

The road to sovereignty for New Caledonia? Analysis of the November 2018 consultation on self-determination

Carine David

Caribbean Laboratory of Social Sciences

University of French West Indies (Martinique)

carine.david@univ-antilles.fr

Abstract: New Caledonia – also known as Kanaky – is a French autonomous territory in the South Pacific. As the final phase of an emancipation process that began almost 30 years ago, a first referendum on self-determination occurred on November 4, 2018. Since 56% of voters rejected separation from France in 2018, two other consultative referendums are due by 2022, the next one being organised in 2020. This paper analyses the result of the 2018 New Caledonian self-determination referendum and presents the context in which it unfolded: an archipelago where, 60 years ago, 98% of the population voted to remain a French Overseas Territory. This paper also draws out some of the key perspectives on political and institutional matters that may dominate debate in New Caledonia over the next few years.

Keywords: France, independence, New Caledonia, overseas territory, referendum, self-determination

© 2019 – Islands and Small States Institute, University of Malta, Malta.

Introduction

New Caledonia is a French territory in the south-west Pacific Ocean, about 1,000 km North-East of Australia. It is an archipelago consisting of a large main island, called *Grande Terre*, 400 km long and 40km wide; the Loyalty Islands archipelago, low-lying coral atolls with thin soils and limited surface water; and numerous other small islands. The total land area of New Caledonia is 19,100 km². New Caledonia's Exclusive Economic Zone (EEZ) covers 1,740,000 km² (672,000 square miles) of ocean, representing 16% of France's EEZ.

New Caledonia was first settled some 4,000 years ago by the ancestors of the Melanesian inhabitants, the *Kanak*. It was formally annexed by France in 1853, when it became a French colony. In 1887, indigenous people throughout the French colonial empire became subject to the *Code de l'indigénat*, a statute that imposed restrictions on movement, summary punishments and an authoritarian system of local governance. This system persisted, virtually unchanged, until after World War II. New Caledonia became an overseas territory (*territoire d'outre-mer* or 'TOM') in 1946. From then on, the Kanak were gradually granted the right to vote and became increasingly involved in local politics. From the end of the 1960s, demands for greater autonomy from France progressively evolved into a broad-based Kanak independence movement. Meanwhile, since 1853 immigration from France and other colonies has made of New Caledonia a settlement colony, laying the foundations of a divided society (David, 2017).

Under the pressure of a sovereigntist movement encouraged by a French state unable to maintain an autonomy granted in 1956, New Caledonia experienced a “waltz of the statutes” (Jacquemart, 1989, p. 64), otherwise called “institutional yo-yo” (Agniel, 1997, p. 41), from the 1960s and for nearly three decades. Within the period from 1956 to 1988, a dozen statutes followed one another, progressively outlining the main features of the current status of New Caledonia.

Indeed, the institutional architecture of New Caledonia as it exists today is the result of a gradual statutory evolution that has transformed this overseas territory into a self-governed entity presenting an undeniable originality within the framework of the French unitary state. New Caledonia has built, step by step, an innovative institutional framework: moving from the status resulting from unilateral decisions imposed by a French state locked in its Jacobin conservatism, to the necessary search for the consensus imposed by the mutation of the autonomist claim to secession.

For example, the 1956 Defferre Framework Law initiated significant autonomy through a massive transfer of powers and a local executive body. The Stirn Act of 1976 allowed the experimentation - then unsuccessful - of a local government whose members were appointed by the local parliament through proportional representation. The Ordinances of 1982 provided the tools for the economic and social rebalancing that were – and are still - essential for a more egalitarian development of New Caledonia. The Lemoine Act of 1984 introduced an internal federalism *via* a territorial division into six “countries”, whose logic will be confirmed over the following statutes to lead to the creation of the current provincial division in 1988, with the “Matignon-Oudinot accord”, a political agreement between the French Republic and the local political leaders, representing both independentist and loyalist movements, to end a bitter civil war. Finally, the 1998 Nouméa Accord completed this architecture by endowing the Congress of New Caledonia with legislative powers and by setting up, with success, an executive composed of representatives of the main local loyalist and independent political forces, pushing the consubstantial consensus of the Pacific culture to a peak. It also initiated a staged irreversible transfer of all powers from the Government of France to New Caledonia, except for certain ‘sovereignty’ powers – justice, public order, defence, finance and currency.

Exceeding for the first time the constitutional framework set by the 1958 French Constitution, the Nouméa Accord led to the establishment of a unique self-governing entity within the French Republic, whose institutional and normative autonomy made many French authors echo the question posed by Thierry Michalon back in 1982: is the French Republic a federation that ignores itself (Michalon, 1982)?

The exceptional legal and political framework thus set up is explained by a logic of progressive emancipation. New Caledonia is inscribed by the United Nations on its list of Non-Self-Governing Territories yet to be decolonised. It is therefore logical that the twenty-year cycle established under the Nouméa Accord should be terminated by the use of a referendum on self-determination in order, as stated by Article 53 paragraph 3 of the French Constitution, for the “concerned populations” to express themselves as to their destiny, within, alongside or outside the French Republic.

Sixty years after a first referendum on self-determination, during the consultation aimed at approving the 1958 French Constitution, and after a local consultation in 1987 boycotted by Kanaks because of the electorate (see below), the “concerned populations” of New Caledonia had to answer the same question on November 4, 2018: what of their attachment to France? Indeed, the Nouméa Accord stipulates, in its 5th point, that a consultation will be organised to allow the local population to make its own choice. The last sentences of the Preamble to the Nouméa Accord (1998) state that,

At the end of the period of twenty years, the transfer of the sovereign powers to New Caledonia, the accession to an international status of full responsibility and the organisation of citizenship will be put to a vote by the concerned populations.

