



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the fifth periodic report of France*

1. The Human Rights Committee considered the fifth periodic report of France (CCPR/C/FRA/5) at its 3181st and 3182nd meetings (CCPR/C/SR.3181 and 3182), held on 10 July 2015. It adopted the following concluding observations at its 3193rd meeting (CCPR/C/SR.3193), held on 21 July 2015.

A. Introduction

2. The Committee welcomes the punctual submission of the fifth periodic report of France and the information presented in it. It expresses appreciation for the opportunity to pursue its constructive dialogue with the State party's high-level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for its written replies (CCPR/C/FRA/Q/5/Add.1) to the list of issues (CCPR/C/FRA/Q/5), which were supplemented by the oral responses provided by the delegation during the dialogue, and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee notes with satisfaction that the State party has taken a number of steps to protect civil and political rights and that progress has been achieved in this regard. It welcomes the following legislative and institutional measures in particular:

(a) The adoption on 17 April 2015 of the 2015-2017 national plan of action to combat racism and anti-Semitism and the establishment in 2012 of an interministerial commission to combat racism and anti-Semitism;

(b) The adoption of Act No. 2014-873 of 4 August 2014 on real equality between women and men, the aim of which is to combat inequality in the private, employment and public spheres;

(c) The adoption of Act No. 2014-896 of 15 August 2014 on the individualization of penalties and strengthening of criminal penalties;

(d) The adoption on 14 May 2014 of the 2014-2016 national action plan to combat human trafficking;

* Adopted by the Committee at its 114th session (29 June-24 July 2015).



(e) The adoption of Act No. 2013-404 of 17 May 2013 on same-sex marriage.

4. The Committee welcomes the State party's ratification in 2010 of the Convention on the Rights of Persons with Disabilities and its optional protocol.

C. Principal subjects of concern and recommendations

Interpretative declaration and reservations to the Covenant

5. The Committee welcomes the reduction of the scope of the declaration relating to article 14, paragraph 5, of the Covenant, but it regrets that, despite the commitments undertaken during the universal periodic review procedure in 2008, the State party ultimately decided not to withdraw its declaration relating to article 13. The Committee also regrets that the State party does not plan to withdraw its other reservations and interpretative declarations, whose quantity and scope place substantial limitations on the applicability of the Covenant. It regrets in particular the restrictive interpretation given by the State party to article 27 of the Covenant in the light of the principles of indivisibility, equality and unity of the Republic.

The State party should reconsider its interpretative declarations and reservations with a view to significantly reducing their number and ensuring the effective application of the Covenant.

Recognition of minorities and statistics

6. While welcoming the measures taken by the State party to highlight national cultural and linguistic diversity, the Committee regrets that the State party still does not recognize the existence of minorities in France. The Committee notes the position of the State party regarding the unconstitutional nature of the collection of data disaggregated by ethnic or racial origin and the national development of various tools based specifically on self-identification. However, it regrets the lack of statistics in the report that would permit it to fully appreciate the enjoyment of the rights enshrined in the Covenant by indigenous peoples and minorities (arts. 2, 26 and 27).

The State party should reconsider its position on the official recognition of ethnic, religious and linguistic minorities. It should continue considering the development of tools to allow it to assess and ensure the effective enjoyment by indigenous peoples and minorities of all human rights and fundamental freedoms. It should also make use of such data for planning and evaluation purposes.

Follow-up to the Views adopted by the Committee under the Optional Protocol

7. The Committee is concerned that the State party has failed to meet its obligation under the Covenant and the first Optional Protocol to provide victims with an effective remedy in the event that the rights set forth in the Covenant are violated, in application of the Views adopted by the Committee, for example in *Singh v. France* (communication No. 1852/2008). The Committee recalls that by acceding to the first Optional Protocol, the State party recognized that the Committee was competent to receive and consider communications from individuals under the jurisdiction of the State party and that it has undertaken to ensure an effective and enforceable remedy when it is ascertained that a violation has occurred (art. 2).

The State party should reconsider its position regarding Views adopted by the Committee under the first Optional Protocol so as to ensure access to an effective remedy in the event of a violation of the Covenant, in accordance with article 2, paragraph 3. It should also disseminate the Committee's Views widely and make the obligations of the State party under the Covenant better known.

