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# The Recall in France: A long standing and unresolved debate

*Clara Egger and Raul Magni-Berton*

## 4.1 INTRODUCTION

France is one of the rare cases of uninominal electoral systems with an elected President and no recall procedures. The Constitution of the Fifth Republic offers very little room for citizens to demand accountability from people voted in power. Yet, possibilities of shortening the term of elected officials exist. In particular, the President holds a right to dissolve the National Assembly and to trigger new elections, a right already activated five times over the 60-year-long history of the Fifth Republic. The Assembly can in turn remove the President but only under exceptional circumstances and after a demanding procedure. Moreover, with the change of the electoral calendar in 2000, which aims to limit the competition between the President and the Assembly, the activation of such procedure is even more unlikely.

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This institutional set-up is key to understand why a majority of French citizens declares feelings of distrust or aversion towards their politicians in national opinion polls (Cheurfa and Chanvriil 2019). This explosive political context has given rise, in November 2018, to the Yellow Vests movement, which has put recall practices back on the agenda two centuries plus after its defence by French revolutionary movements.

This chapter aims to explain the specificity of the French experience of recall procedures and practices. To do so, the analysis is structured along four axes. First, the chapter traces the origins and historical diffusion of the idea of recall, introduced during the French Revolution in the unique form of imperative mandate. Second, it analyses current constitutional provisions and discusses their compatibility with some forms of recall processes. Third, it examines the various social demands for recall, especially focusing on the one which has emerged out of the Yellow Vests movement. Lastly, the chapter ends with a discussion of the future and the possible design of recall procedure in France.

## 4.2 THE HISTORY OF THE DEMAND FOR RECALL ELECTIONS IN FRANCE

Although some of its close neighbours (Germany) or inspiration (United States) have introduced recall mechanisms over the course of their history, France has constantly resisted it. A tentative explanation could lie in the absence of a political demand for this tool. Yet, historical accounts largely invalidate this explanation. As in other countries, recall elections have been regularly in the agenda, especially in times of democratic advance (Serdült and Welp 2017: 142). Several outsider parties have also promised its introduction if elected, especially as the discontent towards the irresponsibility of elected officials grew. In the French case, this demand has however long focused on the introduction of the imperative mandate, a close but different form of mechanism to ensure political accountability and representatives' responsiveness. Yet, this demand has largely stayed at the margins of French political theory and ideologies. Contrary to other forms of direct democracy such as citizens' initiative and referendum (hereafter: I&R), the demand for imperative mandate or forms of recall elections has failed to gain support outside of radical leftist parties. This may explain why recall elections are largely absent from existing accounts of French political history. The following section attempts to fill this

gap by focusing on the key moments and specificity of French historical trajectory.

*The Framing of the Demand: Imperative Mandate during  
the French Revolution (1789–1793)*

The specificity of French historical debates on the control mechanisms of elected representatives lies in their focus on imperative mandates. Although imperative mandate is considered as a form of recall practice (Council of Europe 2009), it is different from standard recall procedures in that it explicitly specifies the criteria to launch a recall process. With an imperative mandate, elected officials commit to implement specific measures and can be removed if they depart from this original agreement. In contrast, recall election gives a greater room of interpretation for citizens who can remove their representatives when they *feel* that they are not meeting their obligations.

Imperative mandates have a long history and their use can be traced back to the Middle Ages. During the French *Ancien Régime*, the role of deputies was limited by the *cahier de doléances*, a list of specific demands that members of different orders were required to transmit to the King. It is only during the French Revolution that the role of deputies evolves towards a broader and less constrained representative role despite the fierce opposition of French aristocracy advocating for keeping imperative representation (Zaidman 2011: 9–10).

Debates on imperative mandates during the first Constituent Assembly played a structuring role in the debates on recall procedures and, more largely, on the limits to be put on the action of elected representatives. Although Rousseau is considered as the father of imperative mandate, his opposition to representation did not lead to the design of specific procedures as he was more in favour of I&R (Rousseau 1762). This opposition to imperative mandate coupled with the defence of direct democratic procedures also characterized some of the most influential thinkers of the Constituent Assembly. Condorcet who designed citizens' I&R procedures on constitutional matters is, for example, famous for his opposition to imperative mandate, stated in these terms: “the people sent me not to support his opinions but to defend my own” (quoted in Picard 2014: 17). Supporters of the imperative mandate at that time mainly came from popular Parisian movements, supported by the most radical stream of the revolutionaries. The *Cercle Social* especially aimed at developing and

disseminating a political manifesto on direct democracy and used their journal, *La Bouche de Fer*, to do so. Some local sections of the movement adopted imperative representation at that time based on this manifesto. A few leading figures of the *Enragés* party, such as Jean-François Varlet or John Oswald, used their position in the newly elected French National Assembly to voice this demand (Zaidman 2011: 33–35).

The isolation of the *Enragés* party and the opposition of both democrats and liberals to imperative mandates will bury their recommendations. Imperative mandates were paradoxically perceived as not ambitious enough—as they add checks and balances to representation but do not fundamentally alter it—and too risky. The French Constituent Assembly hence opted for national representation and adopted representational mandates perceived as more likely to create unity in the new Republic by avoiding the voicing of particular and at times clientelist interests. Yet, the short-term failure of the *Enragés* in the National Assembly should not hide their influence on popular movements. In particular, the 1848 revolutionary spring successfully reintroduced their demand back on the public agenda.