Their approval would amount to the full sovereignty of New Caledonia.

On that basis, a first referendum took place on November 4, 2018. The voters were asked if they wanted “*New Caledonia to access to full sovereignty and become independent*”. As 56.67% of voters answered “No” to this question, the organisation of two other referendums on the same question can occur, each one within two years of the other, if requested by at least one third of the members of the Congress, the local parliament. At the latest in 2022, the process will then be over and the Caledonian people will have made their choice between persevering as a non-sovereign island jurisdiction within the French Republic or to become the next member state of the United Nations.

In order to understand the emancipation process taking place in New Caledonia, it is first necessary to understand that the Caledonian society is a divided one and that this division clearly determines the political framework. It will then be possible to analyse the origins and results of the first referendum of November 4, 2018. Finally, we will review likely future scenarios, particularly the socio-political context of the subsequent referendums.

A society divided on ethnic and political lines

A political framework reflecting the ethnic division of the society

New Caledonia is a divided society: the main consequence is a specific political framework that led to a unique institutional organisation designed by the Nouméa Accord.

As a settler colony, the population of New Caledonia is divided into several communities, the two main ones being the Indigenous people (the Melanesian Kanak) and the population of European origin. According to the 2014 census, 39.1% of New Caledonian inhabitants declared they were part of the Kanak community (104,958 persons). The second most represented community is the European: 27.1% of the census self-declarations (73,199 persons), followed by Wallisians and Futunians (originated from another Pacific French territory): 8.2% (21,926 persons). All together, the other communities identified represent 7.1% of total population: French Polynesians (2.1%), Indonesians (1.4%), Ni-Vanuatu (1%), Vietnamese (0.9%), other people from Asia (0.4%) and the rest (1.3%). Moreover, 8.6% of the population declared itself belonging to several communities or being of mixed race. And 7.4% declared they belong to the ‘Caledonian community’, refusing to choose among proposed communities.

The divisions between the different communities is reinforced by the geographic distribution of the population, which appears quite clearly determined in accordance with ethnic background. In the Loyalty Islands Province, Kanak inhabitants represent 94% of the population. In the North Province, 70.5% of the population belongs to the Kanak community; 12% to the European community; 6.5% declared they are belonging to several communities; and 11% are belonging to the other communities (mainly Asians and Polynesians). The South Province is the most populated Province with 199,983 inhabitants and the location of Noumea, the capital, and its suburbs. Here, the European community is the largest (33%), followed by the Kanak community (26.1%), the Wallisians and Futunians (10.7%), those declaring that they belong to two or more communities (9.7%) and those belonging to other communities (about 20%). Note that over 90% of all non-Kanak communities in New Caledonia live in South Province; but only some 50% of Kanaks do.

As is often the case in plural societies, understood as societies which are divided into different linguistic, ethnic, religious, or racial groups and communities, the political framework in New Caledonia is designed in accordance with the ethnocultural characteristics of the population. Indeed, in a divided society,

the differences are politically salient: they are persistent markers of political identity and bases for political mobilisation. Ethnocultural diversity translates into political fragmentation ... Political claims are refracted through the lens of ethnic identity, and political conflict is synonymous with conflict among ethnocultural groups (Choudry, 2008, p. 242).

The consequences of such a situation are explained by Lijphart (1984, p. 22),

in plural societies, ..., the flexibility needed for majority democracy is absent. In these conditions, the law of the majority is not only antidemocratic, but also dangerous, because the minorities to whom access to power is constantly denied will feel themselves excluded, and they are victims of discrimination. They will cease showing allegiance to the regime [if the political system is not adapted to these specificities].

These assertions are applicable to New Caledonia as the division of the society is clearly reflected in the political framework. Moreover, the division of New Caledonia society is amplified by the issue of emancipation, since ethnic fragmentation corresponds closely to the political claims for sovereignty. Consequently, political parties are organised on the basis of these political and ethnic fragmentations. Indeed, a large part of the Kanak population is in favour of independence whereas the majority of other communities is sympathetic to New Caledonia remaining a French territory. As we will see, the results of the 2018 referendum confirm that this is the case.

The consociational institutional arrangements

The New Caledonian fragmented political framework suggests that the classic Western system of majoritarian democracy is not relevant in such a divided society: there is a need for an institutional framework that allows power sharing between the communities.

Most of the devices recommended towards the achievement of such a sharing of power can be identified in New Caledonia's institutional architecture: sharing of power within the exercise of executive powers; the use of proportionality in legislative representation, cabinet and the civil service; segmental autonomy; and other devices such as bicameralism or legal pluralism. These are reviewed in turn below.

As Lijphart (1977) argued, in a divided society, there is a need for a grand coalition cabinet encompassing representatives of the major ethnic segments. In New Caledonia, the local executive is elected by the Congress of New Caledonia through proportional representation; the local executive thus reflects the political trends of the Parliament, with the coexistence of both the parliamentary majority and minorities within the Government. By requiring the majority to discuss with representatives of minority tendencies, the structure of government is truly original, even if similar approaches can be found in the 1998 Good Friday Agreement in Northern Ireland (McGarry & O'Leary, 2016) or in the 1997 Fijian Constitution (Fraenkel, 2006). But in these last two cases, this characteristic of the status has caused the failure of the system, which is not the case in New Caledonia.

