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Political Actors Thanks to or Despite the Law? The Empowered Voices of Individuals in Nineteenth-Century Electoral Claims[1]

This chapter analyses electoral claims in mid-nineteenth-century Europe, addressing mainly the practices those protests entailed in Spain and France under restrictive census requirements for political citizenship, but also making some comparisons with Great Britain. People engaged in politics through the vote, but also by contesting the administration's interpretation of the electoral law and by using both positive legislation and natural law to claim their political rights. People contested and negotiated the electoral laws' restrictions on who was a political citizen, thus taking an active part in their self-definition as citizens. Moreover, filing electoral claims about the actual conduct or circumstances of the vote was, for many people, an additional layer of involvement in politics.

The history of citizenship has been analysed from a wide range of perspectives. Sociologist T. H. Marshall may have been, and may still be, one of the most prominent theorists concerning the significance of citizenship; he introduced a positivist and evolutionist categorisation of citizenship rights classified as civil, political and social.[2] According to his model, based on the liberal British ideal, civil rights were attained in the eighteenth century, political rights gave access to the vote in the nineteenth century and social rights materialised as a result of the welfare state in the twentieth century.

Criticisms have come from different directions, namely for its failure to take into account women's exclusion from the main events in the expansion of access to civil and political rights.[3] Although this chapter's aim is not to discuss all the criticisms, it takes issue with the evolutionist narrative championed by Marshall, which paved the way for subsequent theories based on teleological approaches. Similar evolutionist principles underpin, namely, political modernisation theory in political science.

Evolutionist perspectives have associated the history of the franchise with the gradual road to democracy. Thus, the circumstances of each historical context were explained as steps towards – or obstacles that delayed – this inevitable democratic future. The sequence was as follows: first came the spread of census suffrage, then the gradual standardisation of the franchise rules, followed by the intensification of universal and equal citizenship rights and, finally, the attainment of suffrage for all and of proportional representation.[4]

In short, from this perspective, universal suffrage was a sign of political modernisation in itself. This perception was encouraged by some countries' linearity in achieving universal male suffrage. One example was France, which implemented universal male suffrage for good in 1848. In England, the electoral reforms of 1832, 1867 and 1884-85 offered an evolutionary model that extended suffrage gradually and reformed the representative system until the advent of universal male suffrage in 1918. This model supported the vision that democracy was inevitable as the franchise was gradually extended.

The focus on the path towards future democratisation has limited the analysis of the dynamics around the practice of census suffrage itself. During the first half of the nineteenth century, most liberal states limited the franchise through census requirements. Electoral laws determined who had the right to vote and thus who was and was not considered a political citizen. Since citizenship implies the duality of inclusion (those defined as citizens by law) and exclusion (those who are not), scholars could recognise who was a political citizen and who was not by examining the legislation. For this reason, scholarly debates concerning political participation had been limited to analysing election results, participation rates and the extension of voting rights.

To overcome these sticking points as regards the history of political engagement, scholars have been looking beyond elections and electoral law in order to consider other possibilities of politicisation, especially of men and women who the law did not regard as citizens with full political rights, but who were active through other informal political spaces. Scientific approaches have reassessed the political dimension acquired by the public space when certain expressions and celebrations took place there: banquets,[5] political funerals,[6] charivaris[7] or even celebrations with political connotations, among other possibilities.[8]

Those new approaches to understanding politicisation have encouraged a reassessment of the subjects' political capacities in the public space. People engaged in politics despite the legal restrictions on their status as full citizens. In other words, individual agency, not only the legislation, was salient in determining who became involved in political life, mostly in non-institutionalised spaces. At the same time, however, more recent contributions have begun to address nineteenth-century institutionalised political spaces as encounters between citizens and the State.[9] For example, mass petitions enabled the institutionalised participation of hundreds of thousands of disenfranchised subjects.[10]

For this reason, in this chapter, political citizenship in the legal dimension described by Marshall will be considered when referring to citizens who had the right to vote. I will also use the term 'political actor' to refer to individuals who did not have the right to vote but who were engaged in one or another dimension of politics.[11] In other words, as long as individuals gave political meaning to their public actions, they were political actors, involved in politics in a broad sense.

