



**one world trust**

# “Un Président irresponsable?”

Prospects for democratic oversight of foreign policy in France under the constitutional changes proposed by the Balladur Commission

**Clément Boutillier and Michael Hammer**

Briefing paper number 108, October 2007

The One World Trust promotes education, training and research into the changes required within global organisations in order to make them answerable to the people they affect and ensure that international laws are strengthened and applied equally to all. Its guiding vision is a world where all peoples live in peace and security and have equal access to opportunity and participation. The Trust's work is centred on 3 programmes: Accountability, Peace and Security, Sustainable Development.

Clément Boutillier is a Research Assistant and Michael Hammer the Executive Director of the One World Trust. To contact the authors please email [mhammer@oneworldtrust.org](mailto:mhammer@oneworldtrust.org)

Parliamentary Oversight Project

© One World Trust.

Readers are encouraged to quote or reproduce from this paper for educational purposes only.

As the copyright holder, the One World Trust requests due acknowledgement and a copy of the publication.

3 Whitehall Court  
London SW1A 2EL

Tel +44 (0) 20 7766 3470

Fax +44 (0) 20 7219 4879

Email [info@oneworldtrust.org](mailto:info@oneworldtrust.org)

[www.oneworldtrust.org](http://www.oneworldtrust.org)

Charity Commission N<sup>o</sup> 210180

In a ‘global age’ of ever more integrating world economy and interconnected governance processes, national foreign policy decisions are no longer just about abstract treaties and bilateral agreements with distant states, but through the engagement with international organisations have a huge impact on national policy, laws and lives of citizens. The pressure exercised on politicians by civil society over the war in Iraq, human rights, climate change, global poverty, trade relations and HIV/AIDS shows that in many countries citizens increasingly want to have their say on critical foreign policy decisions.

The key to a more democratic foreign policy, however, remains in many countries still out of the hands of ordinary citizens. Governments in many democracies, including in some of the most powerful countries, rely on often near to exclusive powers over the conduct of foreign affairs and parliaments exercise only very limited effective oversight in this domain. In the same way that the ‘Royal Prerogative’ in the UK has traditionally protected government authority on external affairs, these constitute also in France a so-called ‘domaine réservé’ of the President.

France, like the UK and the USA is a permanent member of the UN Security Council, a nuclear power, guarantor of many international agreements, and equipped with significant voting power in the International Financial Institutions. The constitutional changes proposed by the Balladur Commission on 29 October are therefore directly relevant to how the country’s contribution to global governance can be made more accountable.

Yet, despite the specific task of the Commission to rebalance power between the key institutions of the state, and increasing challenge by civil society and many parliamentarians in France as much as in other countries to executive prerogatives, the recommendations fail to bite the bullet.

While bolstering the role of parliament in some areas, democratic accountability of the executive to legislature under the proposals remains weak, and despite some changes to conditions for referenda, also the electorate retains only very limited opportunities for challenging the President on issues of policy. The proposals for constitutional reform in France are, therefore, likely to further reduce, rather than strengthen citizens’ opportunities for continuous democratic oversight including and in particular of international affairs.

## National governance – global accountability

Democratic oversight of foreign policy has become a significant area for constitutional reform as citizens demand a greater say in how their governments engage in international affairs. With progressive globalisation of the economy, increasing information exchange, opportunities to gain knowledge on international developments and resulting transnational social and political activism, the boundaries between the domestic and foreign policy arena are increasingly breaking down.

In particular the controversies about the war in Iraq, state responses to global security threats restricting human rights and civil liberties, inertia in tackling climate change, the power of transnational corporations and international financial institutions in determining international economic development, and questions about international responses to conflict and large scale human rights abuse, have highlighted for civil society<sup>1</sup> and also for many parliamentarians that decision making at global level has a critical impact on the national agenda and the lives of individual citizens.<sup>2</sup> Yet long standing executive prerogatives have led to the exclusion of foreign policy from usual levels and practice of parliamentary and public oversight. However, the power of governments to determine fairly independently how a nation state exercises influence at global level and interacts with other powerful actors has come increasingly under scrutiny.

