est la France qui paye
C’est qui qui paye, qui paye
C’est la France qui paye”

Our politicians who fly to Paris
To work with the Mother Country on
Agreements for the good of our country
From one agreement to the next – and it’s not over

And who’s paying the bill? Who pays?
France is paying for it.
Who’s paying the bill? Who pays?
France is paying.

“C’est qui qui paye, qui paye”, by the band Gurejele

After a complex series of negotiations, the Noumea Accord for New Caledonia was signed on 5 May 1998 by the Government of France, the conservative settler party Rassemblement Pour la Calédonie dans la République (RPCR) and the Kanak independence coalition Front de Libération Nationale Kanak et Socialiste (FLNKS).¹²

Subsequent legislation in Paris in March 1999 enacted key elements of the Accord, including:

- constitutional changes to New Caledonia’s status within the French Republic, creating “shared sovereignty”, a new citizenship for New Caledonians, and ending the previous status as a territoire d’outre-mer (overseas territory) of France;
- creation of new political institutions (three provincial assemblies, a Congress, a Customary Senate and a Government executive), replacing the existing Territorial Congress and regions.
- elections every five years for the new political institutions (elections have been held in May 1999 and May 2004);
- an “irreversible” transfer of administrative powers from Paris to local authorities and the Congress in New Caledonia;

- measures to recognise indigenous Kanak culture and identity (highlighted by a preamble to the Noumea Accord which acknowledges the “shadows” of the colonial period);

- a further 15-20 year transition before a referendum on self-determination for New Caledonia, possibly leading to the “emancipation” of the territory and the transfer of the remaining sovereign powers.

The transitional status created by the Noumea Accord is unique, and was negotiated in stages. Following the signing of the agreement on 5 May 1998, the French National Assembly and Senate passed amendments to the French Constitution, which were approved at a joint sitting of both houses at Versailles on 6 July 1998. The agreement was then ratified by nearly 72% of the population of New Caledonia in a referendum on 8 November 1998.13

The new category of “New Caledonian citizens” under French law is important for voting, immigration and employment rights.14 Only New Caledonian citizens were allowed to vote in the November 1998 referendum and for the provincial assembly and Congress elections (however, New Caledonian citizens retain their French nationality, and join all other French nationals to vote for the French National Assembly and European Parliament).

Powers currently held by the French State are being transferred to New Caledonia in four stages. Unlike France’s autonomy statutes for French Polynesia, these powers cannot revert to Paris once transferred. Some powers were first transferred on 1 January 2000 (including control of local employment and primary education); others will be transferred in stages over the next decade. Throughout the transition period, some powers will be shared between New Caledonia and the French State (e.g. while international relations are within the State’s responsibility, New Caledonia can join international and regional organisations as an observer). The crucial “sovereign powers” - justice, public order, defence, finance and currency - will remain as French State powers until after the final referendum on self-determination.

This vote on New Caledonia’s political status will be delayed for a period of 15-20 years (i.e. until after three terms of the Congress, and before the end of the fourth term). This vote, between the years 2014 and 2018, will be based on a limited franchise (rather than all French nationals) and will focus on “the transfer of the sovereign powers to New Caledonia, accession to an international status of full responsibility and transformation from citizenship to nationality.”15 During this transition period, the French State will finance the new government structures in New Caledonia.

The French parliament passed legislation (an “organic law”) to implement the referendum decision on 12 March 1999. This opened the way for elections in May 1999 to the new political institutions:

**a) Provincial Assemblies**

There are three Provincial Assemblies, for the Southern Province (40 seats), the Northern Province (22 seats) and the Loyalty Islands Province (14 seats). Each assembly has its own President, elected by assembly members.

**b) Congress**

The 54-member Congress is the premier institution in the country, with members serving five-year terms. The Congress is made up of a proportion of the members of the three assemblies: 32 (out of 40) from the South, 15 (out of 22) from the North and 7 (out of 14) from the Loyalty Islands.
The Congress elects its own President [Speaker] from amongst its members.

c) Government

A Government of between 5 and 11 members replaces the French High Commissioner as the country’s executive body, and can propose laws for adoption by the Congress.

Members of the Government are elected by the Congress, proportional to the representation of parties in the Congress.\(^{16}\)

Government members must be a New Caledonian citizen and a registered voter. They do not have to be members of a provincial assembly or the Congress, but can be appointed by Congress from the general community. If a member of the Government holds a seat in the Assemblies, Congress, Economic or Social Council or regular military forces, he or she must resign that post, but can resume it on leaving the Government.\(^{17}\)

Members of the Government, based on an absolute majority, choose the President and Vice President.\(^{18}\)

d) Customary Senate

There is also a 16-member Senate for Kanak customary chiefs, which must be consulted on issues that affect Kanak identity (eg questions of land tenure). The Senate includes two representatives from each of New Caledonia’s eight customary regions: Hoot Ma Whaap; Paici Camuki; Djubéa-Kaponé; Ajié Aro; Xaracuu; Iaai; Drehu; Nengone.

