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# State Society and Governance in Melanesia

DISCUSSION PAPER

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## UNDER A NEW FLAG? DEFINING CITIZENSHIP IN NEW CALEDONIA

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In October 2009, the French government launched a 'grand debate on national identity'. Through the Ministry of Immigration and National Identity, the government set up a website asking 'For you, what does it mean to be French?'.<sup>1</sup>

This initiative sought community perspectives on citizenship in an age of globalisation and migration into Europe from Africa, the Maghreb and Mashreq. It also came at a time when France, Belgium and Switzerland were engaged in debates over Islam and the banning of the *burqa*, *hijab* and mosque minarets.

But this debate over nationality, identity and citizenship also raises significant issues for people living in France's overseas dependencies. What does citizenship mean for people in the Pacific islands colonised by France—New Caledonia, Wallis and Futuna and French Polynesia?

Under its constitution, France has only one category of citizenship, unlike other European Union (EU) members that have variegated citizenship for people living in their overseas territories.<sup>2</sup> This reflects the core principle set out in Article 1 of the 1958

French Constitution, which states that France is an 'indivisible republic' and ensures 'the equality of all citizens before the law, without distinction of origin, race or religion'.

In spite of these principles, the May 1998 Noumea Accord includes the creation of a New Caledonian 'citizenship', as a legal mechanism to allow positive discrimination for the indigenous Kanak people and other long-term residents of New Caledonia, against French soldiers, public servants and other workers on short-term contracts who mostly vote against independence. As detailed below, New Caledonian citizens are given certain privileges—in voting, employment and economic rights—that are not available to all French nationals who are living in the islands.

Other articles by the author have highlighted the broader process of inter-communal reconciliation underway in New Caledonia, seeking to transcend the violent clashes of the mid-1980s and build a 'common destiny' for all communities in New Caledonia.<sup>3</sup>

This paper focuses on debates about New Caledonian citizenship over the last decade, at a time when the islands are moving closer

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to a decision on their final political status, and the Kanak independence movement is still seeking the transfer of full political sovereignty from France to an independent nation—Kanak. The paper also outlines some of the special rights attributed to the indigenous Kanak people; details a series of legal and political challenges to a more restrictive notion of citizenship; and describes how new voting rights were entrenched into French law in the dying days of the Chirac presidency.

A central theme throughout the paper is the way that a number of key conservative politicians have attempted to move away from the commitments they made in signing the Noumea Accord. Their ongoing vision of New Caledonia as an integral part of the French republic may scuttle attempts to build a 'common destiny' between the indigenous Kanak population and those recognised as the 'victims of history', the descendants of convicts, settlers and immigrant workers who have made New Caledonia their home.<sup>4</sup>

### *Religion, nationality and citizenship*

Conservative leaders like France's President Nicolas Sarkozy have long sparked public debate over citizenship and national identity. As Interior Minister in 2004, Sarkozy introduced a ban on the wearing of *hijab* or other distinctive religious symbols in public schools. As President, his 2009 proposal to ban the wearing of the *burqa* in public has raised concern and anger amongst many French citizens of Muslim heritage and belief, as well as people who see the debate as a diversion from the core economic and social problems facing the county.

The French government's latest 'national identity' initiative was denounced by many commentators as a cynical political manoeuvre in the lead up to the 2010 regional elections (where Sarkozy's *Union pour un Mouvement Populaire* (UMP) party lost many seats to the Socialist Party opposition). Critics have described it as a crude attempt at capturing part of the electorate that supports the extreme right-wing *Front National* (FN), by stigmatising African and Muslim migrants and refugees.<sup>5</sup>

As Australia has seen in recent years, debates over national identity soon come down to defining the rights and responsibilities of citizens, and whether all residents are living in 'one nation.' The furore over 'What does it mean to be French?' highlights an ongoing debate within France over the resilience in the 21st century of so-called 'national values': republicanism, secularism and the revolutionary trinity of Liberty, Equality and Fraternity.

As France's Overseas Minister Yves Jégo argued in a 2008 speech to New Caledonia's Congress:

Our France is not a race, not a land, not the colour of one's skin. Our France is something that men around the world aspire to—the universal quest for liberty, equality and, let us not forget, fraternity. Our France, it's a nation without parallel, which has known how to enlighten the world with its brilliance and bring together in its melting pot so many different men and women.<sup>6</sup>

However, for a country with a long and ongoing colonial tradition, national pride in liberty and equality takes on a particular irony for colonised peoples in the French empire.

French traditions of republicanism, secularism and separation of church and state sometimes fit awkwardly in the Pacific islands. Secularism has been challenged in these strongly Christian nations: article 3 of the 1961 statute establishing Wallis and Futuna as a French overseas territory protects the rights of the Catholic Church over education, clergy and social issues in this overwhelmingly Catholic society. (This protection of one church is unique in France's overseas possessions.) In Tahiti, pro-independence politicians from the *Tavini Huiraatira* party caused a stir when they came into office in 2004 and proceeded to erect a large crucifix on the wall behind the speaker's chair in the local parliament, scandalising the French High Commissioner. Critics of French nationalism have highlighted the Republic's ongoing support for the three kings of Wallis and Futuna—an irony for the nation that marks the fall of the Bastille as its national holiday.<sup>7</sup>

The notion that French citizenship exists 'without distinction of origin, race or religion' has been most sharply challenged in the islands of New Caledonia. As this paper will detail, the Noumea Accord, a political settlement which ended the violent conflict of the 1980s in the Melanesian nation, saw the creation of a distinct New Caledonian citizenship for long term residents of the islands.

This settlement reflected a compromise between the interests of Kanak nationalists seeking political independence from France, and those of long-term residents of European, islander or Asian heritage who make up the majority of the population after 157 years of colonisation, settlement and ongoing immigration. At the last New Caledonian census which recorded people's ethnicity, held 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 than 3 per cent.<sup>8</sup>

The 1988 Matignon–Oudinot Accords ended the period of armed conflict between supporters and opponents of independence in 1984–88, but a decade later most leaders agreed on the need for a new agreement to avoid a referendum on independence that could tip the country back into violence. The Noumea Accord—signed on 5 May 1998 by the French government, anti-independence politicians and the independence coalition *Front de Libération Nationale Kanak et Socialiste* (FLNKS)—maps out a transition over 15 years (1999–2014), involving the transfer of powers from Paris to Noumea, the creation of new political institutions, measures of economic and social 'rebalancing' and then the scheduling of three referenda after 2014 to determine New Caledonia's final political status.<sup>9</sup>

The Noumea Accord places special recognition on the rights of the indigenous Kanak population and other New Caledonian citizens. Article 2 of the agreement states:

One of the principles of the political agreement is the recognition of a citizenship of New Caledonia. This citizenship reflects the chosen common

destiny and could become a nationality at the end of the Agreement's period of application, should it so be decided. During this period, the concept of citizenship justifies the restrictions applied to the electorate both for elections to the country's institutions and for the final referendum. This concept will also be referred to in the drawing up of regulations aimed at protecting local employment opportunities.<sup>10</sup>

The Noumea Accord was accepted in a national referendum in July 1998, and entrenched in the French Constitution after the passage of specific legislation in March 1999.<sup>11</sup> A new section of the French Constitution was added following the 1998 referendum, and Article 77 now gives the authority to the local legislature in Noumea to determine regulations covering citizenship, voting rights and access to employment in New Caledonia (though the French Council of State or other relevant French tribunals has to approve the 'laws of the country' proposed in the local Congress).