### *A Timid Progression in Times of Revolutionary Ideals (1848–1871)*

The French revolutionary debates embedded the issue of imperative representation at the extreme left of the political spectrum. This political colour explains the success of the demand during revolutionary times and experiences. Recall procedures received a considerable support in the nineteenth century. Three events illustrate such a revival.

First, as the Revolution of 1848 and the subsequent Second Republic instituted adult male suffrage, it also revived debates about the role and limits of representation. Advocates of a direct government became more vocal. Victor Considérant especially claimed that deputies should only act as delegates of the people and that the executive power should be under permanent removal by the Delegates Assembly (Zaidman 2011: 44). The Constitution of the 4 November 1848 invoked the American precedent of 1787 to introduce these concerns into French constitutional law. It is the only one in French history that introduced a penal and political responsibility of the French President. Interestingly, the Constitution states that

“every measure by which the President of the Republic shall dissolve or prorogue the Assembly, or interpose any obstacle to the exercise of its public trust, shall be deemed a crime of high treason” (art. 68). This definition of high treason is unique in that it is understood as any obstacle put to the democratic exercise of power by citizens. The proposed procedure involves a High Court of Justice which implements—after a request by the National Assembly—recall procedures as well as decides upon the exact charges and associated sentences. The competence of this High Court—composed of 5 judges, of 36 jurymen—gives a central role to citizens and is explicitly detailed in nine dedicated articles (Articles 91 to 100). Ironically, this procedure was never applied as Louis-Napoléon Bonaparte successfully seized power in the coup of the 2 December 1851.

The democratic spirit of 1848 however persisted among popular movements. The failure of the Second Republic led Proudhon to advocate for an independent organization at the communal level. In his *Principe fédératif*, Proudhon (1863) supports the idea of a federation of free communes giving limited and clearly defined powers to a central authority. This idea surely influenced the insurrectionists of the *Commune de Paris*. Following the principles of the First International, the Central Committee instituted an elected Commune on 26 March 1871 in these terms: “The members of the municipal Assembly, constantly controlled, monitored and discussed by the opinion, are removable and responsible”. Confronted by a civil war, the revolutionaries were not always able to fully apply these principles. In particular, between 28 March and 13 April, the debates of the Municipal Assembly remained secret as their publicity was considered as too dangerous for the survival of the *Commune*.

Despite its violent repression, the memory of the *Commune* experience and the legacy of Proudhon have had a strong influence on French socialist movements. Although recall procedures and imperative mandates are absent in all the subsequent French Constitutions, they are integrated in the practices of the French union movement. Since the nineteenth century, French labour law has acknowledged the fact that “each member of the personnel delegation to the social and economic committee can be removed during its mandate upon a request from the union organization that appointed her” (Article L 2314-36). Beyond this specific and limited case, recall practices disappeared from French political system after the short-lived revolutionary experiences of the nineteenth century.

### *The Implantation of Political Unaccountability (1875–1958)*

The support for recall procedures in popular movements and among leftist intellectuals did not suffice to ensure its inscription in French constitutional law following the Restoration of the Republic in 1875. The Third Republic's Constitution limited the responsibility of the President and of his ministers to cases of high treason. Citizens had no role in the procedure. Its application was left to the Senate in the Third Republic and to the National Assembly in the Fourth. The 1875 and 1946 Constitutions did not draw on the precedent set by the Second Republic and left the criteria for the procedure and its implementation very vague. Moreover, they resolutely omitted any form of imperative mandate.<sup>1</sup>

This does not mean the Third, Fourth and Fifth Republics contain no provisions for elected officeholders to be removed. There are legal rules limiting the access to the representational mandate in certain cases. They concern issues such as the incompatibility of electoral mandates with other responsibilities, the interdiction of cumulating mandates or cases of ineligibility. Some debates regularly emerged concerning cessation of office for health reasons (Houillon 2006), but no formal rule was established to limit the ability of the French President to stay in office. However, few procedures enable elected officials to remove other officials or to bring forward the date of new elections. These procedures can be viewed as indirect forms of recall because citizens can put pressure on elected officials to obtain a change. The following section details what the current French Constitution states on this matter.

#### 4.3 REMOVING ELECTED OFFICIALS BEFORE COMPLETION OF THEIR TERM IN FRANCE

The Constitution of the Fifth Republic adopted in 1958 offers many of the preconditions for classic recall procedures. Its electoral system is uninominal. The President is directly elected (from 1965 onwards). At the local level, mayors and their councillors are jointly elected, and the representatives of *départements* (counties) are elected in a binominal electoral system. In the French political system, there are many elections, and in almost all of them, each elected official is chosen by her own geographically

<sup>1</sup>The current French Constitution even states “no Member shall be elected with any binding mandate” (art. 27).

located electorate.<sup>2</sup> Despite these features, France is one of the few democracies sharing these institutional features that does not provide voters with any mean to remove an elected (national or local) official from office. Citizens can neither initiate a removal nor approve it through a vote. Yet, the 1958 Constitution provides a right to remove officials to two elected entities: the President can dissolve the National Assembly (the lower house), and under specific circumstances, the Parliament can remove the President.