PART 3: Complexities and contradictions

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“C’est qui qui paye, qui paye”, by the band Gurejele

Since the violent clashes of the 1980s, New Caledonia’s political landscape has been transformed, as pro-independence parties have re-entered the “colonial institutions” created by the French state.\(^{19}\) But the creation of the new institutions and electoral processes under the Noumea Accord has not resolved many long-standing conflicts in New Caledonia. There are also significant gaps between the rhetoric of harmony and conflict at elite levels, and attitudes amongst the grassroots. With France paying hundreds of millions of dollars a year to subsidise the Noumea Accords process, there is concern of a gulf between young people and politicians of all persuasions – sharply described by the song “C’est qui qui paye, qui paye”, by Dick Buama of the kaneka band Gurejele.\(^{20}\)

This section of the paper discusses complexities arising from the Noumea Accords process, including issues of ethnicity and voting rights; restrictions to the electoral role; promoting the spirit of “partnership” in the multi-party Government; the increased role of women in the legislature; and the impact of French law and European Union policy in the Pacific territories.
a) Conditions to participate in elections

Under the French Electoral Code, article L.11, exercise of the right to vote requires registration on an electoral roll, either in the commune (municipality) of domicile, irrespective of the length of residence, or in the commune of actual residence once six months have elapsed.

Voting for the provincial assemblies and Congress is restricted to a special electoral roll of New Caledonian citizens, rather than all French nationals. The criteria for being registered are spelled out in Article 188 of the March 1999 law that implemented the Noumea Accord (however, as discussed below, this law has been challenged in court and is the subject of ongoing debate).21

Voters must be domiciled in New Caledonia for 10 years before the date of the elections; to have reached voting age after 31 October 1998, having either 10 years domicile in New Caledonia or having one of your parents meeting the conditions of being an elector for the 1998 referendum on the Noumea Accord; or having one of your parents inscribed on the additional electoral list.

Candidates must be 21 years old and be registered in a municipality in the Province where they are standing.22 Some people are excluded for standing for elections, including senior public servants, judges and treasury officials.

Based on article 2.2 of the Noumea Accord, there were a number of restrictions placed on citizenship and voting rights, especially for the proposed referenda on self-determination after 2014.

“Persons registered on the electoral roll on the date of the referendum and fulfilling one of the following conditions shall be eligible to vote:

(a) They must have been eligible to participate in the referendum of 8 November 1998 [the referendum which implemented the Noumea Accord];

(b) They were not registered on the electoral roll for the referendum of 8 November 1998, but fulfilled the residence requirement for that referendum;

(c) They were not registered on the electoral roll for the 8 November 1998 referendum owing to non-fulfilment of the residence requirement, but must be able to prove that their absence was due to family, professional or medical reasons;

(d) They must enjoy customary civil status or, having been born in New Caledonia, they must have their main moral and material interests in the territory;

(e) Having one parent born in New Caledonia, they must have their main moral and material interests in the territory;

(f) They must be able to prove 20 years continuous residence in New Caledonia on the date of the referendum or by 31 December 2014 at the latest;

(g) Having been born before 1 January 1989, they must have been resident in New Caledonia from 1988 to 1998;

(h) Having been born on or after 1 January 1989, they must have reached voting age on the date of the referendum and have one parent who fulfilled the conditions for participation in the referendum of 8 November 1998.

Periods spent outside New Caledonia for the performance of national service, for study or training, or for family, professional or medical reasons shall, in the case of persons previously...
However, these laws are being challenged by French nationals residing in New Caledonia, who do not meet the requirements of New Caledonian citizenship. In the case of Marie-Hélène Gillot et al. v. France, 21 French nationals who were excluded from the 1998 Noumea Accord referendum (and will also be excluded from referenda planned from 2014 onwards) have taken France to the European Court of Human Rights. They claim the French government is in breach of article 25 of the International Covenant on Civil and Political Rights by discriminating between French nationals, and are seeking reinstatement on the electoral rolls.

**b) Ethnicity and voting rights**

“...In the long term, a nationalist upsurge by the indigenous people can only be avoided if the non-Pacific peoples represent the demographic majority, and it goes without saying that this can only be achieved by the systematic migration of women and children…. it will doubtless be necessary to reserve jobs for immigrants in the private sector”.

French Prime Minister Pierre Messmer, 1972

The unresolved issue of ethnicity and voting rights is at the heart of political life since the Second World War – since 1946, there have been debates over what, if any, restrictions should be made to New Caledonia’s electoral franchise.

As a result of colonial settlement and ongoing immigration – especially after the nickel boom of the 1960s - the indigenous Kanak community has become a minority in its own land. In the last official census in 1996, Kanaks made up 44.1 per cent of New Caledonia’s inhabitants, followed by Europeans (34.1 per cent) and Wallisians (9 per cent). Other officially designated communities (Indonesian, Tahitian, Vietnamese, Ni-Vanuatu) each made up less that 3 per cent.