Proportionality in legislative representation, in the Cabinet, in the civil service, police and military is also a characteristic feature of a divided society that is present in New Caledonia's institutional setup.

Segmental autonomy consists in either territorial federalism (where territorial boundaries follow ethnic boundaries) or non-territorial federalism with respect to policy areas closely linked to ethnic identity (culture, land tenure, civil status...). Both are used simultaneously in New Caledonia.

Since 1988, New Caledonia is divided into three provinces: Loyalty Islands Province (red), North Province (green) and South Province (yellow). (See [Map 1](#)).

Map 1: The three provinces of New Caledonia.



Source: Government of New Caledonia.

Provincial jurisdiction includes economic development, agriculture, primary education, culture, youth, sport and leisure, some aspects of healthcare and social work, and the protection of the environment. The concept of provincialisation was key in the institutional design of the Matignon Accords in 1988 and the Nouméa Agreement in 1998: they allow a fairer representation of the population and a more equitable distribution of powers between the separatists and loyalists in relation to their relative distribution over different parts of the territory.

On the other hand, cultural autonomy is present with the customary personal status, allowing Kanak people to be ruled by customs in the area of civil law. Customary land, and Kanak identity more generally, are areas in which non-territorial autonomy applies.

There are additional devices to achieve the sharing of power in such a divided society such as bicameralism that partly exists in New Caledonia on issues such as Kanak identity, custom and customary land tenure, designation of customary institutions and legal pluralism on civil matters and land tenure.

The present institutional and legal engineering is the result of decades of negotiation and conflicts. Nevertheless, secessionist leaders would consider this as a mere step in an ongoing process: the struggle for independence is a work in progress.

A tumultuous path towards the 2018 self-determination referendum

The road to the 2018 referendum

1958-2018 is the period of time separating the only two significant referendums of self-determination in New Caledonia. What happened in this overseas territory, so that the ‘Yes’ to the Republic expressed by 98% of the population in 1958 is reduced to 56% in 2018?

Like many former French colonies, New Caledonia had its first brush with self-determination in 1958 when General De Gaulle doubled the stakes of the popular consultation on the draft Constitution of the Fifth Republic for overseas populations. The referendum was not only intended to approve the project of a new fundamental law for the whole Republic, but also to affirm the will of the perpetuation of their attachment to France for the overseas populations living in the most autonomous territories, including New Caledonia.

In this respect, the massive ‘Yes’ expressed at 98.12% by the New Caledonians contrasts with the rapid evolution of the independence demand in the following years. This choice was the expression of 76.86% of an electorate that had recently obtained the right to universal suffrage: the entire Kanak population acceded to citizenship in three stages between 1946 and 1957, at which point suffrage became universal in New Caledonia (Angleviel, 2008) and encouraged by the granting of a very recent status of strong autonomy.

In this regard, it is interesting to mention the clairvoyant speech of G. Defferre, then French Minister for Overseas Territories, addressed to those who question the appropriateness of granting such autonomy to overseas territories,

We shall not give the impression of acting half-heartedly, only regretfully, taking back with one hand what we give with the other. We shall remember that nothing is more reckless than some form of caution. Let us rely on those whose loyalty has never failed us.

With this in mind, the New Caledonian population voted to remain within the French Republic by a very strong majority. For Angleviel (2008, p. 143),

this vote, which is not contradictory with the desire to benefit from a real administrative autonomy, will be interpreted in Paris as the ‘passive’ acceptance of a gradual return to the direction of local affairs by the State.

However, on December 18, 1958, the territorial assembly of New Caledonia rejected both the status of overseas department (DOM) (considering that it did not give enough autonomy) as well as that of Member State of the international community (that would have led to an independence which was then not desired). Local elected officials chose the intermediate solution: the status of an overseas territory of France (TOM).

For the leaders of the majoritarian party, the “Caledonian Union” (UC), the fiscal, financial and customs autonomy already available in New Caledonia was only the first stage of greater autonomy. It is this scalability desired by UC that was considered dangerous by its political opponents. In this context, the creation of the Pacific Experimental Centre (CET) for the testing of nuclear weapons in 1963 in French Polynesia resulted in the gradual decline of the autonomy of New Caledonia,

The adviser of the General for Africa (and the Pacific), J. Foccard, took domino theory into account: if New Caledonia obtained an increasing autonomy, even a one-day independence, French Polynesia would struggle to obtain the same evolution (Angleviel, 2008, p. 145).

As a result, the French Government progressively reduced the autonomy of New Caledonia during the 1960s, breaking the trust of political leaders and provoking the radicalisation of claims. Some small groups started agitating for outright independence for the first time. This radicalisation grew during the 1970s, as the French government did not realise that the lack of response to the Kanak demands made the situation worse and, through a system of communicating vessels, fueled the escalation of frustration and violence. An inevitable outcome was the need to organise a vote of self-determination in the early 1980s. If the claim was satisfied in its principle in 1983 in the declaration of Nainville-les-Roches, it nevertheless took an additional thirty-five years for holding such a consultation under fair and acceptable conditions.

However, several statuses did schedule the occurrence of such a referendum, in particular the 1984 Lemoine Act implementing the Nainville-les-Roches declaration, providing for a referendum in 1989. However, the law referred to a State / Territory Committee to determine the conditions for the exercise of the right to self-determination, thus temporarily avoiding the very sensitive issue of the composition of the referendum electorate. Nevertheless, this consultation was never organised: the violence accompanying the establishment of the institutions resulting from the 1984 Lemoine Act led to the proclamation of the state of emergency in New Caledonia in January 1985 and the Lemoine Act was never applied.