This perspective challenges some elements of the juridification of conflict theory, which in some ways stands for the interpretation of the expansion of the State and the judiciary as a process of neutralisation of the subjects' political capacity through the framing of conflict within the legal framework.[12] The juridification of conflict has been understood as a formula for expanding legal domination. This happens as the judiciary introduces a corpus of rules and, in turn, integrates the conflict by submitting it to the institutionalisation of the rules. In other words, since the struggle must be resolved according to the rules, this would imply the subordination of individual and collective desires to the law and the redirection and dissipation of conflict energy through legal procedures.[13] Authors such as Hedwig Richter have suggested that, similarly, elections not only legitimated states and governments, but also integrated individuals into the administrative framework of states and thus constrained their political frame of reference.[14]

From this standpoint, civil society's capacity for conflict and even its power would be undermined, since its (subversive or conflicting) initiatives would be neutralised by the law. For instance, the law would provide arguments and even scenarios that would constitute the foundation of citizens' petitions, thus limiting possible conflict. Therefore, juridification enabled the political elites to channel social unrest and control political struggle. The institutionalisation of conflict would thus equate to the neutralisation of citizens' voices.

An approach focusing on positive law only, however, may fail to illuminate the actual workings of the juridical spaces defined by that same positive law. Some legal historians take the early and mid-nineteenth-century constitutional frameworks and legal codes as imaginary constructs superimposed over social spaces with their own autonomous internal dynamics, in which interpretations of local, corporate and constitutionally affirmed individual rights clashed with more formal readings of the legislation. As António Manuel Hespanha has highlighted, we do not know much of what was going on under the law.[15] Local and ad-hoc understandings of rights often prevailed over positive law. In the same vein, if French law did not guarantee the right of assembly

before 1848, this does not mean that the French did not seek alternative spaces to meet, as Vincent Robert has shown with the example of banquets for political purposes.[16] Likewise, if the Spanish legislation did not consider the right of assembly or guarantee freedom of opinion until 1869, this does not imply that there was no electoral campaigning until then.[17]

Despite the limits the law entailed, individuals could gain political autonomy by making use of the gaps in the legislation or even by putting forward interpretations not initially foreseen by legislators and jurisconsults. This becomes prominent in the works of Simona Cerutti, who analyses legal practices at the end of the *Ancien Régime*. According to her, individuals, when feeling excluded or not treated with fairness, searched for legal formulas which enabled them to appeal to their condition as members of the social community. They invoked both positive and natural law formulations in order to argument their right to fairness, but their arguments also emanated from their own experience within the community.[18] Actions and social practices reinforced the legal arguments.[19]

Thus, it is worth revising the main narratives regarding citizenship rights and practices during the transition from the *Ancien Régime* to liberalism, precisely in a period when citizens' status as the subjects of rights was just being established, by reintroducing individuals' agency in the use and interpretation of the law. To put it differently, it may be of interest to know whether or not individuals viewed themselves as subjects of law, and whether this constrained their interpretation of the law to the official purposes. The way the subjects received, interpreted and engaged with the law, namely electoral law, is precisely what allowed them to participate in the formal political sphere.

This paper starts from the hypothesis that the official reception of electoral law was not the only way to establish who was a political agent during the period of census suffrage, as individuals could benefit from unsuspected interpretations of the methods stipulated by the law to define themselves as political actors, whether or not they were legally considered political citizens. In order to prove the initial hypothesis, this paper will analyse appeals and electoral claims written by both non-electors and electors. Electoral claims were voters' protests addressed to authorities. They were raised when considering cases of disputed elections. The aim is to introduce these claims as means of being involved in the political space beyond the vote and even of having real consequences in institutionalised politics.

Firstly, this chapter will examine the views which consider these claims as evidence of the elites' guidance and control, since they relied on the validity of the legislation.

However, this approach will then be challenged by considering that the same arguments did not only refer to positive law, as they also drew on motives issued from natural law. Finally, the text will assert that the documents analysed herein became a means of participation in the public sphere not only for electors, but also for those without the right to vote.