The Kanak community actually declined as a proportion of the population in the decade after the 1988 Matignon Accords (from 44.8% to 44.1% of the population), in spite of a higher birth rate in the indigenous community. The European population increased by over 10,000 in the same period – even though in the 1988 Matignon Accord negotiations, then Prime Minister Michel Rocard promised the late Kanak leader Jean-Marie Tjibaou that France would repatriate thousands of French public servants. A decade later, the limiting of immigration from France was a crucial element of the Noumea Accord negotiations, with vital implications for political rights, cultural values and local employment.

Issues of ethnicity are highly politicised in French political culture. Article 1 of the 1958 French Constitution states that France is an “indivisible republic” and ensures “the equality of all citizens before the law, without distinction of origin, race or religion.”

The Noumea Accord process places special recognition of the rights of the indigenous Kanak population and other New Caledonian citizens – a positive discrimination that creates potential conflict with the rights of other French nationals. The creation of New Caledonian “citizenship” (as distinct from French “nationality”) is a legal mechanism to allow discrimination between French soldiers, public servants and other workers on short-term contracts (who mostly vote against independence) and long-term residents of New Caledonia who presumably have a commitment to the Pacific nation.

Only New Caledonian citizens can vote for Provincial Assemblies and the new Congress – the aim was to effectively freeze the electoral body in 1998, as only those people resident for ten years after 1988, and their descendants of voting age, can participate in future electoral contests. Independence leaders argue that demographic change and limits on immigration from France will create a basis for a solid vote in favour of independence at the end of the 15-year transition period.
But on 15 March 1999, the **Conseil Constitutionnel** (Constitutional court) in Paris ruled that all French citizens residing in New Caledonia for at least 10 years – whatever their date of arrival - will be able to participate in provincial elections.\(^{26}\) Angered by the removal of a key plank of the Accord, the FLNKS leadership threatened a boycott of the May 1999 elections.

The boycott call was only reversed when the French government agreed to amend the French Constitution again during a January 2000 session of the French Congress (a joint sitting of members of the National Assembly and Senate), which was scheduled to sit for a new autonomy statute for French Polynesia. However this Congress session was never held, for domestic political reasons. As of mid-2004, the French Congress had not yet passed these constitutional revisions (although French President Jacques Chirac told the 2003 Noumea Accord Committee of Signatories that he hoped the revisions could be completed before the end of his term of office in 2007).

In 2003, New Caledonia's scheduled population census was postponed due to this politically sensitive question of ethnicity. In the last two censuses in 1989 and 1996, residents of New Caledonia were asked to identify if they are of Kanak, Wallisian, European or other heritage. But during French President Jacques Chirac's July 2003 visit to New Caledonia, he criticised official questions about ethnicity as “irresponsible and illegal.” President Chirac stated the French republic does not recognise people on the basis of their ethnic origins, saying: “There is only one reply to such a question, you are all French and there are French people of all ethnic origins.”\(^{27}\)

The postponement of the census highlights the tensions between French law and Pacific realities. The French law on Computers and Liberties (No.78-17 of 6 January 1978) forbids data collection that includes details of people’s ethnic origin or religion. However in New Caledonia, as in many other Pacific countries, it is important to collect disaggregated statistics based on ethnicity, gender and other criteria, as these issues have practical consequences for land tenure, voting rights and a range of social, education and affirmative action programs.

Immigration and residency rights affect not only on voting but also have important impacts on employment, with young New Caledonians often losing jobs to expatriates from France. The “400 cadres” program established under the Matignon Accords increased the number of Kanaks employed in the local administration, but senior management levels are dominated by French public servants (1277 Europeans to only 188 Kanaks). Between 1989 and 1996, the number of French public servants in Noumea doubled.\(^{28}\)

Under the Noumea Accord, training programs such as “**Cadre Avenir**” have continued. But some Kanak union leaders are concerned that the transfer of powers from Paris to Noumea will create new pressures for expatriate employment, due to the limited numbers of Kanaks with professional and technical skills. The 1996 census shows that in the ‘liberal professions’ there are 551 Europeans, seven Wallisians, three Tahitians but only two Kanaks.\(^{29}\)

c) **Parity between men and women**

Beyond ethnicity, the status of women has become an important electoral issue. Around the Pacific region, agencies like UNIFEM and non-government organisations such as Women In Politics and National Councils of Women have been seeking to increase the number of women in Pacific legislatures. In spite of role models like former Deputy Prime Minister Taufa Vakatale of Fiji, New Caledonia’s Vice President Dewe Gorode and Palau’s Vice President Sandra Pierantozzi, there is a shortage of Pacific women in Parliament – this is a particular problem in Melanesia, where as of June 2004 there is only one female politician in Papua New Guinea 109-seat legislature, and none in Vanuatu and Solomon Islands.

The situation has changed in recent years in the French Pacific territories, as French law requires that equal numbers of women and men be included on lists of electoral candidates. The law on parity,
passed by the French parliament in 1999, is expressly designed to increase the number of women in parliament.

