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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE  
ANNEX TO RESOLUTION 5/1 OF THE HUMAN RIGHTS COUNCIL

**France\***

The present report is a summary of 20 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review of the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

\* The present document was not edited before being sent to the United Nations translation services.

## I. BACKGROUND AND FRAMEWORK

1. Défense des Enfants International, section France (DEI), noted that the site of the Ministry of Foreign Affairs displays no information concerning the universal periodic review (UPR). DEI noted that a text drawn up by civil servants in different ministries and harmonized by the Ministry of Foreign Affairs had been submitted for comments to the National Consultative Commission for Human Rights (Commission Nationale Consultative des Droits de l'Homme) (CNCDH). According to DEI, there was no sign of any desire for broader consultation involving local authorities or civil society (apart from representatives on CNCDH). DEI indicated that it would be useful to ascertain whether independent human rights institutions such as the National Ombudsman (Médiateur de la République), the High Authority against Discrimination and for Equality (Haute Autorité de Lutte contre les Discriminations et pour l'Égalité) (HALDE) or the Children's Ombudsman have been consulted.<sup>2</sup>

### A. Scope of international obligations

2. Amnesty International (AI) called on France to sign and ratify the Optional Protocol (OP) to the Convention on the Rights of Persons with Disabilities (CPD) and the International Convention on the Rights of All Migrant Workers and Members of Their Families.<sup>3</sup> CNCDH also regretted the fact that France has not signed this treaty. AI,<sup>4</sup> CNCDH<sup>5</sup> and the International Federation of ACAT (Action of Christians for the Abolition of Torture)<sup>6</sup> (FIACAT) also called on France to ratify the OP to the Convention against Torture. AI further recommended the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and the CPD and called on France to withdraw its reservations to the Convention on the Elimination of All Forms of Discrimination against Women.<sup>7</sup> CNCDH indicated that it has also requested France to withdraw the declaration entered under article 124 of the Statute of the International Criminal Court (ICC) and regretted the delay in incorporating the whole of the Rome Statute in domestic law.<sup>8</sup> In this connection, FIACAT noted that the Minister of Justice tabled a bill to adapt French law to the institution of the ICC in the National Assembly in 2006. According to FIACAT, however, it had never been included in the order of business and had been withdrawn in 2007 in order to be tabled in the Senate. At 30 January 2008, it was still not included in the order of business. The text of the bill was submitted to CNCDH, which issued a highly critical opinion in 2006.<sup>9</sup> Concerning the applicability of the Convention on the Rights of the Child (CRC), DEI regretted that, despite considerable forward movement in the case law of the Court of Cassation in 2005, the ambiguity of the State's position on the subject leads to non-recognition (or very partial recognition) of the legally binding normative nature of the Convention. DEI considers that the Constitutional Council should be able to reject the provisions of new laws that are not in conformity with duly ratified international treaties.<sup>10</sup>

### B. Constitutional and legislative framework

3. DEI noted that, after major efforts had been made in the 1990s to bring domestic legislation into line with the Convention on the Rights of the Child, the trend today appears to be reversed. For example, DEI observed a lack of consistency between the various laws, which in its view creates a sense of confusion harmful to the observance of the rights of the child. It also noted a risk that some laws under preparation, while purporting to protect children, might in effect violate fundamental human rights principles.

### **C. Institutional and human rights infrastructure**

4. According to CNCDH, a large number of “independent administrative authorities” responsible for protecting citizens’ rights have recently sprung up in France. They include the National Ombudsman, the National Advisory Committee on Ethics (CCNE), the National Commission on Electronic Data Processing and Freedoms (CNIL), the National Commission on Security Ethics (CNDS), the Children’s Ombudsman, etc. The establishment of HALDE in 2006 marked a particularly important stage, according to CNCDH, as did the 2007 Act establishing the post of Inspector-General of Detention Facilities. CNCDH has indicated that it carries out its responsibilities in a spirit of independence and pluralism and that, while its role is exclusively consultative, it fully exercises its proprio motu power. It also issues opinions on the basis of government requests, but has noted a significant decline in their number, a fact which it deeply deplored recently.<sup>11</sup> CNCDH regretted the poor follow-up to its opinions, despite a generally satisfactory level of cooperation.<sup>12</sup> DEI considered that CNCDH continues to have only limited influence, partly because of its advisory role and partly because its opinions are not necessarily acted upon.<sup>13</sup> According to the Lesbian, Gay, Bisexual and Transgender Inter-Association (Inter-LGBT), HALDE’s budget is far lower than that of equivalent institutions in other countries of the European Union.<sup>14</sup> DEI noted that the Children’s Ombudsman is appointed in the Council of Ministers with a budget open to censure by parliamentarians (as almost happened in 2005).<sup>15</sup>

### **D. Policy measures**

5. CNCDH indicated that it recently recommended that the Government organize a national consultation leading to the adoption of a national plan of action on human rights.<sup>16</sup> DEI noted that, although it is still too early to evaluate his role, the recent appointment of a State Secretary responsible for human rights, one of whose main priorities concerns the rights of the child, is a step in the right direction.<sup>17</sup>