The issue of citizenship in New Caledonia is complex, both politically and legally. Firstly, New Caledonia's political settlement has created *sui generis* decisions in French jurisprudence, which do not apply in other French 'collectivities' (the latest term used for France's overseas colonies). Secondly, EU law is evolving on the rights of residents in the overseas territories of EU member states. Finally, New Caledonia's status as a non-self-governing territory recognised by the UN Special Committee on Decolonisation raises important questions of international law.

For legal scholars, New Caledonia holds a unique situation under the French constitution:

While a New Caledonian citizenship was created in 1998 by agreement between the French and New Caledonian representatives, this local status is superimposed on the French citizenship that New Caledonians possess and therefore is concurrently held with their French nationality. The 1998 Agreement, however, acknowledges that the New Caledonian citizenship might form the basis for a New Cale-

donian nationality in the future and will reflect the international status of New Caledonia at that time. For the moment though, France has certain international responsibilities towards New Caledonian French nationals.<sup>12</sup>

In spite of the fact that key principles of the Noumea Accord are now constitutionally entrenched, the exact definition of this citizenship has been the subject of legal and political dispute for over a decade. Aggrieved French voters and academic pundits have also argued that the restrictions discriminate against constitutional guarantees of universal rights for all French nationals.<sup>13</sup> There have also been complex debates over how to determine the starting point for the years of residency needed to gain citizenship.

### *Melanesian or Kanak?*

Conservative politicians in New Caledonia have often celebrated the multi-ethnic nature of the society. During the 1980s, anti-independence leaders like Jacques Lafleur criticised the pro-independence FLNKS as racist, given its overwhelming membership from the indigenous Kanak population and its call for *Indépendance Kanak et Socialiste* (IKS). In contrast, the anti-independence RPCR party was celebrated as a multi-racial formation, linking Europeans, Melanesians, Wallisians, Chinese, Vietnamese and other communities (the use of 'Melanesian' instead of 'Kanak' is usually a quick way of determining someone's political affiliations!).

But indigenous Kanaks face social, economic and political discrimination under France's colonial rule. From 1887 until 1946, Kanaks could not vote and suffered under the native affairs system known as the *Indigénat*.<sup>14</sup> Kanaks only obtained the vote after the Second World War, after communist activists started agitating in the tribal reserves and indigenous soldiers returning from European battlefields began petitioning for civil rights:

We ask to be liberated from an outdated regime, which is all too often oppressive and unjust, and which tends to keep us in a subordinate position.<sup>15</sup>

From post-war involvement in church-based political associations to the creation of the *Union Calédonienne* (UC) party in 1953, indigenous leaders began to engage in local political institutions. By the 1970s, a renaissance of Kanak nationalism and growing support for independence was based upon a recognition and valorisation of cultural identity for the indigenous community. As vividly described by independence leader Paul Neaoutyine, young activists from the *Fouards Rouges* took up the pejorative French term *Canaque* (Kanaka) with pride, replacing 'Melanesian' with 'Kanak'.<sup>16</sup> Former seminarian Jean-Marie Tjibaou promoted Kanak identity at the Melanesia 2000 festival in 1975.<sup>17</sup>

Today, the Noumea Accord explicitly recognises 'the Kanak people' as distinct from 'the French people' and talks of 'the country' (*le pays*) rather than 'the territory' (*le territoire*). It also attributes certain rights to Kanaks that are not available to other New Caledonian citizens.

A central distinction between the indigenous people and other New Caledonians is the relationship to the land. As Article 1.4 of the Noumea Accord states:

Every Kanak's identity is defined primarily with reference to an area of land ... . Customary land must be surveyed and registered so that customary rights over any piece of land can be clearly identified .... Land reform will be continued [and] all land will henceforth be either customary land or land held under ordinary civil law.

Beyond recognition of customary land rights, the Accord involves other measures that recognise indigenous Kanak culture and identity, including:

- the creation of a 16-member Senate for Kanak customary chiefs, which must be consulted on issues that affect Kanak identity (such as questions of land tenure). The Senate includes two representatives from each of New Caledonia's eight customary regions: Hoot Ma Whaap; Paicî-Cèmuhi; Drubéa-Kapumë; Ajië-Arhö; Xârâcùù; Iaai; Drehu; Nengone.

- agreement that the boundaries of the *communes* (municipal councils) should be able to take the customary region boundaries into consideration (1.2.2)
- the role of the customary authorities in the prevention of social ills and mediation in criminal sentencing will be acknowledged (1.2.4)
- sites that are sacred in the Kanak tradition will be identified and legally protected (1.3.1)
- the State will facilitate the return to New Caledonia of Kanak cultural material located in museums and collections in France (1.3.2)
- Kanak languages, together with French, are languages of education and culture in New Caledonia: their place in school curricula and in the media should therefore be increased (1.3.3)
- scientific research and university courses on Kanak languages should be organised in New Caledonia (1.3.3).

For the FLNKS, the provisions of the Noumea Accord are part of a process of self-determination and decolonisation. The Noumea Accord preamble explicitly states that:

Colonisation harmed the dignity of the Kanak people and deprived it of its identity ... . These difficult times need to be remembered, the mistakes recognised and the Kanak people's confiscated identity restored, which equates in its mind with a recognition of its sovereignty, prior to the forging of a new sovereignty, shared in a common destiny. 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.

This recognition of the Kanak people as a colonised people contrasts with the legal treatment of other oppressed peoples in the French Republic. No other overseas department or collectivity has the same transition to a referendum on sovereignty and no other colonised people is recognised as a distinct people or nation in French law. For example,

in 1991 the French Constitutional Court rejected the notion that the Corsican people can be seen as distinct from the French people, ruling:

The reference by a legislator to the 'Corsican people, component of the French people' is contrary to the Constitution, which only recognises the French people, made up of all French citizens without distinction due to origin, race and religion.<sup>18</sup>

### *Counting ethnic communities*

Issues of cultural identity are still controversial in New Caledonia, in spite of political changes since the 1980s. After the 1996 census highlighted that the Kanaks had become a minority in their own land, New Caledonia's population census scheduled for 2003 was postponed for 18 months due to this politically sensitive question of ethnicity.

Previous censuses in 1989 and 1996 had included questions to determine people's ethnic origins: question six asked which ethnic community you belong to, and question seven asked Kanaks about their tribal membership. Such questions can provide valuable data: for example, about how many Kanaks have moved from rural provinces to the capital city, or about different employment rates amongst the local communities, or the number of migrants arriving from France or Wallis and Futuna.

However, the 2003 census was postponed after French President Jacques Chirac's July 2003 visit to New Caledonia, when he criticised official census 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'.<sup>19</sup>

The census finally proceeded in late 2004 without the two contested questions, but there was a significant boycott—some estimates suggest 10 per cent of the population refused to complete the census forms. For this reason, the Government of New Caledonia organised a further census in July–August 2009, which did include the questions

on ethnicity. While some preliminary data from the census was released in late 2009, the results of questions on ethnicity from this latest census have not been released as of mid-2010, even though they will provide evidence for ongoing debates about citizenship, identity and ethnicity.