In the French electoral system, people run for parliament not as individual candidates but as part of a group on a party list. Under the parity law, lists of candidates must now include both men and women - and to avoid women being dumped at the bottom, the list must alternate between man, woman, man, woman and so on. The parity law applies for all of France's Pacific territories, with New Caledonia’s law being modified in 2000 to include the requirement that “On each list, the difference between the number of candidates of each sex can be no greater than one. Each list must be composed alternatively by a candidate of each sex.”

The parity law was first used in New Caledonia for 2001 elections for municipal councils. The May 2004 elections were the first time the law was used for provincial assembly and Congressional elections.

The issue of parity and women’s representation in Melanesian parliaments was debated at a 2001 meeting of Pacific parliamentarians in Brisbane, Australia, which noted:

“Here was a Melanesian society that must quickly come to grips with a fundamental change in its traditional concept of the role of women...not an easy process as the willingness and skills may not be present in sufficient supply to meet the parity rules. Some argued for an exception for Melanesia but others asked why Melanesian women were less deserving of equality than other women around the world.”

Kanak women do not agree that “willingness and skills” are lacking. According to Kanak Congresswoman Nicole Waia (who served as a Vice President of New Caledonia's Congress between 1999-2004):

“I think it's a good thing, first of all for the democracy in this country, and the other thing is the women have more sensibility in terms of social problems than the men. So I think maybe the arrival of the women in the politics - for me it means more social vision, more humanity in the approach of the problems.”

The suggestion that women are not willing to stand for elections is not borne out by the evidence. When the law was first introduced, RPCR Senator Simon Loueckhote said that Kanak women were not ready – his statements were met by public demonstrations and criticism from women across the political spectrum. From 2001, New Caledonia’s Vice President was a Kanak woman, and the May 2004 assembly and Congress elections saw full slates of candidates, with businesswoman Marie-Noelle Themereau heading the list for the new coalition Avenir Ensemble (The Future Together), and winning the Presidency in June 2004.

The final results in the 2004 elections for 76 seats in three provincial assemblies were 40 men and 36 women elected (47 per cent). For the first time, women were elected to the Loyalty Islands assembly, where there were none before the parity law.

As the French parity law has brought more women into politics, some have clashed with the paternal leadership style of an older generation of male politicians. The clashes between RPCR businesswoman Marie-Noelle Themereau and party leaders Jean Leques and Jacques Lafleur led to her resignation from the RPCR in 2003, after 12 years in the party (A similar conflict arose in French Polynesia between tourism minister Nicole Bouteau and President Gaston Flosse from Tahoeraa Huiraatira, also leading to her resignation to create her own party). Both women played a central role in the electoral downfall of these long-serving leaders in May 2004 – suggesting that new styles of politics may be challenging the dominant figures who have run conservative politics like a fiefdom since the 1970s.
Following her election to the southern province assembly and Congress as the leading candidate of *Avenir Ensemble*, Themereau was chosen on 10 June 2004 as President of the Government of New Caledonia. Her Vice President was independence activist, writer and teacher Dewe Gorode of the Party of Kanak Liberation (Palika), who had served in the post in the Frogier government between 2001 and 2004. For the first time in the region, two women were chosen to head an executive government – but it lasted just three hours, with three RPCR representatives resigning and bring down the government in protest over the number of seats they’d won in the Congressional ballot.

Both women were eventually re-confirmed in their positions, but it seems that the shock of two women leading the country was too much for politicians of all sides!

d) Proliferation of electoral lists

Rather than voting for an individual in an electoral constituency, the French electoral system is based on votes for a party list, with the number of seats allocated on a proportional basis in each constituency. In most cases, there is also an electoral barrier – a party list must achieve a certain number of votes to be included in the division of seats, meaning that a vote for a small party may be wasted if the electoral list does not win enough votes to be eligible for a seat. This mechanism is designed to discourage frivolous candidates and encourage alliance building, but also discriminates against smaller, sectional interest groups.

In New Caledonia, the electoral barrier is 5 per cent of registered voters. In 2004, this electoral barrier stood at:
- Southern province: 3,633 votes
- Northern province: 1,444 votes
- Loyalty Islands province: 902 votes

Voting is not compulsory, so rates of abstention vary across the country or for a particular election (elections for local government have high turn-outs, while votes for the French National Assembly and European Parliament have relatively small turn-outs, especially amongst the Kanak population). In the May 2004 assembly and Congress elections, voting rates were 77.42 per cent (Southern), 72.3 per cent (North) and 79.07 per cent (Loyalty Islands).

The conflicts of the 1980s were polarised between two major blocs – the pro-independence forces of the FLNKS, and the anti-independence RPCR. But since 1988, the number of electoral lists has been growing, as issues of policy, personality, regionalism and family influence splits in the major blocs. There were 20 electoral lists in 1989, 21 in 1995, 23 in 1999 and 31 in 2004.

