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**Submission to the Human Rights Committee**

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Email: secretariat@wilpf.org| Web: wilpf.org

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# Introduction

The Women’s International League for Peace and Freedom (WILPF) provides the following information to the UN Human Rights Committee (the Committee) ahead of the adoption of the List of Issues Prior to Reporting for the sixth periodic report of France at its 132nd session. Please note that unless otherwise indicated, all translations of French quotes and names in this submission are unofficial translations.

# Human rights impacts of nuclear testing

Nuclear bombing and testing can have serious long-term consequences on the safety and health of human beings, plants, animals, land, and water in the areas where they have been carried out. Nuclear explosions can have gendered impacts, as women and girls are disproportionately impacted by ionising radiation.[[1]](#footnote-1) This means that women and girls are more susceptible to certain kinds of cancers and other physical harms from nuclear testing. Stillbirths, miscarriages, and birth abnormalities have also been found to have been linked to radiation exposure from nuclear testing and from nuclear catastrophes at Chernobyl and Fukushima.[[2]](#footnote-2) Nuclear tests and bombings that were carried out decades ago are still harmful and are yet to be recognised and duly compensated by governments.

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 international human rights mechanisms, including the Human Rights Committee. In its last review of France, the Committee recommended that “The State party should take all the necessary steps to ensure the effective recognition and compensation of all the victims of French nuclear tests, especially the local population.”.[[3]](#footnote-3) In 2018, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) expressed concerns about “The lack of measures taken by the State party to address the impact of the 30 years of French nuclear testing on the health of women and girls in French Polynesia”[[4]](#footnote-4) and recommended that the State party “Conduct a rigorous, transparent and gender-sensitive impact assessment of nuclear testing on women’s health in French Polynesia and accelerate the processing of claims for the compensation of victims.”.[[5]](#footnote-5)

In its third Universal Periodic Review in 2018, France accepted a recommendation to “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.”[[6]](#footnote-6) Finally in 2020, the Committee on Economic, Social and Cultural Rights requested that France describe the steps taken to provide redress and compensation to communities affected by the environmental consequences of nuclear tests in French Polynesia and provide information on any reparation provided for environmental damage in these cases.[[7]](#footnote-7)

## Testing in Algeria (1960 – 1966)

In Algeria, the local population as well as French civilian workers and soldiers were exposed to radiation from four atmospheric and 13 underground tests.[[8]](#footnote-8) The atmospheric nuclear tests spread radioactivity across the Sahara, over North Africa and into sub-Saharan Africa, and even Europe, as shown in French documents declassified in 2013. A minimum of four underground tests (out of 13) were not fully contained, resulting in the release of volatile radionuclides, including iodines, in the environment. Other tests involving the dispersal of unfissioned plutonium also resulted in significant contaminations.[[9]](#footnote-9) In addition, the French government buried contaminated equipment and other nuclear waste in the Saharan desert—but has not revealed how much or where.

Algeria was a French colony when testing began on 13 February 1960 but became an independent state in 1962. France started conducting underground tests in 1961. The testing sites (In Ekker, Reggane) were subsequently handed over to the Algerian government without any procedures for decontamination or environmental remediation.[[10]](#footnote-10) According to a French government report summarising the history of nuclear testing in Algeria, which was made public by French civil society, “No memorandum and no report have been found that provide information about the radiological condition of the test sites when they were returned to the Algerian authority.”[[11]](#footnote-11)

## Testing in French Polynesia (1966 - 1996)

As a recent study of declassified government documents by researchers at Princeton University’s Program on Science and Global Security, the environmental justice research collective Interpret, and the investigative media Disclose has uncovered (and published as the “Morurora Files”), the French government vastly underestimated the number of people exposed to fallouts from its atmospheric nuclear tests in French Polynesia.[[12]](#footnote-12) Based on a scientific reassessment of the doses received by members of the public as well as the independent modelling of radioactive cloud trajectories, the study finds that over 110,000 people, almost the entire Polynesian population at the time, were exposed to significant amounts of ionising radiations that would allow them today to seek compensation from the French government, should they develop one of the radiogenic cancers recognized as being possibly linked to exposure from nuclear fallouts. This is ten times greater than the 10,000 people the French government has officially recognised as being significantly affected.[[13]](#footnote-13)