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **A. Cooperation with human rights mechanisms**

6. FIACAT pointed to a number of delays in the past in submitting reports to the United Nations treaty bodies.<sup>18</sup> CNCDH noted that the comments made by those bodies are not always properly taken into account by the public authorities.<sup>19</sup> FIACAT pointed out that the Government regularly ignores interim measures ordered by the Committee against Torture (CAT). For example, in 2006, France for the second time refused to recognize the authority of interim measures ordered by CAT. FIACAT emphasized that, in 2007, the Committee condemned France for having expelled a Tunisian national in violation of a recommendation issued in 2006.<sup>20</sup>

### **B. Implementation of international human rights obligations**

#### **1. Equality and non-discrimination**

7. CNCDH noted that France has a substantial legislative arsenal at its disposal in the fight against racism, anti-Semitism and discrimination. The public authorities provide financial support to various associations with responsibilities in these fields. CNCDH noted that the number of racist acts reported to the authorities has been declining steadily since 2005. CNCDH deplored the “dilution” of action to combat racism and anti-Semitism through measures to combat violence in general and through the lack of an adequate focus on specific and concerted measures.<sup>21</sup> In 2006, the Council of Europe Commissioner on Human Rights (CoE CHR) recommended that France step up

efforts to combat racism, anti-Semitism and xenophobia and that it enforce existing legislation more effectively, and punish those who commit racist, anti-Semitic or xenophobic acts.<sup>22</sup> The Islamic Human Rights Commission (IHRC) noted that of the 220,000 recorded discrimination cases in France in 2006, only 43 went to trial and that the successful challenge by a litigant through the courts is not encouraging. According to IHRC, the French Government's claim that HALDE is an effective institution to tackle discrimination, particularly that experienced by women of colour, is disputed, notably due to the fact that HALDE's initial power of sanction was revoked by the Government.<sup>23</sup> Inter-LGBT reported that the Criminal Code and the law on employment and housing define different grounds of discrimination, including morals and sexual orientation, and since 2004 have treated all these different types of discrimination on an equal footing. Since 2005, verbal attacks in the street or in the workplace on account of sexual orientation, sex or disability have been made a more serious offence than mere insult. Gender identity is not a recognized ground of discrimination under French law.<sup>24</sup>

## 2. Right to life, liberty and security of the person

8. AI indicated that the Penal Code does not contain a definition of torture along the definition set out in the Convention against Torture which is, in their view, a possible hindrance to adequate protection from torture.<sup>25</sup> AI informed that for many years it has documented the authorities' response to allegations of torture or other ill-treatment and excessive use of force, including possible unlawful killings, by law enforcement officials. According to AI, internal police investigations, coupled with the discretionary powers of the prosecution, result in many ineffective prosecutions and many cases have been filed away before coming to court, even when there was credible evidence that a violation had occurred. AI indicated that even when such cases have reached court, convictions have been relatively rare, or, when they occurred, sentences have mainly been nominal. AI concluded that the Government's continued failure to address these violations has led to a climate of de facto impunity for law enforcement officials. Racism is a major element in many of the cases examined by AI as almost all involved persons of non-European ethnic origin, most commonly of North African or sub-Saharan extraction.<sup>26</sup> FIACAT pointed out that the use of tasers is currently, according to the French Government, under trial in three prisons, despite the position taken by the United Nations Committee against Torture, which has stated that the use of non-lethal electric weapons "*causes severe pain constituting a form of torture*", in violation of articles 1 and 16 of the Convention against Torture.<sup>27</sup>

9. The French section of International Prison Watch (OIP) indicated that, despite having been denounced by two parliamentary reports in 2000, the situation in prisons has seriously deteriorated over the last four years, as a result of a criminal law policy that emphasizes incarceration - causing severe prison inflation and record prison overpopulation - and a penitentiary policy geared to strengthened security. Successive governments have failed to heed the recommendations of national and international bodies for the protection of human rights.<sup>28</sup> FIACAT stated that, in a 2007 report, the European Committee for the Prevention of Torture (CPT) again invites France to tackle head-on the problem of overpopulation in remand prisons.<sup>29</sup> According to OIP, the prison inflation observed since 2002 worsened considerably in 2007, when it reached a historic record of 65,046 persons, an increase of 22.3 per cent since 2002. As at 1 January 2008, there were found to be 11,948 more prisoners than there were places available,<sup>30</sup> according to FIACAT. Thus, an average of four persons are held in a 9 m<sup>2</sup> cell space. This overcrowding has a major impact on conditions of detention, given the inadequacies and dilapidated state of institutions, deficiencies in general hygiene, poor and limited access to health care, which are a cause of growing tensions in the relations between warders and prisoners as well as among prisoners themselves.<sup>31</sup> OIP notes that, according to projections published by the Ministry of Justice in July 2007, the prison population is expected to stand at 80,000 in 2017.<sup>32</sup>

