

A HUMAN RIGHTS AGENDA FOR THE FRENCH PRESIDENT

This document was sent to Emmanuel Macron, President of the French Republic, in order to guide France's policies in the field of human rights.

ASYLUM AND MIGRATION

The president should ensure that France shows leadership within Europe and respects its international and European obligations to uphold the fundamental right of refugees to protection and the human rights of all migrants, including asylum seekers. The president and his government should:

- Within Europe, lead France to push for a collective response to migration based on solidarity, respect for human rights and sharing of responsibility for asylum seekers and refugees. France should play a leading role in ensuring the success of the EU plan to relocate asylum seekers from Italy and Greece.
- Demonstrate a commitment to welcome more refugees by increasing the number of humanitarian visas and resettlement slots for refugees from other parts of the world.
- Ensure access to a fair asylum procedure by allocating adequate resources to the Office for the Protection of Refugees and Stateless Persons (OFPRA) and putting greater focus on efforts to reduce the time needed to examine asylum requests, while ensuring adequate due process, including ensuring that any removal decisions are suspended while an asylum seeker exercises the right to appeal a negative decision.
- Work to ensure that the rights of asylum seekers and other migrants on French territory or at its borders are protected. This includes protection from police harassment as well as access to basic services including health care and decent accommodation for asylum seekers.
- Address the specific needs of women and girls, unaccompanied children, and other vulnerable groups such as people with disabilities and older people at all steps of the asylum process, including in accommodation and health care. Ensure unaccompanied children have access to education, health care, guardianship and legal representation, as French law requires and integrate these children in France's regular child protection system.
- Ensure that migration cooperation with third countries guarantees the human rights of migrants including access to asylum and in particular that it does not violate the principle of nonrefoulement – that is the prohibition on sending anyone to a place where they would face a real risk of ill treatment or other serious violation of their rights.

ETHNIC PROFILING DURING IDENTITY CHECKS

The president should work to end ethnic profiling during police identity checks, an abusive and discriminatory practice that targets minority youth, puts them at risk of violence, and damages police-community relations. The president and his government should:

- Press for legislative reform of Article 78-2 of the Code of Criminal Procedure to circumscribe precisely identity check powers and limit officers' discretionary authority. This should include requiring a reasonable, individualized suspicion for all identity checks, pat-downs and searches; and explicitly prohibiting discrimination by law enforcement officers in the conduct of identity checks. The current legislative framework regulating police stops is insufficiently precise, allowing for arbitrary stops and abuse.
- Beyond the legislative framework, encourage the Interior Ministry to adopt clear guidance for law enforcement officers with respect to identity checks, including a requirement to inform anyone stopped of the legal basis for the stop and of their rights during a stop, as well as instructions on stops and searches of children.
- Support legislation to require police officers to issue a stop form for every identity check to explain its legal basis and establish a written record, allowing for monitoring of these police operations. This measure, successfully used in other European countries, has proven to be a simple and effective way to ensure transparency and accountability and build trust without imposing a burden on police officers.
- Take concrete steps to document, analyze, and address ethnic profiling by the police. Ensure that abuse during police stops is systematically investigated and prosecuted, and hold officers to account through internal mechanisms for failure to abide by instructions.

SECURITY AND COUNTERTERRORISM

France's multiple extensions of the state of emergency threaten the rule of law and the protection of fundamental freedoms. The president should act to ensure that human rights are fully respected in all security and counterterrorism measures. The president and his government should:

- Commit to lift the state of emergency and make use of existing non-emergency laws and legal measures instead.
- Ensure that counterterrorism measures are carried out in a non-discriminatory and proportionate manner and require judicial authorization for measures such as raids and searches.
- Ensure that people have prompt access to remedies for any damage caused by police action during operations under the state of emergency, and that there is meaningful outreach about these remedies in targeted communities.
- Ensure that rights are fully respected in all security and counterterrorism measures, as well as in counterterrorism cooperation with other countries, in particular the rights to due process, non-discrimination, freedom of speech, and privacy, and the duty to prevent torture and ill-treatment.

