



**CONTINUING INEQUALITY BEFORE THE LAW IN NEW  
CALEDONIA AND PRO-INDEPENDENCE COUP D'ÉTAT  
JEOPARDIZING THE HUMAN AND FUNDAMENTAL RIGHTS  
OF NEW CALEDONIANS**

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# INTRODUCTION

The history of New Caledonia has been marked by dark hours and brighter times. In 1988, after four years of civil war caused by pro-independence movements and leading to more than a hundred deaths, all the political forces in New Caledonia signed a peace agreement: the Oudinot-Matignon Accords. This agreement established an equitable division of political power and geography between the pro-independence and non-independence political parties. It paved the way for thirty-five years of peace, which led to the economic and social development of the territory.

This agreement also initiated an unprecedented process of self-determination, which was to conclude with a sovereign, free and informed vote by the people of New Caledonia to determine whether they chose to remain French. This self-determination process, which the United Nations has followed rigorously and seriously since 1988, was strictly framed by national and international law.

In 1998, a new political agreement, the Nouméa Accord, was signed by all the political forces in New Caledonia. This agreement gave New Caledonia the greatest autonomy ever granted to a French territorial collectivity. This agreement established new institutions and recognised new legal rights for the Kanak people. On the other hand – and we'll come back to this later – it created significant inequalities between New Caledonians.

Most importantly, the Nouméa Accord established the rules for concluding the process of self-determination that had begun ten years earlier. It established the rules for voting in the referendums. It established the number of votes required. It also set out the procedure to be followed once New Caledonians had voted on whether they wanted to remain French.

This agreement was implemented by French government, independentists and non-independentists. It was accompanied by massive States' investments, largely financed by taxpayers in mainland France, which led to strong economic development. Simultaneously, France financed the creation of road infrastructure, the construction of schools and healthcare facilities throughout the country and supported the mining industry, which is the island's economic lifeblood, helping the independence party to take on political and economic responsibilities that they did not have before.

# NEW CALEDONIA FROM 2018 TO THE PRESENT DAY

## 2018 & 2020: NEW CALEDONIAN'S VOTE TO REMAIN FRENCH

On 4 November 2018, the majority of New Caledonians voted to remain French. Of the 141,099 New Caledonians who went to the polls, 78,734 voted to keep the territory within the French Republic[1]. 56.67% of voters. For the third time since 1958, this vote confirms the sovereign will of New Caledonians to remain within the Republic.

On 4 October 2020, the majority of New Caledonians once again voted to remain French. Of the 154,918 New Caledonians who went to the polls, 81,503 voted to keep the territory within the French Republic[2]. 53.26% of voters. For the fourth time since 1958 and for the second time in two years, this vote confirms the sovereign will of New Caledonians to remain within the Republic.

Contrary to the previous referendum, this referendum was marked by several serious incidents. During voting day, the pro-independence parties organised political demonstrations and intimidation operations on the periphery of Nouméa, where their potential electoral gains were greatest. These actions, seen as threats, were widely denounced by non-independence supporters. These criticisms were confirmed by the commission responsible for monitoring the organisation and conduct of October 4 referendum, chaired by State Councillor Francis Lamy: *'In Greater Nouméa, the monitoring commission noted that many vehicles displaying the pro-independence flag during the day, stopping in front of polling stations before moving on to other polling stations. In front of several polling stations, groups of up to several dozen people displaying the flags were also observed. In total, many polling stations on the periphery of Nouméa were affected. Although these incidents took place outside polling stations, due to their scale and continuous nature, these actions may have been perceived from time to time as pressure on voters'*[3].

[1] Official Journal of the French Republic, No. 257, 7 November 2018. Available [here](#).

[2] Official Journal of the French Republic, No. 245, 8 October 2020. Available [here](#).

[3] [La commission de contrôle regrette les perturbations aux abords de bureaux de vote, Nouvelle-Calédonie 1ère](#), 5 October 2020.

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## THE PRE-REFERENDUM POLITICAL ERRORS OF THE INDEPENDENCE PARTIES

Following the second referendum, the pro-independence parties felt they were in a strong position politically. They therefore asked the State to quickly set a date for the vote in the third and final referendum on self-determination. New Caledonia's elected representatives have therefore been invited to Paris by the Prime Minister in May 2021 to set the date.

The President of the Republic's decision set the date for the final vote on 12 December 2021, taking the view, as Sébastien Lecornu, then Minister for Overseas France, recalled, 'that it was in the general interest to hold this referendum as soon as possible'[4]. To ensure that there was a consensus on this date, its validation was proposed to the Congress of New Caledonia, which was led by the pro-independence parties. The Congress, with its pro-independence majority, voted in favour of the date of 12 December 2021[5]. The date of this third referendum was therefore a collective decision.

## VALIDATION OF THE DATE OF THE 3RD REFERENDUM: A COLLECTIVE DECISION

Following the second referendum, the independentists faced several criticisms for their mismanagement. First, they lost a lot of credibility at the time of the sale of the southern nickel factory. Opposed to the takeover bid chosen by the factory's owner, Vale, the independentists turned the sale into a political issue. Supported by the pro-independence parties, the 'Usine du Sud : usine pays' union protests became increasingly violent, culminating in riots in December 2020. To the detriment of the three thousand families whose livelihood depends on the factory, whose future is being held hostage by the political stance of certain Front de libération nationale kanak et socialiste (FLNKS) elected representatives. The ideological obstinacy of the independentists is keeping New Caledonia in an insurrectionary situation, which foreshadows the one that will occur on 13 May 2024.