The investigation behind the Morurora Files also shows how the French authorities concealed the true impact of the nuclear tests on the health of Polynesians and the environment for more than fifty years. For decades, the French government falsely claimed that the tests were clean and that there were no risks for the population or the environment. France acknowledged only in 1998 that some tests led to significant downwind fallouts, two years after the end of testing. The government has still not undertaken effective clean-up measures of its former test sites (despite repeated demands by the Polynesian government) and continues to limit access to information necessary for local populations to fully understand the scope and consequences of their possible repeated exposures.[[14]](#footnote-14) The three international studies allowed by the French government “have all suffered from the same restrictions: too little time, limited access, and insufficient provision of background data,” reports a public health consultant with Doctors without Borders.[[15]](#footnote-15)

In February 2021, the National Institute for Health and Medical Research published, at the request of the Ministry of Defence, the results of a seven-year study on “the health consequences of nuclear tests” in French Polynesia. The authors of the study felt that they could not “make a solid conclusion” about the existence of “links between the fallout from atmospheric nuclear tests and the occurrence of radiation-induced pathologies” because both the cancer incidence data and the exposure data were not good enough, the population was too small and the exposures happened too long ago. Yet, as the investigators behind the Moruroa Files uncovered, both the Polynesian and the French Government recognised in internal documents the existence of clusters of cancers in the local population and among veteran French soldiers deployed during testing.[[16]](#footnote-16)

## Serious obstacles to access compensation

In January 2010, the French government adopted the Morin Law, granting compensation to “any person suffering from an illness caused by radioactivity as a result of exposure to the ionising radiation from French nuclear tests and registered on a list determined by decree of the State Council (*Conseil d’État)* in accordance with the work recognised by the international scientific community.”.[[17]](#footnote-17) In the last 10 years, only 1747 claims have been registered;[[18]](#footnote-18) in total 506 individuals—veterans, former civilian contractors, and members of the public—impacted by the tests have been granted compensation. Based on figures of the Compensation Committee for Nuclear Test Victims (CIVEN) report of 2019, only 64 of these were members of the public, 63 in Polynesia and 1 in Algeria. More than 80 per cent of the claims submitted have been rejected.[[19]](#footnote-19)

The process to seek compensation “has become equivalent to an unscalable wall,” argue the investigators behind the Moruroa Files. “The rejected applicants have no means of knowing why they were turned down, because the compensation committee provides no justification for its decisions, which are not made public.”[[20]](#footnote-20) Moreover, for the past decade, the committee falsely claimed that the dose reconstruction data on which it was basing its decisions had been reviewed and validated in 2009 by an independent group of international experts mandated by the International Atomic Energy Agency (IAEA). Such validation never happened according to the report written by the IAEA experts at the time, who had no access to the data necessary to conduct such validation.[[21]](#footnote-21)

In its report of April 2021 to the CEDAW Committee, France stated that “As soon as the conditions of disease, period and place of exposure are met, the claimant is recognized as a victim of nuclear testing, unless the CIVEN demonstrates that the claimant was exposed to a dose lower than the limit set by the international rules on radiation protection (articles L. and R. 1333-2 of the Public Health Code).”[[22]](#footnote-22) This answer is clearly insufficient given the issues with the methodology to determine exposure to nuclear radiation highlighted above.