In order to strengthen the validity of the argument, this chapter considers the cases of Spain and France during the 1830s and 1840s and makes some comparative forays into Great Britain. They were all liberal states which shared similar political regulations. Spain's 1837 and 1846 electoral laws, France's 1831 electoral law and England's 1832 Reform Act all limited the franchise with census suffrage. In addition, none of the three countries fully guaranteed the conditions for a free vote. The lack of freedom of assembly and the limits on the press in Spain and France; the pressures on voters from threatening groups, some of them even armed, in all three countries; the fact that the vote was either public, as in Britain, or formally secret but actually not, as in Spain, where the ballot had to be filled out under the watchful eye of the president of the polling station; and even governments impelling official candidacies as well as obstructing opponents in Spain or France, were shared elements within those states which reveal limits to free political expression.

The interpretations given here are based mostly on consultation of the electoral records in the Spanish Archive of the Congress of Deputies in Madrid and the French National Archives in Pierrefitte-sur-Seine and, more specifically, on some of the documents concerning elections in its series F/1cII, F/1cIII and C. I have considered more than two hundred records in the former and nearly 70 boxes containing hundreds of documents each in the latter.

Electoral grievances and protests: means to neutralise the voice of non-electors and electors?

According to the Spanish electoral law of 1837, a total of 200 reales in direct contributions was required to vote, so only 2.2% of the population could do so. In 1846, the economic requirement doubled to 400 reales in direct contributions, meaning only 0.8% of the population could afford to vote. In 1865, this was once again reduced to 200 reales, which was affordable for around 2.7% of the population, and in 1878, an annual contribution of 25 pesetas in land taxes or 50 pesetas in industrial taxes meant that 5% of the population could vote. The situation was similar in France, where 200 francs in direct contributions was required in 1831, which meant that only 0.5% of the population could

vote, increasing to around 0.7% in 1846.[20] Two years later, with the Second Republic, universal male suffrage entered into force. In Italy, less than 2% of the population was eligible to vote in 1871. In Great Britain, about 3.4% of the population could vote from 1832 onwards, increasing to 8% by 1868.[21] According to Philip Salmon, who calculates the percentage against the total of adult males, in 1833, 18% of British adult males could vote, rising to 33% in 1868.[22]

Before universal male suffrage was introduced, political citizenship was an uncertain and changing status. Individuals could lose or gain this status according to changes in the legislation regulating census requirements and their enforcement. Many people, moreover, resented new regulations and practices that excluded them from the status of political citizens that they had previously enjoyed. This situation meant that there were many requests to be registered, along with requests to be considered a citizen and protests when someone was not listed and thus excluded from the right to vote.

If we accepted some of the interpretations proffered by the theory of the juridification of conflict, those requests could be understood as evidence of the State's institutionalisation of conflict, as laws provided the subject with the means and arguments to appeal any unfair circumstances. This would be confirmed by the fact that these requests tended to appeal to the enforcement of the laws to support their arguments. As an illustration, about 58 residents of Lepe (Andalusia, Spain) protested in 1839 because they had been excluded 'from the right to vote in the upcoming elections'. Their main points addressed the infringement of the electoral law. They argued that their 'provincial council was itself invested with legislative power, making distinctions and clarifications which the law does not distinguish'. They claimed that the council had put forward an interpretation of certain articles of the electoral law to exclude them. For instance, the town council's opinion had not been considered, precisely when the town council had previously considered them as electors in the first draft of the census. We should bear in mind that, even though the 1837 Spanish electoral law made provincial councils responsible for the electoral register, it also stipulated that they had to consider the town council's judgment when doing so (Article 12).[23] Those residents thus substantiated their arguments with strict observance of the law.[24]

Even the advent of universal male suffrage did not put an end to those petitions, as it did not eliminate some limitations on actual access to the vote. In France, for instance, the decree dated 5 March 1848 proclaimed universal male suffrage and regulated the upcoming general election on 23 April. Article 6 recognised: 'voters include all

French men over the age of 21 residing in the municipality for six months and not judicially deprived of or suspended from the exercise of civil rights'.[25]

As Alain Garrigou has stressed, the adoption of universal male suffrage in France in 1848 did not guarantee that every adult male with potential access to the vote was enfranchised. Trouble properly managing the census, which had expanded from 246,000 men in 1846 to more than 8 million a couple of years later, meant that all the names of potentially enfranchised French men could not be verified and, consequently, the effectiveness of universal male suffrage was not assured.[26]