In the lead up to the 1999 elections, there were discussions within the FLNKS about presenting a unified list of pro-independence candidates. No unified list could be agreed for all the provinces, and the four FLNKS member parties - *Union Calédonienne* (UC), *Parti de Liberation Kanak* (Palika) *Union Progrésiste Mélanesienne* (UPM) and the Wallisian party *Rassemblement Démocratique Océanienne* (RDO) - ran in different combinations. As well as the RPCR, the independence forces were challenged by a breakaway group that left the FLNKS in 1997-8, the *Fédération des Comités de Co-ordination des Indépendantistes* (FCCI), formed by key figures of the early FLNKS leadership.

The same fragmentation was evident in 2004 with 31 electoral lists contesting the May 9 elections for provincial assemblies and Congress. In the Southern Province, disunity amongst independence leaders and splits in the Wallisian community saw a proliferation of party tickets, with 14 electoral lists competing. In the North there were 9 lists, and another 8 in the Loyalty Islands.

In the 1980s, Wallisians resident in New Caledonia tended to vote for the anti-independence RPCR, but in 2004, there were more than four electoral lists competing for the Wallisian vote. None of these parties won a seat after splitting the community vote.
In the south, former FLNKS President and Melanesian Spearhead Group Chair Rock Wamytan fell out with his party UC, and ran his own ticket “Le FLNKS pour l'indépendance”. UC also refused to run a joint ticket with the other three FLNKS members, who ran as UNI-FLNKS. The split between FLNKS members was compounded by competition from other key Kanak leaders, such as Rafael Mapou, who ran with the Greens as “Patrimoine et environnement avec les Verts”.  

Thus, although 7,763 people voted for independence parties in the southern province, all these tickets failed to gain the five per cent of registered voters (3,633 votes) needed to win a seat. All six pro-independence representatives elected to the 1999 Southern province assembly lost their seats, leaving only three conservative settler parties – RPCR, Avenir Ensemble and Front National - represented in the 2004 assembly.

In contrast, in the Northern province pro-independence parties won 18 out of 22 seats. The Party of Kanak Liberation (Palika) has come out of the elections with an increased vote, strengthening the authority of leader Paul Neaoutyine, who won the Presidency of the Northern province. Independence parties also increased their votes in the Loyalty Islands, with UC’s Neko Hnepeune winning the Presidency.

This de facto partition, with independence parties dominating the North and Loyalty Islands but having no representation in the Southern assembly, is in stark contrast to the spirit of partnership and “working together” that the Noumea Accords encourages. While the number of votes for candidates supporting independence held roughly steady in comparison to the 1999 elections, it didn't translate into Congress seats. With 40 per cent of the overall vote, the parties of the FLNKS independence movement hold less than a third of the seats in the new Congress.

e) Multiparty Cabinet

In the March 1999 law which implements the Noumea Accord, article 121 specifies, “when a government member ceases to hold his/her position, the next candidate on the (party) list on which he was elected becomes his/her replacement”. But the article further says that when those provisions “cannot be applied any longer, the government is deemed to have resigned and a new government shall be elected within fifteen days”.

This means that the resignation of members of one party list can trigger the fall of the government, requiring the Congress to convene for a new vote to appoint the executive.

This has occurred on two occasions:
- in November 2002, when Union Calédonienne (UC), withdrew Utilities minister Gérald Cortot (its sole representative in the Frogier government), and refused to replace him with someone from the UC electoral list. A new government was elected, reduced in size from 11 to 10 members;
- on 10 June 2004, when former President Pierre Frogier and two other Rassemblement representatives resigned from the government of President Marie-Noëlle Themereau, which had been elected just hours earlier. The Rassemblement members were angered that their party had become a minority in the government, after running it for twenty years!

The central concept of multi-party executives in multi-ethnic societies is that institutions of governance can be structured to ensure that people from all ethnic communities are represented in Cabinet. Together with New Caledonia, Fiji serves as the other major example of using constitutional reform to establish multi-party government – a model that has been studied by academics in New Caledonia.  

Journalistic shorthand tends to reduce complex crises in multi-ethnic societies like Fiji and New Caledonia to an issue of race or ethnicity (French versus Kanaks; Indians versus Fijians). But the 1999
elections in Fiji and the 2004 elections in New Caledonia suggest there are often sharper divisions within ethnic communities than between ethnic communities. Although issues of ethnicity and identity are significant features of politics in the Pacific, they are not the only factor in determining voting trends or political mobilisation.

Solomon Islands academic Tarcisius Tara Kabutaulaka, one of the negotiators of the Townsvile Peace Agreement, has posed this issue in relation to the Solomon Islands crisis of the late 1990s:

“The public media, government officials and commentators on the Solomon Islands crisis have taken the easiest choice and explained the events as simply a result of ethnic differences between the peoples of Guadalcanal and Malaita. The argument is that there is something primordial about the hatred between the peoples of these two islands. This was a lazy shorthand explanation that divorces the crisis from contemporary socio-economic contexts. While ethnicity, as an issue, should not be completely disregarded, there is also a need to situate the crisis within broader socio-economic and political developments in Solomon Islands and beyond.”