In its Green Paper in July on *The Governance of Britain* and its recent White Paper on *War powers and treaties: limiting executive powers*<sup>3</sup> the UK government proposes to shift the power of decision making for war from the government to parliament, and reform the procedures involved in the ratification of treaties which bind the country bi- and multilaterally. While the current proposals can only be the start for a necessary and more fundamental change in the accountability of the executive to its citizens for its policies and decisions in the international arena, the White Paper constitutes an important step forward.

Similarly, following increasing unease about the country's policy in Iraq the American mid term elections 2007 have led to an at least temporary shift of the power balance between Congress and President, leaving him with only limited space to determine the political agenda and increasingly cut out of the legislative process<sup>4</sup>. Yet, while it is unlikely that his successor will be able to claw back power immediately, elections are a blunt tool to achieve effective accountability in policy and decision making in foreign affairs. While they technically enable citizens to mandate and censor the executive on a regular basis, they are mostly retroactive in their review function, can only ever bring about change every few years, and in their results are driven by complex motives which go beyond individual policy issues.

## Constitutional reform – France at a critical juncture

With the appointment of the Balladur Commission by President Sarkozy to reflect and review the balance of power between institutions, also France has now engaged in a constitutional reform process that seeks to address issues of accountability. While Sarkozy cites primarily

---

<sup>1</sup> In its review of the situation abroad the Balladur Commission identifies relevant constitutional arrangements in the USA, Italie, Germany, Spain, and the UK. It highlights in particular the civil society engagement with the issues at hand by referring to [www.myforeignpolicytoo.org](http://www.myforeignpolicytoo.org), which is the website of the Parliamentary Oversight Project implemented by the One World Trust in partnership with the Democratic Audit and the Federal Trust with support from the Joseph Rowntrees Charitable Trust since 2004. Comité de réflexion et de proposition sur la modernisation et le rééquilibrage des institutions de la V<sup>e</sup> République: *Le rôle du parlement en matière de politique étrangère et de défense*

<sup>2</sup> This is also specifically acknowledged by the Balladur Commission in its Report *Pour une V<sup>e</sup> République plus démocratique*, published 29/10/2007, p. 63, <http://www.comite-constitutionnel.fr/>

<sup>3</sup> HMG: *War powers and treaties. Limiting executive powers*, Consultation paper CP 26/07, 25 October 2007

<sup>4</sup> According to the Washington Post, George Bush is now turning increasingly to vetoing legislation and using Administrative Orders to implement policy. Michael Abramowitz and Weisman: *To implement policy, Bush to turn to administrative orders*, Washington Post, 31/10/2007

the reason the current Constitution has been in place for nearly 50 years<sup>5</sup>, the review comes at a critical juncture as there is a significant level of disenchantment of the French people with its political leadership,<sup>6</sup> illustrated in particular by the unrest in the large and deprived housing estates on the periphery of major cities, the rejection of the draft EU constitution despite endorsement by then President Chirac compounded by his refusal to resign after this major political defeat<sup>7</sup>, and large scale youth protest against plans to reduce protection in first employment<sup>8</sup>.

Contrary to the UK where changes are carried out little by little, and sometimes even go unnoticed<sup>9</sup>, constitutional changes in France require more formal process including significant majorities in the *Congrès*<sup>10</sup> or in a referendum, and are therefore usually only undertaken at critical junctures. Despite evocations of a *VI<sup>e</sup> République*<sup>11</sup> the current reform process are not meant to usher in a new Republic.<sup>12</sup> Yet the proposals submitted by the Balladur Commission constitute nevertheless suggestions for one of the most important changes to the power and accountability relationships of the French institutions following the transition from the 4<sup>th</sup> to the 5<sup>th</sup> Republic in 1958 when government proved incapable to cope with the war in Algeria and high levels of parliamentary volatility.<sup>13</sup>

The reforms of 1958 enabled De Gaulle to come back in the political arena based on a Constitution drafted by Michel Debré which made the President, initially elected by a newly created body of 'Grand Electors' outside parliament<sup>14</sup> the keystone of institutions, and in doing so mitigated the impact of parliamentarians on policy. The continuing challenge to the pro-independence policies De Gaulle favoured for resolving the crisis in Algeria including from his own support platform, the UNR<sup>15</sup>, triggered the establishment of foreign policy and national security as presidential *domaine réservé*. While without factual legal basis, this concept put key policy areas effectively beyond reach of parliamentary oversight. The independence of the President was further strengthened in 1962 when the Constitution was modified to make the office directly elected by universal suffrage.