After reaching violent climaxes, the situation finally calmed down in early 2021. However, this episode profoundly affected New Caledonians. It shows that certain pro-independence leaders are ready to destroy a factory and make thousands of workers unemployed for ideological reasons. New Caledonians will also remember that when the pro-independence factions do not get the deal they want, they do not hesitate to use violence, even if it affects civilians not involved in the conflict.

[4] AFP dispatch, 2 June 2021.

[5] Référendum 2021: avis favorable du Congrès sur le projet de décret organisant le scrutin, Nouvelle-Calédonie 1ère, 23 June 2021.

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This was the case for the inhabitants of Le Mont-Dore, who were particularly affected by the weeks of confrontation.

Although the sequence of events was already extremely negative for them politically, the independentists decided to make the issue even more political by removing Thierry Santa's government. Officially, this was because '*a crisis of confidence has arisen at a time when we need to prepare calmly for the future*' [6]. Unofficially, to prevent the final takeover of the southern nickel factory. Meanwhile, at a time when the territory was facing a very complicated economic situation because of the global health crisis caused by the Covid-24 epidemic, the independentists decided to add an institutional crisis as well.

The differences between the various pro-independence political parties will lead to the absence of a local government for more than five months. An incomprehensible situation for New Caledonians, which discredits the pro-independence parties. These internal conflicts within FLNKS also raised doubts among some of their voters about their seriousness, but also about their ability to run the territory in the event of independence.

Shortly afterwards, two reports from New Caledonia's Territorial Audit Office (Chambre territoriale des comptes de la Nouvelle-Calédonie) criticised the public mining policies set up by the pro-independence parties in the Northern Province, which they had governed since 1988. In a first report, the Audit Office announced that Sofinor was in debt – nearly 11 billion dollars, or 120% of New Caledonia's GDP – and that there were clear irregularities in its governance[7]. In a second report, she described the 'nickel doctrine' as '*vague and unformalized*'[8]. It also questioned its efficiency, noting that '*the economic model on which part of the nickel doctrine is based – the return of dividends to the public sector – has not been confirmed in practice, with the North Province's holdings in the industrial nickel sector resulting in the appropriation of profits by Sofinor and the socialisation of deficits by the North Province*'[9]. These communications are a major setback to the independence parties' ambitions for financial autonomy. They also confirm that the pro-independence vision of finance is outdated, and at the same time call into question their skills in economic management.

[6] UNI and UC-FLNKS' press release, 2 February 2021. Available [here](#).

[7] Report by the Territorial Audit Chamber of New Caledonia on Sofinor, 22 April 2021. Available [here](#).

[8] Report by the Territorial Audit Chamber of New Caledonia on the nickel sector in the Northern Province, 2 May 2021. Available [here](#).

[9] Ibidem.

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Lastly, the most damaging blow to the popularity of the pro-independence project, which had already been severely damaged by the recent events mentioned above, came from Covid-19. Covid-free for the past two years, New Caledonia has had little vaccination when the virus enters the territory in the summer of 2021. This will lead to an explosion in the number of infections, which will rapidly saturate the local healthcare infrastructure. At the height of the health crisis, New Caledonia received massive aid from the French government: guaranteed loans for businesses, additional funding to balance institutional budgets, deployment of the health reserve to make up for staff shortages, massive sharing of medical equipment and, above all, the free dispatch of hundreds of thousands of vaccine doses. France's support saved the region from an unprecedented human catastrophe. It was a commitment that reminded all New Caledonians how lucky they were to belong to a structured, rich and powerful country like France. During the referendum campaign, this action by the French government handicapped the communication of the pro-independence parties, who found themselves politically cornered. Realising that their chances of success in the final referendum were very low, they did everything to avoid being judged by the ballot box.

## **BOYCOTT OF THE THIRD REFERENDUM, A FALLACIOUS PRETEXT**

Realising that they were in a very unfavourable political position, the independence parties did everything to postpone the last referendum. They are therefore using the health situation as a pretext to justify this request to postpone the referendum. This concern has been taken on board by the national political authorities, who have announced that the third referendum will only take place if health conditions allow.

However, the incidence rate, which spiked after the virus entered the territory in the summer of 2021, fell just as sharply in October. Realising that they were not going to obtain their victory, on 20 October the independence parties called on their voters not to take part in the referendum[10]. In the same way that they had not wished to face an almost certain democratic defeat in the 1984 territorial elections and the 1987 referendum on self-determination, the independence parties once again shunned the ballot box for fear of losing.

[10] En Nouvelle-Calédonie, le FLNKS appelle à ne pas participer au référendum sur l'indépendance, Le Monde, 27 October 2021.

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The idea that the non-participation of a proportion of voters could delegitimise the consultation was quickly dismissed by the French government. The Minister for Overseas Territories, Sébastien Lecornu, was clear on the matter: *'Non-participation is a right in a democracy (...) The fact of not participating will not cast doubt on the sincerity of the election and this does not prevent it from being legitimate in the legal sense of the term'*[11].

Only a few weeks before the vote, the pro-independence parties changed their arguments to justify their demand to postpone the referendum. Relying on the decision of the Customary Senate, which decreed a one-year customary mourning period[12], they announced that maintaining the vote would be an affront to the Kanak people. The French government is resisting this political blackmail and shameless exploitation of Kanak culture. Through the voice of the French High Commissioner, Patrice Faure, the government announced that the vote would be held on 12 December[13].

## THIRD REFERENDUM: A CLEAR RESULT, VALIDATED BY INTERNATIONAL ORGANIZATIONS

On 12 December 2021, the last of the three referendums provided for in the Nouméa Accord took place. The consultation went off perfectly, thanks to the presence of large numbers of security forces throughout the territory. Voter turnout was low, as the pro-independence voters decided not to vote. It is important to note that the abstention rate concerned pro-independence voters, not Kanak voters. Many Kanak, particularly non-independence voters, freely went to the polls to vote that day. The independence parties used their political boycott to pretend that it was a boycott of the original people. But it wasn't!