Against this backdrop, quite a few French men claimed their right to vote by appealing to the articles of the electoral law that enabled them to vote. One French man was astonished when he was asked for a rent receipt, a statement by two witnesses or a property certificate to prove the six months of residence mandated by law. He stated that, 'I cannot fulfil any of these formalities, which, moreover, are prescribed by no decree and no instruction'.[27] After discovering that he was not registered as an elector, another French man exclaimed: 'It has surprised me very much since it was revealed that all citizens who had been in the National Guard with the legal age and six months of residence in the district was a voter by right'.[28] Until then, it was mandated that all French men between the ages of 20 and 60 had to be members of the National Guard, except for magistrates, priests, soldiers and men without civil rights, among others, and all National Guard members were enfranchised in the election of officers.[29] In other words, in legal terms, it was more a duty than a right to be a National Guardsman and vote within the corps, although in fact, only those who had the means to afford their uniform and weapons could join the corps.[30] In opposition to this duty, during the July Monarchy, the National Guard waged a campaign for electoral reform so that all National Guardsmen would have the right to vote in national elections, but to no avail.[31] According to the 1848 decree, all adult males residing in the municipality for six months had the right to vote, all National Guardsmen included.

These examples illustrate that the law provided the arguments for those who claimed their right to vote or protested about matters not foreseen by the law, essentially rendering them political citizens. Philip Salmon even cites the large number of handbooks and pamphlets which offered advice to electors, professional agents and revising barristers when considering the situation in Britain after the 1832 Reform Act. These publications helped individuals to write their claims to be admitted to the electoral registers and thus to be considered political citizens. Even so, some of these writings

‘stimulated self-importance within voters as they had inviolate electoral rights not inferior in importance to Magna Carta’.[32]

These argumentative resources were so widespread that they became the basis of the majority of electoral protests. One example is the objections raised by some electors in the August 1846 general election in the Vire district (Calvados, France). They challenged ‘the validity of the election’ on the grounds that the constitution of the polling station team for the first section was ‘illegal and arbitrary’. Given the absence of the elected scrutineers, the president of the polling station invited other people to replace them. Those who raised objections with a formal claim warned of the procedural infringement, considering that Article 44 of the 1831 electoral law stated that the president and the definitive scrutineers were elected by simple majority and that the pre-election ministerial instruction stated that, in the event of their absence, their functions would be replaced by ‘those electors who have earned more votes after the president and the scrutineers initially proclaimed’.[33]

Another example of this situation can be found in another protest by some residents and electors of Monforte (Galicia, Spain) during the December 1846 general election. One of their most outstanding arguments was that numerous subjects who would not have met the requirements to be considered political citizens had been included in the electoral census.[34] The law stood out as argumentation sustaining most of these writings, which did not hesitate to stress non-compliance with it or violations committed in order to discredit the opponents and challenge the legality of the results. Even the complainants from Monforte appealed to the ‘assistance of the public prosecutor as the representative of the law and the public cause’ who certified their protests not only to prove the veracity of their statement but also as a way to reinforce the legal validity of their arguments.

Basing the arguments on the law as the fundamental basis for determining political participation implied defining those subjects as subjects of law and thus allowing them the right of protest to ensure their demands. In other words, were residents and citizens who claimed their electoral rights being influenced by the initiative of the elites and did the law act as a limit on their possible requests? Or, in fact, did only the law limit their engagement in official politics and therefore the subjects’ participation in the political sphere?

If this were the case, it would agree with the theory of the juridification of conflict, which, as discussed above, would lead to its neutralisation, as legal rules channel the conflict and attenuate discordant voices. Therefore, positive law appeared to solve and break individual desires at will, [35] and thus to avoid a potential clash between subjective

law and individual desires. At any rate, the correlation between subjective law and positive law is not so easy to solve, as outlined below.