Since then the power of the President derives directly from the people, while the executive power of the government relies on the majority it can command in the *Assemblée Nationale*, based on the popular vote, too<sup>16</sup>. While the Prime Minister is accountable to both the National Assembly and to the President, who appoints him or her, the President is not accountable to the *Assemblée Nationale*, and can in fact only be held to account by the people for his

---

<sup>5</sup> *Lettre de mission* pour le Comité de réflexion et de proposition sur la modernisation et le rééquilibrage des institutions de la Vème République, and Décret no 2007-1108 du 18 juillet 2007, all documents of the Balladur Commission can be found at <http://www.comite-constitutionnel.fr/>

<sup>6</sup> Roger-Gérard Schwartzenberg: de bonnes raisons d'en finir avec la maldémocratie, le Figaro, 21/02/07

<sup>7</sup> De Gaulle considered referenda as barometers of popular political support for the President, and resigned after failing with a referendum on governmental reforms in 1969

<sup>8</sup> Prime Minister de Villepin proposed in the *Loi de Contrat Premier Employ (CPE)* that people aged under the age of 26 should receive less employment protection than others above that age. The aim was to provide incentives for the creation of jobs and facilitate entry into working life at times of high unemployment.

<sup>9</sup> Tony Wright, in his *Very Short Introduction to British Politics*, OUP, Oxford, 2003, argues that British Politics are defined by their stability and their smooth evolution.

<sup>10</sup> Sénat and Assemblée Nationale

<sup>11</sup> Contributions to the Le Monde blog *La Convention pour la 6e République : pour une République plus juste et plus démocratique*. <http://c6r-paris.blog.lemonde.fr/2007/04/05/n-sarkozy-et-les-institutions-pire-to-pire/>

<sup>12</sup> Although some commentators clearly speak of it. Romain Rosso in his article, *Le comité Balladur toilette la Constitution*, L'Express 29/10/2007, calls the proposals "c'est la VI<sup>e</sup> République Canada Dry".

<sup>13</sup> During the 12 years of the 4<sup>th</sup> Republic from 1946 to 1958 not less than 21 governments succeeded each other unable to maintain stable majorities.

<sup>14</sup> De Gaulle was elected in 1958 by an electoral college of 80 000 "Grands Electeurs" drawn from regional, municipal and general councillors

<sup>15</sup> Union pour la Nouvelle République

<sup>16</sup> For a basic overview of the main power relationships in the French Constitution see <http://www.vie-publique.fr/decouverte-institutions/>

actions at the time of re-election.<sup>17</sup> This original distortion of the Constitution marginalising parliament and effectively also the cabinet, was termed by François Mitterrand as a *Coup d'Etat permanent*.<sup>18</sup>

Today, France again faces choices about how the state works. President Sarkozy's aim is to make the way the republic works "beyond reproach".<sup>19</sup> The following review of key propositions seeks to explore whether the proposals for constitutional reform would make it also more democratic.

## **The Balladur Commission proposals - key points in detail**

### ***The ouverture approach to policy making***

With an open composition of 13 members drawn from academia, politics and across the party political spectrum, Sarkozy seeks to base the proposals for constitutional reform on a broad footing and establish an approach of *ouverture* in policy making. He replicates this expert commission model also in other policy areas such as on globalization, led by Hubert Védrine<sup>20</sup> and on development, led by Jacques Attali.<sup>21</sup> While one could overall consider this approach to help make debates more transparent, Sarkozy also has to fight for acceptance of this approach amongst his own parliamentary majority.<sup>22</sup> Some critics add that this method, including the speed at which the work of these commissions proceeds, gives much room to experts who do not enjoy political legitimacy<sup>23</sup> and for others the number of people who have active experience of parliamentary work and have been interviewed remains too limited. Robert Badinter - a former President of the Constitutional Council – considers it for instance rather ironic that a reform, which is supposed to give more weight to the parliament, has been fostered by experts instead of MPs themselves.<sup>24</sup> Yet, in review of the overall list of testimonies, while limited as the Commission effectively only conducted hearings over a period of three months, shows a fair balance and involvement of people across all parties.<sup>25</sup>