Equality between men and women

8. The Committee notes with concern the persistence of a large wage gap between men and women and the prevalence of discrimination in the world of work, including in the civil service (arts. 3 and 26).

The State party should continue implementing measures to ensure de facto equality between men and women in law and in general policy, in particular by ensuring that the provisions of the Act of 4 August 2014 are not affected by the bill on social dialogue and employment. It should also increase the means to ensure compliance with companies' obligations in respect of equality at the workplace and wage equality, including through the work of the labour inspection services.

Terrorism

9. The Committee notes with satisfaction that basic legal guarantees have been extended to persons held in police custody for terrorism, with the adoption of Act No. 2011-392 of 14 April 2011. However, it is concerned that access to counsel can be delayed for 72 hours for compelling reasons and that interviews are limited to 30 minutes, thus restricting the opportunity for adequate legal assistance. The Committee is also concerned about the possibility of extending the maximum period of custody to 96 hours, including for minors over the age of 16, or even to 144 hours in exceptional cases (arts. 9 and 14).

In accordance with the Committee's general comment No. 35 (2014) on article 9 (Liberty and security of person) (CCPR/C/GC/35), the State party should ensure that any persons suspected of terrorism and placed in police custody can promptly meet with their counsel for a sufficient time and that they are promptly brought before a judge.

10. The Committee is concerned at the fact that several provisions of Act No. 2014-1353 of 13 November 2014, which strengthens anti-terrorism provisions, are hard to reconcile with the rights set out in the Covenant. It is particularly concerned about: (a) the procedural implications of including the offences of provocation and vindication of terrorism in the Criminal Code, in particular the possibility of trying suspects in immediate hearings; (b) the introduction of bans on leaving the country and of the offence of "individual terrorist undertaking", along with the use of vague and inaccurate terms criminalizing and defining actions constituting acts of terrorism, provocation and vindication of terrorism; (c) the number and types of acts that have led to prosecution, in particular of minors, for vindicating terrorism in the wake of the attacks committed in Paris in January 2015, and which are often adjudicated in immediate hearings (arts. 9, 14, 19, 20, 21 and 22).

The State party should ensure that the provisions of Act No. 2014-1353, which strengthens anti-terrorism provisions, observe the principles of the presumption of innocence and of legality, and are consequently clearly and precisely set out. The State should also ensure that if the provisions lead to restrictions of certain human rights such as freedom of expression, information or movement, such restrictions are in conformity with the Covenant, in particular the requirements for necessity and proportionality. In this context, the State party should ensure that procedures undertaken on the basis of the Act are carried out with full respect for all the legal guarantees set forth in article 14 of the Covenant.

Post-sentence preventive detention

11. The Committee is concerned about the extension of supervision for security purposes under Act No. 2010-242 of 10 March 2010 on reducing the risk of criminal recidivism, which specifically allows for the placement of persons, owing to their “dangerousness”, in post-sentence preventive detention after they have served their sentences and in cases where they have not complied with the conditions to ensure security supervision, such as an order to undergo treatment, even when such detention was not part of the original sentence (arts. 9, 14 and 15).

The State party should reconsider the practice of placing persons who have received criminal sentences in post-sentence preventive detention after they have served their sentences owing to their “dangerousness”, in the light of its obligations under articles 9, 14 and 15 of the Covenant.

Surveillance activities

12. The Committee is concerned about the powers granted to the intelligence services for digital surveillance both within and outside France. The Committee is particularly concerned about the fact that the law on intelligence adopted on 24 June 2015 (submitted to the Constitutional Court) gives the intelligence agencies excessively broad, highly intrusive surveillance powers on the basis of broad and insufficiently defined objectives, without the prior authorization of a judge and without an adequate and independent oversight mechanism (art. 17).

The State party should take all necessary steps to guarantee that its surveillance activities within and outside its territory are in conformity with its obligations under the Covenant, in particular article 17. Specifically, measures should be taken to guarantee that any interference in persons’ private lives should be in conformity with the principles of legality, proportionality and necessity. The State party should ensure that the collection and use of data on communications take place on the basis of specific and legitimate objectives and that the exact circumstances in which such interference may be authorized and the categories of persons likely to be placed under surveillance are set out in detail. It should also ensure the effectiveness and independence of a monitoring system for surveillance activities, in particular by making provision for the judiciary to take part in the authorization and monitoring of surveillance measures.

