



WILPF

WOMEN'S INTERNATIONAL
LEAGUE FOR PEACE & FREEDOM

**Submission to the Universal Periodic Review
of
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About the submitting organisation: the Women’s International League for Peace and Freedom (WILPF) is an international non-governmental organisation with National Sections covering every continent, an International Secretariat based in Geneva, and a New York office focused on the work of the United Nations. Since our establishment in 1915, we have brought together women and feminists from around the world who are united in working for peace by non-violent means and promoting political, economic and social justice for all. We use existing international legal and political frameworks to achieve fundamental change in the way states conceptualise and address issues of gender, militarism, human rights, peace and security.

Note: Unless otherwise indicated, all translations of quotes and names in French in this submission are unofficial.

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I. Nuclear testing

Between 1960 and 1996, France carried out 17 nuclear tests in Algeria and 193 in French Polynesia. These tests caused grave harm to local populations and environments, which have gone largely unacknowledged and uncompensated for by the French government despite recommendations from UN human rights mechanisms.¹

France has accepted a UPR recommendation to ensure compensation is paid to all victims of nuclear tests in French Polynesia.²

In 2010, the government adopted the Morin Law, granting compensation to “any person suffering from an illness caused by radioactivity [...]”.³ In the last 10 years, only 1747 claims have been registered;⁴ in total 506 individuals—veterans, former civilian contractors, and members of the public—impacted by the tests have been granted compensation. More than 80% of the claims submitted have been rejected.⁵ The process to seek compensation “has become equivalent to an unscalable wall,” argue the investigators behind the Moruroa Files.⁶ “The rejected applicants have

¹UN Human Rights Committee ‘Concluding observations on the fifth periodic report of France’ (17 August 2015) UN Doc CCPR/C/FRA/CO/5, para. 21; Committee on the Elimination of Discrimination against Women ‘Concluding observations on the combined seventh and eighth periodic reports of France’ (25 July 2016) UN Doc CEDAW/C/FRA/CO/7-8, para. 36 (f); Committee on the Elimination of Discrimination against Women ‘Concluding observations on the combined seventh and eighth periodic reports of France’ (25 July 2016) UN Doc CEDAW/C/FRA/CO/7-8, para. 37 (g).

² “Ensure compensation is paid to all victims of nuclear tests in French Polynesia, in line with the observations of the Committee on the Elimination of Discrimination against Women and of the Human Rights Committee”. UN Human Rights Council ‘Report of the Working Group on the Universal Periodic Review of France’ (11 April 2018) UN Doc A/HRC/38/4, recommendation 145.97. Available at: <<https://www.ohchr.org/en/hr-bodies/upr/fr-index>>.

³ Loi n° 2010-2 du 5 janvier 2010 relative à la reconnaissance et à l'indemnisation des victimes des essais nucléaires français (LAW No. 2010-2 of 5 January 2010 on the recognition and compensation of victims of French nuclear tests) Art. 1, paragraph I. Available at: <<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000021625586/>>.

⁴ Compensation Committee for Nuclear Test Victims (CIVEN), ‘Activity report 2020: review of 10 years of the law of the 5th January 2010’ (9 March 2021). Available at: <<https://www.gouvernement.fr/rapport-d-activite-2020>>.

⁵ Moruroa Files, *The compensation trap*. Available at: <<https://moruroa-files.org/en/investigation/battle-for-compensation>>; Jean-Marie Collin and Patrice Bouveret, *Radioactivity Under the Sand: The Waste from French Nuclear Tests in Algeria* (Heinrich Böll Foundation, July 2020),13.

⁶ See the Moruroa Files available at moruroa-files.org; See also Sébastien Philippe and Tomas Statius, *Toxic: Investigation into French nuclear tests in Polynesia* (Paris: Puf, 2021).

no means of knowing why they were turned down, because the compensation committee provides no justification for its decisions, which are not made public.”⁷

In March 2021, the government drafted a revised version of the Morin law that includes compensation for relatives of deceased from exposure to ionising radiation due to French nuclear testing.⁸ The draft also addresses “transgenerational” consequences of nuclear testing on descendants suffering from radiation-induced diseases when ascendants were exposed to ionising radiation in an area affected by nuclear testing and during a period of actual contamination.⁹ In July 2021, during a visit to Papeete, the French President announced the opening of archives concerning nuclear tests, and additional financial and human resources to the *Comité d'indemnisation des victimes des essais nucléaires, CIVEN*.¹⁰ It is imperative that this commitment be implemented.

In March 2022, the CEDAW Committee asked France to provide information on the processing of claims for compensation of women and girls in French Polynesia by the CIVEN.¹¹

Recommendations

⁷ Moruroa Files, *The compensation trap*, available at: <<https://moruroa-files.org/en/investigation/battle-for-compensation>>.

