

RESEARCH ARTICLE

Constitutionalizing Abortion in France

A “Civilizational Imperative” to Safeguard Access and Counter International Backlash?

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Abstract

In March 2024, the French parliament enshrined the “guaranteed freedom” for a woman to terminate her pregnancy in the French Constitution. This article examines both the political trajectory that led to this constitutional change and the discourses employed by political actors to legitimize, contest, or influence the revision process. While the constitutionalizing of abortion was widely supported, the process through which the Constitution was amended hosted a series of critical debates on the relevance, necessity, and implications of such a move. We examine these debates to understand how these discussions reflect broader political and ideological frontlines. We identify and analyze the main discursive frameworks employed by political actors to justify the effort to constitutionalize abortion and influence the constitutional revision. We argue that underlying the move to constitutionalize abortion lies a “civilizational” imperative to safeguard access and counter backlash – a dynamic that reveals how abortion politics increasingly function as a core biopolitical issue leveraged by different political actors to articulate their identity and order their values.

Keywords: Abortion; Constitution; Rights; Freedoms

Introduction

In March 2024, France became the first country to enshrine abortion in its Constitution¹. The constitutional recognition of “women's guaranteed freedom to have recourse to voluntary termination of pregnancy” has come both in continuum of the ongoing efforts to facilitate abortion access in France and in response to the worldwide threats against abortion rights, particularly following the 2022 U.S. Supreme Court decision to overturn *Roe v. Wade* (*Dobbs et al., v. Jackson Women's Health Organization et al., 2022*). This

¹ The article 191 of the 1974 Yugoslavian constitution recognized the “the right of every person to freely decide whether to bear children. This right can only be restriction for protection of health” (Yugoslavia Constituton, 1974). Similarly, the article 55 of Slovenia’s constitution affirms that: “everyone shall be free to decide whether to bear children. The state shall guarantee the opportunities for exercising this freedom and shall create such conditions as will enable parents to decide to bear children” (Constitution of the Republic of Slovenia, 2000). While “freely deciding whether to bear children” shall implicitly involve abortion, France framed abortion in a more direct manner in its constitution, as a “guaranteed freedom to voluntary termination of pregnancy” (Projet de loi constitutionnelle relatif à la liberté de recourir à l’interruption volontaire de grossesse, N° 1983, 2023).

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constitutional change in France sparked national and international debates, rekindling ongoing arguments and adding new dimensions to the global conversations on abortion rights and access.

This article focuses on the constitutionalizing of abortion in France. Its core purpose is to examine both the political trajectory that led to the constitutional revision on abortion and the discursive frameworks employed by political actors to legitimize, contest, or influence this change. While the constitutionalizing of abortion was widely supported, the process through which the Constitution was amended hosted a series of critical debates on the relevance, necessity, and implications of such a move. In this article, we unravel the broader political and ideological frontlines that lie behind this support. In doing so, we provide an account of how political actors justified or challenged the move to constitutionalize abortion, and how the framing of abortion as a “guaranteed freedom” was constructed, contested, and ultimately accepted.

Political debates are particularly sensitive to the creative uses of language and framing. What is projected as the “meaning” of a term or an expression can be highly dependent on discursive, institutional, and structural factors and processes (Krizsan & Lombardo, 2013). When a new country-wide political debate, such as the one on the constitutionalizing of abortion, arises on the political scene, politicians attempt to frame what is at stake in a way that garners support. In doing so, they often try to tap in existing frameworks (Snow et al., 1986, p. 467) and strategically reframe the issue to leverage their position and mobilize their supporters. This often takes place through discursive practices that involve and produce systems of meaning, which both reflect and constitute power relations (Wooffitt, 2005). As such, discourses are not mere surface manifestations of the matter at stake, they are constitutive of identities and interests (Dryzek & Niemeyer, 2008)

Within the context of the constitutionalizing of abortion in France, the discussions notably centered on whether to frame abortion as a “right” or a “freedom”, with politicians strategically drawing on existing frameworks, such as “freedom of conscience” (*liberté de conscience* – understood here as a way for medical doctors not to perform abortions if they are against it for religious reasons) or “freedom to dispose of one's own body” (*liberté de disposer de son corps* – bodily autonomy), to advance their positions. These discussions engage discourses that are socially and politically consequential, carry profound ideological implications, and give rise to complex power dynamics (Fairclough & Wodak, 1997).

We first provide a brief historical overview of the ongoing trends leading toward the liberalization of abortion rights and access in France, contextualizing the constitutionalizing of abortion within broader French abortion politics. We examine these trends in relation to care-seekers’ autonomy, abortion insurance coverage, access protections, and task-shifting in care provision, while also analyzing the dominant discourses that informed and shaped them. While our work concerns medical, social, and political developments related to abortion, our focus remains strictly on the normative aspects of this process, and the issue of abortion access on the ground falls outside the scope of this analysis. Next, we examine the key debates in the constitutionalizing process. We analyze the discourses employed by various political actors to support or challenge the constitutional change to include abortion. Finally, we examine this inclusion of abortion as a “guaranteed freedom” in the context of a longer trend in French politics where left-wing and right-wing parties reached a “consensual breakthrough”.

