



KIMBÉ RÈD F.W.I.

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Equality for French Overseas Territories

16 September 2024

FRANCE: FRENCH OVERSEAS TERRITORIES MATTER

Report to the UN Human Rights Committee (2024)



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This report is to be read in conjunction with the report prepared by our coalition partner, Kaz Human Rights, as part of our joint effort to present a complementary understanding of the realities in French Overseas Territories. We encourage readers to consider both documents as part of a unified voice, as French overseas territories often face similar challenges and often are forgotten.



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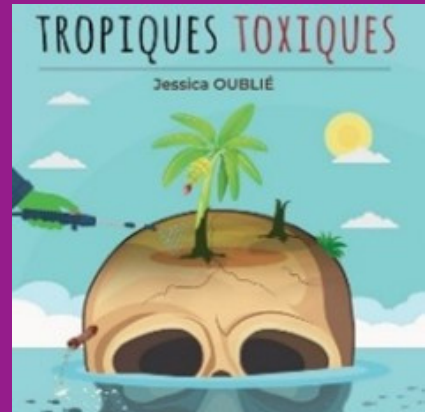
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Who we are

Summary



This report is to be read in conjunction with the report prepared by our coalition partner, **Kaz Human Rights**, as part of our joint effort to present a complementary understanding of the realities in French Overseas Territories. We encourage readers to consider both documents as part of a unified voice, as French overseas territories often face similar challenges and often are forgotten.



This report unveils that French Overseas Territories (FOTs) are disproportionately affected by violations of civil and political rights, which also alarmingly impacts their economic and social rights (Part 01). In this context, “Klodo”, the overseen Guadeloupean “George Floyd” case (Part 02), and the water & chlordecone scandal in Guadeloupe and Martinique (Part 03) illustrate glaring structural inequalities between FOTs and Continental France that undermine FOTs’ confidence in the French state.

It is urgent that the State remedy this situation through the systematic and tailored inclusion of FOTs in law and in practice, following a human-rights based approach: France must recognize the people of FOTs as full holders of rights and assume its role of duty bearer by fulfilling its obligations of respecting, protecting and fulfilling their human rights in accordance with the International Covenant on Civil and Political Rights (ICCPR).

In doing so, rather than continuing to move away from them, France will get closer to achieving many of the Sustainable Development Goals (SDGs) for 2030 in the so-called FOTs, in particular **SDG 10 (reducing inequalities)**.

List of issues

► This report informs the following issues:

- **Non-discrimination (arts. 2-3, 6, 19-20 and 26)**
- **Right to life (arts. 6 and 14)**
- **Prohibition of torture and cruel, inhuman or degrading treatment or punishment, right to liberty and security of person, and treatment of persons deprived of their liberty (arts. 2, 4, 7, 9-10, 14 and 19)**
- **Right to liberty and security (art. 9)**
- **Freedom of expression (arts. 19-20)**

of the [List of Issues \(CCPR/C/FRA/QPR/6\)](#) established by the Human Rights Committee regarding the review of France's 6th periodic report.

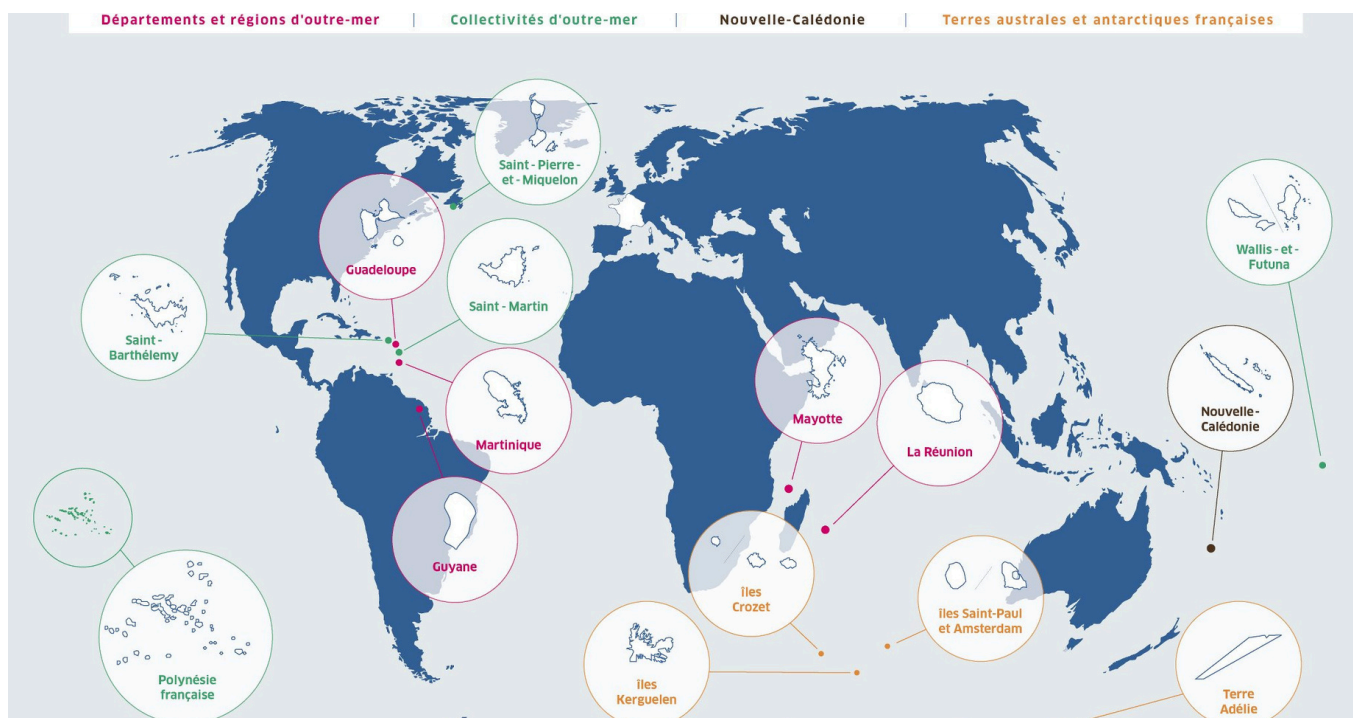
- **This report concerns all French Overseas Territories (FOTs), with a special focus on Guadeloupe and Martinique.**