### *The President's Right to Dissolve the National Assembly*

As it is the case in other European semi-presidential regimes—such as Austria, Iceland or Portugal—the French President has the power to dissolve the Assembly. The 1958 Constitution states: “The President of the Republic may, after consulting the Prime Minister and the Presidents of the Houses of Parliament, declare the National Assembly dissolved. A general election shall take place no fewer than twenty days and no more than forty days after the dissolution” (Article 12).

The “consultation” of the Prime Minister and the Presidents of the Houses of Parliament does not involve any veto power or consensus requirements. “Consulting” merely means “informing” in this case. Two specific contexts however impede the President from making use of this right: during the year following the election caused by a dissolved legislature and during the exercise of emergency powers. In practice, these conditions rarely occur leading the presidential power to dissolve the Assembly to be almost of a discretionary nature (Goplerud and Schleiter 2016).

Since 1958, the presidential right to dissolve the Assembly has been used five times. During the 1960s, dissolution was used to solve political crises. In 1962, the Parliament for the first time used its right to constrain the Prime Minister to resign.<sup>3</sup> As the President supported the latter, dissolving the Assembly was a way of asking voters to solve the conflict between the President and the Assembly. The second dissolution took place in 1968, during the May civil unrest. Once again, the government

<sup>2</sup>The only exception is the election of regional councillors, which is party-list proportional.

<sup>3</sup>This right is usual in parliamentary and semi-presidential regimes. We do not analyse this procedure in this chapter, because we focus only on the ways to remove directly elected officials. Ministers are appointed by the Parliament or by the President, and they are therefore not directly elected.



facéd street contestation, and triggering a new election was a way of letting voters decide of the resignation or confirmation of the government. While voters can neither initiate nor declare the dissolution, these two events bear similarities with recall practices. As opposition to the government grew, elections were triggered to allow voters to arbitrate the conflict.

Following dissolution practices were different and mainly aimed at avoiding divided government. Given that, until 2001, the President had a seven-year term and the Assembly a five-year one, the partisan affiliation of the President and of his government did not necessarily match. As a result, in 1981 and 1988, the dissolution took place just after the presidential election, while in 1997 it occurred two years after, one year before the planned term of the legislature. This partisan use of removing MPs from office is also observed when the citizens have the right to recall. However, the main difference is that when the President has this right, it will be used only *to avoid* divided governments, while when this right is enlarged to voters, it can be also used *to promote* them (Welp and Milanese 2018).

### *The Parliamentary Right to Remove the President*

Until the constitutional revision of 2007, the French President was almost irremovable. The only way of removing Presidents before the end of their term was the conviction for high treason, initiated by the majority of the MPs and arbitrated by the High Court, directed by 5 judges and composed of 12 MPs appointed by the Parliament. While the meaning of “high treason” is somewhat vague, many behaviours—including criminal acts—do not fall under this realm (de Cazals 2007). Moreover, the procedure included a combination of representatives from the legislative and judicial powers, a fact reflecting its exceptionality and its mixed character (between a criminal and a political judgement).

After some revealed corruption cases that involved President Chirac at the end of the 1990s, a commission was set up to initiate a constitutional revision, in order to modernize the Article 68. The commission proposal was validated on February 2007, just before the new presidential election. The new constitutional Article 68 states:

The President of the Republic shall not be removed from office during the term thereof on any grounds other than a breach of his duties patently incompatible with his continuing in office. Such removal from office shall be

proclaimed by Parliament sitting as the High Court. The proposal to convene the High Court adopted by one or other of the Houses of Parliament shall be immediately transmitted to the other House which shall make its decision known within fifteen days of receipt thereof.

The main novelty of this article is that all jurisdictional aspects are deleted, making the decision exclusively political (de Cazals 2007). The Parliament (sitting as the High Court) now fully controls the process through which the President can be removed. The procedure needs to demonstrate the existence of a “breach” in “duties patently incompatible with his continuing in office”. This limits the discretionary power of the Parliament, but enlarges the possible reasons to initiate the procedure, including corruption or a mere inability to reduce social contestation putting the state at risk. Paradoxically, French Presidents—during their mandate—are now entirely unaccountable to judiciary powers (including civil justice) and can only be removed by the Parliament. The process requires that one-tenth of the Parliament signs a motived motion for a resolution, which must then be validated by the parliamentary standing committee for constitutional law. If both chambers—Assembly and Senate—adopt the motion, the High Court is set up and has to decide over a one-month period. A majority of two-thirds of the Parliament is then required to remove the President.

This article has never been used despite an abortive attempt in 2016 signed by 79 MPs. This procedure is certainly much more demanding than dissolving the Assembly. It not only requires a specific justification but also rests on a large consensus among MPs. In addition, during the process, Presidents are not removed from office and can dissolve the Assembly. The timing of the revision also increases its unlikely nature: with the revision of the electoral calendar and the decision to align the duration of the President’s and of the Assembly’s mandates, both are no longer competing.