⁸ *Proposition de loi n° 3966 visant à la prise en charge et à la réparation des conséquences des essais nucléaires français* (proposal for a law n° 3966 on the assumption of responsibility and reparation for the consequences of French nuclear tests), Art. 1, paragraph I and III. Available at: <https://www.assemblee-nationale.fr/dyn/15/textes/l15b3966_proposition-loi#D_Article_1er>.

⁹ *Proposition de loi n° 3966 visant à la prise en charge et à la réparation des conséquences des essais nucléaires français* (proposal for a law n° 3966 on the assumption of responsibility and reparation for the consequences of French nuclear tests) Art. 1, paragraph IV. Available at: <https://www.assemblee-nationale.fr/dyn/15/textes/l15b3966_proposition-loi#D_Article_1er>.

¹⁰ Boulman, C. *Essais nucléaires en Polynésie française : Macron reconnaît la « dette » de la France* (*Les Echos*, 28 July 2021). Available at: <<https://www.lesechos.fr/politique-societe/emmanuel-macron-president/essais-nucleaires-en-polynesie-francaise-macron-reconnait-la-dette-de-la-france-1335300>>; The CIVEN is the independent administrative authority that has the power to award or not award compensation under the Morin law.

¹¹ “Health (...) The Commission on Improving Compensation for Victims of Nuclear Tests, established by law No. 2017-256 of 28 February 2017 on programming relating to substantive equality in the overseas territories, presented its conclusions which were intended to improve the situation of victims of nuclear tests. Please provide information on the processing of claims for compensation of women and girls in French Polynesia.” Committee on the Elimination of Discrimination against Women, List of issues and questions in relation to the ninth periodic report of France, (7 March 2022), UN Doc CEDAW/C/FRA/Q/9, para. 19.

- Ensure a transparent, easily accessible, and public process for claiming compensation and for understanding decision-making in relation to compensation of all victims of French nuclear testing (including in Arabic for residents of Algeria).
- Ensure access for all victims of nuclear tests to relevant medical archives and other documentation necessary for making compensation claims including all reports containing measures of radioactivity in all media (air, ground, water) and in foodstuffs.
- Conduct rigorous and transparent impact assessments of past nuclear testing on human health and the environment, including non-carcinogenic impact, mental health impact, gendered impact, and possible transgenerational impact.
- Adopt the draft revised Morin Law (Proposition de loi n° 3966) with the principle of compensation to indirect and transgenerational victims of nuclear testing.

II. Disproportionate use of force

France has accepted six UPR recommendations pertaining to investigating effectively and impartially all cases of excessive use of force by law enforcement officers during protests and demonstrations.¹² Concerns over the use in France of so-called “less-lethal weapons,”¹³ and particularly weapons that fire rubber balls (so-called “defensive ball launchers”), have been raised

¹² UN Human Rights Council ‘Report of the Working Group on the Universal Periodic Review of France’ (11 April 2018) UN Doc A/HRC/38/4, Recommendations 145.138, 145.139, 145.170, 145.171, 145.172, 145.173. Available at: <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/102/49/PDF/G1810249.pdf?OpenElement>>; In 2015, the Human Rights Committee recommended that France: “*should adopt effective measures, particularly in terms of training, to prevent law enforcement and security forces from using excessive force or non-lethal weapons in situations that do not warrant recourse to greater or lethal force. In that connection, the Committee draws the State party’s attention to the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*”, Human Rights Committee ‘Concluding observations on the fifth periodic report of France’ (17 August 2015) UN Doc CCPR/C/FRA/CO/5, paragraph 15.

¹³ **Note:** For this submission, these weapons will be referred to as “less-lethal weapons” in line with the definition used by the Office of the High Commissioner for Human Rights; however, WILPF rejects any distinction between the purported lethality of any weapon system, given that the use of any weapon can have fatal consequences.

by national and international bodies and civil society organisations for over a decade.¹⁴

The French independent authority *Défenseur des droits* has noted that the “non-lethal” nature of such weapons means that in practice agents actually use them with less care than traditional weapons.¹⁵ It is worth noting that French police are the only ones in the EU to have “defensive ball launchers” and explosive grenades to disperse crowds.¹⁶

“Defensive ball launchers” are a targeting weapon as members of the police forces point a weapon in the direction of demonstrators and open fire.¹⁷ Several victims of “defensive ball launchers” have reported psychological trauma in addition to physical injuries.¹⁸ In crowd situations, aiming is made difficult by the distance and the movement of targeted persons, which increases the risk of serious injury.¹⁹ In addition to the risks of injury, the gesture of pointing a weapon in the direction of demonstrators has a very strong symbolic value since it places police in opposition to the