### ***A President who governs***

Under current Article 5 of the Constitution the main role of the President is to guarantee the stability of institutions<sup>26</sup>, a role separate from determining and conducting the policy of the Nation, allocated in Article 20 and 21 to the Prime Minister and the government. It is these, and not the President, who are in turn politically responsible to *Assemblée Nationale*<sup>27</sup>. However, in practice President Sarkozy has taken over the lead role on policy,

---

<sup>17</sup> While the number of mandates is not technically limited, the Balladur Commission excluded setting a limit from its proposals, suggesting that the 'shelf-life' of a politician would anyway hardly exceed ten years, i.e. two terms. Jack Lang, Vice President of the Commission records a minority opinion, speaking strongly in favour of a two term limit. See for the Commission *Pour une V<sup>e</sup> République plus démocratique*, p. 24, and for Jack Lang's views Annex 1, p. 97

<sup>18</sup> François Mitterrand: *Le Coup d'Etat permanent*, Plon, Paris, 1964

<sup>19</sup> Nicolas Sarkozy: *Une démocratie irréprochable*, Speech on the French institutions, delivered at Epinal 12/07/2007

<sup>20</sup> Former socialist Minister of Foreign Affairs between 1997 and 2002

<sup>21</sup> Former advisor of François Mitterrand and first President of the European Bank for Reconstruction and Development

<sup>22</sup> Members of his UMP (Union pour un Mouvement Populaire) party were recently summoned to the Elysée to get their marching orders on this issue after repeated dissenting voices. Alain Auffray and Nathalie Raulin: *Les oreilles chauffent chez les élus UMP*, Libération, 4/10/2007

<sup>23</sup> Christophe Jakubyszyn: *Maignon-bis a l'Elysée*, Le Monde, 3/10/2007

<sup>24</sup> Nathalie Raulin: *Le PS ne boycotte pas la réforme de la Constitution*, Libération, 19/09/2007

<sup>25</sup> *Pour une V<sup>e</sup> République plus démocratique*, Annex 5, p. 162

<sup>26</sup> The French text of the 1958 Constitution can be found at <http://www.conseil-constitutionnel.fr/textes/constit.htm>, and English version at <http://www.assemblee-nationale.fr/english/8ab.asp>

<sup>27</sup> It is recognised that in "normal times", i.e. when Presidential majority and majority in the Assemblée Nationale are of similar political orientation, the President governs, i.e. leads politically, while in case of a 'cohabitation', the Prime Minister holds this role and, while still appointed by the President, can rely on his / her parliamentary majority. Since closer coordination of the timing and rhythm of parliamentary and presidential elections, the 'cohabitation' has become an unlikely scenario as political views in the electorate are unlikely to change within two weeks of the presidential elections.

constitutionally a prerogative of the Prime Minister and cabinet<sup>28</sup>. Like De Gaulle, Sarkozy considers exercising the lead role as a necessity especially at the time when the country has reached a critical juncture.<sup>29</sup>

De facto this leaves a role for the Prime Minister and the ministers which only consists of implementing rather than determining the policy of the Nation.<sup>30</sup> Thus, the Prime Minister does no longer hold the executive power, and the office would eventually lose its *raison d'être*. While current Prime Minister François Fillon clearly sees this anyway as a preferable solution already mid term, a comment which is echoed by the Balladur Commission,<sup>31</sup> this can in effect only be balanced by much stronger power of parliament. Yet, while the strengthening of parliament is used as a political carrot and veils the boost the role of President would receive, Fillon sees reforms generally being met with resistance from parliamentarians. He therefore supports more openly the move to a stronger presidential system,<sup>32</sup> which some expect to be potentially pushed through with the help of a risky referendum.<sup>33</sup>