Positive law was not what made candidates undergo stringent public validation of their candidacy, by both electors and non-electors, in the rituals of the nomination hustings in nineteenth-century British elections, where they were sometimes even insulted or had eggs or tomatoes thrown at them. The need to accommodate political inclusion rituals and balance in participation was what sustained them, claims Lawrence, confirming the need to give individuals a political voice beyond restrictions, to the point of considering that a 'widespread belief that the public possessed the right' to hold politicians accountable had taken root in the nineteenth century, and they had to submit to public scrutiny.[36] Mobs were frequent even in uncontested elections, with non-voters in particular expressing partisanship.[37] This shows that, beyond enabling subjects of law, positive law did not limit the subjects' capacity to be empowered with rights not foreseen by it.

Between positive and natural law

The law allowed for the petitions analysed so far. Both Article 15 of the Spanish electoral law of 1837 and Article 24 of the Spanish electoral law of 1846 stipulated the ability to request inclusion in the electoral census by those who either believed they should be included in it or could justify that they should. Likewise, Articles 35 and 37 of the electoral law of 1837 and Article 63 of the electoral law of 1846 allowed claims and protests concerning the electoral process to be filed. However, only the law of 1837 specified that voters could submit these petitions. In other words, this type of regulation opened the door for the political participation of political non-citizens.

The 1831 French electoral law stated something very similar. Articles 24 and 25 also regulated the possibility that 'any individual who believes he has the right to complain either about having been improperly registered, omitted or crossed out or about any other error made in his regard in the drafting of the census' could file a claim with supporting documentation. They could even file claims for the registration of those who were not registered or against those who were registered incorrectly.[38]

The fact that positive law allowed for these requests, whose main arguments on electoral protests were also based on positive law, does not mean that these kinds of reasoning were limited to positive law, as they even introduced arguments that moved towards natural law and therefore challenged the supposed supremacy of its principles. The fact that appearing on a census or register was required to be able to vote, for instance,

increased the feeling of being part of the community of political citizens, particularly if, as in Great Britain from the reform of 1832 onwards, registering had to be done regularly and was an activity that intensified political awareness and, with it, political disputes.[39]

In a context of increasing partisanship, even if often related to clientelist relations, voters asserted their political position in order to profit from it. That is, if a candidate wanted to be elected, he had to court the voters, either by taking part in public events where he presented his candidacy and ideas, or by convincing them with possible compensation. In the early decades of the nineteenth century, as Frank O'Gorman has shown, it was common for the British electorate to request rewards to guarantee their loyalty to the candidate.[40]

And with that political awareness, individuals became conscious of certain rights. In other words, it was not only a legal matter of respect for the law, but in the eyes of the people with rights or who believed they were entitled to political rights, it was above all about respecting a status that they merited and was not subject to interpretation. Two residents of Cubellas (Barcelona, Spain) expressed this in 1840: '[they] request to be included in the electoral lists of the Villanueva and Geltrú district, to which they belong, because they consider [that they have] the right to be voters in accordance with the accompanying documents and by their own virtue'.[41]

That is to say, as long as individuals conceived themselves as subjects of rights thanks to their interpretation of the law, they understood that they were qualified to pursue those rights, and this awareness, though based on positive law, went beyond the limits of positive law. As I have discussed elsewhere, in these types of claims, the demand for the vote and political participation did not appear at odds with the sense of demanding a right, but rather the contrary. The demand for respect for certain competencies that voters perceived were theirs (either they were or wanted to be voters) and that allowed them to express their opinions is undeniable, and that brings us closer to natural law.[42]

This is suggested by examples such as the request by some members of the third district of Aude (France) after the April 1831 elections. They protested because the president of the polling station had stripped a candidate of three votes, as his first name was not specified, and that meant that he lost the absolute majority and with it the ability to be proclaimed the winner of the election. The relevant aspect of the appeal is the fact that the subjects maintained that they 'believe they would be abdicating their rights […] and failing in all their duties as citizens and voters if they did not protest'. In other words, they considered the capacity to protest a political practice comparable to their right to vote as electors. For this reason, they announced that, if new elections were called, they

would take part in them by voting ‘in order to preserve the integrity of all their rights, but without intending in any way to weaken this protest, or give up pursuing its effects’.[43]