Proposed recommendations

Issue	Recommendations
<p>01 LEAVING NO FRENCH “OVERSEAS” TERRITORY (FOT) BEHIND</p> <ul style="list-style-type: none">• Non-discrimination (arts. 2–3, 6, 19–20 and 26)	<ul style="list-style-type: none">▶ “Overseas” inclusion<ul style="list-style-type: none">• Mainstream FOTs throughout the Concluding Observations• Dedicate a specific part on FOTs in the CO▶ European Social Charter<ul style="list-style-type: none">• Submit Declaration extending the scope of the Charter to all FOTs with no further delay• Agree to the admissibility of the pending collective complaint FIDH v France• Systematically include FOTs in periodic reports to any international or regional human rights monitoring and reporting mechanisms
<p>02 BLACK LIVES MATTER: “KLODO”, THE GUADELOUPEAN “GEORGE FLOYD” CASE</p> <ul style="list-style-type: none">• Non-discrimination (arts. 2–3, 6, 19–20 and 26)• Right to life (arts. 6 and 14)• Prohibition of torture and cruel, inhuman or degrading treatment or punishment, right to liberty and security of person, and treatment of persons deprived of their liberty (arts. 2, 4, 7, 9–10, 14 and 19)• Right to liberty and security (art. 9)	<ul style="list-style-type: none">• Prohibit racial profiling in domestic legislation;• Speedily investigate, prosecute and try the Klodo, Assor and Cély cases;• Thoroughly investigate and prosecute all allegations of racial profiling in FOTs, sentence and sanction perpetrators found guilty, and provide effective remedies to the victims;• Collect disaggregated data on all incidents, complaints and investigations of racial profiling by law enforcement agencies, including Customs and Border Protection and Immigration and Customs Enforcement in all FOTs;• Train all law enforcement officers on ethnic and cultural awareness, the unacceptability of racial profiling and the use of force;• Ensure diversity, ethnic/racial (and gender) balance in law enforcement forces as well as in the whole justice system;• Effectively eliminate racial disparities at all stages of the criminal justice process.
<p>03 THE CARIBBEAN “ERIN BROCKOVICH” CASE</p> <ul style="list-style-type: none">• Non-discrimination (arts. 2–3, 6, 19–20 and 26)• Right to life (arts. 6 and 14)• Freedom of expression (arts. 19–20)	<ul style="list-style-type: none">▶ Safe drinking water in Guadeloupe<ul style="list-style-type: none">• Take emergency measures to supply the population of Guadeloupe with safe drinking water pending the complete repair of the water and sanitation systems ;• Grant reparation and compensation to all users impacted both by water cuts and water contamination caused by the failing sanitation system and by various pesticides, including chlordecone.▶ Chlordecone in Guadeloupe and Martinique<ul style="list-style-type: none">• Guarantee justice, truth, reparation and effective compensation to the entire population impregnated with chlordecone (90% of the population of the two islands), including children, and not only to workers who can demonstrate an occupational disease caused by pesticides.• Speedily enact 2024 law on chlordecone

01 LEAVING NO FOT BEHIND

► FOTs mainstreaming & integration



France has the responsibility for the administration of 12 Non-Self-Governing Territories (11 of which are inhabited) known as French “Overseas” Territories (FOTs). They gather nearly three (3) million people across four (4) oceans.

FOTs are not, or little, mentioned in the List of Issues and State Party Report.

However, all issues covered in the Sixth Periodical Review of France on the International Covenant on Civil and Political Rights (ICCPR) are relevant to the FOTs.

They often share similar challenges, which are often accrued compared to Continental France.

Suggested question:



For every issue on the session’s agenda, may France systematically produce disaggregated data and tailored answers about civil and political rights in the FOTs?

PROPOSED RECOMMENDATION:

Kimbé Rèd FWI respectfully asks to the HRC to consider:

- mainstreaming FOTs throughout its Concluding Observations (CO), and
- dedicating a specific part on civil and political rights in the French Overseas Territories in its CO.

► FOTs inclusion in the European Social Charter

The ICCPR Preamble asserts that the effective exercise of civil liberties and political participation is a prerequisite for the full enjoyment and protection of economic, social, and cultural rights. It is a direct illustration of the principle of **interdependence and indivisibility of all human rights**.

As indicated in the “Core document forming part of the reports presented by France” to the Committee, France has long signed and ratified most international and regional instruments relating to human rights, including economic and social rights. In particular, in 1973, France ratified the European Social Charter of 1961 (ETS No. 035) and, in 1999, the revised European Social Charter of 1996 (ETS No. 163) as well as the Additional Protocol to the Charter providing for a Collective Complaints System of 1995 (ETS No. 158).

Yet, to date, France has not made the necessary declaration for the revised European Social Charter and its protocols to apply to non-metropolitan French territories. [1] As a result, the people of FOTs are not recognised the same human rights as in Continental France. [2]



This situation results in:

► **Discrimination:** it effectively deprives nearly three million people across 11 territories of the protection of their basic economic and social rights under the Charter, in law and in practice.