## **RESTRICTIONS ON VOTING**

For the Kanak independence movement, the issue of electoral reform has been one of their key concerns for the two decades after the conflict of the 1980s. Ever since the late Jean-Marie Tjibaou negotiated the Matignon Accord in 1988, independence leaders have called for limitations on voting rights for the many French nationals who arrive in the territory—especially as these public servants, soldiers, retirees and technicians overwhelmingly vote for parties opposed to independence.

Since the signing of the Noumea Accord in 1998, many of these French nationals have contested the agreement which outlined new citizenship rights for New Caledonians. Thus began a nine-year long process to amend voting rights for the new local political institutions: three provincial assemblies in the North, South and Loyalty Islands, and a 54-member Congress and 11-member multi-party Government of New Caledonia.<sup>20</sup>

The Noumea Accord and the legislation which entrenched it into the French Constitution established different electoral rolls to be used in voting for a range of political institutions:

- Elections for French and European institutions—the French Presidency, the National Assembly and Senate in Paris, municipal councils, overseas seats in the European Parliament—are voted for by the full electorate (i.e. all French nationals registered to vote in New Caledonia).
- Voting in elections for the three provincial assemblies and the local Congress is restricted to a limited electoral roll of New Caledonian citizens, rather than all French nationals.

- The referenda on New Caledonia's future political status, scheduled to be held after 2014, will involve only those New Caledonian citizens resident in the islands for twenty years (i.e. arriving before 31 December 1994).

To move from the 'electoral annex' of excluded voters onto the electoral roll for the Congressional and Assembly elections requires approval of a judge. In March every year, a team of magistrates arrives in Noumea from Paris to update the electoral roll, mostly with young people who reach the age of 18, but also people who can show they have reached the required number of years of residency in New Caledonia.

For example, in March 2010 the FLNKS formally lodged 1,500 cases before the magistrates to assist young Kanaks to obtain registration on the electoral roll as a citizen, making them eligible to vote in assembly and Congressional elections. An FLNKS spokesperson noted: 'It seems to us important that, from the perspective of the looming referendum on self-determination, we should make an effort to see that no one is forgotten and should help those who get lost in the complexities of these procedures. With most of these being young people, it's also important that they can benefit from the provisions of the law on local employment, which gives advantages to citizens above non citizens.'<sup>21</sup>

To vote as a citizen for local institutions, the Noumea Accord set out a requirement for ten years residency. But the text was unclear whether the electoral roll would be 'frozen' (*gelé*)—restricted to people with ten years residency at the time of the 1998 referendum that implemented the Noumea Accord—or whether it would be 'sliding' (*glissant*), with the ten years' residency determined from the date of the relevant election.

At heart, the issue was who should vote in the 2009 and 2014 Assembly and Congressional elections: people who have been in the country before 1988 and their descendants of voting age, or more recent arrivals who have landed ten years before the relevant poll (thus arriving before 1999 for the 2009 elections, or by 2004 for the 2014 elections). Accepting the more restrictive 'frozen' definition would mean that in 2009 more than

18,000 residents—nearly 12 per cent of the electorate—would be ineligible to vote for the local institutions.

The interpretation of these qualifications remained a sharply contested issue from 1998 until it was finally resolved in February 2007, especially as tens of thousands of people have migrated from France to New Caledonia since the signing of the 1988 Matignon–Oudinot Accords. The following sections detail the legal and political battles which determined the final outcome on voting rights.

### *Court overrules key provision*

On 15 March 1999, the *Conseil Constitutionnel* in Paris (France's highest constitutional court) ruled that all French citizens residing in New Caledonia for at least 10 years—whatever their date of arrival—would be able to participate in provincial elections.<sup>22</sup> Angered by the removal of a key plank of the Accord, the FLNKS leadership threatened a boycott of the May 1999 local elections. The boycott call was only reversed when the French government agreed to amend the French Constitution again.

The French National Assembly (on 10 June 1999) and Senate (on 12 October 1999) both passed legislation to amend the constitution. But to take effect, the amendment had to be passed by two thirds of the members of both houses of parliament, in a joint sitting of the National Assembly and Senate known as the Congress at Versailles. The constitutional amendments were therefore scheduled for approval during a January 2000 session of this French Congress. However, this session was never held, for domestic political reasons. For seven years, the Chirac government dragged its feet and the French Congress was not convened again until February 2007.

The long delay angered key independence leaders. In 2005, Pascal Naouna, then President of the largest pro-independence party (UC) noted:

I think the majority of people in the country, both Kanak and non-Kanak, understand that if this issue isn't sorted out, it could set back the whole Noumea Accord process. Today, people are

seeking calm and serenity, and don't want to go backwards and risk the sort of conflict we knew during the 1980s. So we said to President Chirac's advisers: 'Look out! If for domestic political reasons you don't modify the electoral roll or fail to convene the Congress at Versailles, you'll be responsible for a setback to the Noumea Accord.'<sup>23</sup>

As France moved closer to the 2007 Presidential elections and the end of Jacques Chirac's term of office, there was increasing pressure from the FLNKS to finalise the changes. UC leader Charles Pidjot noted:

These electoral reforms are the cornerstone of measures which have kept the peace. In 1998, we already made a concession when we accepted the integration of the 8,000 people who arrived between 1988 and 1998. Throughout the years, Kanaks have suffered under colonisation. For us, the freezing of the electoral roll is a question of principle and of respect for promises that have been made.<sup>24</sup>

### *Legal challenges*

At the same time that the French government had delayed clarifying the voting system, the reforms were challenged as illegal by French nationals residing in New Caledonia who do not meet the requirements of New Caledonian citizenship. In this limbo period, a group of French nationals who were excluded from the 1998 Noumea Accord referendum (and will also be excluded from the referendum scheduled after 2014) sought to challenge the principle in law. New Caledonians who had spent years out of the country also sought to clarify the complexities of citizenship requirements.

Some disputes were resolved through French administrative law, such as the case of Felix Kilikili, who completed national service in France from 1993 to 1995, then continued to work there until 2001. In May 2005, the ruling on his case by the *Cour de Cassation* (France's supreme court for civil and commercial cases) clarified citizenship rights for people born in New Caledonia but living overseas for lengthy periods for

education, work or military service.<sup>25</sup>

An appeal to the UN Human Rights Committee was rejected in July 2002, as New Caledonia was re-inscribed as a non-self-governing territory with the UN Special Committee on Decolonisation in December 1986, and restrictions on voting rights were ruled as appropriate in the context of a decolonisation process.<sup>26</sup>

As the 1998 referendum and subsequent legislation had entrenched the changes in the French Constitution, they could not be overridden in French law, so a series of litigants took France to the European Court of Human Rights. They sought re-instatement on the electoral rolls, claiming the French government was in breach of article 25 of the International Covenant on Civil and Political Rights by discriminating between French nationals.

However, a January 2005 ruling by the European Court of Human Rights in the case of *Bruno Py v. France* rejected claims that restricting voting rights for French nationals in assembly elections was discriminatory. The European Court invoked 'local realities' in rejecting the complaint, saying that New Caledonia's tormented history and status are such that they could justify this doctrine. The Court also said the restricting clause in the electoral roll 'could be seen as having been a key element to the appeasement of a deadly conflict'.<sup>27</sup>

These legal decisions re-opened the way for a final resolution of the vexed question of freezing New Caledonia's electoral body.