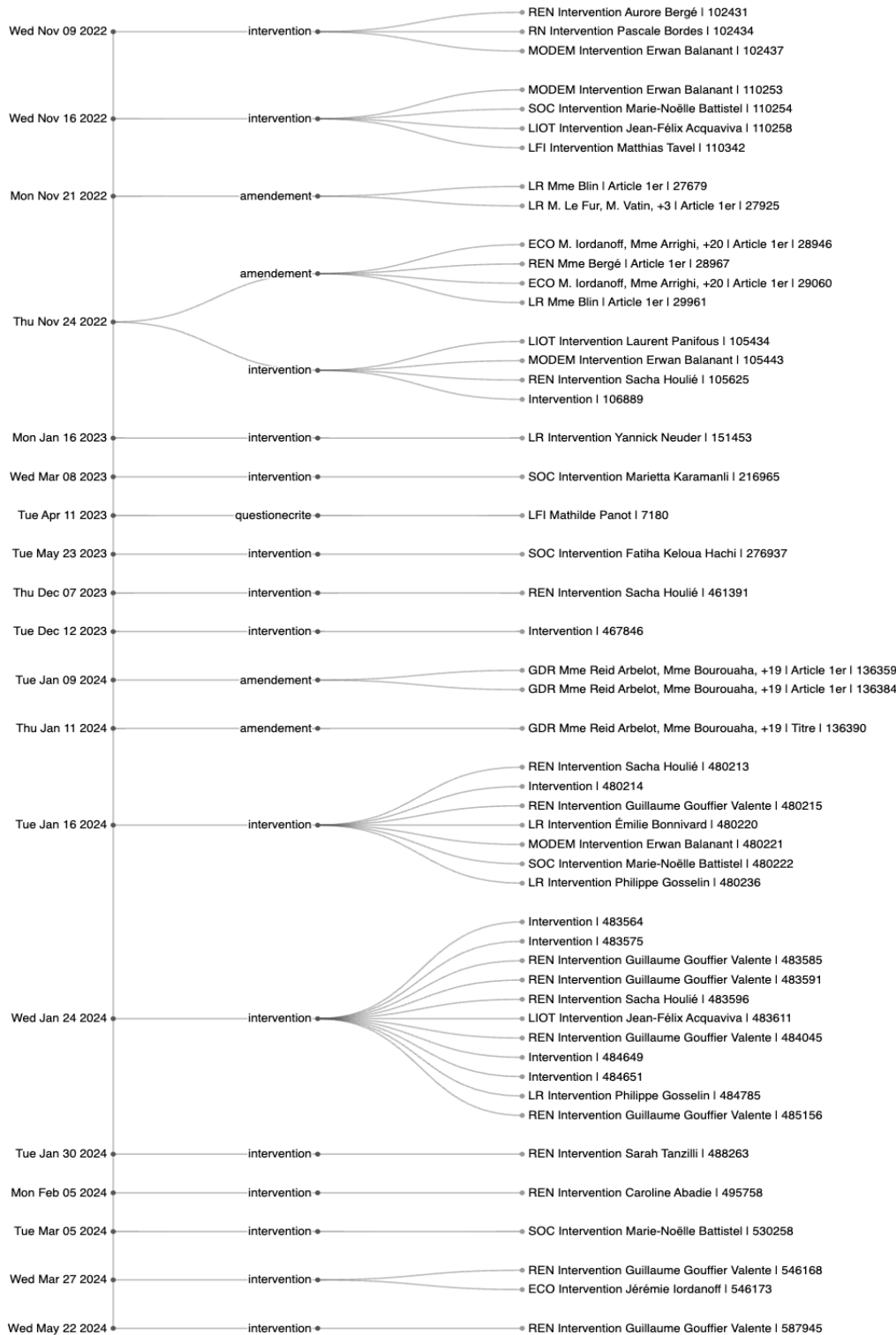
Data and methods

To track the debates in the French National assembly, we rebuilt and enhanced a specific functionality of PANDORÆ (Levrier, 2025), an open-source data retrieval and exploration software built for scientific research. This software can be used, among other capacities, to

retrieve parliamentary data aggregated by Regards Citoyens (2024), an open database license (ODbL) data provider which harvests public interventions from the French Parliament and provides them through several channels, including a full-text search API. This particular PANDORÆ capacity was previously used to track the emergence of new technologies in the parliamentary discourse (Levrier, 2022). The software is now able to retrieve notices from the search API of Regards Citoyens, rehydrate their full content, send this rehydrated data to a user's Zotero library (by creating a new collection and appending the full text of the relevant parliamentary debate or text as a "Note" to the entry), and re-import this data for chronological corpus exploration. We focused our data retrieval on the National Assembly Legislature XVIth legislature (from June 22, 2022 to June 9, 2024), which hosted the debates on the revision for the insertion of abortion in the French constitution.

Among the many query structures we tried, the simple but encompassing "IVG AND révision" (IVG is a French acronym meaning "voluntary termination of pregnancy", a technical term to designate abortion) turned out to be the best signal-to-noise ratio we managed to obtain. Including "avortement" ("abortion") in the request resulted in the inclusion of many off-target documents, notably alongside a debate on the presence of wolves in the Drôme region. The stress induced by the presence of wolf packs (detected as such by their howls) caused both direct and indirect damage to animal husbandry. Part of the indirect damage is the "avortement", i.e. the stress-induced pre-term termination, of animals supposed to bear the next generation of the livestock. Our attempts to diminish this off-target effect by explicitly excluding terms in the request ended up having important loss of signal. We hence expect the corpus of documents we retrieved to be representative of the different argumentative lines developed between 2022 and 2024 on the constitutionalizing of abortion. The figures below summarize the timeline and type of documents retrieved by PANDORÆ which informed our analysis.

Figure 1. Timeline of all documents in the corpus retrieved by PANDORÆ sorted by date/type/author.



abortion” and the 1942 addition of abortion as “a crime against the state”, subjected women, abortion providers, and those who assisted in abortion to severe penalties, including imprisonment and even execution during the Vichy regime (Cahen, 2016). While the 1942 law was ultimately repealed with the *Libération*, abortion remained a criminal offense for decades. In 1955, a small exception was introduced with the decriminalization of therapeutic abortions, permitted only in cases where “the mother's life was in grave danger” (Décret N° 55-512 du 11 Mai 1955).