► **Lack of accountability:** FOTs have almost never been covered in France's periodic reports on ESR to the Council of Europe. The mere mentions of the FOTs are used to illustrate the improvement of French policies and the conformity of its actions with the level of protection of these rights established by the Charter, while the benefit of the rights set out is not guaranteed to these territories.

► **Denial of an effective regional remedy:** FOTs have never benefited from a collective complaint before the European Committee of Economic and Social Rights of the Council of Europe.

[1] Article L ("Territorial application") of this basic text provides that the Charter applies only to the metropolitan territory of the State party, unless there is an express declaration by the latter designating the non-metropolitan territories to which it extends the scope of the Charter.

[2] All other State parties with overseas territories —the Netherlands, Portugal, Spain and the United Kingdom—have extended the Charter's application, at least partially, to those territories.

► **Glaring inequalities:** which were reported to the UN Committee on ESCR in 2023 and to the ESR Committee of the Council of Europe in 2024.



HIGH COST OF LIVING IN THE FRENCH "OVERSEAS" TERRITORIES

Ad hoc Report by Kimbé Rêd F.W.I. to the European Committee of Social Rights of the Council of Europe, June 2024.

GLARING INEQUALITIES between "Overseas" Territories & Continental France

- The so-called "overseas" populations are disproportionately affected by the **cost of living crisis**, **poverty**, limited access to **employment** and **basic services**, particularly safe drinking water and **sanitation**, as well as **housing**, **education**, **health**, and **communications**.
- The standard of living for local populations is lower than in continental France.
- This situation keeps worsening, especially since the Covid-19 crisis.

EXCESSIVE PRICES

FOOD

+ 42%



COMMUNICATIONS

+ 35%



HEALTH

+ 17%



Source: INSEE



AFFECTED POPULATIONS

3 MILLION
PEOPLE
ACROSS
11 TERRITORIES
4 OCEANS

ACTION

The State must urgently:

- Adopt an **"economic and social shock recovery plan,"** as recommended by the 2023 parliamentary inquiry;
- Provide **"adequate human and financial resources"** and follow a human rights-based approach, as recommended by the United Nations.

► FULL REPORT AVAILABLE ON THE COUNCIL OF EUROPE WEBSITE:

<https://www.coe.int/en/web/european-social-charter/france>

Contact us kimberedfwiegmail.com



1st FOT collective complaint challenged

On 18 March 2024, the International Federation for Human Rights (FIDH), in collaboration with Kimbé Rêd F.W.I. and the Ligue des droits de l'Homme, filed the 1st collective complaint pertaining to FOTs, to demand urgent response and compensation measures for safe drinking water in Guadeloupe and chlordecone poisoning in Guadeloupe and Martinique.

On 15 May 2024, France challenged its **admissibility** : "France has not accepted the provisions of the Charter cited by the claimant organization with regard to Guadeloupe and Martinique, the territories which are the subject of the present collective claim." (our translation).

On 12 July 2024, the three organisations replied that the complaint should be admissible under the Committee's standards and case-law, and that this situation amounts to a **breach of IHRL, including ICCPR and ICESCR violations.**

Advocacy

▶ **“All Human”**: in June 2024, Kimbé Rèd launched an [appeal](#) online for the inclusion of FOTs in the European Social Charter”. It has been joined by more than 800 signatories including leading local, national and international organisations and (UN) experts, as well as individuals. It is still ongoing.

▶ **Vilnius Conference**: on 4 July 2024, at this High-Level Conference on the European Social Charter, France called on the other European States to make additional commitments to social rights under the Charter. Yet, though long alerted to its own shortcoming, it failed to seize this opportunity to extend the scope of the Charter to those excluded among its own population.

Several speakers, such as the President and Vice-President of the Council of Europe’s Conference of INGOs, declared that there should be ‘no territorial exclusion’ from the European Social Charter. The President of the European Committee of Social Rights stated that there should be no ‘second-class citizens’ [see [article](#)].

ICCPR Violation

This situation is contrary to Article 26 ICCPR which ensures individuals to be equal before the law and be entitled without any discrimination to the equal protection of the law.

Suggested question:

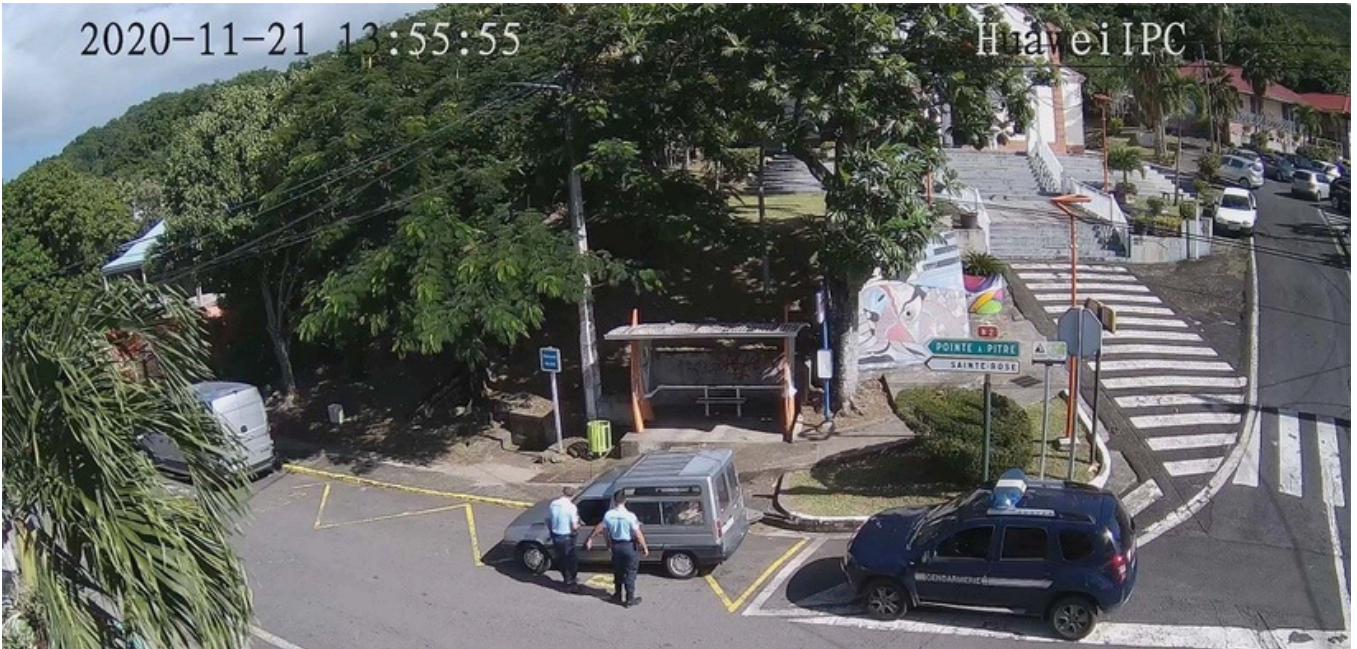
Why are FOTs excluded from the European Social Charter system?