10. According to FIACAT, prison staff have to use force in certain situations. FIACAT indicated that, as a protection and security measure, the solitary confinement of an inmate, initially for a period of three months, may be renewed indefinitely. Apart from this lack of a time limit, the conditions of solitary confinement are particularly arduous and may be likened to cruel, inhuman and degrading treatment, according to FIACAT. The latter organization reported that the European Committee for the Prevention of Torture (CPT), during its visit to France in 2006, encountered a person who had been held in solitary confinement for 19 years. FIACAT noted that CPT also observes that solitary confinement is used against prisoners requiring urgent psychiatric care.<sup>33</sup> In 2006, OIP referred five cases to the National Commission on Security Ethics (CNDS) concerning acts of deliberate assault perpetrated by guards on inmates in the Liancourt prison. CNDS noted the existence in this prison of a general climate “*of fear and reprisals, [of] victimization*”, of acts designed to establish “*terror and order*”.<sup>34</sup> According to FIACAT, there is a flagrant disparity between the right of any victim to report acts of violence committed by an authority exercising law enforcement functions and the practical reality.<sup>35</sup>

11. FIACAT noted that the point in time at which a person placed in custody can talk to a lawyer was put back by 2004 and 2006 amendments to the Code of Criminal Procedure.<sup>36</sup> In 2006, CPT expressed concern to the French authorities regarding these amendments which extend the maximum duration of police custody to 144 hours (or six days) in certain exceptional circumstances, while deferring for four days any intervention by a lawyer. According to CPT, if the planned extension of the maximum duration of police custody is put into effect, fundamental guarantees should be strengthened.<sup>37</sup> The Government replied on this point to CPT.<sup>38</sup> In 2006, the CoE CHR recommended the reform of arrangements for the involvement of a counsel during police custody, asking that the assistance of a lawyer be compulsory.<sup>39</sup> AI recommended that the amendment of the legislation with a view to ensuring detainees’ rights to effective legal assistance, which includes the right to consult with a lawyer from the outset of police custody and throughout the period of detention.<sup>40</sup> The Human Rights League (LDH) observed an erosion of judicial guarantees in the legislation in force, noting that recourse to detention on remand is possible whenever there is liability to a sentence of three years or more. In addition, LDH expressed concern at the reinstatement of the criterion of disturbance of public order and the increased powers of the prosecuting authorities.<sup>41</sup> Human Rights Watch (HRW) expressed concern that the lack of safeguards during police custody undermines the right of detainees to an effective defence at a critical stage.<sup>42</sup> It further noted that France’s criminal justice approach to countering terrorism is based on a centralized system in which specialized investigating magistrates have broad powers to detain potential suspects for up to six days in pre-arraignment police custody (*garde à vue*) and charge them with an ill-defined offence of “criminal association to commit a terrorist act” (*association de malfaiteurs*). Investigations into alleged international terrorism networks in France can often last for years, during which time large numbers of people are detained, interrogated and remanded into pretrial detention on the basis of minimal proof, including the wives and partners of primary suspects.<sup>43</sup> The *association de malfaiteurs* charge, considered the cornerstone of the French pre-emptive counterterrorism model, has been criticized as arbitrary and lacking in legal certainty, according to HRW. Based on its research, HRW was concerned that due to the combination of an overly broad offence and application of a low standard of proof for remand into pretrial detention, individuals are placed in what is akin to unlawful administrative detention.<sup>44</sup>

12. AI noted that it has repeatedly highlighted the problem of violence against women in France. It stated that according to official data, 127 women were killed by their partner in 2006 and noted that almost 1 in 10 women in France has been a victim of domestic violence. The procedures to access justice are slow and complex and migrant women face additional difficulties.<sup>45</sup> According to the Global Initiative to End All Corporal Punishment of Children (GIEACPC), corporal punishment is lawful in the home under the parental “right of correction” in customary law. Children have

limited protection from violence under the Criminal Code, and GIEACPC noted that research reveals a high prevalence of corporal punishment. It indicated that there is no explicit prohibition in law of corporal punishment in schools and in alternative care settings.<sup>46</sup>

### **3. Administration of justice and the rule of law**

13. CNCDH noted that numerous reforms, usually involving laws tailored to fit specific circumstances, have been undertaken recently in the area of the administration of justice. According to CNCDH, they are resulting in the growing complexity of the Code of Criminal Procedure, restrictions on certain fundamental rights in a context of enhanced security, and the questioning of basic principles such as the non-retroactivity of criminal law. CNCDH has thus on several occasions informed the Government of its concerns in the context of the fight against recidivism and delinquency, having regard in particular to the principle of the strict necessity and proportionality of sentences.<sup>47</sup> LDH<sup>48</sup> and OIP<sup>49</sup> have noted an erosion of rights and freedoms over the past five years, which is without precedent since 1945. According to LDH, the courts are increasingly prone to conduct summary proceedings, sentences are getting heavier and prison capacity is increasingly strained. Crime prevention, particularly with respect to minors, is increasingly being neglected, according to LDH, in favour of an ever more repressive regime under which the only indicator of success is the number of persons in detention.<sup>50</sup> The CoE CHR stated in 2006 that in the long term, the increasing speed with which the law is changing may create a problem of legal insecurity, since legal professionals will no longer have time to prepare themselves for the coming into force of new texts.<sup>51</sup> CNCDH regretted the numerous amendments made to the 1945 order on delinquent children. Drawing attention to the priority given by that order to education on law enforcement, CNCDH laid stress on exemption from jurisdiction (specialized jurisdiction of the juvenile court and juvenile judges). CNCDH stressed that these measures, particularly the fact that the recognition of minority as a mitigating circumstance has become the exception rather than the rule for minors aged over 16, are inconsistent with the spirit of the international texts, under which justice for minors must take account of the specific circumstances of their age and imprisonment should be the exception.<sup>52</sup> LDH expressed similar concerns.<sup>53</sup>