The formalisation of the President's de facto lead role on policy without a more significant strengthening of Parliamentary independence from the President could lead to a significant gap in democratic accountability. The proposal for the President to have the right to speak before the *Assemblée Nationale* and request hearings before parliamentary committees does not compensate for any increase in his powers. While the proposals include the possibility of a debate on the subject of the Presidential speech, there is no right of vote on any proposed policies, and it would be the President who requests a hearing to explain his views, rather than parliamentarians calling and questioning the President.<sup>34</sup> In addition the President's established executive prerogative over foreign policy and national security issues remains untouched. While the Commission highlights a positive impact of the proposals on transparency including on matters of foreign and defence policy, the reforms will not establish more accountability.

### ***More powers and streamlining of procedures for parliament***

Under the draft proposals the *Assemblée Nationale* would exercise more control over the legislative agenda, currently under Article 48 in the hands of the Prime Minister for all bills that have financial implications. The proposals strengthen the legislative capacity of parliament primarily by giving it control over a greater share of its time.<sup>35</sup> The presidents of the Law Committees of both the Senate and the National Assembly<sup>36</sup> have further suggested

---

<sup>28</sup> In the Constitution the President is able to set up a referendum, to dissolve the National Assembly, or under Article 16 declare a state of emergency and take in hand the legislative power of Parliament without the agreement of the Government. For any other decision, he needs the countersignature of a Minister for a decision to be enacted.

<sup>29</sup> Sarkozy's speech in Epinal illustrates this point. Going into *medias res* he starts off by saying "*Si vous m'avez élu à la tête de l'Etat, c'est pour conduire le changement que chacun d'entre vous appelle de ses vœux. Vous le pressentez tous: dans le monde tel qu'il est, la France serait condamnée au déclin si elle restait immobile. Nous avons tous, au fond de nous, la conviction que la France a déjà trop attendu, qu'il y a urgence, que cela ne peut plus attendre, que les réformes ne peuvent plus attendre*" see [http://www.elysee.fr/elysee/elysee/fr/francais/interventions/2007/juillet/allocution\\_a\\_epinal\\_sur\\_le\\_theme\\_de\\_la\\_democratie\\_i\\_reprochable.79092.html](http://www.elysee.fr/elysee/elysee/fr/francais/interventions/2007/juillet/allocution_a_epinal_sur_le_theme_de_la_democratie_i_reprochable.79092.html)

<sup>30</sup> It is worth noting that to mitigate this fact, Sarkozy wishes for Ministers to be elected at constituency level. This would not, however, compensate citizens for a formal loss of responsibility and accountability to parliament on their part

<sup>31</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 4-13

<sup>32</sup> *La fin du Premier Ministre*: Dounâouy response to Fillon's interview with Reuters 4 July 2007, <http://raphaels.blog.lemonde.fr/2007/07/04/la-fin-du-premier-ministre/>

<sup>33</sup> Alain Auffray: La réforme Balladur bouge toujours. Institutions. Les propositions de modernisation déposées sur le bureau de Sarkozy. Liberation 30/10/2007, <http://www.liberation.fr/actualite/politiques/288194.FR.php>

<sup>34</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 14, and 62-63

<sup>35</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 33

<sup>36</sup> <http://www.hemicycle.info/?p=393>



that more weight should be given to the permanent commissions<sup>37</sup> in debating bills in order to stop the inflation of amendments in the Chamber, which makes the plenary process at present quite unproductive.

Within the committees the opposition would obtain a statutory position, following Sarkozy's policy of 'ouverture' which he followed for instance by agreeing for the chair the budget committee to be a member of the main opposition group.<sup>38</sup> The proposals would increase the current constitutional limit set on the number of permanent commissions from six to 10<sup>39</sup> requiring a greater level of time the *Deputés* would need to dedicate to their parliamentary role.<sup>40</sup> This is important as the reduced number of permanent commissions, compared to the currently 33 listed Select Committees in the UK House of Commons,<sup>41</sup> results in very wide areas of competence and limited depth of engagement with the subject matter at hand. In addition, parliamentarians will continue to be able to set up ad-hoc committees about particular topics, such as Rwanda, or to conduct critical investigations such as on the 'France - Africa' relationships which are traditionally hardly known by Parliamentarians, or regarding the role played by the President's wife and promises for nuclear energy cooperation in return for the release earlier this year of Bulgarian nurses accused of infecting Libyan patients with HIV from Libyan jails.