Means of political participation

As articulated by electoral laws, residents’ use of these tools enabled them to claim their political rights, being self-affirmed as political actors regardless of whether or not they were considered political citizens, as well as to request that those who did not meet the requirements yet were listed in the census be excluded from the registers. This leads us to value this type of resource not only as a means of political participation, but also as harbouring possibilities of political use that went beyond the foreseen interpretation of the electoral law and depended on the way in which individuals used them. That is, the requests to both include and exclude could be based on strict compliance with the law and, therefore, could guarantee citizens’ political rights. However, they could also be used to try to prevent the electoral participation of political opponents or even to benefit a certain political interest. That is, those protests could even become a means to try to change the course of the elections, either by reducing the census and removing political opponents or by expanding it with allied voters, whether or not they fulfilled the requirements to be registered. One example is the aforementioned case in Monforte (Galicia, Spain), where a complaint was filed against numerous subjects who had been included in the electoral census even though they did not meet the requirements to be considered political citizens.

Electoral protests often challenged the electoral results, namely by asking for the elections to be nullified. In the 1846 general election, electors from the first district of La Gironde (France) protested the results after detecting ‘numerous acts of corruption, nullity and blameable influences’. According to them, some voters did not appear on the voting roll and did not have the right to vote, while armed agents had invaded one polling station. For all these reasons, the protestors informed the Chamber of Deputies of their ‘right to request the nullity of the election’.[44]

It was not rare for electors to ask for nullification because of suspicions of fraud. Another example can be found in the same general election in Grenoble (France), where some electors protested the ‘validity of the election which has taken place’, as ‘the administration and their agents have neither respected freedom of suffrage nor maintained the rights of all with scrupulous impartiality’. They alleged that there had been attempts to buy votes with money and other rewards. For these reasons, they also requested ‘the nullification of the electoral operations in the second polling station of Grenoble’.[45]

Individuals' interpretation of the law led to a functionality not initially foreseen, which opened spaces for political participation that may not have been predicted by those who had promoted the law. As Aharon Barack has stressed, the interpretation of a law is a dynamic process by which a law evolves from a static text to a norm in practice.[46] Electoral protests in mid-nineteenth century Europe were also in this situation, whereby they could also be received and used as a means that facilitated political participation, particularly when the free exercise of the vote was not guaranteed.

Given the limited possibilities of political freedom in a context dominated by official candidates, particularly in Spain and France, other tools were used to enhance political participation when free voting had not been possible. This is attested to by the protest of some voters from the Terque district in Canjáyar, Almería, Spain. In the general election of 1840, they protested to the Congress of Deputies with the intention of explaining 'the causes [for] which they have refused to vote in the current election'. They complained about the arbitrary division of the district and the unfair exclusion of 146 voters from a district that until then had had 271 and from then on had only 125. For all these reasons, they preferred to abstain. Participating under these circumstances would have brought them 'dissatisfaction'. By their non-participation they showed solidarity with those who had 'equal right [but] have been unduly stripped of it'.[47]

According to Theo Jung, in situations perceived as normatively unfair, indifference and inactivity can be considered illegitimate practices that harm normative action,[48] according to the regulators of the norm, I would add. After electors refused to vote in the 1849 local elections in Villafranqueza, Alicante, Spain, the political chief (the provincial head of the national administration) met the main electors and asked them to explain their behaviour and forced another election.[49] The interpretation of the refusal to vote depends on the context, but it cannot be reduced to a failure to act. In fact, it often entails an action and even an active practice, such as the refusal to cooperate in the legitimation of a corrupt procedure.[50]

The refusal to vote has even been considered a form of political expression. Voters used abstention to challenge governments that they believed were manipulating the results, and the refusal to participate can be seen as an act of protest or an expression of political opinion. With this behaviour, electors were ultimately vindicating their right to have the liberty to choose their candidate and vote freely.[51] Therefore, two different categories, individuals excluded from the voter registration rolls and electors that did not trust the fairness of the process, engaged in electoral protest as political actors. From the resources they invested in these protests, we may infer that, for them, electoral claiming

could be politically more effective that voting itself. A successful claim, by overturning a result or blemishing the reputation of some officials, would be more consequential than a vote successfully cast.