Of the 80,881 voters who turned out, 75,720, or 96.5%, voted to keep New Caledonia within the French Republic[14]. For the fifth time since 1958, and for the third time in four years, this vote confirms the sovereign will of New Caledonians to remain within the Republic. After more than thirty years of transitional status, New Caledonia has made a sovereign, free and informed choice to emancipate itself as part of France and remain, once and for all, a territory of the Republic. This referendum was not contested by any national or international organisation.

[11] Référendum en Nouvelle-Calédonie : le résultat sera « légitime » malgré la pression des indépendantistes, Paris Match, 14 November 2021.

[12] Le sénat coutumier décrète un "deuil kanak" d'une année et se positionne en faveur du report du référendum, Nouvelle-Calédonie 1ère, 9 November 2021.

[13] Le haut-commissaire de la République Patrice Faure annonce le maintien du référendum au 12 décembre, Nouvelle-Calédonie 1ère, 12 November 2021.

[14] Official Journal of the French Republic, No. 292, 16 December 2021. Available [here](#).

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## THE RADICALISATION OF THE PRO-INDEPENDENCE MOVEMENT

After their third defeat in the referendums on self-determination, the pro-independence parties face a complicated political situation. Because they called for a boycott of the last referendum and their voters have been deprived of their political struggle. Faced with the failure of their political project, they are going to radicalise their discourse and their political movement.

First, they radicalise their discourse by multiplying extreme statements. By comparing France to the Nazi or Putin regimes (Daniel Goa)[15], by categorically rejecting the result of the third referendum (Roch Wamytan)[16], by explaining that the tolerance quota for white people had been reached in New Caledonia (Roch Wamytan)[17], by asserting that it was possible for them to sacrifice 1,000 young Kanaks for the cause of independence (Dominique Fochi)[18] or by directly threatening their political opponents (Florent Eurisouké)[19]. For several months, these speeches by FLNKS elected representatives created an ever-deeper gap between the Kanak and non-Kanak populations. This ethnicization of pro-independence speeches exalts the nationalist identity of the FLNKS voters, encouraging them to radicalise their positions against other communities and further fracturing New Caledonian society. These elected representatives have thus helped to remove the objective of living together and replace it in public debate with the primacy of the interests of the Kanak people over those of other communities. This position runs counter to the philosophy of the Nouméa Accord.

In November 2023, to accompany the radicalisation of their discourse, the pro-independence movement created a front-line organisation with the aim of mobilising their political base on a large scale. This organisation, the Cellule de coordination des actions de terrain (CCAT), became the armed wing of the FLNKS. The CCAT, an organisation created by the radical fringe of the pro-independence movement, is responsible for the atrocities committed in New Caledonia since 13 May.

[15] *"In 2022, it [France] is acting in the same way as Nazi Germany in 1940, or Putin's Russia in Ukraine"*, Daniel Goa, 1 April 2022 at the 52nd Congress of the Union calédonienne in Voh.

[16] *"We don't care about the referendum"*, Roch Wamytan, 13 April 2024 at the CCAT demonstration.

[17] Remarks made to the French National Assembly's Delegation for Overseas territories, April 2023.

[18] Remarks made to the French National Assembly's Delegation for Overseas territories, April 2023.

[19] *"We'll end up finding you (...) The day we find you, we'll stop talking. We won't have to cry"*, Florent Eurisouké, 15 April 2024 on ERSK TV.



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This radicalisation of the pro-independence discourse and movement runs counter to the philosophy of the Nouméa Accord. It has also led some pro-independence elected representatives to deny fundamental democratic legal principles. For example, at a CCAT demonstration on 13 April 2024, Roch Wamytan declared that he was ‘sitting on the results of the referendums’, thereby denying the democratic expression of New Caledonians. Several pro-independence leaders also denounced certain promises made in the Nouméa Accord[20], refusing to modify the Caledonian electorate, even though some of them had signed up to a 10-year sliding restriction on the Caledonian electoral roll[21].

## **CONSTITUTIONAL BILL UNFREEZING THE ELECTORAL ROLL: A NECESSARY AND PROPORTIONATE DEMOCRATIC SOLUTION TO RESPOND TO THE SOVEREIGN VOTE OF NEW CALEDONIANS**

In New Caledonia, almost 42,000 New Caledonians, around 20% of the local population, have been deprived of their right to vote without any possibility of recovering it. These 42,000 people include 13,000 adults born in New Caledonia since 1998 of parents who are not New Caledonian citizens, and who cannot vote in local elections even though they grew up and live in New Caledonia. This decision is not the result of political compromise[22]. Since its implementation, the freezing has been perceived as an injustice by tens of thousands of New Caledonians.

[20] Roch Wamytan, Paul Néaoutyine and Victor Tutugoro signed the Nouméa Accord and will still be elected in 2024.

[21] Article 2.2. 1 of the Nouméa Accord, 5 May 1998: “As foreseen in the signed text of the Matignon Accords, the electoral roll for the Provincial Assemblies and Congress will be restricted: it will be reserved for electors who fulfilled the conditions for voting in the 1998 ballot, for those who, having been entered in the annexed table, fulfil a condition of domicile of ten years on the date of the election, as well as for electors reaching the age of majority for the first time after 1998 and who, either have lived in New Caledonia for ten years in 1998, or have had a parent who fulfilled the conditions to be an elector at the end of 1998, or, having had a parent listed on a schedule, have lived in New Caledonia for ten years on the date of the election”. Available [here](#).

[22] The freezing of the electoral roll was imposed by the constitutional revision of 2007, against the advice of all New Caledonian parliamentarians and without consulting the population.