In Fiji, the SVT party of Sitiveni Rabuka and the National Federation Party (NFP) of Jai Ram Reddy both faced significant electoral setbacks in 1999, although many commentators thought that the multi-party Cabinet established in the 1997 Fiji Constitution was tailored for them. I’d argue that the defeat of the Rabuka government was, in large part, a reaction to its economic policies on wages, value-added taxes and corporatisation and privatisation of government services, amplified by the 1998 El Nino drought (Trying to privatise the water supply system in the middle of the drought or sack unionised airport workers in the middle of an election campaign is designed to bring issues apart from ethnicity to the foreground of voters’ minds).

It is worth noting that the concept of a multi-party Cabinet was not recommended by the 1995 Reeves Commission into Fiji’s Constitution, but was added later by politicians. The experience of multiparty government in Fiji, with ongoing court cases since the 2001 elections as the Fiji Labour Party argues for its seats in Cabinet, suggests that it is an artificial device to bring competing political traditions together.

In the same way, issues of class, regionalism, family and even personality are significant features of New Caledonia politics that cannot easily be transcended by institutional mechanisms.

Jacques Lafleur’s anti-independence party Rassemblement UMP lost 12 per cent of its vote in the 2004 elections in comparison to 1999, but the big winner was the new coalition Avenir Ensemble, rather than the independence parties that gain the vast bulk of their votes from the Kanak community. Avenir unites business people and dissidents from the Rassemblement, who are not pro-independence but have broken with Jacques Lafleur’s party over issues of corruption, cronyism and gender politics.

The other central concept of a multi-party Cabinet is to promote partnership between opposing political formations, to transcend periods of political conflict (the post-coup years in Fiji, or the 1984-88 clashes in New Caledonia). But from 1999-2004, representatives of the FLNKS have repeatedly spoken about the lack of collegiality and partnership by the Rassemblement, which had the numbers in the government throughout these five years – leaders of Union Calédonienne have stated the Accord has been “drifting” and “hijacked” by Rassemblement.

With the collapse of the Themereau government three hours after it was elected in June 2004, conflicts between Avenir and Rassemblement were evident from the start, leading to slanging matches in the press and court cases for defamation. The split between Mrs. Themereau and her former Rassemblement colleagues in the anti-independence camp is causing problems for a multi-party government that is supposed to be based on the spirit of partnership.
After the first debacle on 10 June, the three pro-independence ministers at first refused to throw their support either behind Mrs Themereau or Rassemblement's Pierre Frogier, the two anti-independence candidates for the presidency. After negotiations between the four parties in the government, Mrs. Themereau and Dewe Gorode were eventually re-confirmed in their positions as President and Vice President - but the tensions highlight the difficulties of the multi-party executive.

f) Voting in Europe

“Thanks to its territories, France is a Pacific nation. Thanks to France, Europe is present here too.”
France’s Overseas Minister Brigitte Girardin, June 2004.

New Caledonia is represented in the French parliament in Paris, with two seats in the National Assembly and one seat in the Senate. But as France further integrates into the European Union (EU), the rights and obligations of French citizens in overseas dependencies takes on new contradictions.

As French citizens, Kanaks, Tahitians and Wallisians all carry a European Union passport and can vote in elections for the European Parliament in Brussels and Strasbourg, even though they're 20,000 miles away.

Although the French Pacific territories are associated with the EU rather than being an integral part of its territory, their inhabitants may vote by virtue of the French legal principle of the indivisibility of the republic. Residents in New Caledonia, French Polynesia and Wallis and Futuna all have the chance to vote for three seats in a specially created electorate for all of France's overseas dependencies. Under its constitution, France has only one category of citizenship, unlike other EU members that have variegated citizenship for people living in their overseas territories. Thus amongst EU members, it is only French nationals who can vote for EU institutions - overseas Dutch in the Caribbean or Falkland islanders carry European Union passports, but are not allowed to vote for the European Parliament.

Some New Caledonians are concerned that Europeans have similar rights in local government elections. Under EU law, any citizen from the 25 EU member countries can vote in municipal elections in New Caledonia, after meeting the requirement of six months residency and registering at the local commune (this privilege does not extend to provincial and Congressional elections).

As EU Overseas Countries and Territories (OCTs), the French Pacific territories do gain other benefits from the European Union, particularly with development assistance through the European Development Fund (EDF). Business and government leaders in New Caledonia and French Polynesia are also debating a shift from the CFP French Pacific franc to the Euro, as the new European currency becomes a global financial mechanism.

However voter turnout for European Parliamentary elections is often very low in the Pacific, even though the French Government flies in tons of how-to-vote cards to the islands. In June 2004, as voters in 25 European countries went to the polls to elect a new European Parliament, only 25.43 per cent of voters in New Caledonia bothered to turn out.