As observed elsewhere, restrictions on abortion did not prevent abortions from occurring but instead forced individuals into clandestine abortions (Cahen, 2011). Feminist and women's groups, notably the Movement for the Liberalization of Abortion and Contraception (*MLAC-Mouvement pour la Liberté de l'Avortement et de la Contraception*), played an active role in this context (Pavard, 2009). They not only championed the liberalization of abortion access but also facilitated it by organizing travels abroad for safe procedures and by providing community care through self-help groups (Pavard, 2009; Ruault, 2021, 2023). Public figures and intellectuals also contributed to the debate around liberalization of abortion. For instance, the publication of the Manifesto of the 343 in 1971, written by Simone de Beauvoir and signed by 343 women, including prominent figures such as Catherine Deneuve and Marguerite Duras, played a key role in exposing the scope of the problem and the hypocrisy of the abortion ban (Pavard, 2012; Zarevich, 2022). The Manifesto contested: “One million women have abortions every year in France. They do so under dangerous conditions due to the clandestinity to which they are condemned [...]. We remain silent about these millions of women.” (Le Manifeste des 343 Salopes, 1971). Furthermore, the 1972 Bobigny case of a minor accused of having an abortion following a rape incident, defended by the prominent feminist lawyer Gisèle Halimi, once again brought national attention to the issue of abortion (Dosse, 2024; Valenti, 2022). In her discourse, Halimi advocated for “the right to abortion” (*le droit à l'avortement*) as part of a continuum of other women's rights and choices, including “the right to vote” (*le droit de vote*), “the right to bodily autonomy” (*le droit de disposer nous-mêmes*), and the “choice of contraception” (*le choix du contraceptif*) (Halimi, 1972). In light of the gradual expansion of women's rights, Halimi argued that the abortion ban constitutes a backward practice: “Do we still have the right today in France, in a country that we call “civilized”, to condemn women for exercising her bodily autonomy or for having helped another to exercise her bodily autonomy?” (Halimi, 1972). Halimi's argument situates abortion within a historical context and elevates it to a matter of both national and cultural relevance, challenging the idea that France cannot uphold a discourse of civilization while simultaneously denying women control over their own bodies.

These discourses reveal at least two key arguments mobilized by feminist actors and public intellectuals in challenging the abortion ban in France. The first involves a public health approach to abortion, an approach that has been widely employed in abortion debates in various national contexts. By framing abortion primarily as a matter of public health and safety, rather than morality or individual choice, this framework argues that access to abortion is essential to protect women's health (Berger & Hoggart, 2019; Petchesky, 1990). In the French context, this approach entailed the problematization of the widespread yet silenced experiences of women forced into clandestine abortions, making a public appeal to acknowledge and address the systemic harm caused by the abortion ban. The second dominant discourse we observe in abortion debates in France appears to be more specific to the French context and involves a “civilizational discourse” that situates abortion rights within a broader narrative of national identity and historical progress. This discourse draws on France's self-image as a modern, secular and democratic nation to expose the contradiction between France's self-declaring being “civilized” and denying women bodily

autonomy. Together, these discursive frameworks portray abortion not only as a practical necessity but also as a test of France's commitment to its professed values and civilization.

At the legislative level, five bills addressing abortion were proposed in the parliament between 1970 and 1973, accompanied by reports examining the state of abortion rights worldwide and the realities of abortion access in France (IVG, *La Conquête d'un Droit*, 2024). In November 1974, the then-Minister of Health Simone Veil presented the bill on voluntary termination of pregnancy (*le projet de loi relatif à l'interruption volontaire de la grossesse*) (Veil, 1974). Shedding light on clandestine abortions and the inefficiency of the abortion ban, Veil called for a new social consensus to be formed on the question of abortion, as part of the country's "tradition of tolerance and moderation" (Veil, 1974). Veil's discourse reflects and bridges both discourses previously mobilized by feminist actors and public intellectuals. While emphasizing abortion access as a public health necessity under the light of the dangers of clandestine procedures, Veil also connects it to France's civilizational discourse, national identity, and values.

The Veil law was passed after 25 hours of debate with 284 votes in favor and 189 against (Elzas, 2024). Initially adopted for a five-year trial period, the law was made permanent in 1979, decriminalizing abortion for medical indications and for voluntary terminations before the end of the 10th week in cases of "distress" (Loi N° 75-17 du 17 Janvier 1975, 1975). The law also introduced a conscientious objection clause, granting doctors the right to refuse to perform abortions based on personal or religious beliefs.

Since then, France has marked successive— if slow— expansions in legal protections for providing and accessing abortion care. These include enhancements to insurance coverage for abortion, safeguards ensuring greater autonomy for abortion care seekers, access to services, and task-shifting in care provision. Milestones such as the 1993 Neiertz Law (Loi N° 93-121 du 27 janvier 1993, 1993), which decriminalized self-management of abortion, and the 2001 Aubry-Guigou Law (Loi N° 2001-588 du 4 juillet 2001, 2001), which extended the gestational limit for abortion on demand by two weeks and removed the parental consent requirement for minors, represent significant shifts in policy. The 2014 amendment (Loi N° 2014-873 du 4 août 2014, 2014) further reinforced abortion care seekers' autonomy by eliminating the "distress" condition that had required women to justify their need for an abortion, a condition which had already *de facto* been neutralized in 1980 by judges who asserted that women in that situation were the sole arbiter of their own distress (Genevois, 1981). This change symbolically reinforced the principle that women alone should have the right to make decisions about their bodies without needing to provide justification. The extension of the gestational limit also granted women greater flexibility in decision-making and navigating systemic barriers to access. These advances were later supported by additional measures, such as the 2016 Touraine Law, which removed the mandatory waiting period. Most recently, the 2022 Gaillot Law (Loi N° 295 du 2 mars 2022, 2022) extended the gestational limit for abortion on demand from 12 to 14 weeks, further broadening access and affirming the autonomy of care-seekers in abortion decision-making.