### *Opposition to constitutional change*

Finally, in the dying months of the Chirac Presidency, the government moved to implement the law, before the country moved to the 2007 Presidential elections that saw the election of Nicolas Sarkozy, leader of the UMP coalition. Given the long delay since they were first passed in 1999, the French government reintroduced the electoral reforms to parliament in late 2006.<sup>28</sup>

In the lead up to the National Assembly vote on 13 December 2006 and the Senate vote on 16 January 2007, there were a range of pressures that threatened to derail the process of electoral reform:

- splits within France's ruling UMP party, pitting those loyal to President Chirac and his Prime Minister Dominique de Villepin against supporters of then UMP party president, Interior Minister Nicolas Sarkozy, the leading conservative candidate for the 2007 Presidential elections;
- the Right's concern not to lose votes to the extreme right FN, which has used the New Caledonia issue to belabour the mainstream conservative parties;
- the reversal of attitudes towards electoral reform by the conservative anti-independence parties in Noumea, *Rassemblement UMP* and *Avenir Ensemble*;
- the establishment of community associations amongst French nationals in Noumea who stood to lose their vote if the Constitution was amended.

As the issue of voting reform was put on the electoral calendar in 2006, there were clear signs that members of President Chirac's own UMP party were not so enthusiastic. Some UMP members raised the purported concern that the legislative workload in the parliamentary calendar was too full to prioritise the long-standing commitment to sort out New Caledonia's dispute. Bernard Accoyer, president of the UMP group in the National Assembly, angered FLNKS leaders in October 2006 when he said that 'there are better things to do in this period than hold a Congress on this sort of text'.<sup>29</sup>

A week before the legislation was put before the National Assembly in December 2006, a fight erupted between UMP parliamentarians, pitting supporters of Prime Minister de Villepin against Interior Minister and UMP president Nicolas Sarkozy. Sarkozy announced that he would oppose the legislation, and at a subsequent UMP caucus meeting 'one after another, New Caledonia's deputy Pierre Frogier, then Thierry Mariani, Alain Marsaud, Jean-Pierre Soisson and Francis Delattre—all long-standing or recent apostles of the UMP president—expressed their unambiguous opposition to the draft law'.<sup>30</sup>

The UMP and other conservative parties were also concerned about being outflanked in the 2007 legislative and Presidential elections by the neo-fascist FN. In December



2006, Marine Le Pen (Vice President of the party, daughter of the FN's then leader Jean-Marie Le Pen and co-ordinator of his 2007 Presidential campaign) made a flying visit to Noumea. Marine Le Pen called for a referendum on the issue and encouraged French voters in Noumea to write to UMP deputies and senators to reject the bill. She stated:

The process that we see underway is a process that clearly involves the abandonment of New Caledonia. Everything is negotiable except the core principles of the Republic. If Parliament votes for the freeze, we can envisage a situation where we'd call for those excluded to cease paying their taxes.<sup>31</sup>

### *Debate within New Caledonia*

In 1998, businessman Didier Leroux campaigned against the Noumea Accord as head of the Alliance Party, and called on voters to reject the agreement in the national referendum. Leroux—a long-time opponent of Jacques Lafleur—was instrumental in founding the new centrist party *Avenir Ensemble*, which came into government between 2004 and 2009 after the electoral defeat of the *Rassemblement*. Leroux has long been linked with the French conservative *Mouvement Démocratique* (formerly UDF) whereas Jacques Lafleur and his successor Pierre Frogier have ties with French President Nicolas Sarkozy's UMP.

Since 2004, Leroux has moved to support the Noumea Accord and its key institutions. His change of position reflects the desire of a section of the European community to move beyond the polarisation of the 1980s:

If at the time, I was largely critical of the provisions of the Noumea Accord concerning the electoral roll, it was because we felt that the text was not clear. Furthermore, the debate on the freezing of the electoral roll was far from being resolved and still forms a stumbling block between the contending parties. Anyway, an agreement is always a collection of concessions, so if the European Court had declared

that this restriction was illegal, we would have had a difficult situation to manage. This issue is, in reality, very important for the pro-independence movement.<sup>32</sup>

Ironically, the anti-independence *Rassemblement UMP* party, which originally supported the 1998 Noumea Accord, was now vehemently opposed to the electoral reforms that are a key plank of the agreement. Although it was a signatory to the Accord alongside the pro-independence FLNKS, the *Rassemblement UMP* under Pierre Frogier began to publicly oppose the idea of a fixed electoral body. In August 2005, the party even called for a national referendum on the issue, which would delay the process until after the 2007 Presidential elections when their conservative champion Nicolas Sarkozy would have replaced President Chirac.

In the lead up to the final implementation of electoral reform in 2007, the UMP and FN both sought support from the conservative European electorate in New Caledonia's Southern Province. The issue of 'the rights of French citizens' became a rallying cry and both parties tried to gain support from the community associations which were created in Noumea, made up of French nationals who would be affected by the changes. These people stress the indivisibility of the French republic and oppose any affirmative action programs that would benefit indigenous and locally born New Caledonians.

In Noumea, three community associations were created to oppose the constitutional change: the *Association de défense du droit de vote* (the Association for Defence of the Right to Vote); *Association des Français résidents de Nouvelle-Calédonie* (the Association of French residents of New Caledonia) and the *Union des citoyens calédoniens pour le suffrage universel* (Union of Caledonian citizens for universal suffrage). The associations, with the active support of *Rassemblement* and FN politicians in Noumea, mounted a public campaign to lobby French parliamentarians to vote against the changes. In 2005, the *Association des Français résidents de Nouvelle-Calédonie* argued:

There seems to exist two categories of French citizens in New Caledonia, those who fully enjoy their civil rights and those who contribute to the economic life by setting up companies, by paying taxes, but who do not have the right to express themselves ... we have perceived a growing animosity towards metropolitan French in general and against retired French public servants in particular. This usually translates into verbal abuse, for the time being, but we fear this could turn into hatred.... There are those who tell us 'go back home if you're not happy'. Our answer to this is that freedom of circulation on the national territory is still a fundamental right and that we still have the right to settle here, provided we respect local laws and customs.<sup>33</sup>

In the lead up to the May 2009 elections for the provincial assemblies and Congress, Michel Boyer, President of the *Association de défense du droit de vote*, also denounced the electoral reforms as a 'state scandal for the nation that calls itself the homeland of human rights', adding:

Those excluded from the right to vote are sacrificial victims created under blackmail by threat of violence. On the eve of the provincial elections on 10 May, when we look at the circumstances, motives and consequences for the freezing of the provincial electoral roll, there is just one sentiment for partisans of democracy and fundamental rights: absolute disgust.<sup>34</sup>

This constituency opposed to electoral reform included a layer of retired public servants who benefit financially by remaining in France's overseas collectivities after retiring from the civil service. Living so far from Paris is regarded as a hardship posting for French public servants, who get a range of perks and benefits for living 'on the other side of the world.' These benefits continue after retirement—under laws dating from the 1950s, retiring public servants who remain overseas obtained extra funds on top of their normal pensions. For the Pacific territories, this can amount to an extra 75 per cent

of their normal salary! Many people retire in France's overseas possessions, even if they've never worked there (in New Caledonia, 83 per cent of the pensioners benefiting from this benefit have spent all their working life in mainland France.)