Neither the presidential right of dissolving the National Assembly nor the parliamentary right to remove the President have been activated in recent years. An explanation for this political restraint lies in the 2001 reform of the electoral calendar (de Cazals 2007). Following the constitutional referendum held on 24 September 2000, the length of the presidential mandate was reduced from seven to five years and therefore aligned with the term of the Legislative Assembly. Moreover, legislative elections have been scheduled to immediately follow the election of the President.

This produces both a *de facto* impossibility of a divided government and a presidentialization of French political parties. Divided governments are unlikely because presidential and legislative elections are now so close in time that voter preferences are likely to stay globally stable. The output is similar so that the majority party is also the party of the President. Moreover, political parties presidentialize because the result of the presidential election, which precedes the legislative one, influences the way people vote at the legislative election. On average, winning the presidential election produces a 25% increase in the votes for the party of the President in legislative elections (Magni-Berton and Robert 2017). This allows Presidents to hugely influence the choice of their party's candidates in legislative elections. When Presidents and National Assemblies do not conflict each other, the procedures to remove each other become inoperative. Therefore, while the Constitution gives more power to the Parliament to remove the President, it has also divested the Parliament of incentives to do so.

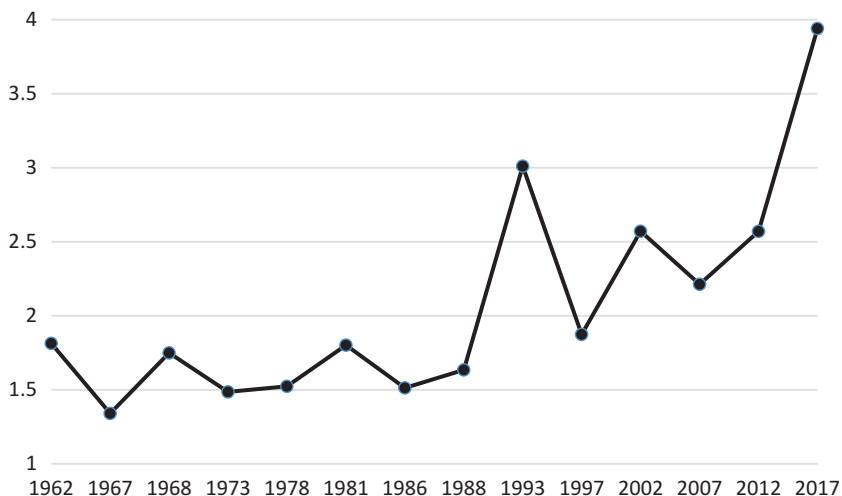
#### 4.4 THE YELLOW VESTS MOVEMENT AND THE RETURN OF RECALL TO THE POLITICAL AGENDA

This French institutional situation carries explosive potential consequences. Uninominal electoral systems are known to increase the likelihood of unrest (Reynal-Querol 2002). The main reason is that they produce stable governments at the cost of introducing a strong disproportionality in the electoral system allowing a party supported by a minority to control the legislature. The French institutional context is key to understanding why the newly elected Macron government faced an unprecedented social movement 18 months after its coming in power. The specificity of this social movement—referred to as the *Gilets Jaunes* (Yellow Vests) movement—is its focus on demands of institutional reform and, in particular, on the adoption of direct democracy procedures in France, including the right to initiate a recall election. This section presents the political context of the emergence of the movement, its proposals for institutional reform as well as the ensuing debates about the introduction of recall procedures in France.

*The Political Context: Rising Demands  
for Political Accountability*

The growing disaffection of French citizens towards their political system has resulted in a decrease of turnout combined with an increased share of votes for losing parties since the beginning of the 2000s. Figure 4.1 shows the consequence of that: the disproportionality produced by the electoral system has hugely increased, and it reaches its maximum in 2017.

This situation is partly responsible for the fact that governments are rapidly unpopular, with approval ratings lower than 30%. As a result, debates have started on the need to adapt French national institutions focusing on granting a stronger role to citizens in decision-making processes. In particular, the introduction of recall arrangements has gained support since the 2010s. The capacity of citizens or institutional counter-powers to dismiss elected officials or to anticipate elections was perceived as a way of moderating the negative effects of disproportionality produced by uninominal systems. The introduction of recall procedures initiated by



**Fig. 4.1** Disproportionality under the French Fifth Republic. Disproportionality represents the ratio between the percentage of seats received by the majority coalition and the percentage of registered voters who opted for this coalition in the first round of legislative elections. When this ratio equals 1, these percentages are identical, meaning that the representation is genuinely proportional

citizens (but also by institutional counter-powers) could provide a serious threat to stable governments voted by a minority and might provide an incentive for the government to take into account the preferences of the median voter.