## Suggested questions

WILPF suggests the following questions be asked to France:

* How does the French government intend to acknowledge the full extent of the harm caused by nuclear weapon testing in Algeria and in French Polynesia as illuminated by recent independent studies?
* Which steps has France taken to conduct rigorous and transparent impact assessments of nuclear testing on human health and the environment, including non-carcinogenic impact, mental health impact, gendered impact, and possible transgenerational impact?
* Which measures has France taken to ensure a transparent, easily accessible, and public process for claiming compensation and for understanding decision-making in relation to compensation of victims of nuclear testing (including in Arabic for residents of Algeria)?
* What steps does France intend to review existing compensation mechanisms and to open compensation to all civilian victims of cancers recognised by the Morin Law and exposed during periods of atmospheric testing?
* Will France mandate an independent review into the false claim that dosimetry data used in hundreds of compensation rejections were independently validated?
* Which steps has France taken to improve access for Algerian and French Polynesian people 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?
* Has France provided the Algerian authorities with a full list of sites where contaminated waste was buried, a description of the material, and the mechanisms of burial?
* How is France cooperating with the government of Algeria and local authorities in French Polynesia to undertake victim assistance and environmental remediation measures, which are obligations under the UN Treaty on the Prohibition of Nuclear Weapons (although France is not currently a state party to that Treaty, it could still take up these obligations in good faith)?

# Nuclear weapons possession and modernisation

France has decided to increase its military budget for the year 2021, allocating EUR 39,2 billion to the Ministry of Armed Forces. This is an increase of EUR 1.7 billion compared to the budget voted last year, i.e. an increase of 4.5 per cent, in line with the trajectory set out in the 2019-2025 Military Programming Act.[[23]](#footnote-23) France relentlessly continues to arm its military, with EUR 7.7 billion devoted to major armament programmes, an increase of 11 per cent compared to 2020.[[24]](#footnote-24)

As of early 2020, France possessed a stockpile of an estimated 290 nuclear warheads. Approximately 200 of these are deployed or operationally available for deployment on short notice. This includes about 160 warheads on two of the three deployable submarines and up to 40 cruise missiles on bomber bases.[[25]](#footnote-25)

France allocated at least USD 4.9 billion (EUR 4.5 billion) to nuclear forces in 2019,[[26]](#footnote-26) an increase of more than 10 per cent compared with EUR 4 billion in 2018.[[27]](#footnote-27) France continues to reaffirm the importance of nuclear weapons and the 2017 Defence and National Security Strategic Review concluded that maintaining the nuclear deterrent “over the long term” is essential.[[28]](#footnote-28) To this end, it has recently completed fielding a new class of ballistic missile submarines and aircrafts. A modified ballistic missile with a new warhead is being back-fitted onto the submarines. Moreover, a new class of ballistic missile submarines and a new air-launched cruise missile are in development.[[29]](#footnote-29)

France is a state party to the nuclear Non-Proliferation Treaty (NPT).[[30]](#footnote-30) It maintains it is in full compliance with its obligations under NPT’s article VI, which commits it to negotiate in good faith to achieve nuclear disarmament. However, France’s nuclear weapon investments and modernisation, as well as lack of engagement in nuclear disarmament negotiations, are in violation of the NPT’s letter and spirit.

France refused to participate in the negotiations of the Treaty on the Prohibition of Nuclear Weapons (TPNW) and has indicated it does not intend to become a party to it. It has also spread misinformation about the TPNW arguing, for example, that its entry into force “could weaken the NPT as the cornerstone of the international non-proliferation regime by creating an alternative and contrary norm.”[[31]](#footnote-31) France has taken this position despite the fact that, as a recent poll conducted by the International Committee of the Red Cross has shown, 81 per cent of French millennials (ages 20–35) think that it is never acceptable to use nuclear weapons in wars or any armed conflict, and 80 per cent agreed that the existence of nuclear weapons is a threat to humanity. Moreover, the same survey showed that 45 per cent of millennials also supported France’s accession to the TPNW, while 29 per cent would neither support or oppose France joining, and only 17 per cent opposed it.[[32]](#footnote-32)

As stated by the Human Rights Committee in its General Comment No 36 on the right to life:

“The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale, is incompatible with respect for the right to life and may amount to a crime under international law. States parties must take all necessary measures to stop the proliferation of weapons of mass destruction, including measures to prevent their acquisition by non-State actors, to refrain from developing, producing, testing, acquiring, stockpiling, selling, transferring and using them, to destroy existing stockpiles, and to take adequate measures of protection against accidental use, all in accordance with their international obligations. They must also respect their international obligations to pursue in good faith negotiations in order to achieve the aim of nuclear disarmament under strict and effective international control, and to afford adequate reparation to victims whose right to life has been or is being adversely affected by the testing or use of weapons of mass destruction, in accordance with principles of international responsibility.”[[33]](#footnote-33)

France’s continued investments in nuclear weapons are not only in violation of its legally binding obligations under the NPT, but also in contradiction with the recommendations in this General Comment.