For all French overseas territories, the number of these retirees has risen from 9,618 (1989) to 29,861 (2005). In New Caledonia, numbers rose from 1,600 (1989) to 4,600 (2008). The proportion of New Caledonia's revenues paid for pensions and retirees increased 77.5 per cent between 2000 and 2008. These special benefits cost the French government 245 million Euros in 2005—where a retired teacher receives 6,000 Euros *a month*, a retired colonel 9,000 Euros and a retired magistrate 10,000 Euros. Even Parisian officials realised the system of perks and bonuses was getting out of hand. For this reason, President Sarkozy moved in 2008 to change the indexation of pensions for overseas public servants, and end many of the benefits.<sup>35</sup>

### *Mobilising for and against change*

In the days leading up to the Senate vote in January 2007, both opponents and supporters of the electoral reforms rallied on the streets of Noumea. On 12 January, anti-independence activists brought together a rally of 1,300 people, calling for 'defence of the right to vote'.<sup>36</sup>

The next day, a larger rally supported by the pro-independence parties of the FLNKS, the *Union Syndicale des Travailleurs Kanak et Exploités* (USTKE) trade union confederation and Kanak customary and community associations marched through the streets, calling on France to fulfil its promises. To heighten the significance of the date for the largely Kanak crowd, they were reminded that the rally fell on the anniversary of the death of independence leader Eloi Machoro (gunned down by French sharpshooters in 1985). New Caledonia's then Vice-President Déwé Gorodé spoke to the rally, challenging those trying to renege on earlier promises and saying they will have to 'get used to the idea that there is no turning back'.<sup>37</sup>

UC Secretary-General Gerard Regnier reinforced the message:

There are five million French citizens who live outside the hexagon [mainland France]. When they move to Canada or the United States, they submit to the laws of the country that has welcomed them. New arrivals in New Caledonia must also understand that they're arriving in a country that is undertaking a process of liberation, and they can't demand the same type of prerogatives that existed in the time of the colonial governors.<sup>38</sup>

The centrality of the issue for the FLNKS was highlighted by the independence coalition's former President Roch Wamytan:

It was over the question of the electorate that Jean-Marie Tjibaou and Yeiwene Yeiwene were assassinated in 1989. This issue is therefore quite capable of reawakening the rebellion.<sup>39</sup>

In contrast, conservative political leaders in New Caledonia again attempted to delay the votes in the French parliament in Paris, calling for further 'dialogue'. Long-time anti-independence leader Jacques Lafleur—now head of his own party *Rassemblement Pour la Calédonie* (RPC)—argued that the government should delay its introduction. Lafleur's rhetoric escalated as the Senate moved to its vote in January 2007, stating:

After the passage of this law, the extremist and racist Melanesians will ask for even more, and their demands will again put us into a situation of confrontation.<sup>40</sup>

The conservative *Rassemblement UMP* party led by Pierre Frogier proposed that there should be a referendum on the issue before the law was adopted. Frogier promised 'a fight to the end' against the 'iniquitous' law, adding that:

This will de-facto install apartheid, a two-speed citizenship, a kind of hereditary right to vote, a right of the blood as opposed to our accepted French principle of the right of the soil. No one, not even the government of the

Republic or the National Assembly, has the right to re-write history.<sup>41</sup>

In a media communiqué issued on the day of the National Assembly vote, the *Rassemblement UMP* 'congratulates Nicolas Sarkozy and the Assembly members who support him, having clearly taken a position against this draft law.'<sup>42</sup>

These statements were criticised by members of pro-independence parties and other supporters of the electoral reform, who saw these calls for delay as an attempt to defer the issue until after the May 2007 French Presidential elections, in the hope that the election of Nicolas Sarkozy for a five year term would kill off the issue once and for all. UC leader Bernard Lepeu stated:

UC calls on the political parties, composed for the most part of members who arrived recently or in the past as part of the colonial settlement, not to contribute to the demise of the Noumea Accord, a crucial advance which has been hailed by the whole world, but which remains fragile. The constitutional reforms before us are nothing more or less than those that were already adopted by the National Assembly and Senate in 1999.<sup>43</sup>

Speaker of New Caledonia's Congress Harold Martin (and president of the anti-independence *Avenir Ensemble*) also attacked his former conservative colleagues for these last minute delaying tactics:

It's time to end this masquerade. Boulevard Vauban [the Congress in Noumea] is not a playground, nor a tribune for the Rassemblement, who made the electoral freeze part of their electoral campaign and who never would have polemicalised on this issue if they'd won the 2004 elections.<sup>44</sup>

In spite of lobbying by key anti-independence leaders, Jacques Chirac used his remaining authority as outgoing President to rally enough support for the measure to be adopted at the February 2007 meeting of the French Congress at Versailles.<sup>45</sup> This more restricted definition of citizenship meant a new electoral roll was used for the May 2009

assembly and Congressional elections, and will be used again in 2014.

In May 2009, some 18,230 people resident in New Caledonia—11.8 per cent of the normal electoral roll—could not vote in the local elections, even though they still participate in elections for institutions in Paris, Brussels and Strasbourg. This restriction largely disenfranchises people in Noumea: in 2009, only 420 ‘excluded’ voters lived in the Loyalty Islands Province and 954 in the Northern Province. In contrast, there are nearly 17,000 ‘excluded’ voters in the Southern Province, where the bulk of the European and Wallisian population reside (amounting to 16.7 per cent of the southern electorate).<sup>46</sup>

## LOCAL EMPLOYMENT

Beyond voting rights, the other central focus of the citizenship debate is employment and the promotion of *emploi local*, or priority for New Caledonians in the local labour market. The Noumea Accord notes:

The size of New Caledonia and its economic and social balances do not make it possible to open the employment market widely, and justify action to protect local employment ... . In order to take into account the limited size of the employment market, provision will be made to give priority access to local employment to persons residing on a long-term basis in New Caledonia.

Article 24 of the March 1999 legislation implementing the Accord states:

With the aim of supporting or promoting local employment, New Caledonia will undertake to implement measures to favour the exercise of waged employment for the benefit of New Caledonian citizens and persons who meet the necessary period of residency ... .

At the time of the 2004 census, there were 80,685 active workforce participants and 15,271 unemployed from a population of 231,062 (though official French definitions of unemployment do not fully take account of indigenous workers engaged in

subsistence agriculture, fishing and cultural work).

Unemployment rates in New Caledonia have dropped in the last few years, as new nickel processing plants and supporting infrastructure are developed at Goro in the Southern province and Vavouto and Koniambo in the Northern Province. In spite of this, the rate of recorded unemployment in New Caledonia, at 16.3 per cent, is higher than that in France (9.9 per cent), French Polynesia (11.7 per cent) or even Wallis and Futuna (15.7 per cent). There are significant differences in employment rates between Noumea and the bush: the 2004 census showed unemployment at 11.4 per cent in Southern Province, compared to 28.4 per cent in the Northern Province and 38.9 per cent in the Loyalty Islands, which both have a largely Kanak population.<sup>47</sup>

Debate over local employment is tied to concerns about ongoing migration and settlement from France, which has seen thousands of people arrive since the Matignon–Oudinot Accords ended the 1984–88 conflict. Calculating population growth through migration in New Caledonia is difficult, as some statistics do not distinguish between French nationals and New Caledonian citizens. But matching births, deaths and immigration figures suggests that the migration balance increased by at least 9,091 people between the 1989 and 1996 censuses, with another 6,766 extra people between 1996 and the 2004 census. Net immigration is estimated at about 1,000 people each year since then (1,134 in 2007).<sup>48</sup>