¹⁴Olivier Bénis, *Flash-ball, LBD 40: these non-lethal weapons denounced for ten years by (almost) everyone* (Franceinter, 16 January 2019). Available at: <<https://www.franceinter.fr/justice/flash-ball-lbd-40-ces-armes-non-letales-denoncees-depuis-dix-ans-par-presque-tout-le-monde>>; Action des Chrétiens pour l'Abolition de la Torture, *Practices and consequences of policing in France - Analysis note addressed to the Defender of Rights in the context of his fact-finding mission on policing* (July 2017). Available at: <<https://www.acatfrance.fr/public/acat-pratiques-et-consequences-du-maintien-de-l-ordre-en-france-juillet-2017.pdf>>; Amnesty International, *Recommendations on the "defensive bullet launcher"* (5 March 2012). Available at: <https://web.archive.org/web/20120903074627/https://www.amnesty.fr/sites/default/files/SF12REG56_05mars2012.pdf>.

¹⁵This independent constitutional authority reunites the missions previously assigned to four different authorities: the High authority for the fight against discrimination and for equality (HALDE), The Defender of Children, the Republic Mediator and the National Commission for police ethics (CNDS). The organic law n° 2011-333 and ordinary law n° 2011-334 from 29 March 2011 specified the status, missions, powers and resources of this new institution. More information available at: <<https://defenseurdesdroits.fr/en>>; Defender of Rights, *Report of the Defender of Rights on "The maintenance of order with regard to the rules of deontology"* (December 2017) page 26.

¹⁶Sebastian Roché, *Police violence in France (Esprit, January 2020)*. Available at: <https://esprit.presse.fr/actualites/sebastian-roche/les-violences-policieres-en-france-42562#_ftn10>.

¹⁷Action des Chrétiens pour l'Abolition de la Torture, *Policing at What Cost? An investigation into the evolution of policing practices in France and their impacts on freedom* (March 2020) page 97. Available at: <<https://www.acatfrance.fr/rapport/lordre-a-quel-prix>>.

¹⁸Action des Chrétiens pour l'Abolition de la Torture, *Policing at What Cost? An investigation into the evolution of policing practices in France and their impacts on freedom* (March 2020) 97. Available at: <<https://www.acatfrance.fr/rapport/lordre-a-quel-prix>>; Franceinfo, *One year later, this young victim of an LBD shooting in Lyon is anxiously awaiting the results of the police investigation* (27 April 2021). Available at: <<https://france3-regions.francetvinfo.fr/auvergne-rhone-alpes/rhone/lyon/un-an-apres-cette-jeune-victime-d-un-tir-de-lbd-a-lyon-attend-avec-inquietude-les-resultats-de-l-enquete-policiere-2063290.html>>.

¹⁹Defender of Rights, *Report of the Defender of Rights on "The maintenance of order with regard to the rules of deontology"* (December 2017) page 26. Available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_rt_201712_maintien_ordre.pdf>.

protesters, representing clear hostility and domination.

The severe impacts of the increased use of “defensive ball launchers” have been documented, including head injuries (e.g. facial fractures) and an increase in eye injuries, with a notable rise between 2016 and 2019: the number of open eyeballs was zero in 2016, and a total of 22 for 2018-2019.²⁰ According to *Action des Chrétiens pour l'Abolition de la Torture France* (ACAT France), between 2010 and 2019, 71 persons have been seriously injured by flashballs and LBD 40, among which 48 lost part of or their entire sight from one eye, and two were killed.²¹ ACAT France also documented serious injuries due to dispersion grenades in the same period.²²

The *Inspection Générale de la Police Nationale (IGPN)*, has started providing some information about such weapons in its annual report since 2019. Police officers are required to fill in a *TSUA*²³ (weapons usage tracking file) after each use. However, this administrative process is not appropriate and adapted to the large-scale use of “less-lethal weapons” during protests or riots. Indeed, as the *Défenseur des droits* reported in his 2019 decision, such files are often not correctly filled in because they take too long and are not adapted to the situation.²⁴ Data provided in IGPN's reports about the use of less-lethal weapons such as “defense-ball launchers” can, thus, be underestimated.²⁵

²⁰Laurène Dufayet, Nicolas Soussy and Charlotte Giorgard, *French protests: why defensive bullet launchers should be banned* (The Lancet, VOLUME 396, ISSUE 10253, P757-758, September 12, 2020). Available at: <[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31869-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31869-9/fulltext)>; Aurore Chauvin et al., Ocular injuries occurred by less-lethal weapons in France, (The Lancet, vol. 394, n° 10209, 2 November 2019) 1616-7. Available at:

<https://www.researchgate.net/publication/336987252_Ocular_injuries_caused_by_less-lethal_weapons_in_France>.