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In an advisory opinion dated 26 December 2023, the Conseil d'État, France's highest administrative court, stated that *'the current rules governing the electoral system for the provincial assemblies and the congress diverge particularly significantly from the principles of universality and equality of suffrage'*[23]. In view of this warning, which explains why the next local elections in New Caledonia cannot be held without a reform of the electoral roll, at the risk of them being annulled, the French government initiated a constitutional reform to change New Caledonia's electoral roll.

This reform was intended to restrict the electoral roll to New Caledonians who had been living in the territory for ten years. As provided for in the Nouméa Accord when it was signed in 1998. Relaxing the conditions for registration on the electoral roll to ten years of residence would allow the inclusion of around 25,000 additional people, including the 13,000 natives who have been excluded until now.

This reform is part of the process of democratisation of New Caledonia, as it will enable the territory to break away from arrangements that derogate from democratic principles. It meets the legal imperative laid down by the Conseil d'État, which clearly indicated that the current situation in New Caledonia generated particularly significant inequalities regarding the principles of universal and equal suffrage. As well as being a legal necessity, this reform also met a democratic demand: that of New Caledonians who voted 'No' three times in the referendums on self-determination and who were therefore waiting for the transitional measures that were exceptionally derogatory to democratic principles put in place by the Nouméa Accord to be abolished.

Although it has followed a legislative process that respects democracy and the most fundamental rules of political debate, the bill revising New Caledonia's electoral roll has now been suspended because of the attempted coup d'état by radical pro-independence fighters on 13 May. However, this reform had been passed by the Senate, where the pro-independence party is represented, and by the National Assembly.

[23] Advisory opinion on the continuity of institutions in New Caledonia, Conseil d'État, 26 December 2023. Available [here](#).

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## HARMFUL FOREIGN INFLUENCE CONTRIBUTING TO THE DESTABILISATION OF THE POLITICAL AND SOCIAL BALANCE

Historically, France's sovereignty in New Caledonia has been jealously watched by foreign powers. Whether because they aspire to take advantage of the territory's geographical or mining assets, or because they seek to exploit local political conflicts to turn New Caledonia into a 'proxy war', with the aim of destabilising France, as Azerbaijan is currently doing.

Although Azerbaijan denies this and criticises an invented narrative about its foreign interference in New Caledonia, there is a lot of evidence to show that it has been active alongside the radical pro-independence parties since mid-2023.

Several meetings were organised in Baku, under the patronage of the Azerbaijani government, with elected representatives and activists from the radical fringe of the pro-independence movement in July 2023, October 2023, April 2024 and July 2024. In addition, in December 2023, an Azerbaijani woman was arrested in New Caledonia while orchestrating destabilisation activities during the visit of the Minister of Defence to the territory for the South Pacific Defence Ministers' Summit. Registered by the French intelligence services for her close links with the Azerbaijani intelligence services, she was supposedly present in the territory to produce reports for the Azerbaijani press agency. She attended several political events, including a major demonstration organised by a radical pro-independence political party.

From the end of 2023, the presence of Azerbaijani flags in the processions of events organised by the CCAT will be recurrent. This promotion of the Azerbaijani flag is totally unprecedented. For the first time in New Caledonia, pro-independence demonstrations organised by the CCAT also featured banners, sometimes written in Russian, praising Vladimir Putin: 'Putin, welcome to Kanaky'.

Between November 2023 and May 2024, activity on New Caledonian social networks, particularly TikTok, increased significantly. A new form of content was created: propaganda videos created using artificial intelligence. These videos quickly became viral. Some of them were initially broadcast from foreign accounts, notably Russian and Azerbaijani. The format and messages of these videos are like those created by Azerbaijani accounts to criticise France's actions or to promote a boycott of the Paris Olympics.

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This coordinated strategy between pro-independence activists and Azerbaijan, which adopted Russian methods of influence, helped to create a widespread climate of mistrust and a highly tense political situation in New Caledonia, which led directly to the uprising on 13 May. In an analysis note dated 17 May 2024[24], Viginum, a French government technical and operational department responsible for vigilance and protection against digital foreign interference, pointed out that Azerbaijani interference continued during the riots. It noted that several accounts on Facebook or X, managed from Azerbaijan by the regime's intermediaries, helped to spread fake news aimed at accentuating the ongoing conflict.

Azerbaijan's support for the radical pro-independence parties is even claimed by the parties themselves. In an interview with a local newspaper, Mickaël Forrest, permanent secretary for external relations at FLNKS, said that Azerbaijan was providing radical pro-independence parties with support in '*logistic and communication*' [25].

## **13 MAY: AN ATTEMPTED COUP D'ÉTAT BY RADICAL INDEPENDENTISTS**

On the nights of 13 and 14 May, thousands of pro-independence rioters led by the CCAT stormed into the Nouméa urban area with the mission of looting and then burning down shops, institutions and schools. In the absence of sufficient numbers of law enforcement officers strategically pre-positioned in the area to provide a rapid response to the initial attacks, the rioters were given free rein to loot and destroy. At the same time, they set up roadblocks to obstruct the strategic roads leading to the airports, ports and hospital centres, incapacitating the security response of the police, particularly in the northern districts of Nouméa and the towns of Païta and Dumbéa. Without the 'spontaneous' organisation of non-independent New Caledonians to protect their neighbourhoods from the morning of 14 May, the human toll would have been catastrophically higher.

The gradual deployment of many peacekeeping forces by the French government enabled relative calm to be restored to the country after around ten days. France's operations to restore order were conducted within a very strict legal framework. The forces of law and order were exemplary in their actions. At this stage, there have been no casualties due to the disproportionate use of force.