In August 2009, the FLNKS members of the government also drew the public’s attention to a draft decree on the arrival and stay of EU citizens and members of their families, which could give five years visiting rights to all EU citizens, with the possibility of permanent residency.<sup>49</sup> The FLNKS argues that France, as the administering power in New Caledonia, is in breach of UN resolutions which govern immigration into colonies, including UN General Assembly Resolution 35/118 which states that:

Member States shall adopt the necessary measures to discourage or prevent the systematic influx of outside

immigrants and settlers into Territories under colonial domination, which disrupts the demographic composition of those Territories and may constitute a major obstacle to the genuine exercise of the right to self-determination and independence by the people of those Territories.<sup>50</sup>

The issue of local employment was largely ignored during the first post-Accord government (1999-2004) which was dominated by the conservative *Rassemblement UMP* party. The next multi-party government led by the *Avenir Ensemble* party (2004–2009) began to address the issue, preparing draft legislation that would have restricted low level public service jobs to New Caledonian citizens, and given priority to them for higher level jobs. In November 2005, this draft bill was largely rejected by the French Council of State (the highest administrative court in Paris), saying it breached France's international commitments and included issues (such as employment of spouses and partners) that had not been considered in the Noumea Accord.

A new bill was prepared and passed through a series of stages in 2009–10, including approval by the Government of New Caledonia, New Caledonia's Economic and Social Council, and the French Council of State. The new law gives priority to both New Caledonian citizens and also people who meet certain residency requirements; establishes a *Commission paritaire sur l'emploi local* (CPEL), for conciliation and standards setting; sets penalties for breaches of the law; and establishes a list of professions where overseas recruitment can be prioritised in the absence of locally trained workers.<sup>51</sup>

The legislation met with approval from most employers and trade unions, although the militant USTKE—the second largest trade union confederation in the country—continues to argue that the legislation does not go far enough to protect local workers' rights. Interviewed from jail, where he was serving a year's sentence after clashes with French police during an industrial dispute, the then USTKE President Gerard Jodar noted:

Since civil peace returned to our country, we have witnessed a growing wave of immigration from France. The Kanak people and those recognised as the victims of history will become a minority if nothing is done. We have asked for a law to be passed to protect employment for our population. A text was prepared, but it really wasn't strong enough to meet our aspirations. When we look at the economic crisis which France is undergoing and the ease with which those people who get off the plane can find work—to the detriment of those who are citizens of our country—one can only be shocked. You know, in the tribes, in the working class suburbs, in the squatter settlements of Noumea, the capital is called 'White City' because you only see Europeans there. We must halt this immigration, which only has the goal of enjoying the sun, surf and easy money.<sup>52</sup>

Unions and human rights groups argued that work culture and industrial relations practices continue to discriminate against indigenous Kanak workers:

This is one of the most flagrant signs that our society is not evolving [according to Pacific values]: in the labour law which has been transferred to us under the Noumea Accord, there isn't any allocation for holidays relating to cultural events (yam festivals, mourning ceremonies, customary marriages). It is in this domain, precisely where the articulation of the two worlds, Western and Pacific, is located, that we have most clearly failed.<sup>53</sup>

Trade unions and pro-independence parties have continued to campaign for restrictions on people migrating from France and other French overseas possessions, with the FLNKS group in Congress abstaining from the December 2010 vote on the law and lodging a series of amendments to tighten enforcement of the employment legislation.<sup>54</sup>

During the May 2009 electoral campaign, a leading FLNKS activist in the Southern province proposed the creation of a New Caledonian identity card as a priority for the

incoming Congress and government. Sylvain Pabouty, a member of the *Parti de Libération Kanak* (Palika) elected to the Southern Assembly on the FLNKS ticket, stated:

For the FLNKS, first of all it has to do with the introduction of a citizen's identity card, which will give priority to citizens in the labour market. The draft law on local employment must also be improved, especially at the level of training local public servants.<sup>55</sup>

The Noumea Accord has promoted a range of training programs for Kanaks and other New Caledonians. The *Cadre Avenir* program is a scheme funded 90 per cent by the France Overseas Ministry and 10 per cent by the local government, where New Caledonians receive scholarships to study in France or complete vocational and professional training—in 2008, the program cost 616 million French Pacific francs (AUD\$8.3 million). But there are also significant imbalances in the training provided by France under the scheme. Of the 957 trainees (out of 1,106) who have successfully completed their *Cadre Avenir* courses by the end of 2008, only 2 per cent became self-employed entrepreneurs, while 60 per cent took up public service positions.

The number of public servants is slowly increasing under the Noumea Accord: by December 2009, there were 14,522 permanent public servants and 9,016 contract workers (with the number of short term contract workers increasing 7.4 per cent in 2008–09).<sup>56</sup> This is a reflection of the imbalance of employment opportunities in the wage sector in New Caledonia's distorted economy: out of 81,839 workers employed in 2008, 51,970 work in the services sector, but only 2,229 in agriculture and fisheries and 4,366 in the mining and smelting sector.<sup>57</sup>

## HISTORY AND SYMBOLS

For many years, 24 September was a day of mourning or protest for Kanak nationalists. It marks the anniversary of the annexation of New Caledonia by France in 1853. By order of Napoleon III, Rear-Admiral Février-

Despointes officially took possession of the main island Grande Terre, in a ceremony near the Catholic mission at Balade: 'From this day forth, this land is French and part of its national territory.'

Today, rather than serving as a commemoration of France's ongoing colonial presence, the Government of New Caledonia is seeking to transform the meaning of the day into a 'positive date', where New Caledonian citizens can share their 'common destiny'.<sup>58</sup> For 24 September 2009, the FLNKS political bureau called on 'all New Caledonians to actively participate in a day of citizenship organised at the *place de Mwâ Kâ*'—the gardens near the centre of Noumea where this 12-metre carved statue has been erected.<sup>59</sup> The day of celebrations was opposed by the anti-independence *Rassemblement UMP* which proceeded to organise a 'Republican picnic' elsewhere in Noumea.

The 2005 dispute over where to locate the Mwâ Kâ statue is part of a larger battle over memory and identity. With many of the streets and parks in Noumea's central business district named after French soldiers and politicians or famous military battles, independence activists seek to transform the colonial era imagery that still dominates the country.

There are many examples of such initiatives, which are contested by local conservative politicians: the updating of the *Monument aux Morts* war memorial, to include the names of Kanak soldiers who died fighting for France in the World Wars; the circulation of a petition in October 2009 to remove the statue of Admiral Olry from the *Place des Cocotiers*, the central square in Noumea (the statue was erected in 1893 to commemorate this colonial governor's victory over Kanak tribes during the 1878 rebellion, when Chief Atai rose up against the theft of Kanak land); or the practice of renaming towns, rivers and geographic features that is becoming common in the Northern and Loyalty Islands provinces (for example, the east coast town of Houailou, headed by a Kanak woman as mayor, has reverted to the original spelling of Wâa wi lûu).