### **4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

14. The Institute of Religion and Public Policy (IRPP) noted that the Government generally respects freedom of religion in practice and the freedom to practice any religion. However, it noted that some religious and human rights groups are concerned about legislation passed in 2001 and 2004 that provide for the dissolution of groups under certain circumstances and ban the wearing of conspicuous religious symbols by public school employees and students.<sup>54</sup> The Becket Fund for Religious Liberty (BFRL) noted that the Law of 1905 concerning the separation of the churches and the State (known as "*loi sur la laïcité*") is still in place, and that the strict separation between church and State is interpreted to limit the expression of religion in the public space. In the opinion of BFRL, the effects of this application have been most difficult for minority religions like Islam and new religious movements.<sup>55</sup> IRPP informed that the 2004 law banned all conspicuous religious symbols including the Muslim headscarf, Jewish skullcap, Sikh turban, and large Christian crosses. According to IRPP, while the intent of the law was to create neutrality and religious tolerance in public schools, it has created controversy and intolerance.<sup>56</sup> According to BFRL, the law in effect creates conditions in which minority groups are required to surrender their distinctive characteristics, basic fundamental beliefs, and tenets for the sake of assimilating into the "French" culture. Since its adoption, at least 48 children have been expelled from schools, noted BFRL, underlining that this figure does not account for the number of children who either stopped going to school after the ban came into effect, switched to a private school, or enrolled in a distance learning

system.<sup>57</sup> IRPP indicated that it agrees with the findings of the UN Special Rapporteur on Freedom of Religion and Belief in her 2006 report on France that this law “denies the rights of those minors who have freely chosen to wear a religious symbol to school as part of their religious belief” and that “the implementation of the law by educational institutions has led, in a number of cases, to abuses that provoked humiliation, in particular amongst young Muslim women”. IHRC also expressed concern that the law is deeply discriminatory and violates the rights of Muslim girls and women who wear the headscarf.<sup>58</sup> It further noted the effect of the ban in the public sector in general as well as in the private sector, including cases of dismissals of women wearing headscarves in crèches, banks and human rights organizations. They also reported cases of women being removed from juries for wearing a hijab or denied access to places of civil registration if they refuse to remove the hijab.<sup>59</sup> The IHRC<sup>60</sup> and IRPP<sup>61</sup> recommended that under these circumstances, the law needs to be repealed or reconsidered. They indicate that in 2008, the Ministry of Interior announced that it will re-examine the 1905 Law to make it more accommodating and provide more freedom for all religions in France.<sup>62</sup> According to IRPP, it is not only the Muslim populations that are facing discrimination; anti-Semitic acts increased in France by 6 per cent in 2006, and violent incidents rose more sharply, from 99 in 2005 to 134 in 2006.<sup>63</sup>

15. BFRL informed that in 1995, a parliamentary commission on cults in France was established which determined a set of criteria to identify such organizations, including mental destabilization, exaggerated financial contributions, offence to physical integrity, recruitment of children, public order offences.<sup>64</sup> The commission also released a list of 173 groups, identified as “cults” worthy of public caution. The evidence used by the commission included judicial decisions and testimonies of former “cult” members, according to BFRL. Following the report, a government body (the current version is the Inter-Ministerial Monitoring Mission against Sectarian Abuses - MIVILUDES) was created to monitor the activities of such religious “cults”. In 2001, the About-Picard law was passed, which, according to BFRL, placed tighter restrictions on associations, especially “cults”, and facilitated the dissolution of such groups. BFRL indicated that members of minority religious groups report numerous instances of discrimination as a result of the About-Picard law, including towards children of sect members within the school system. Groups identified in the 1995 report continue to face difficulties building houses of worship and expressing their religions in public, state BFRL.<sup>65</sup> IRPP noted that the Inter-Ministerial Mission to monitor and combat sectarian abuse, known as MIVILUDES (*Mission interministérielle de vigilance et de lutte contre les dérives sectaires*), has contributed to the stigmatization of targeted religious faiths in France. IRPP recommends a reform of this organization to ensure that it is objective and promotes religious freedom for all.<sup>66</sup>