Not surprisingly, most New Caledonians see their future as part of the Pacific region, with increasing ties to the trade, cultural and social life of the great ocean.
Appendix 1

Electoral results, 1999 and 2004 by provincial assembly and party

Southern province:

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<td>2</td>
<td>1</td>
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Northern Province:

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NB This list does not include electoral lists / parties that failed to win seats. Full details of all party lists, voting tallies etc., are listed at www.congres.nc
### Appendix 2

**Congress 1999 / 2004, by party and electoral list:**

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<td>Avenir Ensemble</td>
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<td>4</td>
<td>Front National (FN)</td>
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<tr>
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<td>Fédération des comités de coordination indépendantistes (FCCI)</td>
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<tr>
<td>Parti de libération Kanak (Palika)</td>
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<td>-</td>
</tr>
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<td>Union Nationale pour l'Indépendance – FLNKS (UNI - FLNKS)</td>
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<tr>
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<td>1</td>
<td>Libération Kanak Socialiste (LKS)</td>
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</table>

**Explanatory Notes:**

- *The Rassemblement pour la Calédonie dans la République (RPCR)* changed its official name to *Rassemblement UMP* for the 2004 elections, in line with the change of the French conservative party *Rassemblement pour la République* (RPR). From 2001, RPR combined with the UDF and Liberal Democrats in France to form the *Union pour un Mouvement Populaire* (UMP).
- Didier Leroux’s *Alliance pour la Nouvelle Calédonie* formed a coalition with RPCR dissents to create *Avenir Ensemble* in 2004.
- The four members of the FLNKS - *Union Calédonienne* (UC), *Parti de Libération Kanak* (Palika), *Union Progrésiste Melanésienne* (UPM) and *Rassemblement Démocratique Océanien* (RDO) ran in different combinations in different provinces: in 1999 Palika ran as UNI and Palika, while UC, UPM and RDO ran as FLNKS; in 2004, UC ran its own electoral lists, while Palika, RDO and UPM combined as UNI-FLNKS.
- UC Renouveau, headed by Jacques Lalie, is a split-off from *Union Calédonienne* in the Loyalty Islands.
- This list does not include electoral lists / parties that stood for elections but failed to win seats. Full details of all party lists, voting tallies etc., are listed at www.congres.nc
A court case in June 2004 before the Administrative Tribunal in Noumea ruled that the voting for President required an absolute rather than simple majority, thus six of eleven members. “Le nouveau gouvernement caledonien elu aujourd’hui”, Les Nouvelles Calédoniennes, 23 June 2004

ENDNOTES

1 As a militant independence leader, and secretary-general of the largest pro-independence party in New Caledonia, Machoro was a marked man. Just two months later, on 12 January 1985, he was shot down by police sharpshooters, “neutralised” on orders from the French high commissioner.


3 After lobbying by the Pacific Islands Forum, the UN General Assembly voted to re-inscribe New Caledonia on the list of non-self-governing territories in UNGA Resolution 41/41 of 2 December 1986 which “affirms the inalienable right of the people of New Caledonia to self-determination and independence in accordance with resolution 1514 (XV)”.

4 Clause 4 of the Preamble to the Noumea Accord states: “Decolonisation is the way to rebuild a lasting social bond between the communities living in New Caledonia today, by enabling the Kanak people to establish new relations with France, reflecting the realities of our time”. Préambule, Accord de Nouméa, 5 May 1998.

5 For example, in April 2004 conservative leader Jacques Lafleur told the congress of his Rassemblement party that a scheduled referendum on self-determination will not happen in 2014. Lafleur told the meeting: “No one will want to go to the referendum….Independence has now become just a word, a dream…. So why not let the people dream, why not let them have the feeling that they have not lost, but that we have all won together?” Pacnews, April 20, 2004

6 For discussion, see Jean-Yves Faberon: “La Nouvelle Calédonie et la révision constitutionnelle de mars 2003 sur l’organisation décentralisée de la République” in Revue juridique, politique et économique de Nouvelle Calédonie, No.1, 1/2003, p.3.

7 The concept of the “victims of history” was invoked at the 1983 roundtable at Nainville-les-Roches in France, where pro-and anti- independence leaders jointly agreed that all residents of New Caledonia - indigenous and non-indigenous - have a part to play in building the country’s future. For some Kanaks, this is a compromise on the principle that the indigenous people alone has the right to self-determination.


9 For debates on the difference between indigenous Kanaks, non-indigenous Caledonians (Caldoche and islander) and metropolitan French (metros or zozos), see Etre Caldoche aujourd’hui (Ile de Lumière, Noumea, 1994)


13 Accord de Nouméa, p.4.

14 An electoral grouping must hold at least six seats in the Congress to be recognised as a party group, to participate in the division of seats.

15 The place of a member of the government leaving the Congress or Assembly is filled by the next eligible member of that person’s electoral list – on resigning or being dismissed from the government, a government member can resume their original seat in Congress or Assembly, with the incoming deputy losing their seat. This has occurred with a number of people who entered and left the Government in 1999-2004, such as Rock Wamytan; in 2001, the first President of New Caledonia under the New laws, RPCR politician Jean Leques, decided he would return to his post as Mayor of Noumea rather than continue in government.

