



WOMEN'S INTERNATIONAL LEAGUE FOR
PEACE & FREEDOM

France

Submission to the CEDAW Committee

83rd Pre-Sessional Working Group (28 February – 4 March 2022)

List of issues (LOI)

**Serious obstacles to access to compensation
for survivors of France's nuclear testing**

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I. Introduction

In 2016, the CEDAW Committee expressed concerns about the lack of measures taken by France to “address the impact of the 30 years of French nuclear testing on the health of women and girls in French Polynesia” and made recommendations relating to nuclear testing and compensation.¹ Despite France’s explanations in its ninth periodic report to the CEDAW Committee regarding the processing of compensation claims by victims of nuclear testing,² serious concerns remain. In particular, we highlight the human rights impacts of France’s nuclear testing in Algeria and French Polynesia and outline the serious obstacles to access to compensation for survivors. We recall that nuclear explosions can have gendered impacts, as women and girls are disproportionately impacted by ionising radiation.³ This means that they are more susceptible to certain kinds of cancers and other physical harms from nuclear testing. Nuclear tests bombings that were carried out decades ago are still harmful and need to be recognised and duly compensated by governments.

This submission draws from WILPF May 2021 submission to the Human Rights Committee (HRCtte).⁴ Since the issues addressed therein are very relevant to the CEDAW Committee’s preparation of the list of issues for France, we are bringing some extracts from it to the CEDAW Committee’s attention.

Moreover, we note that our submission to the HRCtte raised concerns the disproportionate use of force by the French police. While concerns relating 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, the WILPF submission focuses on 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

¹ CEDAW/C/FRA/CO/7-8, 25 July 2016, paragraphs 36 f) and 37 g).

² CEDAW/C/FRA/9, 20 April 2021, paragraphs 183 and 186.

³ See the Gender + Radiation Impact Project, available at www.genderandradiation.org.

⁴ Submission available on the OHCHR website at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fFRA%2f44873&Lang=en). It also available on WILPF Reaching Critical Will’s website: https://reachingcriticalwill.org/images/documents/Publications/iccpr_loipr_france_may2021.pdf. The submission also illustrates why France’s possession and modernisation of nuclear weapons violates various obligations under international law, including human rights law.

impacts of such use on human rights, including rights to peaceful assembly, freedom of expression, and privacy.

WILPF will be pleased to respond to the CEDAW Committee's questions or requests for additional information, including recent relevant updates.

II. Suggested questions

In light the concerns highlighted in the submission, we strongly encourage the CEDAW Committee to ask the following questions:

- 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)?

III. Appendix: Extract from WILPF submission to the Human Rights Committee (2021)

Please note: the following information is extracted from WILPF submission to the Human Rights Committee, ⁵ 132nd Session, 28 June 2021 - 23 July 2021 (List of issues prior to reporting France), which was made on **17 May 2021**.

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.⁶ 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 be linked to radiation exposure from nuclear testing and from nuclear catastrophes at Chernobyl and

⁵ Submission available on the OHCHR website at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fFRA%2f44873&Lang=en). It also available on WILPF Reaching Critical Will's website: https://reachingcriticalwill.org/images/documents/Publications/iccpr_loipr_france_may2021.pdf

⁶ See the Gender + Radiation Impact Project, available at www.genderandradiation.org.

Fukushima.⁷ 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.”⁸ 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”⁹ 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.”¹⁰

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.”¹¹ Finally in 2020, the Committee on Economic, Social and

⁷ Reaching Critical Will (WILPF programme), *Unspeakable Suffering: The Humanitarian Impact of Nuclear Weapons* (Beatrice Fihn, January 2013) available at: <https://www.icanw.org/wp-content/uploads/2012/08/Unspeakable.pdf>.

⁸ Human Rights Committee ‘Concluding observations on the fifth periodic report of France’ (17 August 2015) UN Doc CCPR/C/FRA/CO/5, para. 21.

⁹ 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).

¹⁰ Committee on the Elimination of Discrimination against Women ‘Concluding observations on the combined seventh and eighth periodic reports of France’ (25 July 2016) UN Doc CEDAW/C/FRA/CO/7-8, para. 37 (g).

¹¹ Human Rights Council Thirty-eighth session 18 June–6 July 2018 ‘Report of the Working Group on the Universal Periodic Review - France’ (11 April 2018) UN Doc A/HRC/38/4, recommendation 145.97(Panama). For France’s position on the recommendation, see Human Rights Council

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.¹²

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.¹³ 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.¹⁴ 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.¹⁵ 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

Thirty-eight session 18 June-16 July 2018 ‘Report of the Working Group on the Universal Periodic Review - France’ (10 May 2018) UN Doc A/HRC/38/4/Add.1, para. 7.