## Suggested questions

WILPF suggests the following questions be asked to France:

* How does France reconcile its possession and modernisation of nuclear weapons with its obligations to respect and protect the right to life under the ICCPR?
* Will France renounce nuclear deterrence as a security strategy, and undertake the elimination of its nuclear weapon programme and become a party to the Treaty on the Prohibition of Nuclear Weapons?
* How does it justify or reconcile its currently nuclear policies and practices with its obligations under article VI of the Non-Proliferation Treaty?

# Disproportionate use of force by the police

While issues related to actions by the police in France are manifold and range from allegations of discriminatory identity checks, structural racism, police brutality including abuses against migrants, and excessive use of force, this submission focuses on concerns related to the militarisation of the French police. It particularly focuses on the increased use of so-called “non-lethal weapons” or “intermediary force weapons” and the impacts of such use on rights guaranteed under the Covenant, including the rights to peaceful assembly, freedom of expression, and privacy. For the purpose of 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;[[34]](#footnote-34) however, WILPF wishes to clarify that it rejects any distinction between the purported lethality of any weapon system, given that the use of any weapon can have fatal consequences.

## Background information

The traditional doctrine of “French-style maintenance of public order” consisted of mobilising specialised units, keeping demonstrators at a distance by avoiding confrontation, and using proportionate force. This approach has been abandoned since the early 2000s, in particular by resorting to units not specialised in this so-called maintenance of public order, such as anti-crime brigades, security companies and agents trained mainly in the arrest of those deemed to be “offenders” of the public order.[[35]](#footnote-35) These changes are due in particular to the downsizing of specialised law enforcement units and to the political will to increase arrests of “agitators” in public protests, which is at odds with the principle of avoiding confrontation.[[36]](#footnote-36) According to the *Commission Nationale Consultative des Droits de l’Homme* (“CNCDH”), the French National Consultative Commission on Human Rights, this has led to confusion in the management of demonstrations and has contributed to the escalation of violence, especially as the new non-specialised agents are equipped with weapons for which they are not sufficiently trained.[[37]](#footnote-37)

In addition, since 2000 the police have been equipped with more and more so-called less-lethal weapons to “maintain public order,” which has also contributed to increased violence.[[38]](#footnote-38) This is problematic because widespread availability of incapacitating weapons can lower the threshold for the use of force. As noted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (the Special Rapporteur on torture):

“In principle, the current trend towards replacing firearms with “less lethal” incapacitating weapons is positive in that it promotes a differentiated use of force and aims to minimize harm. At the same time, the widespread availability of incapacitating weapons also tends to lower the threshold for the use of force and entails a significant risk of “overuse” in situations in which the desired purpose could reasonably have been achieved through less coercive, less dangerous and less harmful means. Moreover, although “less lethal” weapons are designed to incapacitate while avoiding lethal outcomes, they are also specifically designed to inflict pain or suffering as a means of repelling or otherwise coercing the targeted persons.”[[39]](#footnote-39)

The independent authority *Défenseur des droits* (Defender of Rights) has indeed noted that the “non-lethal” nature of such weapons means that in practice agents actually use them with less care than traditional weapons.[[40]](#footnote-40) It is worth noting that French police are the only ones in the EU to have explosive grenades to disperse crowds and weapons that fire rubber balls (so-called “defensive ball launchers”).[[41]](#footnote-41) While the use of “defensive ball launchers” was initially reserved for extreme cases, these weapons were gradually granted in 2002 to the anti-crime brigades (*Brigades Anti-Criminalité*) of the national police to “make an impression on thugs” (“*impressionner les voyous*”), in the words of the then Minister of Interior, Nicolas Sarkozy.[[42]](#footnote-42) They eventually became more broadly used by law enforcement.