After another status unsuccessfully provided for a self-determination referendum no later than 31st December 1987, it was finally the 'Pons 1' Act of July 17, 1986 that accelerated a little more the referendum process. It provided in its article 1 that within a period of twelve months from the enactment of the law, "the interested populations" of New Caledonia would be "consulted on the accession of the territory to the independence or on its maintenance within the French Republic." The organisational arrangements of the consultation, and in particular the composition of the electorate, were fixed a few months later. In deep disagreement with an electoral body composed of people residing in New Caledonia for only three years and therefore destined to thwart the secessionist claim, the FLNKS (a federation of the main secessionist political parties), called for a boycott of the consultation. The referendum nevertheless took place on September 3, 1987 and logically saw the overwhelming victory of maintaining New Caledonia as part of France at 98.3%, expressed by 59.1% of the referendum electorate (JORF (Journal officiel de la République Française) [Official Journal of the French Republic] 5/10/1958: 9179).

The French State, considering that the question of independence was no longer relevant, established a new status, called "Pons 2" in January 1988. It never came into force because of the escalation of violence leading to the tragedy of a taking of hostages in a cave at Gossanah, on the island of Ouvéa, one of the Loyalty Islands, during which 25 people lost their lives (Greenhouse, 1988).

It is by the signing of the Matignon-Oudinot agreements on June 26, 1988, under pressure by the French state, that a dialogue between separatists and loyalists could resume and peace was restored. Crucial point of the agreement: a referendum of self-determination was planned ten years later, in 1998, in which only the people proving their residence in New Caledonia in 1988 would be able to participate, thus introducing a ten-year residency requirement (instead of the three years proposed for the 1987 referendum). This agreement was sealed by the Referendum Act of November 9, 1988, approved by national referendum.

A political consensus emerged in the early 1990s, to consider that the organisation of a referendum for self-determination in 1998 could jeopardise a still fragile civil peace. As a result, the Nouméa Accord of May 5, 1998 postponed the referendum on self-determination until 2014 at the earliest and 2018 at the latest. The popular consultation scheduled for 1998

took place, but was finally about the assent of the local population regarding the content of the Nouméa Accord.

Pursuant to this agreement, struck in July 1998, a referendum on self-determination of New Caledonia was held on November 4, 2018.

Chronicle of a paradoxical ballot

Occurring under fair and acceptable conditions, the vote resulted in the rejection of independence by 56, 67% of the votes cast, with a participation rate amounting to 81.01% of those registered on the referendum list. This result, while not consistent with the polls, nevertheless corresponds to electoral trends observed in relation to previous local general election results.

Indeed, while the polls predicted an overwhelming victory of the ‘No’ at around 70%, ‘only’ 56.67% of the votes were cast in favour of a French New Caledonia. This large difference between the forecasts and the actual result can be explained by different factors.

Six polls were conducted by various institutes in New Caledonia between April 2017 and September 2018 on voting intentions during the referendum of November 4, 2018, providing a score of ‘No’ ranging from 54% (April 2017) to 75% (August 2018). The last three polls, carried out in August and September 2018, predicted a strengthening of the ‘No’ in the run-up to the referendum, the rejection of independence being then between 64 and 75% of voting intentions.

In this context, a large victory of loyalists seemed to many elected officials certain, proclaimed as a “chronicle of an announced result” by Philippe Gomès, a loyalist leader. The ‘70/30’ verdict was declared as an achieved result, some even considering that such a poor result of the ‘Yes’ could only lead the pro-independence representatives to give up the two following referendums provided for by the Nouméa Accord. Behind the scenes, the French State executive was already worried about the reaction of a part of the population to such a score that could be felt as humiliating and thus could lead to a serious questioning of the vote for disloyalty, generating a high risk of public disorder.

But: one should not count one's chickens before they are hatched. And, against all odds, and to surprise of many citizens and observers, the score from the ballot box had a rather paradoxical effect that consisted in seeing winners in the position of losers and losers in the position of winners (David, 2018; Pantz, 2018).

Why did the polls completely miss a result that, however, seems quite consistent with the balance of power between separatists and loyalists in New Caledonia since 1998? What are the reasons for this overestimation of the rejection of independence? Did the polls themselves have an effect on the outcome of the consultation?

We will not return here to the general debate about the reliability of the polls which has grown in recent years and which certainly resonates here. We will insist more readily on the explanatory elements inherent to this consultation, which has many specificities, without pretending to be exhaustive.

The first explanation can be found in the lateness of the campaign and the closing of the referendum list on August 31, 2018. Failing to have been made at a date close enough to the deadline, the polls have not been able to capture the end-of-campaign momentum that has clearly been much more effective on the separatist side.

Other explanatory elements can be evoked to explain the gap between the polls and the effective vote of New Caledonians. These include: the sensitivity of the question asked, the uncertainties related to the reaction of the population to such a cut-off vote, the lack of data on the transmission of the will of independence to younger generations who have not experienced the civil war during the 1980s, samples of population unsuited to the socio-political reality of New Caledonia, and the unsuitability of telephone surveys addressed to the indigenous population.

On the contrary, two arguments heard the day after the consultation do not seem convincing to explain this gap. The first consisted in incriminating polls, touted a few days earlier, blaming them for having discouraged loyalist voters from participating in a vote whose result suggested a foregone conclusion. The second argument, which appears out of order, is a so-called greater than expected participation. Such an argument seems questionable, a poll in August 2018 and giving the 'No' between 69 and 75%, for example, provided for the participation of 86% of registered voters.