- Review all surveillance and intelligence gathering laws, including the Intelligence Act and the International Surveillance Law, with the purpose of passing reforms needed to ensure that all surveillance is strictly necessary and proportionate, and subject to safeguards to guarantee privacy protections.
- Cease all mass surveillance programs, including the requirement for service providers to install “black boxes” to scan all Internet traffic. Ensure prior judicial authorization for all targeted surveillance.
- Support strong encryption and refrain from requiring technology companies to build “back doors” into encryption or otherwise weaken the security of their products.
- Ensure that the transposition into national law of the European Directive on Combating Terrorism includes additional safeguards to guarantee compliance with regional and international human rights obligations. The directive’s overly broad language could lead to undermining fundamental freedoms and the rule of law and poses the risk of being disproportionately applied and implemented in a manner that discriminates against specific ethnic and religious communities.

MULTILATERALISM: UN – EU – COUNCIL OF EUROPE

The French president should ensure that France remains committed to promoting multilateralism and human rights in its bilateral relations and within international organizations. The president should also ensure that the European Union lives up to its founding values of respect for human rights. The president and his government should:

- Promote France’s suggested reform of veto rights for the permanent members of the UN Security Council, which has already garnered the support of more than 100 member countries but none of the other permanent members. Under this proposal, veto-holding members waive their right of veto in cases of proposed sanctions for war crimes, crimes against humanity and genocide.
- In the context of the rising influence of radical populist parties in Europe, promote French leadership in reaffirming the European Union’s founding values of respect for human rights and fundamental freedoms. France, as a founding member of the EU and an influential voice in Europe, should play a major role in making these values a priority of Europe’s diplomacy as well as its internal policies.
- Press EU member states and institutions to uphold and defend the European Union’s founding values, as protected in the Charter of Fundamental Rights. This is important given the failure to ensure a principled collective response to the unprecedented migration flows in Europe, and the worrying moves by the governments of Hungary and Poland to weaken democratic checks and balances in their countries on executive authority.
- Defend the role of nongovernmental organizations, as well as academic and media freedom, in ensuring democracy and respect for human rights.
- Reaffirm France’s enduring support for human rights cooperation within the Council of Europe, by maintaining France’s commitment to the European Convention on Human Rights and its institutions and by effectively implementing its rulings.

In a context of overt contempt for human rights and checks on power on the part of governments in many regions of the world, the president should make human rights a priority of French diplomacy. Failing to mention substantial rights abuses and weak adherence to the rule of law when discussing French relations with partner countries would weaken France's credibility when promoting human rights on the world stage. Against this background, the president and his government should:

- Address human rights violations, repression of independent voices, and contempt for the rule of law in all bilateral relations with other countries, including strategic diplomatic, military or economic partnerships. These principles should feature especially prominently in relations with other members of the UN Security Council, including the United States. In particular, France should systematically encourage other countries to abolish the death penalty or at a minimum establish a moratorium on its use.
- Press the Chinese authorities to release Liu Xiao Bo, the only Nobel Peace Prize laureate currently imprisoned and one of many human rights defenders imprisoned for political reasons in China. He was convicted in 2009 based on false accusations of “subversion” as an author of a widely circulated petition calling on the Chinese government to promote human rights and the rule of law.
- Press Russia to ensure a safe and enabling environment for Russian activists and groups to exercise their fundamental rights and freedoms—peaceful assembly, expression, and association. Russia should repeal the infamous “foreign agents” law and revise other laws limiting basic freedoms, including those that discriminate against LGBT people and contradicting international human rights obligations to ensure that they fully meet relevant international standards. Those include restrictions on demonstrations and the internet, and laws relating to terrorism and extremism.
- Bilateral relations with the Russian government should also address Russia's support for the government of Bashar al-Assad in Syria, its veto of sanctions for the use of chemical weapons at the UN Security Council, and its refusal to investigate allegations of war crimes by its own forces.
- Press countries that receive French military and security assistance, such as Saudi Arabia and Egypt, to conduct credible and impartial investigations into all allegations of human rights violations. Suspend military and security assistance if they don't.

SYRIA

The French president should push for accountability for war crimes and crimes against humanity by parties to the Syrian conflict and make human rights a priority of any peace plan. The president and his government should:

- France, under the new president's leadership, should continue to support UN Security Council resolutions to sanction war crimes by parties to the conflict in Syria, including by the Syrian government and its allies, in particular Russia. The crimes for which there should be accountability

include the use of chemical, cluster, and incendiary weapons and indiscriminate aerial attacks in civilian areas. In particular, France should support Security Council efforts requiring the parties to the conflict to cooperate with the UN-OPCW Joint Investigative Mechanism and calling for sanctions against anyone UN investigators find to be responsible for chemical attacks in Syria. Bilateral relations with Russia should take into account its support for the Assad government's military operations, its past veto of Security Council resolutions on sanctions for war crimes in Syria, and its refusal to investigate allegations of war crimes by its own forces.