Since the early 2010s, recall arrangements have especially been defended both by far-left and far-right political parties. The *Front National* (far right) was the first party to propose a constitutional reform to introduce a recall mechanism in the French Constitution. The proposition was that a recall election could be initiated by one fifth of registered voters. It aimed to remove a President in office without affecting her capacity to stand for another election (provided the limit on the number of terms is not reached) (Collard 2013). Among the leftist parties, the introduction of recall elections was initially promoted by the *Parti de Gauche* (now *La France Insoumise*, far left). Between 8 November and 11 November 2014, militants from this party sponsored an unofficial vote on this issue in Metropolitan France and its overseas territories. French citizens were asked to answer to the following question: *Do you support a citizen's right to recall elected officials?* 500 ballot boxes were available on the French territory, enabling 180,000 citizens to participate in the poll. The results were largely in support of the introduction of recall (Garrido 2014). This proposition has also been timidly supported by Benoît Hamon, candidate of the *Parti Socialiste* (social democrat) during the 2017 presidential election. Yet mainstream parties rather supported the introduction of participatory democracy mechanisms resting on the non-binding consultation of citizens to inform legislative processes. These parties considered initiative and referendum (including recall) as too dangerous, too associated with the agenda of so-called populist parties and not adapted to the workings of French representative democracy. Experts and intellectuals echoed these concerns. In 2015, a parliamentary working group "Recreate democracy" rejected the measure after an internal vote and without providing substantiated arguments (Bartolone and Winock 2015). In contrast, the High Authority for transparency in public life suggested strengthening the capacity of MPs to sanction elected officials guilty of "grave breaches of ethics" such as tax evasion. The report stressed the fact that removal should not become a political weapon against dissident or minority political opinions but should be used in a cross-partisan manner under the control of the constitutional court (Nadal 2015).

Although the current President Emmanuel Macron stressed the need to make elected officials more responsible during his electoral campaign, his election in April 2017 did not deliver on these promises. His proposed measures mainly focused on enabling citizens to comment on the work of their MPs, but did not grant them a right to oppose and sanction elected officials. This neglect combined with the fact that parties proposing a right to recall obtained more than 40% of support in 2017 presidential election put the newly elected government at risk of popular contestation.

### *The Yellow Vests Movement and Its Proposals for Institutional Reform in France*

In October 2018, 18 months after the election of Macron's *Republique en Marche*, an unprecedented social movement started in France. After an online petition posted in May had attracted nearly a million signatures, mass demonstrations began on 17 November 2018. The movement initially started due to rising fuel prices and a high cost of living. Messages on social media especially denounced that a disproportionate burden of the government's tax reforms was falling on the working and middle classes especially in rural areas. Yellow high-visibility vests, which French law requires all drivers to have in their vehicles and to wear during emergencies, were chosen as "a unifying thread and call to arms" because of their convenience, visibility and association with working-class industries (Friedman 2018).

The protests started in the context of the low popularity of the recently elected President, nicknamed "President of the very rich" whose start of mandate was already tarnished by several scandals and the resignation of several Ministers. The movement emerged as a deliberately unorganized and leaderless grouping, proclaiming their repudiation of political representation, even towards would-be political leaders emerging from within their own ranks. Rapidly, the movement focused not only on economic demands but above all on institutional and political reforms. In the first week of the movement, these demands appeared as very diverse. Between November and December 2018, French roads and roundabouts started to be covered by messages demanding the resignation of Emmanuel Macron. Some messages called for the introduction of a seven-year mandate for the French President. Yet late November, political demands started to focus on a unified and very clear proposal: the introduction of the so-called

CARL citizens' I&R which becomes the priority measure for the movement from mid-December.

The CARL abbreviation refers to four direct democratic measures, conceived as indivisible package to increase the political rights of French citizens. All the proposed measures have in common to enable citizens to take decisions without relying, at any time, on elected representatives.

“C” means *constituant* (constituent) and refers to the introduction of I&R in constitutional matters. This tool emerged from the 2005 French experience of the project of the European Constitution. French citizens were called to the ballot to validate the project—which required a modification of the French Constitution—and largely rejected the project. The Lisbon Treaty—a revised version of the rejected project—was then adopted by MPs. In the eyes of the Yellow Vests movement, this event reflected the lack of political power of French citizens. “A” means *abrogatif* (repeal), that is, the capacity of citizens to veto a law. This form of referendum was one of the most popular at the beginning of the movement as supporters of the Yellow Vests opposed the economic and redistributive policies of the French government which largely benefit the richest. “R” stands for *révocatoire* (recall). The proposition aims to allow citizen to recall any political officials, whether they hold a local or national mandate or belong to the executive or legislative branch. The last element of the RIC CARL refers to legislative I&R on ordinary law matters. While the linkages of these very diverse forms of referendum are unique to the Yellow Vests movement, the Swiss example appeared as a primary source of inspiration.