Above all, it should be noted that the results of the referendum seem much closer to the reality of the balance of power between loyalists and separatists for 20 years than were the polls. Reality has caught up with fiction.

Indeed, contrary to the feeling many people felt on the evening of the referendum, the November 4, 2018 consultation seems to be anchored in normality, in regard to both the turnout and the results.

The exceptionally high participation rate of 81.01% was welcomed by all observers. The more usual electoral contests in New Caledonia do not elicit such a strong voter turnout; but the stakes of the November 4, 2018 consultation led to a higher participation rate than usual. In any case, this participation rate is not extraordinary in the case of a referendum of self-determination. In Quebec, for example, 93.52% of electors took part in the first referendum on the independence of the Canadian province in 1995 (Elections Québec, 2019). In Scotland, 84.59% of eligible voters went to vote for the consultation on the independence of the country in 2014 (McInnes et al., 2015). In the Pacific, nearly 95% of the adult population of Tokelau voted in the 2006 self-determination referendum and 87% in 2007 (Hooper, 2008).

Beyond participation, the balance of power recorded by the referendum at 56.67% against 43.33% accurately reflects the distribution of votes in the 2014 provincial election, which seems to be the only vote that can serve as a benchmark. Indeed, and very schematically, the people registered on the Special Electoral List for Provincial Elections (LESP) were those who have been living in New Caledonia since at the latest by the end of 1998. Just as roughly, voters registered on the referendum list (LESC) were persons who were residing in New Caledonia since December 31, 1994 at the latest. The distortion between the two lists then mainly concerns people who settled in New Caledonia between 1995 and 1998 who are registered on the LESP but not on the LESC. As we can see, the convergence between the two electoral lists allows a relative comparison, resulting in the finding of a small gap between the result of the referendum and that of the 2014 and 2019 provincial elections: here, 58.5% , then 57.6% of the votes cast were in favour of lists belonging to the loyalist movement; against 41.5%, then 42.4%, for the independentist lists.

An analysis at the provincial level confirms this convergence of results.

In the South province, about three quarters of voters voted 'No' in the referendum. Since 1999, the proportion of loyalist voting has fluctuated between 78% in 1999, 80% in 2004, 85% in 2009, 82% in 2014 and 80.5% in 2019. Bearing in mind that the electorates are different, the high score of the 'Yes' in this province can be explained by the fact that the number of loyalist

voters increased by 18% compared to the 2014 provincial elections; while the number of separatist voters increased by 49% over the same period for the referendum. This increase in the secessionist vote is particularly noticeable in deprived neighbourhoods, which could be partly the effect of an automatic registration of persons of customary civil status, i.e. indigenous people. Nevertheless, this also confirms a trend observed in the 2014 and 2019 provincial elections.

In contrast, in the North province, about three quarters of voters voted 'Yes' for secession. This represents a setback for separatists since the proportion of the pro-independence vote in the provincial elections was 68% in 1999, then 70% in 2004, 67% in 2009 but 80% in 2014 and 2019. Still bearing in mind the differences between the electorates, the loyalist vote is 42% higher; while the separatist vote is only 30% higher, when compared to the results of the provincial elections of 2014. The distribution of votes remains, in any case, within the norm for the North Province.

Finally, in the Loyalty Islands province, 82% of the votes were cast in favour of independence. Again, this corresponds to a drop from the 2014 provincial election for separatists since they obtained 93% of the vote (90.6% in 2019), confirming an inexorable erosion of loyalist voting in this province where nearly 95% of the population is Kanak. Consequently, the substantial increase of the loyalist vote is explained by the current political landscape in the Loyalty Islands province, in the absence of renewal of the loyalist political class on the islands. The distribution of votes nevertheless seems to reflect the political balance of power observed in 1999 (23%) and 2004 (20%) when the loyalist camp was more structured and better organised in this province.

Therefore, although the distribution of votes differs somewhat, the results remain quite homogeneous compared to the provincial elections, even if it is possible to detect here and there occasional distortions.

Among the few lessons that can be drawn from a more refined analysis of the votes, it is quite remarkable to note that the results in the off-site polling stations are quite similar to the trends observed in the corresponding municipalities. These stations were established to allow people originated from different islands (Belep, Lifou, Maré, Ouvéa and Isle of Pines) but living in Nouméa to vote in the capital, though remaining registered in their native islands. In Belep, the votes cast in favor of independence were 94.45%, the Noumea polling station for Belep account for 93.97% of 'Yes'. For Lifou, there are 79.92% 'Yes' votes on the spot and 80.75% and 79.76% respectively in the two relocated stations. For Maré, 84.58% 'Yes' votes on the spot and 84.2% of separatist votes in the relocated stations. Same thing in Ouvéa (84.08% 'Yes' on the spot and 84.18% in the off-site office) and Isle of Pines (70.31% on-site and 67.32% in the off-site office).

Such a coherence of the vote makes it possible to answer a recurring question about the potential influence of the rural exodus and the transition to a more Western, city life, on the vote of the Kanak population (Pantz & Robertson, 2018). Little influence is apparent. Nevertheless, it remains difficult to determine whether the motivation of this vote in the relocated stations responds to a vote of identity or rather a desire to change the model, in the face of a too unequal society.