16 As a militant independence leader, and secretary-general of the largest pro-independence party in New Caledonia, Machoro was a marked man. Just two months later, on 12 January 1985, he was shot down by police sharpshooters, “neutralised” on orders from the French high commissioner.
Some pro-independence parties, such as the now-defunct *Front Uni de Liberation Kanak* (FULK) refused to enter the “colonial institutions” created by the 1988 Matignon Accords, and tensions within the FLNKS contributed to the deaths of Kanak leaders Jean-Marie Tjibaou and Yeiwene Yeiwene in 1989, killed while visiting Ouvea to mark the anniversary of the massacre of Kanak militants in the Ouvea crisis of 1988.


“C’est qui qui paye, qui paye?”, *Co Mece Ko – best of Gurejele* (Mangrove Records, Noumea, 2001). The lyrics sardonically note that France is the source of grants to political parties, payments to public servants, subsidies for Chinese boatpeople arriving on New Caledonia’s shores, and the plastic explosive which left a greenie on the bottom of Auckland harbour!


One exception: candidates for New Caledonia’s two seats in the French National Assembly and one seat in the French Senate can stand in whichever province they wish.


Data from 1996 census of New Caledonia’s population in *Principaux tableaux 1996, Notes et documents no.77* (ITSEE, Noumea, November 1997).


Decision no.99-410 DC, 15 March 1999. The Court evaluates whether laws passed by the French Parliament are in accordance with the French Constitution.


Analysis of the 400程序 program and the economic results of the Matignon Accord are found in Gilbert David, Dominique Guillaud and Patrick Pillon, *La Nouvelle-Calédonie à la croisée des chemins 1989-1997* (Société des Océanistes, ORSTOM, 1999).

Institut Territorial de la Statistique et des Etudes Economiques: *New Caledonia – Facts and Figures* (ITSEE, Noumea, 2000), Section 10.3 - ‘Working Population in Employment. Europeans outnumber Kanaks in virtually all professional and trade categories with the exception of farmers and unskilled labourers. The only exception in the ‘intermediate professions’ is clergy and religious workers, where Kanaks nearly double the number of Europeans!*


Report of Pacific Parliamentary Retreat, Centre for Democratic Institutions, Brisbane, Australia, 3-7 December 2001. New Caledonia delegates included Bianca Henin, Nicole Waia and Robert Paouta Naxue.

For interviews with Nicole Waia, then a member of New Caledonia’s Congress and Dewe Gorode, Vice President, Government of New Caledonia, see “Parity law supports women in politics” Pacific Beat, Radio Australia, 5 April 2004.

Electoral data and results can be found on the Congress website at www.congres.nc

In the Southern Province, a united list was created, headed by then FLNKS President Rock Wamytan, with candidates from the *Union Calédonienne* (UC), *Palika* and the Wallisian party *Rassemblement Démocratique Océanienne* (RDO). In the north and the Loyalty Islands however, unified tickets could not be agreed, and the FLNKS ticket was effectively made up of UC members. The second largest FLNKS member *Palika* ran candidates as part of the *Union Nationale d’Indépendance* (UNI). There were also lists from smaller parties such as *Union Progrésiste Mélanésienne* (UPM) in the North, and FULK and LKS in the Loyalty Islands. The Islands Province also saw an *Indépendance et Progrès* ticket, supported by members of the trade union confederation USTKE.

As well as the major conservative parties and the National Front, Wallisians were courted by the *Rassemblement Démocratique Océanienne* (RDO) led by Aloisio Sako ran as part of the UNI-FLNKS; *Union Océanienne* (UO, 749 votes); *Rassemblement océanien dans la Calédonie* (ROC, 429 votes); and *Mouvement des Citoyens Calédoniens* (MCC, 1,140 votes) led by Tino Manuhaulalo, who resigned from the RDO and FLNKS after losing a ministerial post.

Mapou, the former mayor of Yate who has been in Palika and FCCI, is a leading member of the Rheebu Nuu committee, which unites chiefs and landowners in the southern province who are campaigning around the social, environmental and economic impacts of the Goro nickel plant, a project under construction by the Canadian nickel corporation Inco.

For the independence parties, the southern province results were: UNI (2,530 votes), Roch Wamytan’s *FLNKS pour l’indépendance* (2,098 votes), *Union calédonienne* (1,848 votes), *Patrimoine et environnement* (861 votes) and FCCI (426 votes).


44 As at June 2004, the National Assembly members are Rassemblement UMP members Jacques Lafleur (since 1979) and Pierre Frogier (since 1996) and the Rassemblement UMP Senator Simon Loueckhote.
45 For a detailed study of the impact of EU membership in New Caledonia, see Maclellan and Chesneaux: After Moruroa, op.cit., Chapter 11 “France caught between Europe, global markets and the great ocean”.
48 “Élections Européennes – Circonscription Outre-mer” 14 June 2004 (Press release from France’s Overseas Ministry). Turn outs in the other Pacific territories were higher, with 43.07 per cent in Wallis and Futuna and 39.85 per cent in French Polynesia.