PROPOSED RECOMMENDATION :

- ▶ **Submit a Declaration extending the scope of the Charter to all FOTs with no further delay**
- ▶ **Agree to the admissibility of the pending collective complaint FIDH v France**
- ▶ **Systematically include FOTs in periodic reports to the ECSR as well as to any other international or regional human rights monitoring and reporting mechanisms**

02 BLACK LIVES MATTER

► “Klodo”: the Guadeloupean “George Floyd” case



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Facts

On 21 November 2020, at 1:55 p.m., in the city center of Deshaies, Guadeloupe, two law enforcement officers forcibly extracted a 67-year-old man, Claude Jean-Pierre known as "Klodo", during a traffic stop. The man fell to the ground, inert. One of the officers handled him, causing the back of his head to violently hit the ground. One of the officers tried to lift him up by grabbing him by the head, without taking any significant precautions. The unconscious retiree, in a state of quadriplegia, remained exposed to the sun for about 15 minutes, lying on the roadway, before the firefighters arrived. The police covered his face with a hat that one of the two officers held under his foot. **The 44-second scene was captured by the city's video surveillance cameras.** Claude Jean-Pierre was taken to Pointe-à-Pitre hospital, where doctors diagnosed a double cervical fracture, with spinal cord compression, as well as several facial hematomas. **He died from his injuries on 3 December 2020, 12 days after his hospitalization.**

Procedure

► Complaint

- The police station report sent to the hospital refers to a public road accident.
- **The family encounter procedural difficulties in filing a complaint against the law enforcement officers.** On December 2, 2020, the complaint is refused by the Sainte-Rose police station. According to the police officer on site, the complaint must be filed in the city where the offense was committed. The family's lawyer will be obliged to file the complaint with the Basse-Terre public prosecutor's office.



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► Investigation

- On 10 December 2020, a judicial investigation for involuntary manslaughter against X is launched.
 - In May 2021, the law enforcement officers are placed under the status of "assisted witnesses".
 - It is reported that 'The investigation is being conducted against the motorist who was stopped. The questions asked by the judicial police officers tend to establish that Claude Jean-Pierre's "failure" during the check would be linked to events prior to this check.'
 - **In March 2023, despite the explicit images from the city's video surveillance cameras, the public prosecutor requested a dismissal of the case. In a press release, he indicated that he "considered that in light of the elements appearing in the procedure, there was no serious and consistent evidence allowing this indictment". [our translation]**
 - In April 2023, the investigating judge announced his intention not to follow the request for dismissal and to "proceed with new investigative acts".
 - In July 2023, the second hearing of the civil parties as part of the judicial investigation for involuntary manslaughter was conducted by the investigating judge who ordered new investigations.
 - In February 2024, a new medical examination demonstrated the link between the arrest and the death of Claude Jean-Pierre. His family and their lawyer requested a new hearing of the two officers which, in light of the serious and consistent evidence available to the courts, should lead to the two officers being indicted and their status as simple "assisted witnesses" being ended.
- ### ► Disciplinary measures (absence)
- In April 2023, the general management of the national law enforcement agency ratified the **promotion of one of the two officers involved**, transferred since 2021, while the judicial investigation was still in progress.

Actions

Officials, civil society and media



- In February 2023, elected officials in Guadeloupe called for full light to be shed on this case.
- Since 2020, the 'Kolektif kont vyolans a jandam' (coalition against police violence) has been mobilizing in support of Claude Jean-Pierre's family.
- **This case found little echo in the French media despite extensive coverage of the George Floyd case and the global "Black Lives Matter" movement, which moved France and the world the same year.**
- In 2023, the Claude Jean-Pierre case was the subject of the documentary "L'Etat Républi-nial" **directed by the reknown journalist Harry Roselmack**. It demonstrates the structural nature of police abuse in Guadeloupe.

Analysis

Excessive use of force by law enforcement: a systemic problem

Three other similar emblematic cases reveal a systemic problem:

- **Charles-Henri Salin case (1985):** A high school student leaving the cinema was killed by a burst of submachine gun fire while he was unarmed.[1] The police officer was found guilty but exempted from punishment.
- **Didier Assor case (2017):** This 45-year-old man suffering from schizophrenia, armed with a kitchen knife, was killed by 7 bullets in the body and a flashball shot at his family home, while the police had come to back up the emergency services that his father had called to have him hospitalized. The police pleaded self-defense[2]. Seven years later, the case is still ongoing.
- **Rony Cély case (2024):** This 39-year-old man also suffering from schizophrenia, armed with a machete, is killed by 8 bullets including one to the head, raising again the question of the proportionality in the use of force by the police.