Another important development has been the progressive expansion of insurance coverage for abortion care services. Initially, abortion was only partially reimbursed by the national health insurance system, placing a financial burden on many abortion care seekers, particularly those from disadvantaged socioeconomic backgrounds. In 1982, the Roudy Law (Loi N°1172 du 31 décembre 1982, 1982) authorized the reimbursement of abortion costs under the national health insurance system. However, it was not until 2012 that out-of-pocket costs for abortion care were fully eliminated, and abortion was entirely covered by the national insurance scheme (Loi N° 1404 du 17 décembre 2012, 2012). These reforms contributed to making abortion care more accessible, affirming that economic circumstances shall not determine a woman's ability to access abortion care.

Finally, France enacted several key changes regarding the abortion care delivery, protecting access against obstruction and facilitating task-shifting in care provision. In 1993, the Neiertz Law (Loi N° 121 du 27 janvier 1993, 1993) introduced the “offense of obstructing abortion”, designed to address and penalize actions that deliberately hindered women from obtaining abortion services. In 2017, under the Coutelle initiative, the law was amended to include online practices of misinformation and deceptive referral as offenses under the obstruction framework (Loi N°347 du 20 mars 2017, 2017). This amendment was a response to the rise of digital strategies aimed at deterring women from seeking abortions, such as misleading websites posing as neutral sources of information but covertly promoting anti-abortion agendas, and directing women towards hotlines staffed by activists trying to dissuade them from having an abortion (Motet & Laurent, 2016).

Initially, the delivery of abortion care in France was heavily medicalized, requiring medical doctors to perform procedures. However, reforms have progressively enabled midwives to provide medical abortions, expanding the scope of both who can deliver abortion care and where it can be delivered. This task-shifting was solidified in 2016, when midwives were authorized to prescribe abortion pills and conduct follow-ups (*Décret N° 743 du 2 juin 2016*, 2016), thereby significantly expanding the healthcare personnel involved in providing the full array of abortion services. In 2022, following the covid pandemic, pharmacists were permitted to dispense medication for abortions, and telemedicine was approved for medical abortions (*Décret N° 212 du 19 février 2022*, 2022), further decentralizing care and enhancing accessibility. These task-shifting measures were further bolstered by the 2023 amendment to the Public Health Law (*Décret N° 367 du 23 avril 2024*, 2024), which allows midwives to perform surgical abortions as well.

Legislative changes in abortion rights and access in France have been achieved through a series of incremental reforms rather than sweeping, transformative changes. Each reform has addressed specific barriers, such as financial accessibility, the roles of healthcare providers, and the gestational limits for legal abortion. This piecemeal process highlights both the entrenched barriers to abortion care in France and the gradual societal and political shifts that have occurred over time to dismantle them. This process also illustrates that the country’s abortion regime had to be renegotiated several times across the years, gradually paving the way for further ease of access. The debates on the insertion of the right to abortion in the Constitution unraveled in this context, reviving some decades-old arguments while introducing new ones relevant to contemporary developments.

Reframing what is at stake: situating the key debates in the move to constitutionalize abortion

The move to constitutionalize abortion can be traced back to a 2017 led by senators Laurence Cohen and Éliane Assassi. Their legislative proposal sought to amend Article 34 of the Constitution by adding a provision stating, “the law determines the implementation of the right to voluntary termination of pregnancy” (*Inscrire le droit à l’IVG dans la constitution*, 2017). Framing abortion as “a question of bodily autonomy” and describing the Veil Law as a “real revolution” and a “democratic and secular conquest”, the proposal aimed to safeguard this right against challenges from reactionary forces within France and across Europe. Despite its ambitious goals, the proposal failed to advance, as it was never scheduled for further discussion or vote.

The debates over constitutionalizing abortion were reignited following the U.S. Supreme Court's decision to overturn *Roe v. Wade* in 2022, which ended federal protections for abortion rights in the United States (*Dobbs et al., v. Jackson Women's Health Organization et al.*, 2022). In November 2022, both the majority and opposition parties in France clashed over the relevance of making abortion a constitutional right. All major parties, whether

supportive of the government or not, agreed that abortion rights were legitimate and necessary in the French republic. Most parties, including the far-right *Rassemblement National (RN-National Rally)*, even agreed that abortion care provision in France is inadequate for women. Pascale Bordes, an RN deputy, noted: “This [project to change the Constitution] should not hide the real scandal of the failure of our health care system that is unable to give access abortion care to the women who ask for it in the legal timeframe” (Bordes in her discourse during the meeting of the *Commission for Constitutional Laws, Legislation and General Administration of the Republic on 9 November 2022*).

Although the obvious backdrop for the constitutional revision project was the overrule of *Roe v. Wade* in the US, other changes in legislation in Europe (Levrier & Atay, 2024) are also used to support the relevance of the revision project. From the outset, the debate was framed as made necessary by both the international context and the national discrepancy between a legal framework that claims to ensure abortion care to all women and the real-world obstacles women confront when they try to access abortion. Our analysis of the debates described above in the Data and Methods led us to rebuild the debates leading to constitutionalizing of abortion in France as determined by three major questions. These questions broadly concern (i) the state of abortion care provision and access (ii) whether the legal framework and abortion access is being threatened (iii) what is expected from this constitutional revision and whether it is the right means for the chosen purpose. While these questions were not mutually exclusive and did crosscut one another, they form the key debates whose resolution led to the constitutionalization of abortion.