Discrimination against Roma migrants

13. The Committee is concerned at the fact that Roma migrants face rejection, exclusion and violence. It is particularly concerned at discrimination in access to health care, social benefits, education and housing which is compounded by forced evictions from settlements and a frequent lack of resettlement solutions and adequate follow-up (arts. 12, 17 and 26).

The State party should strengthen the measures taken to ensure that Roma migrants are not discriminated against in terms of access to health care, social benefits, education and housing. It should also put an end to forced evictions from Roma settlements until alternatives and decent and long-term resettlement options can be guaranteed, in keeping with the circular of 26 August 2012. Furthermore, it should take steps to stem the rise of racist and discriminatory behaviour and discourse against the Roma.

Travellers

14. The Committee welcomes the adoption by the National Assembly of the bill to repeal the Act of 1969 that requires Travellers to hold a permit (*livret de circulation*), which the Committee considered a breach of article 12 of the Covenant (*Ory v. France*, communication No. 1960/2010). The Committee nonetheless remains concerned about forced evictions from unlawfully occupied land, which take place despite the insufficient number of reception areas made available to Travellers. It is also concerned about the practical barriers to the exercise of their right to vote and of their children's right to an education (arts. 7, 12, 25 and 26).

The State party should repeal the Act of 1969 and abolish the permit system, ensure implementation of the objectives set by the law on reception areas (Besson Act) and halt evictions until a sufficient number of reception areas are made available. It should also ensure that Travellers enjoy fully and without discrimination the same rights as all French citizens, particularly the right to vote and the right to an education.

Excessive use of force by law enforcement officers

15. The Committee is concerned about allegations of ill-treatment, the excessive use of force and the disproportionate use of non-lethal weapons, especially during arrests, forced evictions and law enforcement operations. It is further concerned about continued racial profiling and allegations of police harassment, verbal abuse and abuse of power against migrants and asylum seekers in Calais (arts. 2 and 7).

The State party 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. The State party should also ensure that allegations of racial profiling, ill-treatment and excessive use of force are thoroughly investigated; perpetrators are prosecuted and, if convicted, punished with sanctions commensurate with the seriousness of the crime; and victims are adequately compensated.

Sexual abuse in the Central African Republic

16. The Committee is concerned about the allegations of sexual abuse reportedly committed against children by several French soldiers during Operation Sangaris in 2013 and 2014. It finds it regrettable that there is so little information available on steps taken by the State party since becoming aware of the allegations (arts. 2, 7 and 24).

The State party should ensure that the allegations of sexual abuse committed against children in the Central African Republic by French soldiers are effectively investigated as soon as possible and that the perpetrators are brought to justice.

Prison overcrowding

17. The Committee commends the State party for its efforts to modernize prisons, the adoption of the Act of 15 August 2014 on the individualization of penalties and strengthening of criminal penalties and the increased use of adjusted sentences. It nonetheless remains concerned about persistent prison overcrowding and the

insufficient use of adjustment of sentences, particularly in the overseas territories (art. 10).

The State party should continue its efforts to reduce prison overcrowding, especially in the overseas territories, by increasing the use of adjusted sentences.

Immigrants and asylum seekers

18. The Committee is concerned that some asylum applications, particularly those filed by persons from so-called safe countries of origin, automatically go through priority processing. It is concerned that this procedure deprives the applicant of the right to a suspensive appeal in the event of an initial denial by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and provides for fewer procedural guarantees, thereby exposing the applicant to a risk of refoulement. While it welcomes the fact that, under the bill to reform the asylum system, the suspensive appeal will be extended to all asylum seekers, the Committee is concerned that exceptions will remain, for example, in respect of asylum seekers in the overseas territories (arts. 2, 6 and 7).

The State party should ensure that selection for fast-track processing is based on individual assessments of each situation. It should take the necessary steps to guarantee in practice that all asylum seekers and immigrants have an equal right to a fully effective suspensive appeal, specifically by ensuring access to professional interpretation services and legal aid in administrative custody centres and holding areas in metropolitan France and the overseas territories.