- France, in its bilateral and multilateral relations, should press other countries, to cease the transfer of arms and related equipment and provision of logistical support to parties to the conflict responsible for widespread or systematic human rights abuses or war crimes. In the case of support to the Syrian government, this call should be addressed specifically to Russia and Iran. Support should be halted until there is an end to the serious violations and those responsible are held accountable.
- When action through the Security Council is not possible, France should advocate additional unilateral EU targeted sanctions against individuals credibly implicated in ongoing serious violations in the Syrian conflict.
- In France's participation in the US-led coalition against the Islamic State (ISIS), ensure that all feasible precautions are taken to minimize civilian loss during attacks. When conducting airstrikes, France should use all available means to verify the presence and location of combatants as well as of civilians in the immediate area. To further reduce the chance of civilian deaths, casualty estimates made prior to a strike should take into account that many civilians remain trapped in ISIS-held territory and may not be readily observable. France should thoroughly investigate reported civilian deaths, and in the case of wrongdoing, hold the personnel responsible to account. France should also provide compensation for wrongful civilian deaths and injuries, as required by international law. France should take fully into account that the Russia-Syria coalition has repeatedly committed war crimes under the guise of fighting terrorism, and that cooperation with Russia in the fight against ISIS in Syria could risk France's complicity in such crimes.
- France should remain committed to seeking justice for victims, whether through the UN Security Council, UN General Assembly, or other avenues, including the use of universal jurisdiction. The government should encourage the use of French national laws to investigate and prosecute those suspected of committing serious crimes in Syria.
- France should continue to support the work of the unit established by the UN General Assembly resolution adopted on December 21, 2016, to investigate serious crimes committed in Syria since 2011, including by ensuring adequate levels of financial support for its work.
- France, as a permanent member of the UN Security Council and a member of the International Syria Support Group, should encourage the inclusion in any peace plan guarantees to respect human rights and to cooperate with the UN General Assembly investigative unit so that those who committed violations do not go unpunished. A peace plan should be predicated on a commitment by all parties to immediately stop unlawful attacks, an agreement to release all arbitrarily held detainees, access for international monitors to all detention centers, and sanctions for officials implicated in abuses, including the widespread use of torture.

- France should promote the implementation of UN Security Council Resolution 2254, which called for establishing inclusive and non-sectarian governance for Syria, the drafting of a new constitution, and free and fair elections.
- France should also encourage the UN Security Council to follow up on Resolution 2139, which strongly condemned the arbitrary detention and torture of civilians in Syria and demanded that Syria grant access to international monitors to all detention facilities. France should also push for further action following UN Security Council Resolution 2165, which had promised additional measures if the Syrian government did not comply with its call to facilitate humanitarian access.

MILITARY INTERVENTIONS

French military forces deployed abroad as well as their allies should make sure that the protection of human rights is a priority. The president and his government should:

- Ensure that French forces deployed abroad and allied forces respect and make the protection of human rights a priority in all military operations. In counterterrorism operations, all military and security forces should strictly observe their obligations to protect the rights to life and security of civilians and to respect the fundamental rights of anyone detained or imprisoned.
- Publicly call on France's allies who are parties to conflicts to conduct credible, independent and impartial investigations into allegations of abuse or human rights violations by any party to the conflict. Call for the prosecution of those responsible for such violation and for the victims to have access to justice, reparations and compensation in line with international standards.
- Require systematic training of all French troops on their human rights obligations – including zero tolerance for sexual exploitation and abuse – prior to deployment abroad. Commanders should be prepared to supervise troops in a manner that prevents violations and that sanctions and reports anyone who violates the rules. Whenever French troops are alleged to have committed abuses or human rights violations, call for timely, rigorous, and impartial investigations and prosecution of any suspects in line with international standards.
- Ensure the full and effective implementation of the international Safe Schools Declaration to promote protection for students, teachers, and schools during conflict and promote its endorsement by other countries.