Besides this focus on four interrelated direct democracy tools and on the definition of an overall procedure, the movement did not go as far as to suggest a specific way of introducing the measure into French law or to spell out a specific procedure for each of the forms of citizens' referendum. In many respects, the proposition appeared as the lowest common denominator among a political diverse movement. Members of the Yellow Vests only have in common to be poor workers with low revenues.<sup>4</sup> The movement was especially successful in rural areas that have faced a loss in public services over the past decades. Most of the members of the movement

<sup>4</sup>Sciences Po Bordeaux (2018), “Gilets jaunes”: une enquête pionnière sur la “révolte des revenus modestes”, Le Monde.fr, 11 décembre 2018, [https://www.lemonde.fr/idees/article/2018/12/11/gilets-jaunes-une-enquete-pionniere-sur-la-revolte-des-revenus-modestes\\_5395562\\_3232.html](https://www.lemonde.fr/idees/article/2018/12/11/gilets-jaunes-une-enquete-pionniere-sur-la-revolte-des-revenus-modestes_5395562_3232.html).

were politically active for the very first time. At the political level, the movement draws from very diverse backgrounds. A survey conducted in December 2018 on a limited number of Yellow Vests activists showed that most of them refused the right/left cleavage, while some claimed to feel closer to the far left or the far right.<sup>5</sup> Given the political context of the emergence of the movement, it is not surprising that direct democracy demands became the priority demand as these tools reduce the power of elected officials while preserving the unity of the movement. A drawback of the multifaceted nature of the demand is the fact that it can be easily manipulated by political parties and elected officials who can pick the form of referendums which affects the lesser of their powers.

Depending on the political affiliation of members, different options were proposed. Some integrated citizen I&R within a broader agenda of constitutional reform. Constituent workshops started to be organized in different places to write a new Constitution including but not limited to direct democracy tools. Others stressed the need to adapt some articles of the current French Constitution with two proposals particularly standing out. One concerns the modification of Article 3. The proposition suggests adding after the existing article—“National sovereignty shall vest in the people, who shall exercise it through their representatives and by means of referendum”—“initiated by citizens in all matters, included constitutional and related to treaty ratification. This article can only be modified by referendum” (Article 3 2019). The second suggests a specific focus on the introduction of citizen initiative in constitutional matters through the modification of Article 89 (Magni-Berton and Egger 2019). Initially this difference of strategy did not affect the unity of the movement. The situation changed due to the adverse reception of the proposition by political parties.

### *Everything but Citizen I&R: The Reception of the Demand*

The proposition to introduce direct democracy procedures—including but not limited to recall elections—was received in a very negative manner among political and media circles.

On 10 December 2018, President Macron tried to appease the movement in the most viewed political speech in French history. His answer mainly focused on economic measures but left aside the Yellow Vests’

<sup>5</sup> *Idem.*



demand for democracy. Instead of granting citizen I&R, a Great National Debate was organized aiming to restore dialogue between French citizens and the President. This debate was supposed to inform an agenda of reform, but the procedures through which data and input were to be aggregated was not transparent. Besides this measure, the Interior Ministry ordered French police forces to engage in a brutal repression of the movement, causing thousands of people to be injured.

The reaction of opposition parties differed across the political spectrum. Two parties—the *Rassemblement National* (ex *Front National*, far right) and the *French Insoumise* (far left)—tried to align the demands of the movement with their own political agendas. This strategy—especially marked for the *France Insoumise*—succeeded in creating divisions among the Yellow Vests movement. Parts of the movement focused on a sovereigntist agenda—making the priority a referendum on international and European treaties—whereas other groups advocated for the introduction of referendums on non-constitutional matters. Overall, within the movement, recall elections progressively lost appeal. A tentative explanation for this is that it was perceived as too associated with the agenda of the *France Insoumise* and not empowering enough for citizens. In that regard, the Yellow Vests movement was not just seeking a veto power, but more ambitiously advocated for a right of initiative. Mainstream political parties stressed the risky character of citizen initiatives, associating the demand for recall with far-right populist and anti-elite demands. They reshaped the Yellow Vests proposition by focusing on the need to develop more participatory tools at the local level.

The media coverage of the demand for direct democracy further revealed the divorce between popular and intellectual classes in France. The Yellow Vests movement was portrayed as a violent, far-right and ill-informed movement. The media gave intense coverage of minority racist or violent incidents taking place on the very margins of the movement (ACRIMED 2018). Mainstream media emphasized the risky and uncertain impact of the introduction of all forms of recall and other direct democracy mechanisms. Very few experts on direct democratic procedures were invited to comment on the proposition of the Yellow Vests. The use of comparative evidence—focusing on the use of citizens' I&R in other countries—was rather minimal. As a result, the latest opinion poll on the confidence in media revealed a record loss of confidence from French citizens. Findings especially emphasize that media are not perceived as independent from political (69%) and financial (62%) pressure. Some (51%) of

the respondents stated that the Yellow Vests movement was badly covered by the conventional media, which over-dramatized the event (67%) and did not fully allow to understand the demands of the movement (54%).<sup>6</sup>

#### 4.5 IS THERE A FUTURE FOR RECALL PROCEDURES IN FRANCE?

Following the Yellow Vests movement, the future of recall elections in France remains open. While in 2018 most of French citizens had not ever heard about the existence of such a procedure, in 2019, almost all of them know what it is. Therefore, for the very first time, its introduction in the French Constitution is now a conceivable scenario. Two factors will determine the future of the tool: first, will these reforms be supported enough to become a strong electoral argument? Second, what procedure of recall could be adapted to the French system of representation?

##### *A Large but Fragile Support for Recall Procedures in French Political Opinion*

The Yellow Vests movement has increased the salience of direct democracy in general and of recall procedure in particular. However, it is difficult to assess whether this popularity will lead to an institutional reform.