[24] On X and Facebook, several information campaigns of Azerbaijani origin target France in the context of the riots in New Caledonia, Viginum, 17 May 2024. Available [here](#).

[25] Bakou : « Un soutien logistique et de communication », Demain en Nouvelle-Calédonie, 30 August 2024.

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At present, the situation has calmed down in the southern districts of Nouméa, which nonetheless remain under tension. Sporadic blockades, which may last several hours or even the whole day, continue to occur. The northern districts of Nouméa, Dumbéa and Païta are mostly free, but these areas are completely devastated. With the notable exception of individual houses, everything has been destroyed by fire, including schools, health centres, pharmacies, shops, public infrastructure and sports parks. In addition, some areas are still under the control of the rioters.

So far, eleven people, including two gendarmes, have been killed in the riots sparked by the radical pro-independence parties. It is estimated that more than 500 police officers and gendarmes were injured. Since the events began, fewer than 2,000 of the estimated 10,000 rioters have been arrested. Today, only a few hundred have been convicted by the courts. The judiciary retains its independence and takes the time to conduct serious investigations. Only convictions of rioters for serious offences, based on irrefutable evidence, have been handed down.

Eight CCAT leaders were arrested and brought before the courts, notably for complicity by instigation in the crimes of murder and attempted murder of a public official or conspiracy to commit a crime. These serious offences justified their detention in France, far from New Caledonia, where their harmful influence could have continued to worsen the security and social situation in the territory.

Using the unfreezing of New Caledonia's electoral roll as a pretext, the radical pro-independence parties mobilised their militants and organised a destructive and murderous insurrection. This insurrection was a failed coup d'état by the radical pro-independence movement. By terrorising the population, they are seeking to drive out the non-independence population to reverse the demographic balance which is not in their favour, and which has led to three failed referendums in 2018, 2020 and 2021.

## **NEW CALEDONIA PLUNGED INTO AN UNPRECEDENTED ECONOMIC AND SOCIAL CRISIS**

As a result of the riots, New Caledonia is facing an unprecedented economic and social crisis. The strategy of the pro-independence rioters was precisely to destroy the New Caledonian economy to drive out the non-independence population, and particularly the non-Kanak population, so their acts of violence primarily targeted New Caledonia's economic and commercial fabric. Hundreds of businesses and administrative buildings were reduced to ashes on the nights of 13 and 14 May, so that today the New Caledonian economy is completely devastated.

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Initial analyses were catastrophic: the cost of the riots came to 2.42 billion dollars. At the nominal rate before the riots, a reconstruction rate of 60% is estimated at 54 months. More than a thousand businesses were destroyed. Ninety-eight percent of them are in the Nouméa urban area, the heart of New Caledonia's economy. Of the 64,000 private-sector jobs in New Caledonia, more than 32,000 have been destroyed. This means that 50% of New Caledonians employed in the private sector are unemployed. The job losses will cause a drop in consumption of between 4% and 8% of the annual consumption of New Caledonians. If the situation does not improve in the short term, hundreds of new businesses will close, and thousands of people will soon find themselves out of work.

The public sector has also been hit hard by the crisis. Local authorities, already heavily in debt, are facing a shortfall of nearly \$322 million. Today, the budgets of these institutions will be drastically reduced due to the loss of fiscal revenues. In addition to exacerbating the general decline in activity, this will have two harmful effects: thousands of people will become unemployed, either because the institutions will no longer be able to pay salaries, or because they will no longer pay subsidies to the semi-public bodies and associations that depend on them; and the funding of public policies that are essential to the social stability of New Caledonia will cease.

Another alarming issue is the health sector. Two very worrying trends are taking place. The first is the mass exodus of healthcare staff. The vast majority are of European origin and are running away from the territory because of the racist insults and attacks they suffer. As a result, New Caledonia now faces a shortage of doctors, particularly specialists in highly sensitive areas such as oncology, cardiology and gynaecology. This shortage of medical staff is already being felt in some of the territory's communes, where doctors, nurses and midwives, all of whom are predominantly European, no longer want to go because of the many attacks on them by radical pro-independence activists. As a result, there has been an increase in the number of deaths in New Caledonia due to a lack of doctors to treat sick or injured New Caledonians.

The second worrying trend is the short-term bankruptcy of New Caledonia's social security system. The destruction of businesses and jobs has led to a significant reduction in social security contributions and employers' contributions. In addition, the rise in unemployment has increased the costs of New Caledonia's social security system, whose financial health was already precarious before the riots. As a result, in the coming weeks, social assistance payments will no longer be made, healthcare will no longer be refunded, and pension payments will no longer be made. New Caledonia is heading straight for an exceptionally serious humanitarian crisis.

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Finally, there is the schooling of New Caledonian students to worry about. Many school infrastructures, particularly Primary schools, have been destroyed by the pro-independence rioters. The riots brought school activity to a standstill for over a month, and nearly 8,000 schoolchildren and students have still not been able to return to classes because their schools have been destroyed. Some of them have been reassigned to other schools, but the destruction of public transport by the rioters is preventing some of them from getting to their new schools. The foreseeable impoverishment of New Caledonia will create fertile ground for an even more violent social conflagration than the one we have just witnessed. Even more so as it will be fuelled by the resentment of the riots.

Without massive and rapid financial intervention, New Caledonia's entire economic and social system will collapse, creating the risk of further unrest even greater than that which has ravaged the territory in recent months.

# CONTINUING INEQUALITIES IN NEW CALEDONIA: A DISCRIMINATORY SYSTEM IN PLACE

Article 2, paragraph 1: *'Each State Party to the Present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'*.

Article 3: *'The States Parties to the Present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant'*.

Article 25: *'Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country'*.