¹² Committee on Economic, Social and Cultural Rights ‘List of issues prior to submission of the fifth periodic report of France’ (6 April 2020) UN Doc E/C.12/FRA/QPR/5, para. 4 (e) (9).

¹³ For more details on the nuclear tests in Algeria see: BBC, *France-Algeria relations: The lingering fallout from nuclear tests in the Sahara* (27 April 2021) available at: <https://www.bbc.com/news/world-africa-56799670>.

¹⁴ Jean-Marie Collin and Patrice Bouveret, *Radioactivity Under the Sand: The Waste from French Nuclear Tests in Algeria* (Heinrich Böll Foundation, July 2020), available at: <https://www.boell.de/en/2020/07/08/radioactivity-under-the-sand>.

¹⁵ Ibid.

been found that provide information about the radiological condition of the test sites when they were returned to the Algerian authority.”¹⁶

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 “Moruroa Files”), the French government vastly underestimated the number of people exposed to fallouts from its atmospheric nuclear tests in French Polynesia.¹⁷ 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.¹⁸

The investigation behind the Moruroa 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

¹⁶ Report on French nuclear tests 1960 -1996, Volume 1: La genèse de l’organisation et les expérimentations au Sahara CSEM et Cemo, [The origin of the organisation and the experiments in the Saharan Centre for Military Testing (CSEM) and Cemo [Oasis Military Test Centre] 236.

¹⁷ See the Moruroa Files available at moruroa-files.org; See also Sébastien Philippe and Tomas Stadius, *Toxic: Investigation into French nuclear tests in Polynesia* (Paris: Puf, 2021).

¹⁸ Sébastien Philippe, Sonya Schoenberger and Nabil Ahmed, *Radiation Exposures and Compensation of Victims of French Atmospheric Nuclear Tests in Polynesia* (arXiv:2103.06128, 2021).; Adrian Cho, *France grossly underestimated radioactive fallout from atom bomb tests, study finds* (Science, 11 March 2021).

understand the scope and consequences of their possible repeated exposures.¹⁹ 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.²⁰

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.²¹

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

¹⁹ See for example, *Fangataufa and Moruroa, French Polynesia: Nuclear Weapon test sites* (*nuclear-risks.org*) available at:

<http://www.nuclear-risks.org/en/hibakusha-worldwide/fangataufa-and-moruroa.html>; World Information Service on Energy, *French nuclear tests: 30 years of lies* (27 February 1998) available at: <https://www.wiseinternational.org/nuclear-monitor/487/french-nuclear-tests-30-years-lies>.

²⁰ Hans Veeken, *French Polynesia: a nuclear paradise in the Pacific* (*BMJ*, 1995) 311, 497–499.

²¹ Jon Henley, *France has underestimated impact of nuclear tests in French Polynesia, research finds* (*The Guardian*, 9 March 2021) available at:

<https://www.theguardian.com/world/2021/mar/09/france-has-underestimated-impact-of-nuclear-tests-in-french-polynesia-research-finds>; Disclose, *Nuclear testing: revelations of a cancer epidemic* (*Mediapart*, 9 March 2021) available at:

<https://www.mediapart.fr/journal/international/090321/essais-nucleaires-revelations-sur-une-epidemie-de-cancers>.

international scientific community.”²² In the last 10 years, only 1747 claims have been registered;²³ 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.²⁴

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.”²⁵ 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.²⁶

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.

²² Law No. 2010-2 of 5th January 2010 on the recognition and compensation of victims of French nuclear tests, art. 1 (I), available at:

<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000021625586/>.

²³ Compensation Committee for Nuclear Test Victims (CIVEN), *Activity report 2020: review of 10 years of the law of the 5th January 2010* (9 March 2021). Available at:

<https://www.gouvernement.fr/rapport-d-activite-2020>.

²⁴ Moruroa Files, *The compensation trap*, available at:

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

²⁵ Moruroa Files, *The compensation trap*, available at:

<https://moruroa-files.org/en/investigation/battle-for-compensation>.

²⁶ Disclose, *Nuclear victims: the sham of compensation*, (9 March 2021). Available at:

<https://disclose.ngo/fr/article/l-imposture-de-victime-du-nucleaire-limposture-de-lindemnisation-de-s-victimes-des-essais-nucleaires>.

and R. 1333-2 of the Public Health Code).”²⁷ This answer is clearly insufficient given the issues with the methodology to determine exposure to nuclear radiation highlighted above.

²⁷ Committee on the Elimination of Discrimination against Women 'Ninth periodic report submitted by France under article 18 of the Convention, due in 2020' (20 April 2021) UN Doc CEDAW/C/FRA/9, para. 184.