[1] [Who was Charles-Henri Salin, killed by a police officer on November 18, 1985? \(francetvinfo.fr\)](#)

[2] ["Didier Assor" case: a reconstruction of the facts organized this Wednesday afternoon \(francetvinfo.fr\)](#)

Comparison with the George Floyd case

Facts

George Perry Floyd Jr. (October 14, 1973 – May 25, 2020) was an African American man. On 25 May 2020, he was murdered by a white police officer in Minneapolis, Minnesota, during an arrest made after a store clerk suspected Floyd might have used a counterfeit twenty-dollar bill. Derek Chauvin, one of four police officers who arrived on the scene, knelt on Floyd's neck and back for 9 minutes and 29 seconds, fatally asphyxiating him.[1]

Procedure

Following his death:

- the three officers were fired with immediate effect
- the City of Minneapolis settled a wrongful death lawsuit with Floyd's family for \$27 million.
- on 20 April 2021, 11 months after Floyd's death, Chauvin was convicted on two counts of murder and one count of manslaughter
- on 25 June 2021, Chauvin was sentenced to 22+1/2 years in prison. The other three officers at the scene were also later convicted of violating Floyd's civil rights. [2]

USA and the United Nations

- In 2021, in its [Fifth periodic report](#) to the Human Rights Committee under the International Covenant on Civil and Political Rights, the USA reported on George Floyd case and the HRC produced a series of follow-up recommendations in its [Concluding Observations](#).
- On 21 April 2021, UN High Commissioner for Human Rights Michelle Bachelet welcomed in a [statement](#) the conviction for murder of police officer Derek Chauvin in the George Floyd case, declaring that ***“any other result would have been a denial of justice”***.
- She further stated that: ***‘The entrenched legacy of discriminatory policies and systems, including the legacies of enslavement and transatlantic trade and the impact of colonialism, must be decisively uprooted in order to achieve racial justice and equality. If they are not, the verdict in this case will just be a passing moment when the stars aligned for justice, rather than a true turning point.’***

Klodo case

Despite obvious similarities with the George Floyd case, in the Klodo case:

- not only no provisional disciplinary nor judicial measures have been taken against the alleged perpetrators but they have been transferred and one of them has been promoted;
- two years later, the prosecutor requested the case dismissal;
- four years later, investigation is still ongoing, and a trial has still not taken place;
- France has not reported on this case to the HRC.

[1] [2] Source: Wikipédia

ICCPR Violations

- Preamble – right to dignity
- Article 2 – right to non-discrimination and right to an “effective remedy”
- Article 6 – right to life
- Article 7 – protection against cruel, inhuman or degrading treatment or punishment
- Article 9 – right to liberty and security of person (including protection against arbitrary or unlawful arrest and right to compensation)
- Article 14 – equality before courts and tribunals (right to a fair trial by a competent, independent and impartial tribunal)
- Article 26 – non-discrimination and equal protection of the law

Suggested questions:

1. The National Consultative Commission on Human Rights (CNCDH), in its report, invites the Committee to ask France the following question:

Police abuse (art. 2 and 7)

How does the Government intend to restore trust between citizens and the police? More specifically, what measures are planned to: combat discriminatory checks; guarantee effective and dissuasive sanctions against officers who have committed illegitimate violence; [...].

Kimbé Rèd FWI suggests adding “including in the so-called overseas territories”.

2. Furthermore, in January 2024, the Senate began a discussion on the origin of the law enforcement officers assigned to the so-called overseas territories, particularly **“in Guadeloupe and Martinique where one in ten officers is from these territories”**.

What is the status of the Senate’s work on the origin of law enforcement officers in the FOTs?

Proposed recommendation

Recalling its previous recommendations to France (2017) and to the USA (2021), and in line with the recommendations made by the Committee on the Elimination of Racial Discrimination to France (2022), call upon France:

(a) To prohibit racial profiling in domestic legislation;

(b) To speedily investigate, prosecute and try the Klodo, Assor and Cély cases in Guadeloupe;

(c) To thoroughly investigate and prosecute all allegations of racial profiling in FOTs, sentence and sanction perpetrators found guilty, and provide effective remedies to the victims;

(c) To collect disaggregated data on all incidents, complaints and investigations of racial profiling by law enforcement agencies, including Customs and Border Protection and Immigration and Customs Enforcement in all FOTs;

(d) To train and sensitize all law enforcement officers on the use of force, on ethnic and cultural awareness, and on the unacceptability of racial profiling ;

(e) To ensure diversity, ethnic/racial (and gender) balance in law enforcement forces as well as in the whole justice system;

(f) To effectively eliminate racial disparities at all stages of the criminal justice process.

03 THE CARIBBEAN

‘ERIN BROCKOVICH’ CASE

► Safe drinking water in Guadeloupe

Facts: behind the postcard

In Guadeloupe, water cuts occur daily, can last over a month and affect the entire population. In 2020, a pregnant woman lost her child after being deprived of water at home for 40 consecutive days.

Availability

- Access to safe drinking water in Guadeloupe has been problematic for over 30 years and has become a vital issue since the Covid-19 crisis.
- Up to 80% of the water produced is lost due to leaks in the networks.
- Water cuts occur daily and affect some 400,000 people. At the time when this report is written, several municipalities are under a water ban and water distribution is cut.

Quality

- When available, water is not safe due to combined causes, including:
 - the failure of water systems that have not been properly maintained for nearly 30 years;
 - the failure of sanitation systems: 80% of the wastewater treatment plants do not comply with regulations
 - the use of pesticides: the water is also polluted with various pesticides including glyphosate and particularly chlordecone, an extremely toxic pesticide.