## Concerns related to the use of so-called “less-lethal weapons” in the context of public protests

Concerns over the use of “less-lethal weapons” and particularly of “defensive ball launchers” in France have been raised by national and international bodies and civil society organisations for over a decade.[[43]](#footnote-43) 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.”[[44]](#footnote-44)

The “Flash ball superpro,” which is a specific model of “defensive ball launcher,” was progressively replaced due to its inherent danger with the LBD 40, which is supposed to be more “precise” in range. However, the above-mentioned *Défenseur des droits* has also called for an end to the use of LBD 40 in the context of public protests.[[45]](#footnote-45) The use of “defensive ball launchers” —which are, in reality, guns— is completely at odds with the previous doctrine of keeping a crowd at a distance and reducing the risk of injury to a minimum. In fact, it is a targeting weapon as members of the police forces point a weapon in the direction of demonstrators and open fire.[[46]](#footnote-46) Several victims of “defensive ball launchers” have reported psychological trauma in addition to physical injuries.[[47]](#footnote-47) In addition, in crowd situations, aiming is made difficult by the distance and the movement of targeted persons, which increases the risk of serious injury.[[48]](#footnote-48) 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 protesters, representing clear hostility and domination.

According to the Committee’s General Comment 37,

“All use of force by law enforcement officials should be recorded and reflected promptly in a transparent report. Where injury or damage occurs, the report should contain 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 the consequences of it.”[[49]](#footnote-49)

France is still far from complying with these recommendations, although the *Inspection Générale de la Police Nationale* (“IGPN”), which is the General Inspection of the National Police, has started providing some information in its annual report since 2019. Police officers are required to fill in a *fichier de traitement de suivi de l’usage des armes* (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.[[50]](#footnote-50)

In the absence of official and systematic statistics, civil society organisations and journalists gather data to identify the types of weapons used by law enforcement, as well as to monitor incidents.[[51]](#footnote-51) Between 2010 and 2014, shots from the police and gendarmerie with so-called less-lethal weapons in law enforcement has increased considerably from 40 shots to 463 shots.[[52]](#footnote-52) Between 2017 and 2018 and in the midst of the Yellow vests movement, the IGPN reported an exponential increase in the use of “defensive ball launchers,” with 4,005 reports (+61 per cent compared to 2017) for 19,071 rounds of ammunition fired (+200 per cent compared to 2017).[[53]](#footnote-53) The negative effects 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.[[54]](#footnote-54) 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.[[55]](#footnote-55) ACAT also documented serious injuries due to dispersion grenades in the same period.[[56]](#footnote-56)

Public outcry over the use of “defensive ball launchers” peaked during the Yellow Vests protests in light of the seriousness and number of casualties. The Commissioner for Human Rights of the Council of Europe expressed “[very serious concerns](https://www.coe.int/en/web/commissioner/-/suite-a-sa-mission-a-paris-la-commissaire-mijatovic-livre-ses-premieres-observations-sur-les-questions-de-droits-de-l-homme-liees-au-mouvement-des-gil)” about the injuries caused by the French police forces to the Yellow Vests protesters and recommended the suspension of the use of “defensive ball launchers” during operations aimed at “maintaining public order.”[[57]](#footnote-57) In February 2019, UN Special Procedures also [strongly condemned](http://www.europarl.europa.eu/doceo/document/B-8-2019-0104_EN.html) the disproportionate use of police violence in France, including the serious injuries caused by a disproportionate use of “less-lethal weapons” like grenades and “defensive bullets.”[[58]](#footnote-58) In January 2019, the *Défenseur des Droits* reiterated his recommendations to forbid the use of “defensive ball launchers” in the context of public protests in light of their inherent danger and the disproportionate risks they entail.[[59]](#footnote-59)

The CNCDH in an opinion dated February 2021, notes that “the supervision of demonstrators during collective mobilizations, or occupations of public or private property, has given rise in recent years to unprecedented recourse to the use of force, resulting in numerous illegitimate acts of violence.” The Commission, “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.”[[60]](#footnote-60) In January 2020, the Commission 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.”[[61]](#footnote-61)