²¹Action des Chrétiens pour l'Abolition de la Torture, *Policing at What Cost? An investigation into the evolution of policing practices in France and their impacts on freedom* (March 2020) page 93. Available at: <<https://www.acatfrance.fr/rapport/lordre-a-quel-prix>>.

²²Action des Chrétiens pour l'Abolition de la Torture, *Policing at What Cost? An investigation into the evolution of policing practices in France and their impacts on freedom* (March 2020) page 93. Available at: <<https://www.acatfrance.fr/rapport/lordre-a-quel-prix>>.

²³ *Fichier de traitement de suivi de l'usage des armes*

²⁴Defender of Rights, decision n° 2019-263 (10 December 2019). Available at: <https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=31076&opac_view=-1>.

²⁵ Rapport annuel de l'IGPN 2021, page 59. Available at: <<https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2021>>.

In the absence of systematic official statistics, CSOs and journalists gather data to identify the types of weapons used by law enforcement, as well as to monitor incidents.²⁶ Between 2010 and 2014, shots from the police and *gendarmerie* with “less-lethal weapons” in law enforcement has increased considerably from 40 shots to 463 shots.²⁷ Between 2017 and 2018 and in the midst of the *gilets jaunes* (Yellow vests) movement,²⁸ the IGPN reported an exponential increase in the use of “defensive ball launchers,” with 4,005 reports (a 61 % increase compared to 2017) for 19,071 rounds of ammunition fired (a 200 % increase compared to 2017).²⁹ Over a third (36%) of complaints made against the police related to the Yellow vests protests pertained to the use of defensive ball launchers and grenades and 38% regarding beatings and the use of batons.³⁰

Public outcry over the use of “defensive ball launchers” peaked during the Yellow Vests protests considering the seriousness and number of casualties. In February 2019, UN Special Procedures criticised the disproportionate use of force by the police, including the serious injuries caused by a disproportionate use of “less-lethal weapons” like grenades and “defensive bullets.”³¹ In January 2019, the *Défenseur des Droits* reiterated his recommendations to forbid the use of “defensive ball launchers” in the context of public protests.³²

The national human rights institution (*Commission nationale consultative des droits de l'Homme, CNCDH*), in an opinion dated February 2021, noted that “the supervision of demonstrators during collective mobilizations, or occupations of public or private property, has given rise in recent years

²⁶Omega Research Foundation, *Visual guide to military, security and police equipment* (2015). See also Mispo.org a fully searchable online databank containing thousands of images of military, security and police (MSP) equipment, available at <<http://www.mispo.org>>.

²⁷Sebastian Roché, *Police violence in France* (*Esprit*, January 2020). Available at: <https://esprit.presse.fr/actualites/sebastian-roche/les-violences-policieres-en-france-42562#_ftn10>.

²⁸This was a grassroots citizens’ protest movement, which began in early November 2018 against a planned rise in the tax on diesel and petrol. The movement was named “gilets jaunes” (yellow vests) because protesters wore fluorescent yellow jackets that all motorists must by law carry in their cars.

²⁹General Inspectorate of the National Police (IGPN) Police nationale, ‘IGPN Annual Report 2018’ (17 June 2019) page 29. Available at: <<https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2018>>.

³⁰6th Periodic report of France on the implementation of the International Covenant on Civil and Political Rights, UN Doc CCPR/C/FRA/6 para. 228. Available at: <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fFRA%2f6&Lang=en>.

³¹OHCHR, *France: UN experts denounce severe rights restrictions on “gilets jaunes” protesters* (Geneva, 14 February 2019). Available at: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24166&LangID=E>>.

³²Defender of Rights, decision n° 2019-029 (13 January 2019). Available at: <https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18403>.

to unprecedented recourse to the use of force, resulting in numerous illegitimate acts of violence.” The CNCDH , “noting the increase in the number of injuries caused by the use of mutilating weapons, which cause irreversible injuries to demonstrators, recommends abandoning the use of defensive ball launchers and dispersion grenades.”³³ In January 2020, it stated that it was also “very concerned about the chilling effect of police violence on the exercise of the freedom to demonstrate and about the impediments to the freedom to inform and the right to testify.”³⁴

To respond to such concerns, in September 2020, the government launched a new *Schéma National du Maintien de l’Ordre* (SNMO, National Framework for Maintaining Public Order.)³⁵ Regrettably, it only confirmed the continued use of these weapons with slight changes.³⁶ Moreover, while the SNMO recalls the principles of necessity and proportionality in the use of force, it does not provide any details on their implementation, particularly when considering the use of “less-lethal weapons” for “crowd control”.³⁷ With regard to its analysis of the SNMO, the CNCDH deplores that the plan “never refers to the notion of “de-escalation,” which was expressly rejected by the leaders of the national police during the CNCDH hearings, thus perpetuating France's isolation from its

³³French National Consultative Commission on Human Rights (CNCDH), *Opinion on police-public relations: rebuilding trust between the police and the public* (A-2021-2, 11 February 2021) paragraph 44. Available at: < <https://www.cncdh.fr/publications/avis-sur-les-rapports-entre-police-et-population-2021-2>>.

