# Introduction

#### I – La cinquième des républiques

La Constitution du 4 octobre 1958 est le quinzième texte constitutionnel que la France a connu depuis la révolution de 1789. Elle entraîne, avec elle, la naissance de la cinquième République dans l'histoire constitutionnelle française. Contraîrement à ce que l'on pourrait penser, il n'y a pas de corrélation nécessaire entre République et Constitution. Il existe, en effet, des textes constitutionnels qui organisent parfois une monarchie ou un empire. En outre, le texte officiel de la Constitution actuelle ne mentionne pas qu'il s'agit de la cinquième République. Comment peut-on alors l'identifier dès lors que l'évidence semble marquer sa reconnaissance ? Ici, un détour par la définition de la République et par l'histoire s'impose.

La République est identifiée comme un régime politique au sein duquel le pouvoir est chose publique, ce qui implique que ses détenteurs l'exercent sur la base d'un mandat conféré par le corps social et non en vertu d'un droit propre hérité ou d'origine divine. 
Plus généralement, la République exclut toute forme d'appropriation du pouvoir par un seul ou par quelques-uns. Ainsi, définir la République revient à écarter la monarchie ou l'empire qui ont jalonné notre histoire et qui se sont intercalés entre des périodes républicaines. La République est également marquée par des symboles : sa devise « liberté, égalité, fraternité » constante depuis 1848 dont la Constitution en fait un » principe » de la République<sup>2</sup>, la Marseillaise, hymne national depuis 1879<sup>3</sup>, son drapeau<sup>4</sup> ou encore sa langue officielle<sup>5</sup>. Elle est déterminée, aussi, par un certain nombre de caractères : « une et indivisible » depuis 1792, « démocratique » depuis 1848<sup>6</sup>, « laigue et sociale »

Lexique des termes turidiques, 2010, Dullos, p. 626

<sup>2.</sup> Il faut noter qu'elle n'est pus reprise par le second empire et s'impose donc réellement à partir de la IIIº République.

A l'origine, le 14 juillet 1799, la Convention l'avait déclarée par décret « chant matiemal ». Introdite sous l'empire et pendant la restauration, la chambre des députés adopte la marseillaine comme hymne national le 14 février 1879. Elle apparaît, ensuite, dans la Constitution du 27 octobre 1946 et est reprise dans l'article 2 de la Constitution du 4 octobre 1998.

Nét sous la révolution de la réunion du blanc (couleur du roi), du bleu et du rouge (couleur de la ville de Paris), la loi du 15 Sévrier 1794 fait du drapeau tricolore le pavillon mational. Les constitutions de 1946 et 1958 (article 2) ont fait de lui l'emblétue mational de la République.

Depuis l'édit de Villers-Cotterêts de 1539, la langue française est un élément de l'identité nationale. Aujourd'hui, l'usage du françain, langue de la République, est garanti sur le territoire en vertu de l'article 2 de la Constitution.

<sup>6.</sup> Après avoir rappelé, dans l'article I du Préumbule de la Constitution du 4 novembre 1848, que la France s'est constituée en République, l'article II de ce même texte affirme le caractère démocratique de la République ainsi que son unité et son indivisibilité. Pour comprendre cette première catametristique, il faut prendre en considération l'article 24 de la Constitution, loquel recommait que le » suffreque et direct et aniversel » (et masculin).

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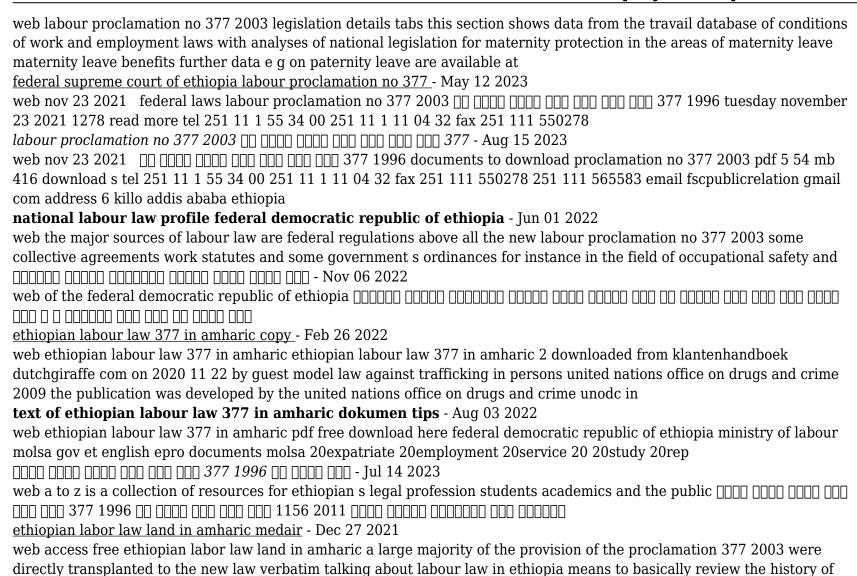
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