Accessibility

- **Physical** accessibility: Failing infrastructures result in water contamination and health hazards at home, at school, and at the hospital, as well as at sea and by the river.
- **Economic** accessibility: Water in the tap as in the supermarket is the most expensive in France.
 - In 2021, the average price of water and collective sanitation in Guadeloupe was 6.52 euros/m³ against 4.3€/m³ nationally. Its cost is skyrocketing. In addition, operators overcharge individual users based on estimates rather than actual water consumption and exert financial pressure on the population through the Public Treasury.
 - Many households have to buy a water recovery tank (about 3000 EUR) to compensate for water cuts;
 - Many households must buy bottled water, two to three times more expensive than in continental France to compensate for the non-drinkability of water.
 - These costs are unaffordable for a large part of the population, a third of whom live below the poverty line.

Acceptability

- Most of the population considers tap water unsafe due to its colour or smell. As a result, people often use jerry cans to collect water in the sea, at the river or some public fountains, which is experienced as a violation of their **dignity**.

Non-discrimination

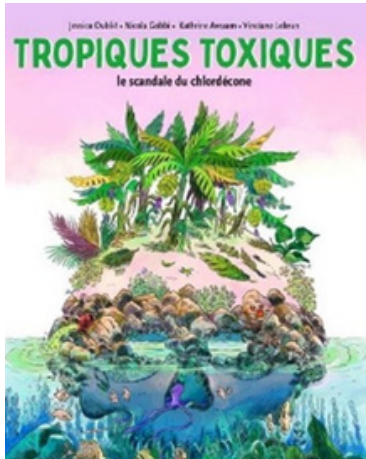
- This problem affects most of the overseas territories, mostly populated by Afro-descendants or indigenous, in a way that has no common measure with mainland France. The most vulnerable people pay the heaviest price, including pregnant women, children, the elderly and people living with disabilities.

Information

- Municipalities and health authorities increasingly announce bans on water consumption - even for cooking or brushing one's teeth - due to water pollution but fail to systematically inform the population in real time of the causes and duration of these failures, as well as of the response measures which they should be entitled to.
- There are **no effective judicial remedies** to this situation to date.
- All above figures and statements are based on official data, in particular [an inter-ministerial audit](#) which, in 2018, already concluded to a major public health and public safety crisis, as well as to an environmental scandal.

► Chlordecone poisoning in Guadeloupe and Martinique

Facts: a state scandal

- **Prolonged use** : Chlordecone was used in the F.W.I. as a pesticide in banana plantations from 1972 to 1993, despite global knowledge of its extreme toxicity, to support improved rates of agricultural production. Although its manufacture and use were banned in 1975 in the United States, and the World Health Organization (WHO) warned in 1979 of the dangerousness of this product, it was banned in France only in 1990 and continued to be used in the F.W.I. by ministerial derogation until 1993.
- 
- **Affected environment**: **to this day, chlordecone is still present in the soil, water and food in Guadeloupe and Martinique. The entire food chain is contaminated. In his [report](#), the Former United Nations Special Rapporteur on the right to the environment, David Boyd, lists Guadeloupe and Martinique among the "sacrificed areas" by France because of the extreme pollution of these territories with chlordecone.**
 - **Affected population**: **95% of Guadeloupeans and 92% of Martiniquais** are contaminated, according to the National Public Health Agency and the National Agency for Food, Environmental and Occupational Health Safety.
 - **Direct and visible consequences on health and life**:
 - **Men**: In 2019, a French study confirms the carcinogenic potential of chlordecone and its link with prostate cancer – the latter is twice as common, twice as severe, and three times more likely to recur in the FWI than in continental France. Martinique has the highest rate in the world.
 - **Women**: In 2022, a study recalls the link between exposure to chlordecone, recognized as an endocrine disruptor, and the occurrence of chronic diseases and mortality, such as breast cancer and cancer of the uterus.
 - **Pregnant women and children**: Several studies have shown that exposure to this neurotoxin increases the risk of prematurity and impacts the cognitive and behavioural development of children.

“The right to a clean, healthy and sustainable environment: non-toxic environment”

Report of the UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, 2022

B. Sacrifice zones

26. *Some communities suffer from environmental injustices whereby the exposure to pollution and toxic substances is so extreme in the areas in which they live that they are described as “sacrifice zones” [...]*

41. *Water and soil in Guadeloupe and Martinique, France, are contaminated by unsafe levels of the pesticide chlordecone. [...] Residents are still exposed to chlordecone through drinking water and the food that they grow because of the pesticide’s persistence in the environment. Ninety per cent of people living in Guadeloupe and Martinique have been found to have chlordecone in their blood, raising their risk of cancer.” [...]*

52. *The **Human Rights Committee** has made it clear that States must investigate situations of serious pollution or release of toxic substances and impose sanctions where violations occur. Failing to prevent foreseeable human rights harms caused by exposure to pollution and toxic substances or failing to mobilize the maximum available resources in an effort to do so, could constitute a breach of States’ obligations. States must also make **full reparation to victims and other community members** for harms suffered, including **through adequate compensation**, take all necessary measures – in close consultation with the community – to **remedy the environmental degradation, and prevent similar transgressions in the future.***

UN RECOMMENDATIONS

Since 2021, over 70 United Nations human rights experts, through four human rights mechanisms (Universal Periodic Review, three committees of 18 experts, eight different special rapporteurs on human rights and UNICEF France) have urged the French State to grant emergency measures for drinking water in Guadeloupe as well as reparations and compensation to victims of chlordecone in the Antilles. In 2024, France is still reluctant to implement them.

2020

- In the midst of the Covid crisis, without water, Guadeloupean civil society submits information on the lack of drinking water in Guadeloupe to the United Nations Special Rapporteurs on human rights.