³⁴French National Consultative Commission on Human Rights (CNCDH), *Statement on illegitimate police violence* (D-2020-2, 28 January 2020). Available at: <<https://www.cncdh.fr/publications/declaration-sur-les-violences-policieres-illegitimes-d-2020-2>>.

³⁵French Ministry of the Interior, ‘National framework for maintaining public order’ (16 September 2020). Available at: < <https://www.interieur.gouv.fr/sites/minint/files/medias/documents/2021-12/schema-national-du-maintien-de-l-ordre-decembre-2021.pdf>>.

³⁶According to the SNMO, “Defensive ball launchers” will now, except in the case of “self-defence,” have to be used with a supervisor responsible for assessing the overall situation and the movements of the demonstrators, to make sure that the shooter understands the orders and to designate the objective. This system will be evaluated after one year of implementation. The SNMO also confirmed a January 23, 2019, instruction by virtue of which LBD carriers should be equipped with a belly-mounted camera whenever possible, or provide for an LBD carrier/camera carrier pairing (with the supervisor). Camera carriers must record the conditions under which the LBD was used. See: Amnesty International, *New Policing Model: A missed opportunity* (22 September 2020). Available at: <<https://www.amnesty.fr/liberte-d-expression/actualites/schema-du-maintien-de-lordre-occasion-manquee>>.

³⁷French Ministry of the Interior, ‘National framework for maintaining public order’ (16 September 2020), paragraph 3.3. Available at: < <https://www.interieur.gouv.fr/sites/minint/files/medias/documents/2021-12/schema-national-du-maintien-de-l-ordre-decembre-2021.pdf>>. See: Amnesty International, *New Policing Model: A missed opportunity* (22 September 2020). Available at: <<https://www.amnesty.fr/liberte-d-expression/actualites/schema-du-maintien-de-lordre-occasion-manquee>>.

European neighbours (...)"³⁸

To renew public confidence in the police, the government launched a public consultation called *Le Beauvau de la sécurité*, from 1 February 2021 to 14 September 2021. Following this consultation, the government published a draft law on the orientation and programming of the Ministry of Interior.³⁹ However, the draft does not address issues caused by the use of “less-lethal” weapons or more broadly of police violence, largely focusing instead on increasing the number of police officers and the Ministry of Interior’s budget for the police.⁴⁰

Recommendations⁴¹

- Make it compulsory for law enforcement officers to record and report promptly and transparently on the use of weapons and to include sufficient information to establish whether the use of force was necessary and proportionate by setting out the details of the incident, including the reasons for the use of force, its effectiveness and its consequences.
- Immediately ban the use of “defensive ball launchers” and dispersion grenades in law enforcement operations.
- Review law enforcement intervention tactics to ensure that they are based on dialogue and de-escalation strategies, to reduce the use of force and prevent human rights violations.

³⁸French National Consultative Commission on Human Rights (CNCDH), *Opinion on police-public relations: rebuilding trust between the police and the public* (A-2021-2, 11 February 2021) paragraph 46. Available at: < <https://www.cncdh.fr/publications/avis-sur-les-rapports-entre-police-et-population-2021-2>>.

³⁹French Ministry of the Interior, ‘Projet de loi d’orientation et de programmation du ministère de l’intérieur 2022-2027’ (draft law on the orientation and programming of the Ministry of the Interior 2022-2027) (16 March 2022). Available at: <<https://www.interieur.gouv.fr/sites/minint/files/medias/documents/2022-03/16-03-2022-projet-de-loi-d-orientation-et-de-programmation-du-ministere.pdf>>.

⁴⁰France Info, ‘REPLAY. Les annonces d’Emmanuel Macron pour conclure le Beauvau de la sécurité’ (14 September 2021), available at : <https://www.francetvinfo.fr/faits-divers/police/violences-policieres/direct-beauvau-de-la-securite-suivez-le-discours-d-emmanuel-macron-a-partir-de-12h30_4769999.html>.

⁴¹Amnesty International, ‘France: Abusive and illegal use of force by police at Redon rave highlights need for accountability’ (14 September 2021). Available at: <<https://www.amnesty.org/en/latest/news/2021/09/france-abusive-and-illegal-use-of-force-by-police-at-redon-rave-highlights-need-for-accountability/>>.