16. According to the Centre for Information and Counselling on New Spiritualities (CICNS), for some 25 years individuals, families or associations suspected of links to a sect have been subject to raids by the police or the gendarmerie.<sup>67</sup> The European Raelien Movement (MRE) noted that this list is consistently used to justify infringements seriously prejudicial to the Raelien Movement, its members and its founder, and that this helps to create and reinforce a climate of hatred against religious minorities.<sup>68</sup> Human Rights Without Frontiers International (HRWFI) indicated that three entities funded by the State are active in promoting religious discrimination within France. According to HRWFI, MIVILUDES for instance promotes religious discrimination through stigmatization of faith groups which are minorities. HRWFI indicated that in 2006 the UN Special Rapporteur on Freedom of Religion and Belief called on France to cease “the stigmatization of members of certain religious groups or communities, including those whose members have never committed any criminal offence under French law” and that “future actions of MIVILUDES will be in line with the right to freedom of religion and belief and avoid past mistakes”.<sup>69</sup>

17. The overall situation of media in France is good, according to the Office of the OSCE Representative on Freedom of the Media (OSCE RFOM). OSCE RFOM noted that previous attempts to force journalists in France to reveal their confidential sources, further highlights the need to introduce provisions for the protection of journalists' sources, as promised by Mr. Sarkozy on 12 April 2007, and in line with the European Court of Human Rights case law.<sup>70</sup>

### **5. Right to social security and to an adequate standard of living**

18. CNCDH indicated that it has been working continuously for some 20 years on the question of severe poverty. It welcomed recent progress in the matter of the enforceability of the right to housing, but noted that access to most rights remains unequal. Efforts should be undertaken to develop centres for legal aid and assistance with administrative formalities, and to ensure that effective remedies are guaranteed.<sup>71</sup> DEI considered that a priority concern for the State should be to stop the increase in the number of people living below the poverty line.<sup>72</sup>

### **6. Right to education and to participate in the cultural life of the community**

19. CNCDH took part in the revision of school curricula and the introduction of the national plan of action for education and training in human rights, in the context of the United Nations Decade.<sup>73</sup> DEI noted a discrepancy between educational programmes affirming a commitment to education in human rights and their actual implementation in schools, which continues to be largely theoretical and takes second place to the teaching of so-called "basic" disciplines.<sup>74</sup>

### **7. Minorities and indigenous peoples**

20. The Society for Threatened Peoples (STP) stated that it is deeply concerned about the situation of indigenous peoples in France's overseas departments and territories. In French Guyana the indigenous peoples are concerned, according to STP, that France's assimilation policy does not take their culture, tradition and language into account. Social discrimination and alcoholism pose a great problem for all indigenous peoples, according to STP. French Guyana is considered to be a resourceful region in which natural resources are legally and illegally exploited on a scale that massively affects indigenous peoples.<sup>75</sup> In French Polynesia, human rights of indigenous peoples have been violated according to STP. Between 1966 and 1996, France conducted 46 nuclear tests as well as 147 underground nuclear tests on the atolls of Moruroa and Fangataufa. According to STP, up to 15,000 Maohi-aborigines worked in the nuclear testing facility but the authorities deny that the nuclear tests had negative medical consequences<sup>76</sup> although recent medical surveys show that 85 per cent of the veterans of the nuclear testing facility suffer from medical problems and that 32.4 per cent got cancer. STP informed that the Maohi demand that French authorities no longer keep the severe medical consequences of the nuclear tests as a secret and take responsibility on this matter. They recommended that the Maohi must receive free medical treatment and compensation for their long-term health problems, childlessness, and inability to work; that surviving family members benefit from a pension. They noted that so far, French authorities have remained unwilling to comply with their fiduciary duty for former employees of the nuclear testing facility.<sup>77</sup>

### **8. Migrants, refugees and asylum-seekers**

21. CNCDH noted frequent and substantial amendments to the legislation concerning foreigners and emphasized that it has never been consulted by the Government on this subject. It noted an increase in complexity which, in its view, infringes certain basic rights (particularly the right of asylum, the right to privacy and family life, and the right to a fair trial). LDH shared this point of view.<sup>78</sup> CNCDH also expressed concern at the erosion of the basic principles set forth in the



Convention relating to the Status of Refugees (concept of “safe” countries and access to asylum procedure), noting in particular that a growing number of asylum-seekers do not benefit from fair consideration of their applications for protection: access to the normal procedure for examining applications is haphazard and the right to lodge a suspensive appeal is more and more frequently called into question, which undermines the effectiveness of the appeal before the national court of asylum.<sup>79</sup> The National Association for Border Assistance to Foreigners (ANAFE) pointed out that, in 2007, the European Court of Human Rights had found that the procedure for non-admission of foreigners to French territory contravened articles 3 and 13 of the European Convention on Human Rights. It also denounced the lack of an effective appeal against refusal of admission to French territory.<sup>80</sup> FIACAT reported that, in 2006, 30.7 per cent of asylum applications were the subject of priority procedure.<sup>81</sup> Apart from the social consequences of this procedure (in particular exclusion from the accommodation scheme and non-payment of the waiting allowance), consideration of asylum applications is affected by the absence of the right to lodge a suspensive appeal against adverse decisions by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and OFPRA’s accelerated procedure for considering asylum applications.<sup>82</sup>