In any case and without any ideological positioning, this result can be viewed positively by an impartial observer. The score was tight enough not to be questioned and not to cause significant public disturbances. It is also a good result because everything remains possible in the sense that the reservoirs of voice that can be mobilised on both sides can give hope to everyone that victory is at the end of the road.

Indeed, the question is still open: the Nouméa Accord provides for the possibility for a third of the members of the Congress to request the holding of a second or even a third referendum in case of defeat of the ‘Yes’. In this regard, it appears that the referendum results of November 4, 2018 have laid out a new basis for discussion.

Next steps

New Caledonia has thus come serenely to what used to be called the ‘next day’. Several important deadlines were nevertheless following, decisive for its future.

The first deadline was May 12, 2019 for provincial elections.

The next steps on the institutional calendar are the referendums of 2020 and 2022 as the Nouméa Accord in its point 5 § 4 establishes that “a third of the members of the Congress may trigger the organisation of a new consultation which will take place in the second year following the first consultation [...]”.

It is nevertheless important to understand the mechanism that was negotiated within the Nouméa accord. Indeed, if the referendum is decisive, the mechanism provides for the possibility of a second or even a third referendum, but only in the case the answer is “No” to the first, and then to the second referendum. Should the answer be a “Yes” at any of the three consultations, the process would be over.

The lessons from May 12, 2019 provincial elections

Logically, the participation rate for the provincial elections was lower than six months before for the referendum, reaching a little less than two third of the electorate, far from the 81% rate for the self-determination consultation and even below the participation rate of the 2014 provincial elections (nearly 70%). It should be nevertheless emphasised that the participation rate is higher in the Loyalty Islands Province for the 2019 provincial elections than for the 2018 referendum (66,5% vs 61%). In the South and North provinces, the participation rates are significantly lower, as they fall from 83% to 67% in the South and from 86% to 64,5% in the North. It is quite difficult to analyse the reasons for this difference and figure out why, while the Loyalty Islands Province is populated mainly by Kanak people, it is there that the referendum was the least mobilising.

Another observation can be made: despite the drop of the participation in comparison with the same election in 2014, the balance of power between loyalists and secessionists is quite the same, even if the independentist parties are slightly reinforcing their position, in comparison with the 2014 election.

The main element to be kept in mind is the emergence of a new political party: the “Eveil calédonien” which attracted a large part of the Wallisian and Futunian voters, who hail from a French Polynesian territory, and who are traditionally pro-French. The emergence of this party raises the question of the increase of communitarianism in New Caledonia, as it amplifies the fragmentation of the political landscape on an ethnic basis. Indeed, the “Eveil Calédonien” can be qualified as a communitarian party. Moreover, the party, winning three seats in the Congress and four seats in the South Province Assembly, finds itself in a position of kingmaker. While the newly elected members of the new party voted for loyalist majority in the South Province, reaffirming their Pro-France position, they vote one week later for an independentist leader to become President of the Congress of New Caledonia, calling for an oceanian majority and the possibility of working with independentists, considering the common difficulties encountered by their respective electorate: Kanak and Wallisian and Futunian populations are indeed the most disadvantaged in social and economic terms. Nevertheless, from the point of

view of access of New Caledonia to sovereignty, it does not seem to change anything: as the leader of the party explains, working with independentists does not mean becoming secessionist; he was adamant about the rejection of independence by his party (Wéry, 2019).

More questionable are the dissensions within the ranks of the two main independentist movements. After all, the political situation after May 12, 2019 elections should have resulted in an independentist majority government of New Caledonia for the first time in the territory's recent history. A deal between the two main independentist political parties would have led to the election of a secessionist president of the Government. Surprisingly though, the sovereigntist leaders decided to go to the election of the members of the Government separately, allowing the Pro-France parties to secure a majority and win the presidency of the executive. Such a decision appears incomprehensible: taking over the lead in the government could have been a good opportunity to demonstrate their capacity to run the country, about 18 months before the second referendum, which has to occur by the end of 2020. In this regard, the subsequent squabbles, through the media, regarding the designation of an independentist representative for the vice-presidency of the Government seem obviously counterproductive in the necessity to convince the electorate of their capacity to run the country in a responsible manner.

The next referendums

Unexpectedly, the second consultation was requested on June 11, 2019 by the 18 elected members of "Future in Trust", a union of three non-independence parties that won the elections in May. They have officially signed a letter addressed to the High Commissioner of the Republic in New Caledonia, requesting the organisation of a second referendum of self-determination as soon as possible, as they promised during the campaign. "Uncertainty and doubt weigh heavily on our economy and on our living together. We must therefore start this second consultation as soon as possible", said Sonia Backès, new President of the South Province and spokesperson of the union (Outremers 360⁰, 2019). The idea is to "get rid of the question of independence" in order to be able to move forward, as explained by several loyalist political leaders.

Two weeks later, 25 (out of 26) independentist elected members of the Congress asked for the organisation of the second consultation after June 2020.

The demand of the 18 Pro-France elected members of the Congress contrasts with the positions of the different loyalist leaders in the days following the first referendum, formulating various proposals to try to revise the intended schedule of events. Thus, two days after the referendum, Sonia Backès proposed to substitute the two referendums with the option of a new referendum within ten or fifteen years, far from the "*as soon as possible*" expressed in June 2019. The deputy Philippe Gomès, leader of Calédonie Ensemble, another loyalist political party, addressed Edouard Philippe, the French Prime Minister, asking him to postpone the next referendum indefinitely. The response of the head of the Government was clear: such a postponement could not be envisaged without a broad local consensus, which currently does not exist. Senator Pierre Frogier, leader of Republicans in New Caledonia, expressed his willingness to write a constitutional bill to abolish the two referendums.