Before delving deeper into the discourses mobilized in these debates, several points need to be clarified to provide context on the perception of abortion and its constitutionalization in France. “The French and Abortion”, a poll built by Kantar Public in April 2021, showed that more than 9 out of 10 people claim to be attached to the right to abortion, two third of those being “strongly” attached to it. 8 out of 10 considered it necessary to expand it (Quenet, 2021). The poll also tested as a sub-question the necessity to inscribe abortion in the constitution, and 9 out of 10 participants claimed to be in favor of it. Another poll was conducted by IFOP in June 2022, specifically interrogating on the French citizens’ support for the constitutionalization of abortion. The findings were closer to 8 out of 10 in support of constitutionalization. It must be noted that different polling outfits use different weights and strategies to build their “representative” samples (IFOP, 2022), so it would be hard to infer a trend between those two results. Both polls are weak indicators in scientific terms, given that they are based on self-managed online forms filled by a thousand participants each. However, they did form a potent political signal that was available to all political actors prior to the debate on the constitutionalizing of abortion: the overwhelming majority of voters were strongly in favor of abortion and wanted to see it both expanded and added to the Constitution.

As these polls may suggest, the constitutional revision project was very popular in the French society and was potentially made even more so by the repealing of *Roe vs Wade*. But behind the appearance of a unanimous support, parliamentary debates illuminated clear ideological divides. This does not mean opposing views were dismissed. But it did favor the emergence of sub-debates which seemed to carry different if overlapping topologies: a politician can be in favor of the inscription of abortion in the constitution under a given perspective (i.e. making it harder to be repealed in the future) and judge it to be unnecessary under another one (i.e. being able to claim that France is uniquely advanced for having abortion rights in its Constitution). In this context, we can expect the apparent self-contradiction a member of parliament might have (being in favor of the inscription for one reason and in disfavor for another) to be easily resolved: a single positive rationale is

enough to justify a vote in favor, as this is a position that is a lot more popular with voters than any negative one.

On abortion care provision and access

To garner support for the constitutionalization of abortion, political actors strategically framed the issue as a public health concern, highlighting the significant disparities in abortion care provision and access across France. They pointed out that the limited number of clinics and hospitals offering abortion services often leaves these facilities overburdened, resulting in long waiting times for appointments and forcing women to travel considerable distances to access care. For Mathilde Panot, from La France Insoumise–New Popular, Ecological, and Social Union group of the National Assembly, the battle for constitutionalizing abortion is a fight to ensure that "access to abortion is effective when one in four women must change departments to be able to end an unwanted pregnancy" (Panot during the XVIth Legislature Congress 2024 that took place on 4 March 2024). Territorial disparities and the issue of "medical deserts" in which no health structure provides abortion, were also raised by Cécile Cukierman, president of the Communist Republican Citizen and Ecologist group – Kanaky of the Senate. Cukierman noted:

We must provide the means, in mainland France as well as in the overseas territories, in cities as well as in rural areas, to establish the practical right to abortion. The lack of resources allocated to public hospitals, the numerous closures of IVG centers – nearly 150 in fifteen years – the difficulties in finding available health professionals, and the medical deserts everywhere in our territory place many women, today, in France, in a practical inability to exercise this right (Cukierman during the XVIth Legislature Congress 2024 that took place on 4 March 2024).

Proponents argued that constitutionalizing abortion would not only serve as a legal safeguard but also as a catalyst for addressing these inequities by further compelling policymakers and service providers. As such, adding abortion to the constitution was framed by left-leaning parties as a practical necessity to make abortion rights effective. These arguments positioned the change not merely as a symbolic gesture but as a step toward rectifying structural inequalities that compromise abortion access. However, while disparities and difficulties in access were also acknowledged by other politicians, some expressed skepticism about the potential impact of a constitutional revision on changing practical realities. For instance, François-Noël Buffet, president of the law commission from the Republicans group in the Senate, remarked: "I would say that we are convinced that, if problems remain, they are not, at this time – and I insist on this – of a legal nature: they are above all of a material nature. The Republicans group has long been concerned about the difficulties of access to voluntary termination of pregnancy, and a constitutional change will unfortunately not change anything in the difficulties encountered today by many women" (Buffet during the XVIth Legislature Congress 2024 that took place on 4 March 2024). It must be noted however that this view is also not completely consensual in his own party: other politicians from his party previously declared that they would try to block the constitutional revision process. For instance, his colleague Anne-Laure Blin, a member of the parliament (MP), said that she will push legislation against the revision and ultimately be among the few MPs voting against it in March 2024 (Blin cited in Beyrand, 2024).

By addressing public health challenges around abortion care provision and access, proponents were able to create a sense of urgency and relevance for the constitutional revision. This approach positioned the revision as more than a symbolic safeguard: it was projected to become a critical tool for addressing systemic inequities and ensuring effective access to abortion care. While other lawmakers also acknowledged the public health challenges surrounding abortion access, some remained skeptical that constitutional

change would lead to tangible improvements in women’s lived realities. These tensions, both between and within parties, reveal differing views on the relationship between rights, access, and the role of the state in making those rights effective—not just legally recognized, but materially guaranteed through public policy and infrastructure.

On threats to abortion rights and access

In defending the process of inscribing abortion in the Constitution, several politicians argued that this effort was necessary to counter persistent and evolving threats against abortion in France and in the world. Several threats were highlighted during the debates, including regular attacks on family planning centers and misleading websites designed to dissuade women from seeking abortions. Advocates of the constitutional change emphasized that enshrining abortion rights in the Constitution would fortify the already existing legal protections around abortion and safeguard abortion rights and access in an increasingly polarized ideological environment. As then-Prime Minister Gabriel Attal stated, “to enshrine this right in our Constitution is to close the door on the tragedy of the past and its long procession of suffering and pain; it is to further prevent reactionaries from attacking women” (Attal during the XVIth Legislature Congress 2024 that took place on 4 March 2024).