The capacity for parliamentary scrutiny of public policy would also be increased under the proposals through a constitutional oversight duty supported by the suggestion for a parliamentary audit commission which could also work with input from the *Cour des Comptes*, an institution akin to the National Audit Office in the UK.<sup>42</sup>

The proposals further commit to a continuing reduction in the use of Article 49-3 of the Constitution which allows for the passing of laws by the government without a formal vote in parliament subject to a 'motion de censure' effectively withdrawing support for the government.<sup>43</sup> Presidents, in particular François Mitterand, have pushed their governments to make more frequent use of this provision particularly at times of so called 'cohabitation' when faced with an opposition parliamentary majority. The use of this article, however, has diminished over the years by a tacit agreement.<sup>44</sup> In the future its application would be limited to passing of the *Lois Organiques* (Institutional Acts) concerning the budget and the financing of the social security. Additional security is offered by the role of the Constitutional Council which automatically checks these institutional acts ex-post after vote and before promulgation by the President.<sup>45</sup>

Parliament will retain existing powers of legislation in relation to foreign policy such as authorisation of war<sup>46</sup> and ratification of most bilateral and multilateral treaties<sup>47</sup>. Yet, these

---

<sup>37</sup> Best translated as 'standing committees'

<sup>38</sup> In the National Assemble, the current main opposition group is the Socialist Group

<sup>39</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 46

<sup>40</sup> This current limit facilitates the practice of ca. 95% of members of the Assemblée Nationale to hold such additional offices as Mayors or Councillors. The proposals suggest preventing members of parliament from taking up other offices and tie them closer into the work of the Assemblée Nationale. *Pour une V<sup>e</sup> République plus démocratique*, p. 29

<sup>41</sup> [http://www.parliament.uk/parliamentary\\_committees/parliamentary\\_committees16.cfm](http://www.parliament.uk/parliamentary_committees/parliamentary_committees16.cfm)

<sup>42</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 53-54

<sup>43</sup> Article 49-2 of the Constitution

<sup>44</sup> Comité Constitutionnel, table showing use made of Article 49-3 of the Constitution from 1958 to date, 2007 [http://www.comite-constitutionnel.fr/documents\\_de\\_travail/?id=18&cat\\_id=2](http://www.comite-constitutionnel.fr/documents_de_travail/?id=18&cat_id=2)

<sup>45</sup> see [http://www.assemblee-nationale.fr/connaissance/fiches\\_synthese/fiche\\_37.asp](http://www.assemblee-nationale.fr/connaissance/fiches_synthese/fiche_37.asp)

<sup>46</sup> Despite more than two military interventions carried out by French forces since the end of World War II, only two have been interpreted as war under Article 35 of the Constitution.

<sup>47</sup> Article 53 of the Constitution specifies these as peace treaties, trade agreements, agreements with regards to global governance (*accords relatifs à l'organisation internationale*), agreements which engage the finances of the State, those with impact on national legislation, the status of individuals, and impact on the territory.

rights are restricted to approval after negotiation, and the Balladur Commission reiterates that there is no right of amendment.<sup>48</sup> In the majority of cases international issues are raised within the *Assemblée Nationale* by means of a government declaration, which is sometimes followed by a debate. While further modifications of these matters have been discussed in the Balladur Commission, the final report does not include further recommendations for change. In extension of existing provisions parliament would however gain the right to pass non binding resolutions on foreign policy issues.<sup>49</sup> To r

effect the rising role of European policy the Balladur Commission proposes the establishment of a European Affairs Committee, whose task it would be to coordinate parliamentary engagement with European affairs and their oversight in the different specialised permanent commissions.<sup>50</sup>