One example is the case of Casas Ibáñez (Albacete, Spain), in the 1846 general election. The official candidate of the government, Juan Modesto de la Mota, won the elections with a tied vote. He received 103 votes out of 203. Some electors, disappointed with the 'defects and illegalities' committed in order to favour his designation, filed a complaint denouncing some malpractices, e. g. preventing electors from seeing the ballot box or the process of scrutiny. That enabled them to request the nullity of the elections.[52] In other words, their electoral protest sought to change the results in a context in which the guarantee of respect for unimpeachable elections was not fulfilled. Yet, De la Mota was declared by the Spanish parliament as duly elected.

In nineteenth-century France, as Garrigou has shown, electoral invalidation only occurred if illegal practices had had an impact on the election outcome. The administration tried to prevent some defeated candidates' attempts to draw on minor procedural imperfections in order to have a second chance at the polling station. However, it was impossible to prevent some losing candidates from filing electoral protests with instrumental purposes when they could support their arguments on legal grounds.[53]

If voting lost its meaning as an instrument to judge electors' opinions, they had to find other ways to express their political views. For instance, in the December 1842 vote for the French *Conséil General*, in the commune of Latour (*Departement des Pyrénnées-Orientales*), the elections were nullified by authorities because people acted in a disorderly fashion and hindered the free exercise of the vote, preventing some electors from voting. In addition, voters were coerced on the days prior to the election. This happened with the connivance of the mayor of Latour, who was arrested and stripped of his powers. That was the official version, following the protest by the brothers Joseph and Jean-Louis Baillette, which was recorded in the minutes of the election. They declared that 'after arriving at ten in the morning to go to the election office, they were surrounded by a huge mass of people' who intimidated them and threatened their properties and even their lives, so they were prevented from voting freely.

According to the departmental prefect's description, supporters of candidate Jacques Mérie had prevented the two brothers from voting because they feared that those two votes would have kept him from winning. They were not wrong, as out of 44 votes, 23 (the minimum required to achieve an absolute majority) were for Mérie and 21 for his opponent, the lawyer Lafabrique. The two brothers called for the nullification of the

elections and ‘a new election in another of the region’s townships where any voter could exercise their right of suffrage with independence and freedom and without intimidation’.[54]

Mérie’s supporters contested the decision. They filed at least two different protests, with some of the same voters’ signatures appearing on each, perhaps to give the impression of a greater or more widespread feeling of injustice. One of them claimed that the ‘Baillette brothers had not yielded to any menace’. Conversely, they said that the brothers had filed the protest only ‘after having listened to Mr Lafabrique’, insinuating that the events were invented and, therefore, that the elections should not be nullified. In fact, in another protest they expressed ‘profound indignation’ at ‘the incriminating slanders that are poured onto them, accusing them of threats and violence [...] while they only addressed persuasive and benevolent words to these voters’.[55]

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The examples presented above are a small sample of a vast universe of electoral claims still to be fully charted. According to the politician Luis María Pastor, in the Spanish general elections of 1846, 1850, 1851, 1853, 1857 and 1858 more than one in four of the procedures (564 out of 2049) contained some type of protest.[56] These claims prefigure the contours of one peculiar space of interaction between the authorities, the law and the male population at large. Electoral protests were introduced under the terms stipulated by law, and appealing to the law, but at the same time they went beyond the boundaries established by the more formal interpretation of the law. Not only did these protests enable individuals to raise their voices to denounce violations, but they were also used as a means of issuing political opinions, taking part in the redefinition of the boundaries of citizenship, excluding rivals, participating in the political arena and even trying to change the electoral results, regardless of whether these claims drew on real facts or not. Elections were, no doubt, part of a process of juridification of conflict, but at the same time enabled a space of politicisation in which voters, would-be voters and political actors negotiated their own understandings of citizenship.

Moreover, electoral claims were about elections and politics, but not, or mainly not, about democratisation. We may agree with Margaret Lavinia Anderson when she proposes that electoral protests and a culture of political complaint ‘provided a forum for the articulation of oppositional interpretations of the law’.[57] However, the struggles around the right to vote and the conduct of elections under restricted franchise, as this chapter has shown, have to be understood in their own contexts, not as steppingstones in the history of democratisation.

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[2] T. H. Marshall and Tom Bottomore, *Citizenship and Social Class* (London: Pluto Classic, 1987, original 1950).

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