The Nouméa Accord introduced legal and administrative mechanisms that exceptionally derogated from fundamental democratic principles. These derogations were accepted when they were introduced because of their transitional nature. They were to be abolished at the end of the self-determination process, which culminated in three referendums in 2018, 2020 and 2021. However, in the absence of institutional reform since 2021, maintaining these provisions perpetuates major political, administrative and fiscal inequalities between New Caledonians. These inequalities contravene articles 2, 3 and 25 of the International Covenant on Civil and Political Rights.

## INEQUALITIES BASED ON ETHNIC ORIGIN

In New Caledonia, the Kanak people are recognised by law as the original people of New Caledonia. In line with this recognition, the Nouméa Accord established a special legal status: customary status. This status offers additional rights to those who hold it. They have the right to be registered directly on local electoral rolls[26]. They also benefit from a special judicial system that derogates from ordinary civil law. Finally, they enjoy significant tax benefits when they live on customary land.

[26] The automatic registration of people of customary status when they come of age was decided by the Organic Law of 21 April 2018. This administrative and political provision applies only to Kanak people and is still not available to other young adults from other ethnic groups.



# CONTINUING INEQUALITIES IN NEW CALEDONIA: A DISCRIMINATORY SYSTEM IN PLACE

However, customary law status is only available to Kanak people. Considering that the Kanak make up almost 38% of the population, this means that most New Caledonians are disadvantaged, as they do not have the same political and economic rights as others.

With a view to building a common people, and without calling into question the legitimacy of the original people, it should be noted that the legal mechanisms put in place by the Nouméa Accord establish inequality between New Caledonians according to their ethnic origin.

## **INEQUALITIES BASED ON NATIONAL ORIGIN**

The Nouméa Accord also introduced political and economic provisions that discriminate against New Caledonians based on their national origin. By creating a separate Caledonian citizenship, different from French citizenship, the Nouméa Accord created two categories of citizens in New Caledonia. On the one hand, there are normal citizens who enjoy a set of political, economic and social rights. On the other hand, there are second-class citizens who are deprived of these rights.

Indeed, people living in New Caledonia who do not have New Caledonian citizenship face many difficult situations, in which the discrimination they must deal with reduces them to the status of second-class citizens. There are two convincing examples. Firstly, the fact that a large proportion of New Caledonians cannot vote in local elections because of the freezing of the electoral roll. Secondly, the fact that a large proportion of New Caledonians cannot access certain jobs because of the so-called 'local employment' law.

With the draft constitutional law reforming the freezing of the electoral roll, the French government had begun to reduce these inequalities according to national origin, at least in political terms. However, the radical pro-independence parties, defending a xenophobic political line, objected.

# CONTINUING INEQUALITIES IN NEW CALEDONIA: A DISCRIMINATORY SYSTEM IN PLACE

## **FREEZING OF THE ELECTORAL ROLL: A DENIAL OF FUNDAMENTAL POLITICAL RIGHTS**

One of the main inequalities still in place in New Caledonia is the fact that a large proportion of the population is unable to vote or stand for election. This is known as the 'freezing of the electoral roll'. In New Caledonia, more than 40,000 New Caledonians[27], around 20% of the local population, have been deprived of their right to vote without any possibility of recovering it. These people are excluded from New Caledonian political and civic life, as they are denied access to New Caledonian citizenship, even for some New Caledonians who were born in New Caledonia or have lived in the territory for more than twenty-five years. These include 13,000 adults born in New Caledonia since 1998 from parents who are not New Caledonian citizens, and who cannot vote in local elections despite having grown up and lived in New Caledonia.

While France's highest administrative court has indicated that this situation generates particularly significant inequalities regarding the principles of universality and equality of suffrage, the freezing of the electoral roll is still in place in New Caledonia, and tens of thousands of New Caledonians are still deprived of their most fundamental political right: voting. The freezing of the electoral roll represents an unacceptable violation of the most fundamental democratic principles. Today, the voices and actions of tens of thousands of people are being totally ignored or prevented. Maintaining New Caledonia in this discriminatory situation is a clear violation of article 25 of the International Covenant on Civil and Political Rights.

[27] On the basis of the 'sliding freeze' that prevailed at the time of the Nouméa Accord and Senate estimates, around 7,570 people should have been excluded from voting in 2018, the date of the first referendum. With the constitutional reform of 2007, and again according to Senate estimates, almost 8,000 more people were excluded from voting, i.e. almost 16,000 people excluded from the first referendum. Ultimately, in 2018, the general electoral roll (LEG) counted 210,105 voters in New Caledonia, while the special electoral roll for the consultation (LESC) admitted only 174,154. This means that 35,951 people were excluded from voting (20.6% of the list). In 2021, the LEG counted 220,279 voters in New Caledonia, compared with 185,004 on the LESC. This means that 35,275 people were excluded from voting (16% of the list). Via 4 novembre : quelque 175 000 électeurs, et 250 délégués pour contrôler le scrutin, Nouvelle-Calédonie 1ère, 3 September 2018 ; et Référendum 2021 : les chiffres à retenir concernant la liste électorale spéciale pour la consultation, Nouvelle-Calédonie 1ère, 7 October 2021.

# CONTINUING INEQUALITIES IN NEW CALEDONIA: A DISCRIMINATORY SYSTEM IN PLACE

## INEQUALITIES BASED ON GEOGRAPHIC ORIGIN

The functioning of local political institutions in New Caledonia also generates inequalities according to geographical origin. In fact, since the establishment of the Congress, New Caledonia's deliberative assembly which votes on local laws, the inhabitants of the Southern Province have been largely disadvantaged in relation to the inhabitants of the Northern and Island Provinces.