Finally parliament is to gain control of the appointment of Members of independent bodies such as the Constitutional Council<sup>51</sup>. At present its members are appointed by the President despite their important roles in checking the constitutionality of governmental actions. It is proposed that for these and other key political appointments parliament would play a role in conducting public hearings before a mixed ad hoc commission.<sup>52</sup>

Despite the positive impact these many changes in detail may make to effectiveness of parliamentary work, also under the new proposals parliament remains essentially powerless *vis à vis* a President who retains the power to dissolve the *Assemblée Nationale* while the counter-measure, the option to force the government to resign over a “motion de censure”, is *de facto* now irrelevant as the Prime Minister would hold no control anymore over policy.<sup>53</sup> Once elected, the French President is considered to stand above both the parties and the government, and there are no proposals for a US style impeachment mechanism on the table. In particular in cases where the policy lead given by the President has been discredited, such as in the case of the failed referendum on the European Constitution, this lack of mechanisms to hold the President to account over policy issues while in office raises important questions about the ability of the French people to have democratic control over their leadership.

## **Conclusion**

The legislator for Rousseau “is the engineer who invents the machine, the prince merely the mechanic who sets it up and makes it go”<sup>54</sup>. Montesquieu considered – observing the British system - that democracy implies the division of political power among a judiciary, a legislature and an executive and a system of checks and balances.<sup>55</sup> Taken together, these two principles constitute what could be coined as the democratic ideal type, which encompasses both a separation and a balance of powers. One of the central elements of such power sharing is parliamentary oversight of policy and decision making by the executive.

---

<sup>48</sup> Comité de réflexion et de proposition sur la modernisation et le rééquilibrage des institutions de la V<sup>e</sup> République: *Le rôle du parlement en matière de politique étrangère et de défense*, p. 4, and *Pour une V<sup>e</sup> République plus démocratique*, p. 63

<sup>49</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 65

<sup>50</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 58f

<sup>51</sup> The Constitutional Council checks the conformity of bills with the Constitution. However, this council needs to be asked to do so by 60 Deputies or Senators, or by either the President or the Presidents of both parliamentary assemblies

<sup>52</sup> *Pour une V<sup>e</sup> République plus démocratique*, p. 18

<sup>53</sup> The last time this tool was used was in 1962

<sup>54</sup> Jean Jacques Rousseau, *The Social Contract*, Penguin, 1968 (first published in French in 1762)

<sup>55</sup> Montesquieu, *The Spirit of Laws*, Cambridge University Press, 1989 (first published in French in 1748)

Yet, the existing weakness of parliament in the French constitution, caricatured by Balladur Commission member Guy Carcassonne<sup>56</sup> in the phrase that: “the Fifth Republic has qualities and shortcomings but its most original feature is the lack of a ‘National Assembly’”<sup>57</sup> is likely to persist and remains a serious impediment to effective parliamentary oversight of government power.

While some are already anticipating that a lot of provisions will be watered down to get a reform through parliament,<sup>58</sup> the task of achieving a meaningful reform goes beyond establishing a national consensus alone. France has an important role to play in global governance. The reforms the country undertakes to make the republic more democratic at national level, must also be built in a way that they strengthen France’ capacity to be accountable at global level, too.

---

Decisions taken global organisations and powerful international actors have a huge impact on national policy, laws and lives of individual citizens around the world. Together with its partners Democratic Audit and Federal Trust, the One World Trust conducts research into current parliamentary culture, government policy and decision making processes and constitutional arrangements in relation to global governance. With our recommendations for reform we seek to strengthen and improve the responsible engagement of citizens, parliamentarians and decision-makers in government in the formulation and oversight of international affairs.

---

---

<sup>56</sup> Guy Carcassonne was special adviser to former socialist prime minister Michel Rocard

<sup>57</sup> Jean-Baptiste de Montvalon, *Institutions : les treize « sages » devront taire leurs divergences*, Le Monde, 18/07/2007

<sup>58</sup> Olivier Pognon: *Le rapport Balladur fait grogner les élus UMP*, Le Figaro 31/10/2007