- Ensure diligent investigation by an independent authority and accountability for all complaints of violence during public protests and investigate whether police tactics were necessary and proportional.
- Divest from and demilitarise the police and invest instead in social services and community-driven initiatives to restore public trust in State institutions and to provide care for people and prevent harm.

III. Police use of drones

A law focusing on surveillance tools and law enforcement protection (*Loi de sécurité globale préservant les libertés*, known as Global Security Law), was adopted in May 2021,⁴² and originally foresaw the use of drones by the police, including to monitor public protests.⁴³

In September 2020, the *Défenseur des droits* underlined that when used during protests, drones can have a deterrent effect and prevent people from protesting.⁴⁴ In January 2021, the *Commission Nationale de l'Informatique et des Libertés (CNIL)* alerted the government to concerns on the use of drones by the police.⁴⁵

In May 2021, the Constitutional Court struck down the provisions of the Global Security Law that allowed police officers to use drones and deploy onboard cameras in their vehicles stating, *inter alia*, that “the implementation of such surveillance systems must be accompanied by special

⁴² Loi n° 2021-646 du 25 mai 2021 pour une sécurité globale préservant les libertés. Available at: <<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000043530276/?isSuggest=true>>.

⁴³National Assembly, Proposition of law n° 599, by the National Assembly, for a global security preserving the liberties, Chapter II Art. L. 242-5. – II 1°. Available at: <https://www.assemblee-nationale.fr/dyn/15/textes/l15b4030_texte-adopte-commission>.

⁴⁴Defender of Rights, *Avis du Défenseur des droits n°21-12* (20 September 2021) page 9. Available at: <https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=20954>.

⁴⁵ “the use of mobile devices, discreet by nature and whose position at height allows them to film places that were previously difficult to access or even forbidden to cameras. The image capture that they allow is therefore considerably extended and, above all, can be individualised, by allowing the tracking of people in their movements, without their knowledge and over a period of time that can be long. Moreover, more than the cameras currently in use, these surveillance devices are likely to affect the exercise by citizens of other fundamental freedoms (right to demonstrate, freedom of worship, freedom of expression” CNIL, Deliberation No. 2021-011 of 26 January 2021 concerning an opinion on a draft law on global security (Request for opinion n° 20020769) page 3 and 4. Available at: <https://www.cnil.fr/sites/default/files/atoms/files/d-2021-011_pplsecu.pdf>.

guarantees to safeguard the right to respect for private life.”⁴⁶

Despite these concerns, in July 2021 a new draft law, *Loi relative à la responsabilité pénale et à la sécurité intérieure* (law on criminal liability and internal security) re-integrated several articles of the Global Security Law regarding the use of drones by police. An analysis of the draft law done by the French judges’ and lawyers’ unions and the Ligue des Droits de l’Homme underlined that most of the guarantees of the right to privacy that were lacking in the Global Security Law and that had justified its invalidation by the Constitutional Court, were also missing in the draft law on criminal liability and internal security, and that in some aspects this draft provided even less protection.⁴⁷

The draft law was adopted on 24 January 2022.⁴⁸ The use of drones as permitted under Articles 15 and 16 of this law raises, among others, the following concerns:⁴⁹

- The broad list of purposes for which drones may be used including for “the prevention of attacks on people or property”; “security of assemblies in public spaces”; “regulation of transport flows”, “border surveillance and illegal crossing”; “rescuing people” and “the prevention of terrorist acts.”⁵⁰ This formally endorses the use of mass surveillance technologies and the increasing militarised response to the exercise of the right to freedom of peaceful assembly as well as militarisation of France's migration policy.
- The Constitutional Court had invalidated the use of drones in the Global Security Law considering that “the legislator itself has not set any maximum limit to the duration of such an authorisation [...] nor any limit to the perimeter within which surveillance can be

⁴⁶ “Constitutional Court, Decision n° 2021-817 DC of 20 May 2021, paragraph 135. Available at: <<https://www.conseil-constitutionnel.fr/decision/2021/2021817DC.htm>>.

⁴⁷ Syndicat de la Magistrature, Syndicat des Avocats de France, La Quadrature du Net, Ligue des droits de l’Homme, *Contribution extérieure sur la loi relative à la responsabilité pénale et la sécurité intérieure* (30 December 2021) page 38-42. Available at: <<https://lesaf.org/notre-contribution-exterieure-sur-la-loi-responsabilite-penale-et-securite-interieure/>>.

⁴⁸ Loi No. 2022-52 du 24 Janvier 2022 *relative à la responsabilité pénale et la sécurité intérieure*. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045067923>>.

⁴⁹ Syndicat de la Magistrature, Syndicat des Avocats de France, La Quadrature du Net, Ligue des droits de l’Homme, *Contribution extérieure sur la loi relative à la responsabilité pénale et la sécurité intérieure* (30 December 2021) page 38-42. Available at: <<https://lesaf.org/notre-contribution-exterieure-sur-la-loi-responsabilite-penale-et-securite-interieure/>>.