Global assaults on abortion rights were also central to the arguments for constitutionalizing abortion in France. Examples from the United States, Poland, and Hungary served as stark warnings, illustrating how abortion rights remain vulnerable when subject to political and judicial negotiation. Several politicians insisted that France could not remain indifferent to these international developments and shall send “a message” to the world. For instance, Olivier Marleix of the Republican group in the National Assembly observed: “Not to mention the United States, around us, within the European Union, in Poland and Hungary, the right to abortion is restricted. These threats cannot leave us indifferent. Although this risk is remote, we decide to rise up to it.” (Marleix during the XVIth Legislature Congress 2024 that took place on 4 March 2024).

The symbolic importance of the vote was underscored by various politicians, who argued that the constitutionalizing of abortion would send a double message: on the one hand, a message of solidarity and support to those fighting for abortion rights, and on the other hand, a firm warning to those who seek to undermine abortion rights and access. As Sylvain Maillard from the Renaissance group of the National Assembly suggested: “With this vote, we are sending a message of hope to women around the world, who see their rights flouted or denied, not only in autocratic regimes, but also at our borders” (Maillard during the XVIth Legislature Congress 2024 that took place on 4 March 2024).

Sending a message to reactionary forces in France and abroad is a central element of the debate, connecting the constitutionalizing of abortion with French identity and values—particularly in terms of what France represents on the international stage. This not only positions the constitutional revision as a defensive move against backlash but also positions it as an affirmative act of national relevance.

On whether the constitutional change is a way forward to safeguard abortion rights and access

In addition to the contextual discussions around abortion access and the threats posed to abortion rights and access in France and across the world, the debates over constitutionalizing abortion also included significant technical discussions. These deliberations centered on whether the constitutional revision was the right course of action, delving into the potential practical and symbolic consequences of this legal shift. This debate essentially revolved around three key sub-questions: first, whether constitutionalizing abortion would have a tangible impact on access to abortion services

and effectively safeguard these rights from future threats; second, what symbolic significance this change would carry in the broader socio-political and historical context; and third what would the constitutional revision mean for norm-making and law-making, and thus for the separation of powers, on the issue of abortion.

On the first point, advocates and critics alike explored whether embedding abortion in the Constitution would concretely strengthen protections against the erosion of access. Proponents argued that the change would establish an unassailable legal foundation, making it significantly harder for reactionary forces to roll back progress. However, skeptics questioned whether this move would translate into substantive change on the ground, arguing that the consolidated Veil Law already provides a robust legal framework for abortion access in France. They raised concerns about whether the constitutional amendment might be more symbolic than practical, potentially giving a false sense of security without addressing ongoing challenges. In this context, for instance, Maryse Carrère, from the European Democratic and Social Rally group of the Senate, noted: “some question the solidity of a constitutional change that would only be illusory and symbolic, insofar as it would not resolve the problems of access to abortion. It is up to the legislator and the regulatory authority to create the conditions for access to all the rights enshrined in the Constitution” (Carrère during the XVIth Legislature Congress 2024 that took place on 4 March 2024).

On the second point, the debate tackled the symbolic resonance of this move and how it would be interpreted. Here, two dominant tendencies emerged. Some saw the change as a profound expansion of women’s rights, a step signaling France’s progressive commitment to women’s autonomy and its willingness to lead by example on the global stage. The debates cited various women’s struggles and rights acquired and still fought for, including right to vote, right to emergency contraception, and right to bodily autonomy. While enshrining abortion in the constitution was seen as a continuum of these previous rights and struggles, for some, it was also considered as a reflection of “the continuation of France’s universalist and humanist struggle” (Bertrand Pancher from the Liberties, Independents, Overseas and Territories group of the National Assembly during the XVIth Legislature Congress 2024 that took place on 4 March 2024). For others, however, the act of constitutionalizing abortion was less about expanding these rights and more about affirming and enshrining the existing consensus around the Veil Law. For instance, in announcing the vote of his group in favor of the constitutional change, M. François-Noël Buffet, from the Republicans group of the Senate, noted that: “The Minister of Justice, basing himself essentially on the opinion given by the Council of State on this text, assured us that this was not the case: the constitutional bill aims to protect the Veil law and not its extension” (Buffet during the XVIth Legislature Congress 2024 that took place on 4 March 2024). This perspective viewed the move as a reflection of a settled societal agreement rather than a groundbreaking shift in policy.

The discussions also involved, as a third sub-topic, what constitutionalizing abortion would mean for norm-making and law-making, and thus for the separation of powers, on this issue. This was primarily a technical debate, mainly raised by right-wing political parties (Rassemblement National and Les Républicains), and was presented as a “legal argument” against the move to constitutionalize abortion. A Constitution is classically described as the legal, often textual, basis that roots all legal order in a geopolitical entity that claims to be a State. In France, this is anchored just after the French revolution by the 1789 Declaration of Human Rights, whose article 16 details that a society in which citizen’s rights are not assured and powers not separated does not have a constitution (*Déclaration des droits de l’Homme et du citoyen de 1789*). Consequently, one can deduce that the role of a constitution is to both declare which rights are guaranteed to citizens, and which institutions yield what

power in that society. Those two parts can also be considered, to some extent, a means and an end. Separating power is needed to prevent tyranny and would hence be a means to ensure that rights can be guaranteed.