2021

- July 19, 2021: In his [report](#), the United Nations Special Rapporteur on the Right to the Environment, David Boyd, establishes that **"the use of chlordecone in Guadeloupe and Martinique continues to contaminate drinking water today."** (Para. 42)
- July 20, 2021: 5 United Nations Special Rapporteurs on human rights (water and sanitation, environment, education, housing, and extreme poverty) call on France on drinking water in Guadeloupe in a [Communication](#) that France never responded to.

2022

- January 12, 2022: In his [report](#), the United Nations Special Rapporteur on the Right to the Environment, David Boyd, with the assistance of the United Nations Special Rapporteur on Toxic Products, Marcos Orellana, lists Guadeloupe and Martinique among the **"sacrifice zones"** in the world due to the extreme pollution of these territories by chlordecone and issues a series of recommendations relating to the obligations of the State and companies in this area. (Summary, para. 41 and paras. 86-89).

2023

- March 23, 2023: This [video](#) (1'49) from Guadeloupe is screened at the United Nations Water Conference. It is part of the [HearingTheUnheardHRWS digital campaign](#) led by End Water Poverty. It describes how the lack of drinking water at home and in hospitals impacts the daily life of a Guadeloupean household and the treatment of a 3-year-old girl living with a disability.
- May 1, 2023: as part of the **Universal Periodic Review (UPR)**, for the first time France: - announces that it is making access to drinking water a priority overseas; - is the subject of specific recommendations to this effect from at least 4 States around the world; and of a whole series of recommendations on the environment, housing and education, of which access to drinking water is a constituent element. France accepted all the recommendations of its peers in September 2023.

UN RECOMMENDATIONS

- June 2, 2023: In its [concluding observations](#), the Committee on the Rights of the Child (UNCRC) concludes to a **public health emergency** and urges France to urgently guarantee the human right to drinking water in Guadeloupe and to compensate all children affected by chlordecone water pollution. (Para. 41-42)
- October 2-3, 2023: The International Committee on Economic, Social and Cultural Rights (CESCR) examines France. In this context, the [French National Consultative Commission on Human Rights \(CNCDH\)](#) recommends **“urgently taking all necessary measures to compensate all victims of chlordecone in Guadeloupe and Martinique”** (Para. 42-43). In its [concluding observations](#), the CESCR urges France to expand protection and reparation measures for communities affected by chlordecone contamination in the Antilles. (Para. 46-47)
- October 17, 2023: In its [concluding observations](#), the International Committee on the Elimination of Discrimination against Women (CEDAW) urges France to take measures to control **chlordecone poisoning, which disproportionately affects women**, and to provide reparations to victims. (Para. 37-38)
- November 23, 2023: The aforementioned Recommendation of the UNCRC and its analysis are endorsed in the **UNICEF France** Report entitled [“Growing up in the Overseas Territories – State of play of children’s rights”](#), through a focus on the water crisis in Guadeloupe (pp. 52 and 53).

2024

- **January 24, 2024: 7 United Nations Special Rapporteurs on human rights** (drinking water and sanitation, education, environment, **freedom of opinion and expression**, housing and adequate standard of living, **human rights defenders**, and toxic products) send a [Communication](#) to the French government concerning drinking water in Guadeloupe. They report the risk of contamination of water and the environment by chlordecone and question France on the preventive measures as well as the compensatory, compensation or reparation measures taken for the victims of water and chlordecone pollution.
- **February 27, 2024: 3 United Nations Special Rapporteurs on human rights (environment, drinking water and sanitation, and toxic products)** send a [Communication](#) to the French government in support of **Bill No. 2061 aimed at recognizing the responsibility of the State and compensating the victims of chlordecone**.

UN RECOMMENDATIONS

- **March 25, 2024: France [responds](#) to the Communication of the 7 UNSR on Human Rights of January 24, 2024.** It indicates that if "the issue of the transport of chlordecone by irrigation water has not, to date, been verified", "non-conformities" have been observed at the outlet of water treatment plants and that an "exceedance" was observed in 2023. It adds that "chlordecone pollution constitutes, by its scale and persistence, a health, environmental, agricultural, economic and social issue for the Antilles." Reparation measures are taken for the entire affected population as part of the chlordecone IV plan and a compensation fund* allows for the compensation of professional victims of pesticides - including chlordecone - and their children.
- **March 28, 2024: In a [press release](#), the 7 United Nations Special Rapporteurs on Human Rights conclude that *"the continued presence of chlordecone, a toxic and persistent pesticide, in Guadeloupe and Martinique has a significant negative impact on the human rights of the population, including the rights to health, water and sanitation, and a clean, healthy and sustainable environment. To date, 90% of adults in the French Antilles are contaminated by chlordecone, resulting in the highest rates of prostate cancer in the world. France must take responsibility by ensuring that the contamination does not continue to spread and by putting in place compensation measures for the entire affected population."***

* Compensation fund: Canadian v French examples

- **Canada:** In 2019, indigenous people known as the "First Nations" filed a class action against the Canadian state for lack of adequate access to safe drinking water as a result of colonial history. In 2021, under court auspices, for a population of **330,000 people**, the State committed to an **\$8 billion Settlement** over 10 years including:
 - \$1.8 billion in compensation to individuals and Impacted First Nations;
 - An additional \$50 million for eligible individuals who experienced Specified Injuries;
 - \$6 billion to support construction, upgrading, operation, and maintenance of water infrastructure by 2030 ;
- **Guadeloupe:** In 2023, for a population of 380,000 people, a budget of €320 million over 4 years for water repairs, including **€83 million from the state**, was announced but it does not include financial compensation for the population and, at the time of drafting, it is **currently on hold**.
- **Martinique and Guadeloupe: The [chlordecone plan](#)** foresees 47 measures over 7 years for a total budget of **€130 million**, for a total affected population of **>650,000 people**, professional victims' compensation included.