⁵⁰ Art. L. 242-5.-I. Loi No. 2022-52 du 24 Janvier 2022 *relative à la responsabilité pénale et la sécurité intérieure*. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045067923>>.

implemented.”⁵¹ Despite this,

- The new law fails to set a maximum limit on the number of authorisations that can be issued by the State representative in the department or, in Paris, by the police prefect,⁵² for the use of drones (except for searches for causes of death or disappearance, limited to a total of two years),⁵³
 - There is no *ex ante* control by an independent authority of the geographical perimeter where drones can be used.⁵⁴ This perimeter is left to the discretion of the State representative in the department or, in Paris, to the police prefect when delivering the authorisation.
- The new law provides that “the use of the devices provided for in this Article may only be authorised where it is proportionate to the purpose pursued.”⁵⁵ However, this is assessed by the State representative in the department or, in Paris, by the police prefect, and not independently by a judge.⁵⁶
 - The law authorises filming inside a home at any time and to use it to record an offence if the recording was not intentionally done inside a home.

⁵¹Constitutional Court, *Decision n° 2021-817 DC of 20th May 2021: Law for a global security preserving liberties* (20 May 2021) paragraph 138. Available at: <<https://www.conseil-constitutionnel.fr/decision/2021/2021817DC.htm>>.

⁵²In each French department and region there is what we call a “Prefect”, who is the representative of the state. The prefect is a high civil servant, appointed by the President of the Republic. The role of the prefect is to ensure peace keeping and security, and to control the legality of what the local authorities (communes, departments, etc.) do. The prefect coordinates government action at local level: employment, social cohesion, regional planning, economic development, environment, etc. The prefect is a direct representative of the State and cannot challenge any government decisions and is therefore not an independent power as the judiciary is. In Paris, and since 2012 in Marseille, there is a prefect specially appointed for police matters, called the “police prefect”.

⁵³Art. L. 242-5, IV Loi No. 2022-52 du 24 Janvier 2022 *relative à la responsabilité pénale et la sécurité intérieure*. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045067923>>.

⁵⁴ Ibid

⁵⁵Art. L. 242-5, I Loi No. 2022-52 du 24 Janvier 2022 *relative à la responsabilité pénale et la sécurité intérieure*. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045067923>>.

⁵⁶La Quadrature du Net, *Les drones policiers autorisés par le conseil constitutionnel* (21 January 2022). Available at: <<https://www.laquadrature.net/2022/01/21/les-drones-policiers-autorises-par-le-conseil-constitutionnel/>>.

In addition to police use of drones to monitor within France, this law authorises the use of drones for “border surveillance and illegal crossings.”⁵⁷ France has already received recommendations from human rights mechanisms regarding acts of violence and discrimination by the police against migrants, asylum-seekers and refugees.⁵⁸ The Special Rapporteur on racism has recommended that States ensure that border and immigration enforcement be subject to binding legal obligations to prevent, combat and remedy racial and xenophobic discrimination in the design and use of digital border technologies.⁵⁹

More generally, the use of drones by law enforcement also raises concerns regarding the risk of over-policing of minorities given the many allegations of abusive and/or discriminatory identity checks by the French police against Black and Arab youth and recent court rulings recognising “gross misconduct” of the State for unjustified identity checks and irregular arrests of minors by the police.⁶⁰

Recommendations

- Repeal legal provisions authorising the use of drones by police and border enforcement and ban such use. In the interim:
 - Ensure that the images filmed by drones will not be extracted and processed by facial recognition or personal data processing software.
 - Analyse the human rights impacts of the use of drones on the right to equality and non-discrimination, particularly on minorities, migrants and asylum-seekers and

⁵⁷ Art L. 242-4 b) Loi No. 2022-52 du 24 Janvier 2022 *relative à la responsabilité pénale et la sécurité intérieure*. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045067923>>.

⁵⁸ A/HRC/38/4 (UPR 2018), recommendation 144.55; CAT/C/FRA/CO/7 (CAT 2016), paras.16 and 18;

⁵⁹ UN General Assembly, Seventy-fifth session ‘Report of the Special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance’ (10 November 2020) UN Doc A/75/590, para. 58.

⁶⁰ Human Rights Watch, *They Talk to Us Like We’re Dogs: Abusive Police Stops in France* (18 June 2020).