Indeed, the fifty-four seats of the Congress are divided between the three provincial assemblies: thirty-two seats for the Southern Province, i.e. 59% of the seats; fifteen for the Northern Province, i.e. 28% of the seats; and seven for the Islands Province, i.e. 13% of the seats. This distribution is supposed to ensure proportional representation of the provinces. However, with 41% of the seats in Congress, the North and Islands Provinces are overrepresented, whether we consider their electoral weight (36% of the electoral roll) – based on the 2019 provincial elections – or their population (25.2% of the population)[28].

The gap in representation is totally excessive between a resident of the South Province and a resident of the Loyalty Islands Province. The electoral representativeness ratio is 2.42. In other words, the vote of a resident of the Loyalty Islands Province carries 2.42 times more weight than that of a resident of the Southern Province. Yet these are two New Caledonians who are supposed to be equal before the law.

This unequal representation of the provinces raises a real problem of political representation. For example, in the last provincial elections, the Loyalists inherited 25 seats in Congress, while the independentists, who received over 18,000 fewer votes, took 26 seats. This is a political aberration and a denial of democratic expression, which means that the camp that was largely defeated at the ballot box is still in charge of local institutions.

[28] Via Figures nouvelle-caledonie.gouv.fr, available [here](#), and Isee recensement 2019, available [here](#).

# PRO-INDEPENDENCE COUP D'ÉTAT JEOPARDIZING THE HUMAN AND FUNDAMENTAL RIGHTS OF NEW CALEDONIANS

Since May 13, New Caledonia has been facing an extremely precarious political, economic, social and security situation. The attempted coup d'état perpetrated by radical pro-independence parties has placed the territory in a civil war. During this period, several fundamental Caledonian rights, , guaranteed in the International Covenant on Civil and Political Rights, have been violated by pro-independence militiamen.

## **THE FRENCH GOVERNMENT HAS DECLARED A STATE OF EMERGENCY TO RESTORE ORDER AND SECURITY TO NEW CALEDONIANS**

Article 4, paragraph 1: *'In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin'.*

The state of emergency was declared on May 15 at the request of the elected representatives of New Caledonia. This exceptional measure, used only eight times by the government on national territory since 1958, provided a rapid and effective response to begin restricting the actions of rioters. The measure lasted just ten days before being withdrawn.

Thanks to this measure, the French government was able to restore order. France's operations to restore order were carried out within a very strict legal framework. The forces of law and order were exemplary in their actions. At this stage, there have been no casualties due to disproportionate use of force.

Without this decisive and appropriate intervention by the French state, the insurrectionary situation would have persisted, and New Caledonians would have remained in a very precarious security situation. The French government's intervention brought order back to New Caledonia and enabled the justice system to begin its investigation.

## **RADICAL PRO-INDEPENDENCE PARTIES INSTRUMENTALIZE THE RIGHT TO SELF-DETERMINATION**

Article 5, paragraph 1 and 2: *'Nothing in the Present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.'*

# PRO-INDEPENDENCE COUP D'ÉTAT JEOPARDIZING THE HUMAN AND FUNDAMENTAL RIGHTS OF NEW CALEDONIANS

*There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent'.*

Radical pro-independence elected representatives use international law to justify the exactions they commit. Using the right to self-determination of indigenous peoples as a pretext, they have recently mobilized their militants to commit acts of violence.

France has rigorously followed national and international norms on the right to self-determination. The New Caledonian self-determination process, which has been running since 1988, has been hailed for its seriousness and transparency by the United Nations. It has been carried out in strict compliance with the law. Having failed to win independence democratically, the radical pro-independence parties have chosen violence and destruction to forcefully wrest back what they were unable to win at the ballot box.

Radical pro-independence parties are trying to cover up this violent takeover with a victim narrative, in which their right to self-determination is denied. But this is not true. Resolution 1541 clearly explains that the retention of a non-self-governing territory within its administering power is a legal way of concluding a process of self-determination. This is the path that New Caledonians chose when they voted 'No' to New Caledonia's independence project in 1958, 1987, 2018, 2020 and 2021.

## **RESIDENTS LIVING SOUTH OF LE MONT-DORE HELD HOSTAGE BY PRO-INDEPENDENCE MILITIAMEN**

Article 9, paragraph 1: *'Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law'.*

Article 12: *'Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.'*

*Everyone shall be free to leave any country, including his own.*

# PRO-INDEPENDENCE COUP D'ÉTAT JEOPARDIZING THE HUMAN AND FUNDAMENTAL RIGHTS OF NEW CALEDONIANS

*The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Covenant.*

*No one shall be arbitrarily deprived of the right to enter his own country'.*

Since May 8, more than five months ago, the situation in the south of Le Mont-Dore has deteriorated dramatically. More than ten thousand inhabitants have been cut off from the rest of New Caledonia since the riots began. The only road leading from Le Mont-Dore to Nouméa is blocked by radical independence militiamen from the Saint-Louis tribe, who are imposing a reign of terror. They arrest, rob, humiliate and molest any inhabitants who dare attempt to cross the road to go to work, do their shopping or go to the doctor. Numerous offences and crimes have been recorded since the beginning of the insurrection.

This situation of hostage-taking of the inhabitants of the south of Le Mont-Dore has very serious repercussions. Firstly, it is a clear violation of their liberty of movement. Secondly, the situation is causing shortages of food, medicine and fuel for the civilian population. The impossibility for people living south of Le Mont-Dore to move around also prevents them from consulting medical personnel, which represents a major risk to their health. Finally, several hundred children are no longer able to go to school.

Despite several courageous attempts, the French government has been unable to restore control over the area, where radical pro-independence fighters have not hesitated to fire heavy weapons at the forces of law and order.