FRANCE'S RESPONSE

Guadeloupe:

- **On August 6th, in a press conference held in Guadeloupe, the State representative:**
 - reported strong commitment of the State and excellent coordination with local authorities in support of the technically and financially weak water operator and announced an accelerated plan of infrastructure works and repairs;
 - yet stressed that water does not fall within the responsibility of the State;
 - publicly asserted that there was no chlordecone nor any other toxic/dangerous pollutant in water in Guadeloupe;
 - stated that chlordecone is not a priority nor really an issue in Guadeloupe, especially compared to nitrate pollution in France mainland;
 - re asserted that drinking water was safe up to 98%;
 - challenged the findings and recommendations of the UNSR 2024 Communications;
 - rejected the possibility of immediate responsive measures as well as any form of (financial) compensation for the population.
- **On August 23rd, the authorities issued the following press release prohibiting the consumption of water in several municipalities due to [chlordecone pollution](#):**
 - This is new evidence that, sadly, still is an ongoing issue.
 - Such alerts were not published before. This is, in a way, progress.
 - Civil society considers that many more locations are impacted than the ones reported.
 - There is a discrepancy between the level of contamination reported by the health authorities and the water operator.
 - This official prohibition adds to other ongoing bans in various locations across Guadeloupe caused by other factors.
 - **No emergency and compensation measures are foreseen.**
- **On September 9th, the State announced that it will withhold any further subsidies for water on grounds of poor financial governance of the water operator.** It based its announcement on the [attached document](#), dated August 2nd, i.e. 4 days before the aforementioned press conference.
- **In the past few weeks, the population has been receiving increased water bills and formal notices to pay, assorted with threats of seizure by the public treasury.**

Guadeloupe and Martinique:

- **The chlordecone bill is still pending review by the Senate since February 2024.**

ICCPR Violations

- **Article 2 and Article 26 – right to non-discrimination**
- **Article 6 – right to life**
- **Article 7 - right to not be subjected to cruel, inhuman, or degrading treatment**
- **Article 25 - right to participate in public affairs**
- **Article 19 and article 21 - right to freedom of expression and assembly**

Right to an adequate standard of living under the ICCPR

- **This right can be linked to the ICCPR through the right to life and the prohibition against inhuman treatment.** The jurisprudence of the Human Rights Committee specifically reminds that the State's duty to protect life implies that it must take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. This includes measures to address adequate conditions for protecting the right to life such as measures designed to ensure access without delay by individuals to essential goods and services including water, health care, electricity and sanitation.

Right to freedom of expression and assembly:

UN Special Rapporteur's conference on water cancelled

- On 29 November 2023, the UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation was invited by the Université des Antilles – Guadeloupe for a conference as part of his academic visit. However, the event was cancelled on the day of the event under political pressure although no official explanation was provided. The UNSR ended up giving a conference on a parking lot. Students reported that they were forbidden to meet the UNSR.
- The cancellation of the academic conference was criticised by French human rights organisations. The CNCDH made a [statement](#) and the Ligue des droits de l'Homme published a [press release](#).
- On 24 January 2024, seven UN Special Rapporteurs issued a Communication urging France to guarantee safe drinking water in Guadeloupe. **It specifically mentions concerns about the right to freedom of expression and assembly.**

Suggested questions

- **Guadeloupe:**
 - what immediate response and compensation measures, including financial compensation, is France considering to take to alleviate the suffering of the Guadeloupean population due to the water crisis, and when?
 - What measures is France considering to strengthen the capacity of the water operator?
- **Guadeloupe and Martinique:**
 - when will the chlordecone bill be reviewed by the Senate and enacted?
 - when will the compensation fund be extended to environmental victims and when will the corresponding budget be reasonably increased?

Proposed recommendation

Recalling the 2023 UPR, UNCRC, CESCR, CEDAW concluding observations and the two 2024 UNSRs communications, call upon France to:

- ▶ Re safe drinking water in Guadeloupe:
 - Take **emergency measures** to supply the population of Guadeloupe with safe drinking water pending the complete repair of the water and sanitation systems ;
 - Grant **reparation and compensation** to all users impacted both by water cuts and water contamination caused by the failing sanitation system and by various pesticides, including chlordecone.
- ▶ Re chlordecone in Guadeloupe and Martinique:
 - **Guarantee justice, truth, reparation and effective compensation to the entire population impregnated with chlordecone** (90% of the population of the two islands), including children, and not only to workers who can demonstrate an occupational disease caused by pesticides.
 - **Speedily adopt and enact 2024 law on chlordecone**

Kimbé Rèd - F.W.I.

Kimbé Rèd - French West Indies (F.W.I.) is an Antillean civil society organisation dedicated to the protection and promotion of human rights in the Antilles and the French “Overseas” Territories, based on the principles of the Universal Declaration of Human Rights and international human rights law.

Its main objectives are to:

- ▶ **Inform and raise awareness** among the populations of these territories about their fundamental rights.
- ▶ **Conduct and support advocacy** initiatives for the protection of human rights at the local, national, regional, and international levels.
- ▶ **Initiate and support legal actions** to defend the rights of the populations of these territories, from the local to the international level.
- ▶ **Promote cooperation on human rights** between the so-called overseas territories, as well as between these territories and mainland France.

It was founded by French Caribbean international human rights lawyer Sabrina Cajoly in 2023.

Partners

The present report is produced by Kimbé Rèd FWI, submitted as a Coalition with **Kaz Human Rights** and supported by other Tèt Kolé coalition of overseas CSOs.



Equality for French Overseas Territories