Available at: <<https://www.hrw.org/report/2020/06/18/they-talk-us-were-dogs/abusive-police-stops-france>>; French National Consultative Commission on Human Rights (CNCDH), Prevention of discriminatory and/or abusive identity control practices (8 November 2016). Available at:

<https://www.cncdh.fr/sites/default/files/161108_avis_pratiques_des_controles_didentite_format_a5.pdf>; Chloé Pilorget-Rezzouk, *Abusive identity controls: why the State is condemned for “gross negligence”* (Libération, 29 October 2020). Available at: <https://www.liberation.fr/france/2020/10/29/controles-abusifs-pourquoi-l-etat-est-condamne-pour-faute-lourde_1803829/>.

- take all measures to prevent and remedy any such impacts.
- Monitor and analyse the human rights impacts of drones on the right to peaceful assembly and the right to privacy and take all measures to prevent and remedy any such impacts.

IV. National police operational reserve and firearms

Article 12 of the above-mentioned law on criminal responsibility and internal security transforms the civilian reserve of the national police into an operational reserve.⁶¹ The aim is to recruit 30,000 volunteer police officers, 70% of whom are civilians, by 2030.⁶² Article 12 extends the possibility of carrying a weapon to all police reservists, including volunteers who are of legal age, pass background checks, are in good physical condition and who have fulfilled their national service obligations.⁶³ Volunteers undergo an initial 10-day training course, 50% of which is largely dedicated to handling a weapon.⁶⁴

Furthermore, although the recruitment criteria include “not having been sentenced to loss of civic rights or prohibition from holding public office, or to a criminal or correctional sentence entered in bulletin no. 2 of the criminal record,”⁶⁵ no background checks are expressly envisaged for complaints and/or investigations of domestic violence. This is very concerning because out of 122 femicides committed in France in 2021 - which is an increase of 20% compared to 2020 - 44 of them were committed with firearms.⁶⁶ In 2021, 36% of femicides (1 in 3), were committed with a

⁶¹Loi No. 2022-52 du 24 Janvier 2022 *relative à la responsabilité pénale et la sécurité intérieure*. Available at: <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045067923>>.

⁶²BFMTV, *Armés après 10 jours de formation, les réservistes de la police vont patrouiller dès la fin de l'été* (9 August 2022). Available at: <https://rmc.bfmtv.com/actualites/police-justice/armes-apres-10-jours-de-formation-les-reservistes-de-la-police-vont-patrouiller-des-la-fin-de-l-ete_AV-202208090277.html>.

⁶³*Réserve opérationnelle de la Police nationale* (National Police Operational Reserve). Available at:

<<https://www.service-public.fr/particuliers/vosdroits/F34110#:~:text=Vous%20signez%20un%20contrat%20d'engagement%20d'une%20durée%20de,maximum%2090%20jours%20par%20an.&text=en%20tant%20que%20policier%20réserviste,convocations%20qui%20vous%20seront%20adressées>>.

⁶⁴BFMTV, *Au cœur de la formation des premiers réservistes de la police nationale* (31 juillet 2022). Available at: <https://rmc.bfmtv.com/actualites/police-justice/au-coeur-de-la-formation-des-premiers-reservistes-de-la-police-nationale_AV-202207310132.html>.

⁶⁵National police website, *Autres recrutements: Réserviste opérationnel*. Available at: <<https://www.devenirpolicier.fr/nous-rejoindre/autres-recrutements/reserviste-operationnel>>.

⁶⁶Ministry of the Interior, *National study on violent deaths in couples 2021* (26 August 2022) page 15. Available at: <<https://www.interieur.gouv.fr/actualites/actu-du-ministere/etude-nationale-sur-morts-violentes-au-sein-du-couple-2021>>.

firearm. These include shotguns, service weapons and illegally obtained firearms. According to data gathered by Reporterre, “a shotgun was used in at least 27.54% of the 102 femicides in 2020, and 25.44% of the 106 murders in 2021. That is 1 in 4 femicides caused by a hunting weapon.”⁶⁷ It is important to note that in 2021, “of the perpetrators who used a firearm, the weapon was declared and legally held on 22 occasions (a proportion of 48%)”.⁶⁸

Recommendations

- a) Ensure that background checks of candidates to the police reserve also include checking for complaints and/or investigations of domestic violence.
- b) Prohibit the use of firearms by the newly created volunteer-based police reserve.
- c) Instead of increasing police forces, use financial resources towards building safe communities based on human security through funding in, among others, education, housing, social security, and the fight against inequalities and discrimination.

⁶⁷ Reporterre, *Féminicides, suicides, les ravages des fusils de chasse* (9 December 2021). Available at: <<https://reporterre.net/Feminicides-suicides-les-ravages-des-fusils-de-chasse>>.

⁶⁸ Ministry of the Interior, *National study on violent deaths in couples 2021* (26 August 2022) page 15. Available at: <<https://www.interieur.gouv.fr/actualites/actu-du-ministere/etude-nationale-sur-morts-violentes-au-sein-du-couple-2021>>.