Beyond the demagogy and rhetoric of such proposals, all of which were known to require a constitutional review that the French Government would never initiate due to an impossible consensus between the local political forces, these dead gestures denote a confusion of the loyalist political class, stunned by the less-than-expected score of the November 2018 consultation.

In any case, this second referendum has to be organised within a period of two years after the first referendum, and the same gap applying in the event of a third consultation. Therefore, as the first referendum was held on November 4, 2018, the second referendum should be organised no later than the November 2020. The option of a consultation taking place by the end of 2020 is more likely. Indeed, the occurrence of municipal elections in March 2020 and the need to still work on the voters list at the demand of independentist leaders, have been given as reasons not to rush for the organisation of the second consultation.

In the event of a second 'No' result, a third referendum can be asked and organised within the following two years. The referendum process included in the Nouméa Accord will therefore be completed by the end of 2022 at the latest.

These two referendums will ask the same question as the first one. Indeed, the proposition of a second referendum asking a different question, formulated by Ferdinand Mélin Soucramanien (2018), is difficult to envisage. Legally, it requires a flexible interpretation of the Nouméa Accord to circumvent the need for constitutional review. Indeed, contrary to the statutory law which requires the question to be identical for the three referendums, the Nouméa Accord (1998) simply provides that,

the vote will focus on the transfer of the sovereign powers to New Caledonia, accession to an international status of full responsibility and the organisation from citizenship to nationality.

Therefore, changing the question for the second referendum by proposing an alternative between the accession to 'full sovereignty' and a status of 'associated statehood' inspired by the constitutional status of the Cook Islands and Niue, in free association with New Zealand, is legally feasible, after modification of the statutory law.

The problem is nevertheless different from a political point of view because it underlies a consensus between the separatists and the loyalists on this point. On the one hand, it seems difficult to envisage that the separatists agree to compromise on a political status implying the renunciation of the status of a sovereign state with a seat at the United Nations. Moreover, accepting that the alternative to the independence proposed to the Caledonians is a territorial status associated with characteristics very close to those of a sovereign state in its classical sense would be to definitely give up the secessionist claim. On the other hand, this solution is far from being favoured by loyalists. Witness Philippe Gomès' statements on this subject,

Kanak independence activists tell us: 'You stole our country ... Give it back to us and we will sign an association agreement with France to exercise sovereign powers in our country in our name; we are fighting for a minute of sovereignty.' And this is the minute we do not want.

Knowing that the French Government would undertake a review of the statutory law only in case of consensus on a modification of the question, it is unlikely that such a proposal will fly. In spite of all the good sense and the rationality that it expresses, it ignores all the visceral subjectivity induced by a political cause perceived in an antagonistic way on both sides.

In any case, if we stick to the statistical data, the balance of power for the next referendums should not be modified by the demographic evolution of the referendum electorate. Indeed, the number of voters is expected to increase by around 5,000 by the second referendum in 2020 and 10,000 in 2022: just over 4,000 children were born in 2001 and 2002 for around 1,500 deaths a year, resulting in a balance of 2,500 people a year. Meanwhile, note that the difference in votes was 18,000 (78,734 votes for the 'No' and 60,734 votes for the 'Yes') and that 35,000 eligible voters did not exercise the right to vote in the 4 November referendum. Moreover, between 2001 and 2004, some 45% of births were under customary

civil status and 55% under ordinary civil status. This does not however make it possible to determine the proportion of new entrants in the electorate in ethnic terms, as it is difficult to determine the proportion of Kanak youth entering the electorate since not all of them are of customary civil status (but all persons of customary civil status are Kanak) and because all children born between 2001 and 2004 in New Caledonia are not necessarily still resident in New Caledonia. Anyway, the figures do not suggest any significant change in the demographic ratios between the main ethnic groups.

Thus, the outcome of the upcoming referendum(s) is more likely to be played out in political terms. Several strategies are possible.

The first is aimed at non-voters. From this point of view, the advantage would probably be on the side of the independence camp, particularly because of the proximity induced by tribal life.

Beyond this, both sides will have to work on their project to convince new voters. From this point of view, the scope of the work to be done is perhaps more important on the independence side. Numerically inferior, they must convince dubious and non-sympathetic voters that an independent Kanaky-New Caledonia will be able to rise to the economic, social, environmental and cultural challenges of the 21st century. Today, pro-independence leaders have a conquering spirit. Thus, Rock Wamytan, affirmed the day after the referendum,

We consider that this referendum is a test. There will be other appointments and we intend to convince the New Caledonian people next time.

In the meantime, it will be necessary to avoid the risk of radicalisation of the electoral discourse. This was not the case during the campaign of the 2019 provincial elections but should be in the perspective of the referendum of 2020.

What will happen next? The Nouméa Accord states that if the answer is negative for the three consultations, “the political partners will meet to discuss the situation thus created”. Nevertheless, the threat of a boycott of a tripartite negotiation is real: Daniel Goa, President of the “Union Calédonienne” Party, member of the FLNKS, did threaten on several occasions that, in case of three successive ‘No’ results, the indigenous people, the Kanak representatives, will then only discuss with the French Government in Paris, bypassing and excluding the Pro-France leaders on the islands. Is this threat serious? Are the separatist representatives really willing to put an end to the ‘outstretched hand’ policy initiated in 1983 when accepting that not only Kanak people should participate in the self-determination process? The question is serious as several other leaders recently reiterated this position.