19. The Committee is concerned about: (a) the particularly worrying situation of foreigners and asylum seekers in Mayotte, many of whom are unaccompanied minors; (b) the introduction in the department of Mayotte of excessively restrictive rules and procedures regarding asylum and residency through a system of derogations to the Code of Entry and Residence of Aliens and the Right to Asylum; (c) reports that unaccompanied minors in Mayotte are sometimes linked to adults who they do not know in order to expel them; (d) the fact that unaccompanied minors are still held in holding areas for up to 20 days; (e) the fact that accompanied minors are still regularly placed with their parents in administrative custody centres and facilities; (f) the length of time before the liberties and detention judge takes action, which deprives most detained foreigners of any review of the lawfulness of their custody or stay in holding areas or of their conditions of detention (arts. 7, 9, 10 and 13).

The State party should: (a) review the system of derogations applied in the department of Mayotte, to ensure that foreigners and asylum seekers enjoy the same guarantees as in metropolitan France; (b) prohibit the deprivation of liberty of minors in transit areas and all administrative custody centres in metropolitan France and overseas territories; (c) ensure that foreign unaccompanied minors receive legal protection and the support of children's welfare services; (d) ensure that the ordinary courts review cases before any expulsion or return measure is implemented.

Dignity and integrity of persons with disabilities

20. The Committee is concerned about reports of the violation of the dignity and physical and mental integrity of persons with disabilities living in institutions in the State party and in a neighbouring country. The Committee is further concerned about the continued use of "packing", the practice of wrapping autistic children and psychotic adults in extremely cold, wet sheets, for experimental purposes (arts. 7, 16 and 26).

The State party should guarantee decent living conditions and safeguard the physical and mental integrity of persons with disabilities living in institutions. It should also ensure that all allegations of cruel, inhuman or degrading treatment are investigated and that those responsible are convicted or punished.

Compensation for the victims of French nuclear tests

21. The Committee is concerned about the fact that, as at 1 March 2015, the Nuclear Test Victims Compensation Committee had dismissed 98.3 per cent of claims (arts. 2 and 6).

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.

Freedom of conscience and religion

22. The Committee is concerned that the wearing of religious symbols considered “conspicuous” in public schools is regulated (Act No. 2004-228) and that face coverings are banned in public places (Act No. 2010-1192). The Committee is of the view that these laws infringe the freedom to express one’s religion or belief and that they have a disproportionate impact on members of specific religions and on girls. The Committee is further concerned that the effect of these laws on certain groups’ feeling of exclusion and marginalization could run counter to the intended goals (arts. 18 and 26).

The State party should review Act No. 2004-228 of 15 March 2004 and Act No. 2010-1192 of 11 October 2010 in the light of its obligations under the Covenant, in particular article 18 on freedom of conscience and religion and the principle of equality set out in article 26.

Racism, anti-Semitism and Islamophobia

23. The Committee is concerned about the resurgence of racist and xenophobic discourse in both the public and political spheres, and fears that this may lead to the rise of intolerance and a feeling of rejection in some communities. The Committee is also concerned about the upsurge in violent incidents of a racist, anti-Semitic or anti-Muslim nature (arts. 2, 18, 20 and 26).

The State party should recall regularly and publicly that any advocacy of hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law and should act promptly to bring perpetrators to justice. The State party should step up its efforts against racist, anti-Semitic and anti-Muslim violence, in particular by conducting investigations and by punishing the perpetrators of such acts.

Dissemination of the Covenant

24. The State party should widely disseminate the Covenant, its fifth periodic report, its replies to the list of issues drafted by the Committee and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations and to the general public.

25. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations made by the Committee in paragraphs 11 (Post-sentence preventive detention), 12 (Surveillance activities) and 16 (Sexual abuse in the Central African Republic) above.

26. The Committee requests the State party to submit its next periodic report by 24 July 2020 and to include specific, up-to-date information on the implementation of all its recommendations and of the Covenant as a whole. The Committee further requests the State party, in the preparation of the report, to broadly consult civil society and non-governmental organizations, as it has done in the past. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.