## **RELIGIOUS AND SPIRITUAL COMMUNITIES TARGETED BY PRO-INDEPENDENCE MILITIAMEN**

Article 18, paragraph 1: *'Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching'.*

In the weeks following the start of the insurrection, radical pro-independence militiamen attacked religious sites. Since 13 May, six churches have been looted and burnt down. At least two of these churches have been destroyed by fire. This destruction is often accompanied by inscriptions on the walls insulting Christians. A Buddhist temple was also set on fire and destroyed.

# PRO-INDEPENDENCE COUP D'ÉTAT JEOPARDIZING THE HUMAN AND FUNDAMENTAL RIGHTS OF NEW CALEDONIANS

Two Masonic temples were also destroyed following the pro-independence insurrection. Pro-independence militiamen in the Noumea urban area have spray-painted many signs targeting members of the freemasonry movement in New Caledonia and criticizing the institution.

These targeted attacks by pro-independence militiamen are deliberate attacks on freedom of, conscience and religion. It represents a major risk for religious communities in New Caledonia, who feel persecuted.

## **THE FRENCH GOVERNMENT HAS DECLARED A STATE OF EMERGENCY TO RESTORE ORDER AND SECURITY TO NEW CALEDONIANS**

Article 19, paragraph 1: *'Everyone shall have the right to hold opinions without interference'*.

Many non-independence New Caledonian elected representatives have been the victims of physical attacks and death threats by radical pro-independence activists since the beginning of the insurrection. Some of them are now under continuous police protection to preserve their physical integrity. These include the President of the Southern Province, Sonia Backès, the MP for New Caledonia's first constituency, Nicolas Metzdorf, and the Vice-President of the non-independence Rassemblement-LR party, Virginie Ruffenach.

People close to these politicians were also targeted. Radical pro-independence militiamen attacked Sonia Backès' father by setting fire to his house on the night of 13 May, while he was inside with his wife. Nicolas Metzdorf's parents were also attacked and death-threatened on their house in northern New Caledonia.

The aim of these attacks is to create a widespread climate of fear to terrorize the population for political ends. The radical pro-independence parties are seeking to drive out the non-independence population to reverse the demographic, and therefore political, balance in the territory.

# PRO-INDEPENDENCE COUP D'ÉTAT JEOPARDIZING THE HUMAN AND FUNDAMENTAL RIGHTS OF NEW CALEDONIANS

## **INDEPENDENCE MILITIAS ADVOCATE VIOLENCE AND GLORIFY NAZISM**

Article 4, paragraph 1 and 2: *'Any propaganda for war shall be prohibited by law.*

*Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law'.*

Several leaders of the radical pro-independence movement made statements advocating violence before, during and after the riots. Before the riots, some called for a public demonstration to 'burn down Nouméa'. This was partly achieved by pro-independence militiamen who have been looting, pillaging and burning shops, schools, churches and administrative buildings in the Nouméa urban area since 13 May. Dominique Fochi, head of the CCAT, even told the National Assembly that the pro-independence parties were prepared to sacrifice 1,000 young people for their cause. Once again, several radical young pro-independence activists were killed in the riots led by CCAT leaders.

Finally, on several occasions, the pro-independence militiamen glorified Nazism. Firstly, by displaying swastikas on their faces during the violence or by spraying them on walls. Secondly, by making racist and xenophobic comments, calling for the death or exodus of white New Caledonians.



# CONCLUSION

New Caledonia is currently in a critical economic situation. The methodical destruction of the economy organized by the radical pro-independence activists of the CCAT is leading New Caledonia into an unprecedented social crisis. The increase in unemployment caused by the destruction of firms by radical pro-independence militants is leaving tens of thousands of New Caledonians in a very precarious situation, with no prospect of new job opportunities. Social assistance will soon no longer be paid out due to a lack of funding. The drastic reduction in healthcare services, because of the destruction of medical centres and the exodus of medical staff who are regularly attacked by pro-independence militants, means that New Caledonians are now facing terrible health risks.

Without the State's support since the beginning of the insurrection, New Caledonia would have sunk into chaos. Thanks to France's massive financial support, New Caledonia is surviving, and, above all, the most vulnerable New Caledonians are receiving financial and social support during this difficult period. Thanks to the peacekeeping forces sent by France, New Caledonians have regained their tranquillity and can now circulate freely without the risk of being attacked by radical pro-independence militants.

This catastrophic situation should not obscure the fact that many legal inequalities persist in New Caledonia, and that these inequalities have been exacerbated in recent weeks by the coup d'état attempted by the radical pro-independence movement. New Caledonians suffer first and foremost from the inequalities established by the Nouméa Accord. Tens of thousands of New Caledonians are deprived of their civil and political rights because the electorate remains frozen. Other people are prohibited from accessing some jobs. Finally, there are significant geographical inequalities affecting the inhabitants of the Southern Province, who are under-represented in New Caledonia's political institutions.

Moreover, the attempted coup d'état by radical pro-independence activists has compromised the fundamental rights of New Caledonians. Thousands of New Caledonians have seen their liberty of movement drastically limited. Some have been attacked and threatened with death because of their political opinions. Religious and spiritual communities have suffered from targeted attacks.

Since assuming government responsibility five years ago, Loyalists have been keeping international organisations informed of developments in New Caledonia's political, economic and social situation. We have always made sure to present this situation honestly and transparently. We therefore reiterate our wish that the decolonisation committee (C-24) send an observer mission to New Caledonia. It will observe the immeasurable damage caused by the attempted coup d'état and will be able to see that many actors are spreading fake news for political reasons. This mission will contribute to the C-24's reflection accompanying the process of self-determination in New Caledonia, which will conclude in December 2021 with the sovereign, free and informed New Caledonians' vote to remain French.



Les  
**Loyalistes**