22. FIACAT indicated that successive reforms of the asylum application procedure and administrative litigation procedure had led to the introduction of summary proceedings with no effective means of appeal. The asylum application procedure for persons held in administrative detention centres is a particular cause of concern.<sup>83</sup> ANAFE noted that, when so-called hotel accommodation facilities (ZAPI 3 - Waiting area for persons whose cases are pending) are overloaded, people are kept in the terminal building of Roissy airport in inhuman conditions.<sup>84</sup> ANAFE noted that, in 2006, 515 unaccompanied minors were placed in the waiting area at Roissy airport (this figure does not include minors “treated as adults”, numbering 89 in 2006 at Roissy), 327 of whom were refused entry. ANAFE considers that placement of an unaccompanied minor in a waiting area is incompatible with the Convention on the Rights of the Child (articles 3 and 37) and is categorically condemned by the Office of the United Nations High Commissioner for Refugees (UNHCR). In 2006, the CoE CHR indicated that the law on admission to French territory does not distinguish between minors and adults, and minors are not automatically admitted. This legal vacuum, which also exists in other European countries, is contrary to several provisions of the CRC.<sup>85</sup> Currently, according to ANAFE, children aged over 13 are kept in a waiting area without being separated from adults, in violation of the Convention on the Rights of the Child. Those aged under 13 are separated from adults but in conditions that remain obscure (whereabouts unknown, inaccessible to family members, to the ad hoc administrator or to ANAFE, under the responsibility of persons without reliable credentials).<sup>86</sup> DEI also noted that the application by the prefects of government orders concerning regularization of the status of illegal aliens or the procedure for escorting them back to the borders, especially since 2006, has led to virtually daily violations of the rights of the children directly concerned.<sup>87</sup> In some cases of attempted refoulement, some persons stated that they had been subjected to police violence. In 2006, ANAFE compiled 30 testimonies of police violence.<sup>88</sup>

## **9. Human rights and counter-terrorism**

23. HRW indicated that over the past five years, France has forcibly removed dozens of foreign residents accused of links to terrorism and extremism. It noted that available government figures indicate that 71 individuals described as “Islamic fundamentalists” were forcibly removed from France between 2001 and 2006. Fifteen of these were described as imams. Though not a new policy, national security removals now form an integral part of France’s national strategy to counter violent radicalization and recruitment to terrorism, according to HRW. The procedures for national security removals do not provide sufficient guarantees to prevent violations of fundamental human rights, including the right to be free from torture and ill-treatment, the right to freedom of expression, and the right to family and private life. HRW indicated that its primary concern is that

those subjected to a national security removal do not have the right to an automatic in-country appeal. HRW was also concerned that removal procedures tend to result in administrative expulsions in lieu of criminal prosecutions to deal with foreigners accused of extremism and fomenting radicalization. According to HRW, using immigration powers allows the Government to bypass the more stringent procedural safeguards built into the criminal justice system. Another concern raised by HRW is that forced removals can interfere with the right to family and private life of the individuals removed and their relatives in a way that infringes international human rights law.<sup>89</sup>

### III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

24. CNCDH welcomed the 2007 constitutional revision which provided for the abolition of the death penalty in all circumstances (art. 66).<sup>90</sup> With regard to forced marriages, CNCDH noted with interest the change in the minimum age of marriage for girls, which was raised to 18 as in the case of boys.<sup>91</sup>

25. IRPP stated that French laws regarding the protection of the freedom of religion are evolving. In 2003, a law was passed against crimes of a “racist, anti-Semitic, or xenophobic” nature, and in 2004 legislation further increased punishment for “hate” crimes. According to IRPP, the Government regularly applies these laws in prosecuting anti-Semitic crimes. The President of France took an active public role in denouncing and combating anti-Semitism wherever he encountered it, including personally overseeing the dismantlement last year of the website operated by an anti-Semitic group.<sup>92</sup>

### IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

25. AI welcomed the pledges made by France in the Human Rights Council in 2006 and encourages France to publicly report on the state of implementation of these pledges.<sup>93</sup>

### V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

26. AI welcomed France’s commitment to increase its voluntary contribution to OHCHR in order to facilitate technical assistance and its pledge to double its contribution to the UN Voluntary Fund for Victims of Torture, and requests confirmation that such contributions have already been made or that a timeline is in place to do so.<sup>94</sup>

#### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council. Two asterisks denote a national human rights institution with “A” status.)