The most detailed survey on citizens' I&R revealed that 60% of respondents declared "knowing exactly what the citizen initiative and referendum is". This percentage was much higher among people who declared supporting the Yellow Vests (72% vs. 54%).<sup>7</sup> Three instruments were detailed: I&R to introduce a law (supported by 77% of the respondent), I&R to abrogate a law (72%) and recall of officeholders (67%). Interestingly, references to constituent I&R were absent from the poll. Recall elections hence are the least supported instrument but remain popular in public opinion. Except among the electorate of the President's party and among those who are strongly opposed to the Yellow Vests, the support is majority in all social and political groups.

<sup>6</sup> Carasco A. (2019), "Baromètre médias, les journalistes sommés de se remettre en question", 24 janvier 2019, La Croix.fr, <https://www.la-croix.com/Economie/Medias/Barometre-medias-journalistes-sommes-remettre-question-2019-01-24-1200997667>.

<sup>7</sup> Ifop pour Valeurs Actuelles (January 2019). Les Français et le référendum d'initiative citoyenne.

While the Yellow Vests movement has strongly contributed to the return of this issue to the public agenda, it is probably not responsible for a rise in support for direct democracy. Some months before the beginning of the movement, the Pew Research Center measured this support in several countries. In France, it had already reached 74%.<sup>8</sup> In 2011, 72% of French people supported I&R.<sup>9</sup> Past surveys demonstrate that the level of support for direct democracy in France has not significantly increased after the Yellow Vests. Despite its popularity, direct democracy has not yet become a solid electoral argument. Beyond the extent of support, the intensity of such support is determinant for influencing the agenda of political parties.

Many clues suggest the intensity of public support for direct democracy is still low. First, only 29% of respondents “strongly support” recall, lower than the share of respondents who (strongly or moderately) oppose it (33%). Hence, the majority of people who supports recall does so in a lukewarm fashion. Second, institutional issues are systematically not considered as priority. For example, a survey shows that economic issues are much more salient than institutional ones.<sup>10</sup> Purchasing power (cited by 48%), taxes (44%), unemployment (29%), inequalities (28%), public spending (25%) and pensions (23%) are all more chosen than “the citizens’ participation in political decisions” (16%). Even among respondents who declare themselves “Yellow Vests”, only 27% consider direct democracy as priority (far behind purchasing power and taxes).

These results may explain why political parties have so far been little responsive to the institutional demand of the movement, in particular with regards to the introduction of recall mechanisms. This weak responsiveness of political parties has opened a space for the common mobilization of associations defending direct democracy. In August 2019, ten associations allied to develop a political strategy to obtain the introduction of

<sup>8</sup> Pew Research Center (October 2017), “Globally, Broad Support for Representative and Direct Democracy”. The question was: “Would a democratic system where citizens, not elected officials, vote directly on major national issues to decide what becomes law be a good or bad way of governing this country?”

<sup>9</sup> Ifop pour l’Observatoire de la Fiscalité et des Finances Publiques (March 2011). Les Français et le referendum d’initiative populaire.

<sup>10</sup> Institute Elabe pour BFMTV (January 2019). Les Français et les gilets jaunes (1003 respondents).

I&R and recall mechanisms in France.<sup>11</sup> This strategy included a project to develop a concrete reform, direct and grassroots lobbying activity and, potentially, direct involvement in elections.

### *What Might a French Recall Mechanism Look Like?*

Following the Yellow Vests, only one proposal to introduce recall elections in the French Constitution was submitted to the Parliament in January 2019 which rejected it 44 days later. This proposal aimed to introduce many I&R reforms and included an article on the possibility of removing elected officials. The draft article provided that the President, the MPs and local elected officials could be removed after a vote triggered by 5% of registered voters. The election would have to be held within a maximum timespan of six months after the receipt of the petition reaching the required threshold of support signatures. The procedure could only be activated after the first third of the term.

Within the Parliamentary Commission, debates were quite poor. Few discussions focused on the concrete design, with only the general principle of direct democracy receiving consideration. The mainstream parties rejected everything. They argued that I&R mechanisms lead to political instability, incentivize opportunistic policies and strengthen the influence of lobbying activities. Three proposed amendments were however interesting. The first one suggested giving voters the possibility to dissolve the Assembly as a whole, rather than removing single MPs in their electoral district. The second one aimed to increase the threshold of signature for the dismissing of the President, based on the argument that removing the President is a more critical decision than changing the law. For stability motives, the third amendment suggests to delete the possibility to remove the President. All these amendments were rejected (Lachaud 2019).

Some elements of this debate reflect two general issues pertaining to recall procedures that are of particular relevance in the French case.