Using this background rationale, some RN deputies pointed out that inserting abortion in the French constitution would raise an issue to both accounts, as it would take the right out of the hands of the legislator, which was originally the one to assert it. The first constitutional law project, that proposed “none could be deprived from the right to abortion” (102434) was therefore considered problematic for “suggesting that the access to abortion would be absolute and without conditions, and that the legislator would not be able to give it limits” (Bordes in her discourse during the meeting of the *Commission for Constitutional Laws, Legislation and General Administration of the Republic* on 9 November 2022). The argument here was that it would hence move this right from the legislator to the judge, who would be the one writing down how such a general principle would be applied. Likewise, while the majority of the LR group declared their support for constitutionalizing of abortion, several deputies declared opposing it for “legal reasons” that speaks to the role of the legislature in granting such rights (Pedro, 2024) and introduced amendments to revoke the attempt to revise the constitution. In explaining their vote against the constitutionalizing of abortion, they also suggested that this move was not “necessary” and “useful” on the grounds that the Veil Law was not really threatened in France.

These discussions show that while the constitutionalizing of abortion was supported by political groups across the spectrum, perspectives have diverged on the meaning, necessity and implications of it. Ultimately, the debates underscored a duality in the move to constitutionalize abortion; for some political actors, this process represented a proactive step in the ongoing advancement of abortion rights; for other actors, it was framed as a reaffirmation of an existing norm—anchoring a normalized status of abortion rather than extending it further. Moreover, the practical and normative implications of this constitutional revision—for access to care, the safeguarding of abortion rights against future threats, and its consequences for the separation of powers in abortion-related norm- and law-making—remained a point of contention.

The “Consensual Breakthrough”: Inserting Abortion in the French Constitution

The constitutional change took place through a series of legislative proposals and debates. The process began with a bill led by Mathilde Panot, president of the *La France Insoumise* group in the National Assembly on 7 October 2022 (Proposition de la loi constitutionnelle visant à protéger et à garantir le droit fondamental à l’interruption volontaire de grossesse et à la contraception, 2022). Framing abortion as a “hard-won right”, Panot’s proposal frames the move to constitutionalize abortion as a reflection of “human progress” and suggested amending the article 66 of the constitution to add: “No one may infringe the right to voluntary termination of pregnancy and contraception. The law guarantees any person who requests it free and effective access to these rights.” Subsequently, the government introduced a similar bill on 12 December 2023 (Projet de loi constitutionnelle relatif à la liberté de recourir à l’interruption volontaire de grossesse N° 1983, 2023) to avoid the necessity of a referendum—which is required when a constitutional amendment ensues from a member of the parliament, but can be passed by the Senate and National assembly when it is submitted by the President of the French Republic. Remarking that abortion is “not directly threatened or called into question, except by a few currents of opinion which are fortunately very much in the minority” in France, the preamble of the government bill advocates for constitutionalizing abortion in the face of global threats: “true to its vocation, our country must support the universal fight for this essential freedom, on our continent and throughout the world.” This bill suggested to amend the article 34 of the constitution

to add: “The law determines the conditions under which the freedom guaranteed to women to have recourse to a voluntary termination of pregnancy is exercised” and was passed by the lower house in January 2024 and by the Senate in February 2024. The final approval occurred during a joint session on March 4, 2024, with an overwhelming vote of 780 to 72, leading to the enshrinement of abortion rights in the French Constitution (Loi constitutionnelle du 8 mars 2024 relative à la liberté de recourir à l’interruption volontaire de grossesse, 2024).

This formulation of abortion in the French Constitution is both significant and consequential, reflecting the debates and tensions that characterized the preceding discussions. The deliberate choice of the term “freedom” rather than “right” is meaningful and relates to the discussions surrounding the practical implications of constitutionalizing abortion: the Constitution grants protection from State abuse, but it does not define how a service, including medical care, is to be provided. Moreover, by entrusting the law—and thus the legislators—with the authority to define the conditions under which abortion may be exercised, the constitutional text appears to respond concerns about the separation of powers, seeking to balance the constitutional safeguard of abortion access with the preservation of legislative autonomy on abortion law-making.

Abortion as “guaranteed freedom”

The formulation of abortion as a “guaranteed freedom” resulted from an amendment to the original bill and was further advanced by the government’s bill on the issue. The distinction between *right* (*droit*) and *freedom* (*liberté*) reflects deeper ideological tensions concerning individual autonomy and the nature of state obligations (Berlin, 1969; Dworkin, 1977). Whereas a “right” imposes positive obligations on the state—requiring it to guarantee, facilitate, and protect access to and the exercise of the right in question; “freedom” implies a sphere of individual autonomy protected against interference, without necessarily mandating proactive state provision or support. Thus, *prima facie*, framing abortion as a “freedom” rather than a “right” may subtly limit the scope of enforceable claims and safeguards around abortion access and care provision.

However, the articulation of abortion as a “guaranteed freedom,” rather than simply as a “freedom” in the classical sense, warrants closer attention. This formulation aligns not only with a negative conception of liberty—as traditionally understood as freedom from interference—but also reflects elements of a positive conception of liberty, as defined by Berlin (1969). In Berlin’s terms, negative liberty refers to the absence of external constraints, whereas positive liberty concerns “not the freedom from but freedom to lead one prescribed form of life” (Berlin 1969, p. 22). By framing abortion as a “guaranteed freedom,” the constitution seems to assign an affirmative role for the state: a role that is not merely about abstaining from interference but actively guaranteeing access, protection, and facilitation of the exercise of this freedom. Thus, this articulation of abortion in the French constitution transcends a purely negative conception of liberty and implies some state action and protection for abortion care and access.