## Measures taken by the government

In response to these concerns, in September 2020 the French government launched a new *Schéma National du Maintien de l’Ordre* (“SNMO”)or National Framework for Maintaining Public Order.[[62]](#footnote-62) It is worth recalling that the UN Special Rapporteur on torture, has stated that “a meaningful weapons review involves experts from various disciplines, given that it requires an examination of all relevant information regarding the weapon, such as its technical description, its performance and reliability, its environmental and medical impact and, most importantly for the present context, the nature and severity of the physical, mental and emotional injury, pain or suffering likely to be inflicted.”[[63]](#footnote-63)

Regrettably, the SNMO confirmed the continued use of these weapons with slight changes despite the many recommendations by national and international bodies to ban dispersion grenades because of their disproportionate impacts and their indiscriminate nature, since they strike randomly once thrown into the crowd, and to stop the use of “defensive ball launchers” because of the seriousness of the injuries inflicted.[[64]](#footnote-64)

The Special Rapporteur on torture has also stated that

“Another issue arising with regard to certain ‘less lethal’ weapons is their indiscriminate effects, which make it difficult to restrict the use of force and the resulting harm as required by the principles of necessity and proportionality, particularly in the presence of innocent bystanders (for example, in crowd control or hostage-taking).”[[65]](#footnote-65)

This is relevant to consider in relation to the use of dispersion grenades. In January 2020, following eight protesters’ hands torn off by GLI-F4 dispersion grenades, the Ministry of Interior announced their immediate withdrawal due to their danger.[[66]](#footnote-66) Since 2018 another grenade, the GM2L, which has similar effects as the GLI-F4 even though it does not contain explosives has been used. The SNMO maintains the use of GM2L dispersion grenades despite continued reports of injuries and recommendations to end its use due to its indiscriminate effects.[[67]](#footnote-67)

In its General Comment on the right to life, the Committee stated that:

“Less-lethal weapons must be employed only subject to strict requirements of necessity and proportionality, in situations in which other less harmful measures have proven to be or clearly are ineffective to address the threat. States parties should not resort to less-lethal weapons in situations of crowd control that can be addressed through less harmful means, especially situations involving the exercise of the right to peaceful assembly.” [[68]](#footnote-68)

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”.[[69]](#footnote-69) It succinctly states that: “In this regard, the weapons of intermediary force are necessary for law enforcement. Their use is framed by guidelines. It was considered useful to make them evolve, while consolidating the role of these weapons during law enforcement missions. Each use of these weapons is traced.”[[70]](#footnote-70)

In its General Comment 37 on the right of peaceful assembly, the Human Rights Committee stated that:

“Law enforcement officials should seek to de-escalate situations that might result in violence. They are obliged to exhaust non-violent means and to give prior warning if it becomes absolutely necessary to use force, unless doing either would be manifestly ineffective.”[[71]](#footnote-71)

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 European neighbours. Even though they are confronted with demonstrations that are sometimes just as violent, the latter have resolutely adopted de-escalation strategies that the CNCDH believes are more conducive to restoring public order than the desire to arrest at all costs. Thus, the SNMO endorses the intervention of units in charge of questioning “rioters,” at the risk of creating tensions within the processions and maintaining them, whereas the priority objective should be to restore calm.”[[72]](#footnote-72)

Finally, another area of concern in the SNMO is the reference to the use of advanced identification technologies without enough reflection as to the risks of infringing on the right to privacy and the use of personal data.[[73]](#footnote-73) In this respect, the intention of the Ministry of Interior to use drones for the identification of individuals during public protests runs counter to the recent jurisprudence of the *Conseil d’État* (State Council), which prohibited the use of drones by the police to monitor protests and the respect of lockdown measures in the absence of any legal framework authorising it.[[74]](#footnote-74) On 12 January 2021, the *Commission Nationale de l’Informatique et des Libertés* (National Commission on Information Technologies and Liberties) also sanctioned the Ministry of Interior for using drones equipped with cameras without any legal basis, including to monitor the respect of lockdown measures.[[75]](#footnote-75)