Another central part of this process has seen major reforms to the education curricu-

lum, especially in humanities subjects like history and geography, to reflect New Caledonia's place as a Melanesian nation in the Pacific region.<sup>60</sup> As set out in the preamble to the Noumea Accord, the French government has formally committed to a new reading of the islands' history, as part of the decolonisation process. Speaking to the Congress in Noumea in May 2008, France's Overseas Minister Yves Jégo noted:

Through the reconciliation built upon a shared historical narrative inscribed in the preamble of the Noumea Accord, which recognises the precedence of the Kanak civilisation and the 'shock of colonisation', you have opened the possibility of a future together. By this conjoined recognition of the rights of the first inhabitants and the legitimacy of the democratic principle based on the notion of a New Caledonian citizenship, you have opened the path to civil peace.<sup>61</sup>

But readings of history are never settled. Australia suffered through 'history wars' under the government of former prime minister John Howard, with him criticising a 'black-arm band' version of history.<sup>62</sup> In France, conservative politicians have also been seeking to promote the 'positive' aspects of French imperialism. Until it was repealed by President Jacques Chirac in early 2006 after public protest, a law passed by the conservative UMP government on 23 February 2005 required high school teachers to teach the positive values of colonialism to their students. Article 4 of the 2005 law required that:

Programs of university research should grant the French presence overseas, especially in North Africa, the place it deserves. Education programs should recognise in particular the positive role of the French presence overseas, especially in North Africa, and grant the eminent place that is deserved for the sacrifices of combatants in the French armed forces who came from those territories.<sup>63</sup>

In September 2009, the French Communist Party condemned as 'scandalous and intolerable' the fact that the Academy for

Overseas Sciences (an arm of the French Ministry of Education) still awards an annual literary prize for the best work on the 'positive aspects of colonisation'.<sup>64</sup>

New Caledonia had its own history wars during the mid-1980s, when Kanak and Caldoche intellectuals and church leaders began to write a people's history of the islands.<sup>65</sup> Today, there is a flourishing industry in local historiography, with greater co-operation between people from different communities, that has transformed our understanding of the French convicts, deportees and Algerian rebels who were sent to the antipodes, the Kanak and islander soldiers who fought for France in the trenches during World War One, the trade unions who built the country's nickel industry, the role of communists in the Kanak political awakening after 1945 and the early church support for Kanak involvement in political parties.<sup>66</sup>

### *Developing new national symbols*

In the multi-party Government of New Caledonia, the minister responsible for culture and citizenship issues is independence activist Déwé Gorodé, a noted author, poet and teacher and co-founder of the *Parti de Libération Kanak* (Palika – Kanak Liberation Party). In contrast to other radical pro-independence formations which highlight the rights of the indigenous population, key Palika leaders have recently been stressing the concept of citizenship for all New Caledonians. Gorodé argues: 'People must develop awareness of citizenship, they must train themselves in it and express themselves about it, in order to actively participate in the evolution of things'.<sup>67</sup>

The FLNKS has long argued that changing attitudes to nationality and citizenship must take account of the symbols of nationhood: flag, national anthem and other devices. Given the resonance of the *Marseillaise* and the *bleu-blanc-rouge* tricolour as symbols of French colonialism, many independence supporters have also been seeking new *signes indentitaires* or national symbols for New Caledonia.

The need to create new symbols was acknowledged in the Noumea Accord, as part of the transition to a referendum on New

Caledonia's final political status. Article 1.5 of the Accord states:

The country's national symbols—name, flag, anthem, currency, design of bank notes—will need to be devised in common to express both Kanak identity and the future in which all will share. The Constitution Act on New Caledonia will provide for the possibility of changing this name by means of a law of the country adopted with a qualified majority. The country's name may be printed on identity papers as a sign of citizenship.

But even after the election of a local government in 1999, many politicians were reluctant to take up the issue, fearing that attempts to design symbols of national unity could cause divisions between supporters and opponents of independence. Should the islands be known as New Caledonia, Kanaky or a combination like Kanaky-New Caledonia? Should the multi-coloured flag adopted by the FLNKS independence movement replace the blue, white and red of the French tricolour? Can the new symbols give recognition to Kanak identity, but also show respect for the European and islander immigrants who have made New Caledonia their home?

After many years delay, a working group was convened on 11 April 2007 by Déwé Gorodé as Minister for Culture and Citizenship. Supported by technical experts, the committee of political, church, union and community leaders began discussing the symbols. They launched a competition to choose new designs for banknotes, a national anthem to replace the *Marseillaise*, and a motto to reflect both Kanak identity and the multicultural nature of the society. In an interview with the author, Gorodé explained:

We soon came to a consensus on the anthem, motto and currency, to reflect our Kanak heritage but also the commitment that all members of the community have made to build a common destiny. However we were unable to agree on the name of the country and the flag, so we've put those aside for the moment. These two things are

intensely political, and behind this discussion lies the fundamental issue of national sovereignty.<sup>68</sup>

On 26 June 2008 (the anniversary of the referendum on the Matignon Accord which ended the conflict of the mid-1980s), the Government of New Caledonia endorsed the motto suggested by Jean-Brice Herrenschmidt: '*Terre de Parole, Terre de Partage*' (*Land of the Word, land of sharing*).<sup>69</sup> From a range of tunes, they chose an anthem '*Soyons Unis, Devenons Frères*' (*Let us be united and become brothers*), composed by seven young members of the Melodia children's choir—the chorus is sung in both French and Nengone (the language from the island of Mare).

In October 2008, Gorodé travelled to Paris to meet with the French *Conseil d'Etat*, which advises the government on administrative regulations and laws. On 21 October 2008, the French authorities gave the green light for New Caledonia's Congress to consider a law adopting the national anthem, motto and currency designs.

But these symbols of national unity are still a political football. Any law to adopt them must be passed by three fifths of the 54-member Congress. But Pierre Frogier, the leader of the conservative *Rassemblement UMP*—the party holding the largest number of seats in the current Congress—has stated that New Caledonia's French heritage must be honoured. His party abstained when the 11-member Government of New Caledonia voted on the issue in June 2008 and the law implementing the new symbols had not passed before the May 2009 Congressional elections.

As well as political hurdles, there are also a number of practical concerns—is it worth printing new banknotes with local designs at a time when New Caledonia is considering adoption of the Euro as its currency?

The debate over a new name and flag for the country is still contentious.

The Kanaky flag was developed by working groups of the FLNKS Congress in September 1984, who described the flag as:

... three horizontal bands of which the colours are, from bottom to top: green,



which represents the land of our ancestors, the wealth of the soil and hope—the country; then red, which symbolises the blood that's been spilt for the struggle, socialism and the unity of the people; blue, which represents the sky and the Pacific environment, the sovereignty of the Kanak nation in the Pacific; then towards the flagpole, a golden circle which represents the sun on which is drawn in black the case [traditional hut] with its *flèche faitière* [totemic ridgepole].<sup>70</sup>

This flag was first raised on 1 December 1984 at La Conception by then FLNKS President Jean-Marie Tjibaou, as the FLNKS declared the creation of the provisional government of Kanaky.

This flag remains the central icon of the independence movement, as reaffirmed at the FLNKS Congress held in December 2009.

Even so, Palika leader Paul Neaoutyine has stated that he hopes there would be a new flag before the country hosted the 2011 South Pacific games, and that the Kanak flag would lead the New Caledonian team into the stadium: 'If there can't be a consensus before that time, Palika asks that we display the two flags—the Kanak flag and the French tricolour.'<sup>71</sup>

The conservative *Rassemblement UMP* leader Pierre Frogier, who is President of the European-dominated Southern Province, expanded the debate over the flag in a major speech on 10 February 2010.<sup>72</sup> His agreement that the flag of Kanaky should fly alongside the French blue, white and red tricolour outside public buildings and on ceremonial occasions sparked widespread debate and differing reactions.