Balancing between constitutional protection and legislative autonomy

The initial version of the French constitutional amendment, proposed by FI deputy Mathilde Panot, included a strong and unequivocal formulation: “No one may infringe the right to voluntary termination of pregnancy and contraception. The law guarantees any person who requests it free and effective access to these rights.” This wording would have elevated abortion to the status of an absolute constitutional right, shielding it from almost any form of legislative restriction or modulation. However, it was later abandoned, and the government’s bill instead framed abortion as a guaranteed freedom, the exercise of which

is defined by law. This revised formulation appears to reflect the previously discussed legal concerns surrounding the constitutionalizing of abortion, particularly in light of the French constitutional doctrine and the emphasis on preserving legislative sovereignty against constitutional authority.

This framing is significant because it defines the role of the Constitution—and, by extension, the judiciary—not as the creator of abortion norms *ex nihilo*, but rather as the guarantor of a legislatively defined framework. This model stands in sharp contrast to the American model, where judicial decisions have played a pivotal role in abortion law and policy making. In both North and South America, key developments such as the decisions *Roe v. Wade* (1973) or *Dobbs et al., v. Jackson Women's Health Organization et al.* (2022) in the United States, *R. v. Morgentaler* (1988) in Canada, as well as the judgements from the Mexican Supreme Court (*Accion de Inconstitucionalidad*, 2021) and the Colombian Constitutional Court (*Sentencia C-055-22*, 2022) on the unconstitutionality of the abortion ban in their respective countries, have demonstrated a model in which courts—not legislatures—have been the principal engines of abortion rights recognition. France's approach, by contrast, reflects a continued commitment to affirming a positive freedom in the highest norms of law, while maintaining legislative autonomy.

A longer-term trend in French politics

This constitutional revision was another revealing factor of a decades-long rearrangement of French politics. The 1975 law that introduced the abortion right in France was pushed by the ruling center-right party, whose legacy the LR party could have chosen to endorse. Symmetrically, the RN is a rebranded version of the *Front National* (National Front), whose founder declared on national TV during the 1988 presidential campaign that he was “Christian, and hence, against abortion”. And yet, in what must have appeared to many voters as a reversal of fates, the 2022 RN is the larger party trying to make the wording palatable to the widest audience, while the 2022 LR is a smaller party which tentatively runs a firebrand conservative agenda. The final phrasing of abortion as a “guaranteed freedom” come from a LR party senator, who proposed to replace “right” with “freedom” (*IVG dans la constitution*, 2024). The changing of the phrasing did help make 79 LR MPs vote in favor of the revision, while 38 voted against and 14 abstained (*Loi constitutionnelle du 8 mars 2024 relative à la liberté de recourir à l'interruption volontaire de grossesse*, 2024).

While right-wing parties tried to cancel or dilute the government's proposal, left-wing opposition parties proposed rewrites that aimed at expanding abortion rights further. A November 24, 2022 amendment tried to add a “right to contraception” (28946). In January 2024, a few months before the vote, the French Communist Party proposed to change back the “freedom” to abortion as a “right”, replacing the word “woman” with “person in a state of pregnancy” (136359). Both initiatives were ultimately rejected.

The “civilizational” rationale also played a key role in the insertion of abortion in the Constitution. In one of his declarations in Parliament (483575), the Minister of Justice Éric Dupond-Moretti told MPs that “if we manage to get this work done, do not doubt it, the entire world will turn its gaze towards our country. France will have been, once more, meeting its universal vocation” (*Intervention of Éric Dupond-Moretti*, 2024). This closes the loop with the debates that started 18 months before, when left-wing MP Raquel Garrido made the point that “if some of you are against abortion, that is your right, but we are in a civilized nation, and the time has come to inscribe the right to abortion in the hierarchy of norms” (Garrido cited in *Compte Rendu*, 2022). It also correlates with other discourses we analyzed above, which frames the move for constitutionalizing abortion as part of a broader “humanist struggle” and “human progress”. Despite the divergence of perspectives on the implications of the constitutional change, the reformulation of abortion as a “freedom” and

not a “right” and its reframing as a “civilizational imperative” played a key role in mobilizing political actors across the ideological spectrum to vote in favor of inserting abortion in the French constitution and helped it being validated with a larger number of votes.

Conclusion

The insertion of abortion into the French Constitution is a major event. Most of its political, legal, and social impacts are yet to unfold. The purpose of this article is therefore not to offer a definitive analysis of its significance but rather to examine the process that led to what we call a “consensual breakthrough”—an almost unanimously approved constitutional change on a previously contentious topic as politically charged as abortion.

Our analysis identifies several key insights into this “consensual breakthrough”. First, we find that the constitutionalizing of abortion garnered strong and broad support across the political spectrum. This does not mean that all parties ascribe the same significance to the revision: left-leaning parties frame it as part of the broader struggle for women’s rights and an expansion of abortion rights, whereas the majority center bloc views it as a reaffirmation of the already established consensus on abortion rights in France. Only a smaller conservative faction considers it as “unnecessary” and insignificant. The debates further reveal that abortion rights are no longer mainly framed under the perspective of ensuring that the State does not restrict women’s agency over their own bodies but rather indicate a broader expectation of care provision.

Our main finding is that the widespread support that emerged for the constitutionalizing of abortion in France reveals a striking consensus on abortion rights and access as defined in the law, even if behind this quasi-unanimous support lie political divisions and conflicts around the ideal scope of abortion rights and their expansion. The debates surrounding this process underscore that widespread support for this measure is rooted in a shared belief that abortion rights and access are integral to the values that define France as a “civilized” nation, aligning with ideals of “human progress” and “universalist struggle”. These debates led to framing abortion as a positive freedom in the constitution, ultimately incorporating it as a defining aspect of France’s civilizational model—presented as “universal”. We argued that this framing played a key role in bringing the “consensual breakthrough” that led to the insertion of abortion in the constitution, mobilizing political actors across the ideological spectrum. These findings suggest that abortion rights are increasingly becoming a cornerstone of the biopolitical foundations of modern democracies, reflecting a country’s core identity and values.

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