#### *Civil society*

AI	Amnesty International, UPR submission, January 2008, London (UK)*
ANAFE	Association nationale d’assistance aux frontières pour les étrangers, UPR submission, January 2008, Paris
BFRL	The Becket Fund for Religious Liberty, UPR submission, January 2008, Washington DC (USA)*
CICNS	Centre d’Information et de Conseil des Nouvelles Spiritualités, UPR submission, January 2008, Montpezat de Quercy
DEI	Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis*
ERM	European Raelian Movement, UPR submission, January 2008, London (UK)

FIACAT	Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR joint submission, January 2008, Paris*
GIEACPC	Global initiative to End All Corporal Punishment of Children, UPR submission, January 2008, London (UK)
HRW	Human Rights Watch, UPR submission, January 2008, New York (USA)*
HRWF	Human Rights Without Frontiers, International, UPR submission, January 2008, Brussels (Belgium)
Inter-LGTB	L'interassociative lesbienne, gai, bi et trans, ILGA-Europe, UPR joint submission, January 2008, Paris and Brussels (Belgium)*
IHRC	Islamic Human Rights Commission, UPR submission, January 2008, London (UK)*
IRPP	Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA)
LDH	Ligue des droits de l'Homme, Fédération Internationale des Droits de l'Homme (FIDH), UPR submission, January 2008, Paris*
OIP	Observatoire international des prisons, Section française, UPR submission, January 2008, Paris
STP	Society for Threatened Peoples, UPR submission, January 2008, Göttingen (Germany)* Dr. S. Palmer (Concordia University), UPR submission, January 2008, Montreal (Canada)

*National Human Rights Institution(s)*

CNCDH	Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris**
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*Regional Inter-Governmental Organizations*

CoE	Council of Europe, UPR Submission, January 2008: <ul style="list-style-type: none"><li>– Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for human rights in France following his visit from 5 to 21 September 2005, Council of Europe, 2006</li><li>– Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains et dégradants (CPT) du 27 septembre au 9 octobre 2006, Conseil de l'Europe, 2007</li><li>– Réponses du Gouvernement de la République française au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains et dégradants (CPT) relatif à la visite effectuée en France du 27 septembre au 9 octobre 2006, Conseil de l'Europe, 2007</li><li>– European Commission against Racism and Intolerance, Third report of France, adopted on 25 June 2004, Council of Europe, 2005</li><li>– Letter dated 20 February 2006 from France to the Council of Europe</li><li>– Letter dated 7 April 2006 from France to the Council of Europe</li><li>– Ratifications: France</li><li>– Council of Europe: main Pending cases against France</li></ul>
OSCE RFOM	Organization for Security and Co-operation in Europe, Office of the OSCE Representative on Freedom of the Media, UPR Submission, January 2008

<sup>2</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 1.

<sup>3</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 1.

<sup>4</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 1.

<sup>5</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 1.

<sup>6</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 5.

<sup>7</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 1.

- <sup>8</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 1.
- <sup>9</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 5.
- <sup>10</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 1.
- <sup>11</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 2.
- <sup>12</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, pp. 3-4.
- <sup>13</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 3.
- <sup>14</sup> L'interassociative lesbienne, gai, bi et trans, ILGA-Europe, UPR submission, January 2008, Paris and Brussels (Belgium), p. 1.
- <sup>15</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 3.
- <sup>16</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 2.
- <sup>17</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 3.
- <sup>18</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 5.
- <sup>19</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, pp. 3-4.
- <sup>20</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 5.
- <sup>21</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 4.
- <sup>22</sup> Council of Europe, UPR submission, January 2008, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for human rights in France, following his visit from 5 to 21 September 2005, p. 100.
- <sup>23</sup> Islamic Human Rights Commission, UPR submission, January 2008, London (UK), p. 2.
- <sup>24</sup> L'interassociative lesbienne, gai, bi et trans, ILGA-Europe, UPR submission, January 2008, Paris and Brussels (Belgium), p. 1.
- <sup>25</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 4.
- <sup>26</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 4.
- <sup>27</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 1.
- <sup>28</sup> Observatoire international des prisons, Section française, UPR submission, January 2008, Paris, p. 1.
- <sup>29</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 1.
- <sup>30</sup> Observatoire international des prisons, Section française, UPR submission, January 2008, Paris, p. 1.
- <sup>31</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 1.
- <sup>32</sup> Observatoire international des prisons, Section française, UPR submission, January 2008, Paris, pp. 1-2.
- <sup>33</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 2.
- <sup>34</sup> Observatoire international des prisons, Section française, UPR submission, January 2008, Paris, p. 3.
- <sup>35</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 2.
- <sup>36</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 2.