A new law focusing on surveillance tools and law enforcement protection, known as the *loi sécurité globale* or “global security law,” has recently been adopted.[[76]](#footnote-76) As noted by the CNCDH and civil society actors, this law which foresees the use of drones to monitor public protests, does not signal any willingness to enter into dialogue and could only create mistrust among demonstrators.[[77]](#footnote-77) Several UN Special Procedures had expressed concern over Article 22 of the draft law permitting the use of drone surveillance on security and counter-terrorism grounds, as it would permit widespread surveillance, in particular of demonstrators.[[78]](#footnote-78) The law was eventually adopted on 15 April 2021 with some modifications, which restrict the use of drones to specific circumstances and prohibit facial recognition.[[79]](#footnote-79) However, 90 parliamentarians from the Left have filed a complaint with the Constitutional Court to challenge several provisions of the law, including those related to the use of drones.[[80]](#footnote-80)

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has underlined that the

“proposed increased use of drones to police Europe’s borders exacerbates the decentralization of the border zone into various vertical and horizontal layers of surveillance, suspending state power from the skies, and extend the border visually and virtually, turning people into security objects and data points to be analysed, stored, collected, and rendered intelligible. The usage of military, or quasi-military, autonomous technology also bolsters the connection between immigration, national security, and the increasing push towards the criminalization of migration and using risk-based taxonomies to demarcate and flag cases.”[[81]](#footnote-81)

The Special Rapporteur 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.[[82]](#footnote-82) These concerns and recommendation are very important to consider in the context of the use of drones by law enforcement, particularly 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.[[83]](#footnote-83)

At the end of 2020, both the Ministry of Interior and President Macron recognised structural failings in police management and announced a package of new measures to “improve” policing and to “restore trust” with the public.[[84]](#footnote-84) These announcements came in a context of increased lack of trust in the police by the public, particularly from youth, due to the violent policing during the Yellow Vests demonstrations, the multiple accusations against the police in 2020, including of a violent racist attack, and the perceived lack of independence of institutions in charge of investigating abuses by the police.[[85]](#footnote-85) On 18 April 2021, President Macron announced 10,000 additional police and gendarmes by 2022, as well as the creation of an école de guerre (“war school”), which will be an academy “with continuous training for the police.”[[86]](#footnote-86) As noted by the National Human Rights Commission, public authorities and elected officials must be careful in the way they communicate about law enforcement and with frequent statements of unconditional support to the police, which can reinforce the perception of impunity of law enforcement.[[87]](#footnote-87) In a context of heightened tensions between the public and the police, the use of militarised rhetoric by the President contributes to legitimising police violence and so does the increased trend of securitisation, including through the adoption of laws that reinforce police powers to the detriment of human rights.

## Suggested questions

WILPF suggests the following questions be asked to France:

* How does France ensure that “law enforcement” officials record and report promptly and transparently on the use of weapons including 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?
* How does France implement the principles of necessity and proportionality in the use of “less-lethal weapons” in the context of public protests, particularly in the use of LBD 40 “defensive ball launchers” and dispersion grenades?
* How has the decision to maintain the use of LBD 40 “defensive ball launchers” and dispersion grenades been reached? Has the review of these weapons involved experts from various disciplines and examining all relevant information regarding the weapon, such as its technical description, its performance and reliability, its environmental and medical impact and, most importantly, the nature and severity of the physical, mental and emotional injury, pain or suffering likely to be inflicted?
* How has France assessed the impacts of militarisation of the police and use of “less-lethal weapons,” such as LBD and dispersion grenades, on the enjoyment of the right of peaceful assembly?
* How has France analysed the impacts of the use of drones on the right of peaceful assembly, the right to privacy as well as on the right to non-discrimination in light of the risk of racial discrimination in the use of drones?
* As part of the new package of measures to strengthen public trust in the police, does France have any plans to divest and demilitarise police and to instead use financial resources toward building safe communities such as education, housing, food security, jobs, etc.?

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4. 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). [↑](#footnote-ref-4)
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