The Kanak Customary Senators issued a statement noting: 'For the Customary Senate, there is a pressing need to endow the country today with a new name and flag, because the young people of our country have a need for strong symbols so they can resolutely commit within the framework of a new society created by the Noumea Accord'.<sup>73</sup>

The National Front leader Bianca Henin denounced the proposal, saying 'we will never accept the flag with the FLNKS colours'. In

contrast, many independence leaders noted that the idea of flying both flags alongside each other was not new, and had been common practice in the Kanak-dominated Northern and Loyalty Islands provinces since the late 1980s. Louis Kotra Uregei, President of the *Parti Travalliste* (Labour Party) welcomed the evolution of the *Rassemblement UMP* position, but noted: 'Why have we had to wait twenty years?'

In spite of this political gesture, Frogier was not retreating from his anti-independence stance. Purporting to speak on behalf of all New Caledonians of European heritage, Frogier threw out a challenge to the independence movement to explain the symbolism of their colours:

We would like the blue, white and red flag to continue to fly everywhere in New Caledonia, while France retains the authority over sovereignty. That has always been, remains and will always remain my political fight. I know that the independence supporters are very attached to their flag, which has always accompanied them in all their fights. For us, we don't recognise their flag. It is for us a symbol of division and exclusion, the emblem of violence which takes us back to the times of the Troubles. It still evokes strong feelings of rejection amongst the population, especially amongst those who lived through this dark period of our recent history, and who suffered from it.<sup>74</sup>

In reply, Palika leader Paul Neaoutyine, President of the Northern Province, stressed that the colours of the Kanaky flag have positive meanings:

The blue symbolises the future, though it's also the ocean and the sky. The green is the colour of hope, though it's also the colour of sustainable development, which we all want in a country on the move. The red, and I've stressed this before, because people always have the habit of saying it represents the blood that's been spilt, but it's not only blood. In Kanak and islander culture, relationships are built on ties of blood. It's the blood that is alive, it's

thanks to the mother's blood that we are alive, and all the customary gestures that we make are built on this understanding. Then there's the sun. Yes, we want to live under the same sun as everyone else. And within the sun, there's the *flèche faïtière*, the totem on a traditional house, which represents the identity of people who live in a certain place.<sup>75</sup>

For Déwé Gorodé, there is still hope that the issue can be resolved:

Currently, some town halls fly both the Kanak flag and the French flag alongside each other. Some members of our working group have suggested that this compromise may be suitable during the remaining years of the Noumea Accord. For many, the FLNKS flag has moved beyond politics—it was carried with pride by young New Caledonians to greet the Pope [during his 2008 visit] in Sydney. But some anti-independence leaders still prefer the French flag, while other committee members want to design a completely new flag, drawing on our common heritage. So if we continue to work together, these symbols will reflect the unity we are trying to create in our society.<sup>76</sup>

While New Caledonia may soon be singing a new anthem, the choice of a flag and a name for the islands remains elusive. The symbols and substance of citizenship in New Caledonia are an ongoing arena of struggle, as the people of these Pacific islands move towards a new political status.

### AUTHOR NOTE

Nic Maclellan works as a journalist and researcher in the Pacific islands. He has contributed as a broadcaster and journalist to *Islands Business* magazine, Radio Australia, *The Age*, *Tahiti-Pacifique* and other media, and is author or co-author of: *La France dans le Pacifique: de Bougainville à Moruroa* (Editions La Découverte: Paris, 1992); *After Moruroa: France in the South Pacific* (Ocean Press: New York and Melbourne, 1998); *Kiri-*

*simasi* (PCRC: Suva, 1999); *Louise Michel* (Ocean Press: New York and Melbourne, 2004); *Louise Michel: Vidas Rebeldes* (Ocean Sur: Havana, 2006).

His previous SSGM publications about New Caledonia include: 'Conflict and Reconciliation in New Caledonia: Building the Mwâ Kâ', *SSGM Discussion Paper 2005/1* and 'New Government in New Caledonia: The May 2009 Elections in a French Pacific Territory', *SSGM Briefing Note 2009/3*.

This essay is dedicated to the memory of Marie-Claire Beccalossi, who worked to see all New Caledonians living together under a new flag.

### ENDNOTES

1. The website 'Grand débat sur l'identité française' can be found at <<http://www.debatidentitenationale.fr/>>.
2. Unlike the United Kingdom, Denmark and the Netherlands, France is the only EU country that allows residents of its overseas territories to vote for the European Parliament, and has designated seats for overseas MEPs to sit in the EU legislature. All French citizens living in its overseas departments and collectivities have full voting rights for the French National Assembly and Senate.
3. Nic Maclellan, 'Conflict and Reconciliation in New Caledonia: Building the Mwâ Kâ', *SSGM Discussion Paper 2005/1*.
4. 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 Kanak nationalists, this is a compromise on the principle that the indigenous people alone have the right to self-determination.
5. 'Identité nationale: les Français voient la manoeuvre, mais approuvent le débat', *Le Monde*, 6 November 2009; Robert Marquand, 'France's Sarkozy Launches Controversial National Identity Debate'

- Christian Science Monitor*, 2 November 2009.
6. Speech to New Caledonia's Congress by the incoming Overseas Minister, May 2008. 'Yves Jégo apôtre du dialogue', *Les Nouvelles Calédoniennes* (henceforth LNC), 30 May 2008.
  7. The 1961 TOM statute for Wallis and Futuna recognises the roles of the highest customary authorities—the *Lavelua* of Uvea (Wallis) and the *Tui Agaifo* from Alo and *Tui Sigave* from Sigave (both on the island of Futuna). For discussion, see Nic Maclellan and Jean Chesneaux, *After Moruroa: France in the South Pacific* (Ocean Press: New York and Melbourne, 1998), 136–142.
  8. As discussed below, a new census was conducted in 2009, but the updated breakdown of figures on ethnicity had not been released at the time of writing, even though other preliminary figures were released in late 2009.
  9. The official text of the Noumea Accord was published in the *Journal Officiel de la République Française (JORF)*, 27 May 1998, 8039. The Accord states that after the transfer of most powers from Paris to Noumea in the first fifteen years, New Caledonia's Congress should determine the date for a referendum between 2014–18, to decide if there should be the transfer of the final five 'sovereign powers': defence, foreign policy, police, justice and currency. For discussion, see Nic Maclellan, 'The Noumea Accord and Decolonisation in New Caledonia', *Journal of Pacific History*, Vol. 34, No.3, 1999.
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67. Interview with Déwé Gorodé, Noumea, 7 October 2009.
68. Interview with Déwé Gorodé, Tribu de L'embouchure, Ponerihouen, 9 October 2008.
69. 'The Word' has multiple resonances, including the importance of the spoken word in Kanak culture; the Word of God in Christian tradition, and the promises and commitments made under the joint pact for the future—keeping your word.
70. Over time, the flag design has evolved—the central yellow circle, originally placed to the left near the flagpole, is now commonly located in the centre of the flag; the original black image of the hut surmounted by its totem is now replaced by an outline of the *flèche faïtière* itself, the carved totem at the top of the ridgepole of the traditional case, which varies according to the location of the house in the eight different *aires* or cultural regions of the country.
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