- <sup>37</sup> Conseil de l'Europe, UPR submission, January 2008, Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 27 septembre au 9 octobre 2006, p. 11.
- <sup>38</sup> Conseil de l'Europe, Réponse du Gouvernement de la République française au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) relatif à sa visite effectuée en France du 27 septembre au 9 octobre 2006, pp. 25-26.
- <sup>39</sup> Council of Europe, UPR submission, January 2008, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for human rights in France, following his visit from 5 to 21 September 2005, p. 96.
- <sup>40</sup> Amnesty International, UPR submission, January 2008, London (UK), pp. 3-4.
- <sup>41</sup> Ligue des droits de l'Homme, Fédération Internationale des Droits de l'Homme (FIDH), UPR submission, January 2008, Paris, pp. 1-2.
- <sup>42</sup> Human Rights Watch, UPR submission, January 2008, New York (USA), pp. 4-5.
- <sup>43</sup> Human Rights Watch, UPR submission, January 2008, New York (USA), p. 4.
- <sup>44</sup> Human Rights Watch, UPR submission, January 2008, New York (USA), pp. 5-6.
- <sup>45</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 5.
- <sup>46</sup> Global initiative to End All Corporal Punishment of Children, UPR submission, January 2008, London (UK), p. 2.
- <sup>47</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 3.
- <sup>48</sup> Ligue des droits de l'Homme, Fédération Internationale des Droits de l'Homme (FIDH), UPR submission, January 2008, Paris, p. 1.
- <sup>49</sup> Observatoire international des prisons, Section française, UPR submission, January 2008, Paris, p. 3.
- <sup>50</sup> Ligue des droits de l'Homme, Fédération Internationale des Droits de l'Homme (FIDH), UPR submission, January 2008, Paris, p. 1.
- <sup>51</sup> Council of Europe, UPR submission, January 2008, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for human rights in France, following his visit from 5 to 21 September 2005, para. 11.
- <sup>52</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 5.
- <sup>53</sup> Ligue des droits de l'Homme, Fédération Internationale des Droits de l'Homme (FIDH), UPR submission, January 2008, Paris, pp. 2-3.
- <sup>54</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), p. 1.
- <sup>55</sup> The Becket Fund for Religious Liberty, UPR submission, January 2008, Washington DC (USA), pp. 1-2.
- <sup>56</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), p. 1.
- <sup>57</sup> The Becket Fund for Religious Liberty, UPR submission, January 2008, Washington DC (USA), pp. 2-3.
- <sup>58</sup> Islamic Human Rights Commission, UPR submission, January 2008, London (UK), p. 3.
- <sup>59</sup> Islamic Human Rights Commission, UPR submission, January 2008, London (UK), p. 3.
- <sup>60</sup> Islamic Human Rights Commission, UPR submission, January 2008, London (UK), p. 4.
- <sup>61</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), pp. 2-3.
- <sup>62</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), p. 1.
- <sup>63</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), p. 4.
- <sup>64</sup> The Becket Fund for Religious Liberty, UPR submission, January 2008, Washington DC (USA), p. 4.
- <sup>65</sup> The Becket Fund for Religious Liberty, UPR submission, January 2008, Washington DC (USA), pp. 4-5. See also Prof. S. Palmer (Concordia University), UPR submission, January 2008, Montreal (Canada), p. 1.
- <sup>66</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), p. 3.

- <sup>67</sup> Centre d'Information et de Conseil des Nouvelles Spiritualités, UPR submission, January 2008, Montpezat de Quercy, p. 1.
- <sup>68</sup> European Raelian Movement, UPR submission, January 2008, London (UK), p. 2.
- <sup>69</sup> Human Rights Without Frontiers, International, UPR submission, January 2008, Brussels (Belgium), pp. 1-2.
- <sup>70</sup> Organization for Security and Co-operation in Europe, Office of the OSCE Representative on Freedom of the Media, UPR Submission, January 2008, pp. 1-2.
- <sup>71</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 5.
- <sup>72</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 5.
- <sup>73</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 5.
- <sup>74</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 4.
- <sup>75</sup> Society for Threatened Peoples, UPR submission, January 2008, Göttingen (Germany), p. 1.
- <sup>76</sup> Society for Threatened Peoples, UPR submission, January 2008, Göttingen (Germany), p. 2.
- <sup>77</sup> Society for Threatened Peoples, UPR submission, January 2008, Göttingen (Germany), p. 2.
- <sup>78</sup> Ligue des droits de l'Homme, Fédération Internationale des Droits de l'Homme (FIDH), UPR submission, January 2008, Paris, p. 3.
- <sup>79</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 4.
- <sup>80</sup> Association nationale d'assistance aux frontières pour les étrangers, UPR submission, January 2008, Paris, pp. 5-6.
- <sup>81</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 3.
- <sup>82</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 4.
- <sup>83</sup> Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture, ACAT-France, UPR submission, January 2008, Paris, p. 3.
- <sup>84</sup> Association nationale d'assistance aux frontières pour les étrangers, UPR submission, January 2008, Paris, p. 4.
- <sup>85</sup> Council of Europe, UPR submission, January 2008, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for human rights in France, following his visit from 5 to 21 September 2005, para. 287.
- <sup>86</sup> Association nationale d'assistance aux frontières pour les étrangers, UPR submission, January 2008, Paris, pp. 4-5.
- <sup>87</sup> Défense des Enfants International, Section française, UPR submission, January 2008, Saint-Denis, p. 2.
- <sup>88</sup> Association nationale d'assistance aux frontières pour les étrangers, UPR submission, January 2008, Paris, pp. 6-7.
- <sup>89</sup> Human Rights Watch, UPR submission, January 2008, New York (USA), pp. 1-4.
- <sup>90</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 1.
- <sup>91</sup> Commission Nationale Consultative des Droits de l'Homme, UPR submission, January 2008, Paris, p. 3.
- <sup>92</sup> Institute on Religion and Public Policy, UPR submission, January 2008, Washington (USA), p. 4.
- <sup>93</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 5.
- <sup>94</sup> Amnesty International, UPR submission, January 2008, London (UK), p. 5.