Everyone seemed to believe that all would be fine and clear on ‘the day after’ the referendum of November 4, 2018 with a strong ‘No’. It seems today that many questions remain unanswered, including those concerning the institutional issues that no one seems to have anticipated.

Disclaimer

The author declares that this article did not benefit from research funding.

References

- Agniel, G. (1997). L'expérience statutaire de la Nouvelle-Calédonie ou de l'étude du mouvement du yo-yo au service de l'évolution institutionnelle d'un territoire d'outremer. In J.-Y. Faberon (Ed.), *L'avenir statutaire de la Nouvelle-Calédonie : L'évolution des liens de la France avec ses collectivités périphériques* (pp. 41-57). Paris, France: Les études de la documentation française.
- Angleviel, F. (2008). La Nouvelle-Calédonie en 1958, ou la primauté du territorial sur le national, *Revue d'Histoire*, 96 (357-358), 133-145. Available at: https://www.persee.fr/doc/outre_1631-0438_2008_num_95_358_4321
- Choudry, S. (2008). Bridging comparative politics and comparative constitutional law. In S. Choudry (Ed.), *Constitutional design for divided societies: Integration or accommodation?* (pp. 3-40). New York: Oxford University Press.
- David, C. (2018). Le référendum d'autodétermination du 4 novembre 2018 en Nouvelle-Calédonie: les effets ambivalents d'un résultat (in)attendu. *Revue Politeia*, 34(1), 3-25.
- David, C. (2017). Repenser les institutions calédoniennes par le prisme du modèle de la démocratie consensuelle. *Revue Juridique, Politique et Economique de la Nouvelle-Calédonie*, 30(1), 114-119.
- Elections Québec (2019). *Référendums au Québec*. Available at: <https://www.electionsquebec.qc.ca/francais/tableaux/referendums-quebec-8484.php>
- Fraenkel, J. (2006). Power sharing in Fiji and New Caledonia. In S. Firth (Ed.), *Globalisation and governance in the Pacific Islands* (pp. 317-348). Canberra, Australia: ANU E-Press.
- Greenhouse, S. (1988, May 6). 17 Die as French free hostages in New Caledonia, *New York Times*.
- Hooper, A. (2008), Tokelau: A sort of 'self-governing' sort of 'colony.' *The Journal of Pacific History*, 43(3), 331-339.
- Jacquemart, S. (1989). Inventer la Nouvelle-Calédonie. *Annuaire des Collectivités Locales*, 9, 61-79.
- Lijphart, A. (1984). *Democracies: Patterns of majoritarian and consensus government in twenty-one countries*. New Haven CT: Yale University Press.
- Lijphart, A. (1977). *Democracy in plural societies: A comparative exploration*. New Haven CT: Yale University Press.
- McGarry, J. & O'Leary, B. (2016). Power-sharing executives: Consociational and centripetal formulae and the case of Northern Ireland, *Ethnopolitics*, 15(5), 497-519.
- McInnes, G. & al. (2014). Scottish Independence Referendum 2014, Analysis of results. Research Paper 14/50, *House of Commons Library*. Available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=16&cad=rja&act=8&ved=2ahUKEwjU2L3phq3kAhXszIUKHeXAB38QFjAPegQIAhAC&url=http%3A%2F%2Fresearchbriefings.files.parliament.uk%2Fdocuments%2FRP14-50%2FRP14-50.pdf&usg=AOvVaw0X9gDKm3Um8e6VSt_0suxV
- Melin Soucramanien, F. (2018, December 10). Nouvelle-Calédonie: à la recherche du consensus perdu. *Outremers 360*, Available at: <http://outremers360.com/politique/tribune-de-ferdinand-melin-soucramanien-nouvelle-caledonie-a-la-recherche-du-consensus-perdu/#respond>

Michalon, T. (1982). La République française: une fédération qui s'ignore? *Revue de Droit Public et de la Science Politique en France et à l'Étranger*. May-June, 623-688.

Noumea Accord (1998). Available at: <http://www.pireport.org/articles/1998/05/12/noum%C3%A3%C2%89-accord>

Outremers 360⁰ (2019, June 11). Nouvelle-Calédonie: 18 élus non indépendantistes demandent un 2ème référendum. Available at: <http://outremers360.com/politique/nouvelle-caledonie-18-elus-non-independantistes-demandent-un-2eme-referendum/>

Pantz, P.-C. (2018). Le paradoxe d'un référendum historique... sans surprise? *Revue Juridique, Politique, Economique de la Nouvelle-Calédonie*, 32, 35-45.

Pantz, P.-C., & Robertson, S. (2018). *Exploring the Kanak vote on the eve of New Caledonia's independence referendum*. Discussion Paper. Canberra, Australia: Department of Pacific Affairs, Australian National University. Available at: https://openresearch-repository.anu.edu.au/bitstream/1885/148431/1/DPA%20DP2018_8%20Pantz%20and%20Robertson.pdf

Wery, C. (2019, May 24). Un indépendantiste dirigera le Congrès de la Nouvelle-Calédonie. *Le Monde*. Available at: https://www.lemonde.fr/politique/article/2019/05/24/nouvelle-caledonie-un-independantiste-elu-a-la-tete-du-congres_5466359_823448.html

To cite this article:

David, C. (2019). The road to sovereignty for New Caledonia? Analysis of the November 2018 consultation on self-determination. *Small States & Territories*, 2(2), 141-156.