The first issue deals with the alternative between removing single MPs and removing the Assembly as a whole. The first option is possible when there is a single-member district electoral system as in some American presidential democracies. The second option is used in some European

<sup>11</sup>These associations are Article 3, CLIC-RIC, Culture RIC, Dauphiné démocratique, Démocratie d'abord, Faites des RIC, Mouvement pour L'Initiative Citoyenne, Objectif RIC, Opération article 3, Scrutin National RIC.

parliamentary systems with either party-list or mixed electoral systems. In some ways, France is between these two models. On the one hand, the presidential right to dissolve the Assembly is a common trait of European Republics and means that the Assembly is viewed as a whole. On the other hand, France is, in the European Union, the only country with both a single-member district electoral system and a directly elected President. This makes the recall of individual representative possible. However, the proposed law would force France to keep its electoral system, a proposal which runs counter to political parties' propositions to establish a proportional system (demanded by *La France Insoumise*, the same party that put forward the recall proposal) or a mixed electoral system (largely supported across the political spectrum). Moreover as the French electoral system is not specified in the Constitution, it can easily be changed. For example, during the 1980s, a proportional system was introduced and then abandoned. If the recall of single MPs was adopted, any change of the electoral system requiring multiple-district membership would either violate the Constitution or allow some MPs to be protected from recall procedures, or require the introduction of a different electoral rule in the case of recalled officials, which produces a clear electoral incentive to abuse this procedure. Therefore, the amendment consisting in enlarging the right to dissolve the whole Assembly is more adapted to the French context.

The second issue lies in the required threshold of signatures, especially for a presidential recall. The argument that this threshold should be higher than for a simple legislative initiative is reasonable. This principle is already implemented in many places where it incentivizes its use in exceptional cases. In the specific case of the President, countries with such a provision (Bolivia, Ecuador, Venezuela) have particularly high threshold requirements. One can however wonder whether the quality of the procedure is to be assessed against its exceptionality. Contrary to other popularly initiated referendums, recall votes are not expected to improve the quality of debates. In policy referendums the focus is on specific public policy issues, and this promotes an in-depth public debate (see, e.g. Smith and Tolbert 2009). In contrast, recall votes frame the debate on the global performance of an official and produce a state of permanent campaigning, which is deleterious for legislative work (Welp 2016). Therefore, high thresholds of signatures for recall procedures are justified.

We have to consider, however, that the higher the threshold, the less useful the device. For example, at the extreme, if 51% of voters were required to sign the petition to bring forward new elections, the vote itself

would become redundant. Considering that in the last French legislative election the turnout was of 48.7%, even 25% of signatures could be enough to directly trigger a new election, without needing to proceed on to a vote. This exactly corresponds to the governing recall procedure in Arizona, in Michigan or in Wisconsin. There are convincing arguments to avoid the elections even when the threshold is lower—say 15% or 20% of voters—especially in France, which is much more populated than US states. The main argument is based on the problem of strategic or partisan use of triggering new elections. Some opposition parties may initiate a recall procedure (to dissolve the Assembly or remove the President) when the polls are in their favour. This incentive is not entirely negative, because it encourages ruling parties to take account of the preferences of other parties. However, if minority parties have nothing to lose when initiating a recall procedure, this could produce a state of permanent campaigning that deteriorates the quality of the government.

We argue that recall provisions without votes minimize the use of recalls in a strategic way, especially in the case of dissolution of the Assembly. Opposition parties, which would strategically use the dissolution procedure through a petition, are likely to be punished by voters, exactly as President Chirac was sanctioned in 1997 for having dissolved the Assembly for strategic reasons. Such parties could then lose seats and reinforce the party in power in the election they triggered. In contrast, if the petition triggers a recall vote instead of an election, the opposition party that would initiate the petition cannot lose. If voters decide to punish the initiative, the referendum is lost, no election is triggered and each party keeps its seats. On the contrary, if voters support the initiative, the vote is won, the Assembly dissolved and the new elections will see the former ruling party penalized. Therefore, the worst scenario for the opposition party that initiates the dissolution procedure is the status quo. This certainly does not deter strategic and partisan use of recall procedures. Considering that elections also have an economic cost, relatively high thresholds of signatures without vote could be a relevant formula for the French system.

## 4.6 CONCLUSION

In France, recall elections have never been introduced. This does not mean that their introduction is unlikely. For more than two centuries, regular demands for removing officials have been voiced triggering intense

debates which uniquely focused on the role of imperative mandates. The latest resurgence of this debate occurred in December 2018.

Instead of citizens' recall, the French Constitution provides national officials with the right to remove other elected officials: the President of the Republic can dissolve the Assembly, and since 2007, the Assembly can dismiss the President. However, the 2001 reform of the electoral calendar has removed incentives to use these rights by substantially reducing the likelihood of conflict between Presidents and Assemblies. During this period, the French government has managed to obtain the majority of seats with less and less votes. In 2017, only 15% of registered voters were sufficient for the winning coalition to obtain 61% of seats in the National Assembly. This has produced high levels of discontent, which resulted in the birth of the Yellow Vests movement on 17 November 2018. Rapidly, the demand for direct democracy (including but not limited to recall) has risen up the movement's agenda.

It is difficult to forecast whether recall will be institutionalized in the French case. For sure, issues raised by electoral system-induced disproportionality, combined with the heterogeneity of the French electorate, have to be addressed. Recall elections are currently the most popular way of moderating this concentration of power in a few hands, and many groups in civil society are mobilized to promote it. However, most French politicians strongly oppose it and prefer modifying the electoral system in order to introduce more proportionality. The specific provisions needed to make a lasting success of recall reform are little studied by even specialists. The future of recall in France is therefore still uncertain.

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