WEAPONS SALES

The Saudi-led coalition has conducted a military campaign in Yemen since March 2015 and carried out numerous indiscriminate and disproportionate airstrikes, killing thousands of civilians. The coalition has consistently failed to credibly investigate alleged unlawful attacks. France's president should address the issue of weapons sales to Saudi Arabia. The president and his government should:

- Suspend all weapon sales to Saudi Arabia until it both curtails unlawful attacks in Yemen and credibly investigates alleged serious violations of international humanitarian law by the coalition since the conflict began. Governments, including France, that continue to sell weapons to Saudi Arabia despite the evidence of repeated unlawful attacks risk complicity in future coalition war crimes.
- Put in place legislative and other measures to ensure that the sale of any weapons by France or French arm dealers are subject to restrictions that prohibit their use to commit serious human rights abuses, war crimes, crimes against humanity or genocide.

FIGHT AGAINST IMPUNITY

The International Criminal Court (ICC) is an essential mechanism in the fight against impunity for genocide, war crimes and crimes against humanity. As the ICC treaty, the Rome Statute, nears its twentieth anniversary in 2018, multiplying human rights crises are evidence that the court is needed now more than ever. To bring some measure of justice for victims, the court requires sufficient political and financial support as well as technical assistance from its member states. Justice for international crimes can also be delivered in a number of other ways, including through other international tribunals, hybrid national-international courts, and national courts. Against this background, the President and his government should:

- Ensure that the fight against impunity and support to the ICC is a priority of French diplomacy in both bilateral and multilateral relations. France should make the most of opportunities presented by the Rome Statute's anniversary to reiterate its strong commitment to the ICC. France should also take all necessary steps to work with other parties to the Rome Statute, particularly in Africa where the ICC has faced backlash, to maintain their membership in the ICC, and to extend the court's reach by encouraging other countries to join.
- Reject the previous government's position of "zero nominal growth" in the ICC's budget. This insistence on an arbitrary limit to the court's budget has distorted discussions about the ICC's real resource needs. Demand for accountability continues to outpace the ICC's capacity, limiting victims' access to justice.
- Provide political and financial support to enable the hybrid Special Criminal Court in the Central African Republic – an unprecedented effort to break pervasive impunity for atrocities committed in that country – to become operational and to function.

- Support ongoing efforts by French judicial authorities to investigate and prosecute serious crimes committed abroad in places such as Syria and Iraq, including by providing financial and political support to specialized war crimes units.

WOMEN'S RIGHTS

In the context of a global backtrack on women's rights, the French president should ensure that the rights of women and girls are a priority of French national and foreign policy. The president and his government should:

- Promote legislation in France to address persistent discrimination against women, in particular wage inequality, violence against women, sexual harassment and assault, and lack of equal representation in politics. Respect women's rights to self-expression, religion, and autonomy, and do not permit restrictions such as those on religious dress to restrict these rights. The president should also work to protect the rights of women who are particularly vulnerable, and uphold France's obligations to all women and girls under the Istanbul Convention, regardless of their residency status, sexual orientation, race, ethnicity, or religion.
- Pledge political and financial support for sexual and reproductive rights. Sexuality education, family planning, safe abortion, and maternal health services are essential to reduce maternal mortality rates and for women and girls to realize a range of human rights. France's support is particularly important in the wake of the negative impact of the United States' expanded "Global Gag Rule," which strips US global health aid from organizations that use their own money to talk about or provide abortions. France should support the "She Decides" funding initiative alongside several of its European partners such as the Netherlands, Belgium, Denmark and Sweden.
- Pursue France's efforts to make the rights of women and girls a priority of bilateral and multilateral relations. France is especially active at the United Nations, since 2006, along with the Netherlands, promoting a UN General Assembly biennial resolution to eliminate all forms of violence against women and girls. France should use its role as a permanent member of the UN Security Council to ensure that UN peacekeeping and political missions address the rights of women and girls in armed conflict.
- As a party to the Istanbul Convention, a groundbreaking Council of Europe treaty to strengthen prevention of and protection from all forms of violence against women, France should urge EU member states which have not already done so to ratify and implement the Convention, following the European Union's recent commitment to join the Convention as an institution. And France should promote women's rights as a priority of French development aid, maintaining the focus of the French Development Agency (*Agence Française de Développement – AFD*) on gender inequality programs, in particular by renewing the 2013-2017 Gender and Development strategy.

BUSINESS / INTERNATIONAL FINANCIAL INSTITUTIONS

Businesses have an important impact on human rights and a crucial role to play in their protection. France's president should ensure that French companies and enterprises respect human rights at all stages and locations of their production and supply chain. The president and his government should:

- Ensure that human rights are at the center of discussions in France's bilateral and multilateral economic relations.
- Ensure that French companies both headquartered and operating in France respect and apply International Labour Organization norms at all stages of their supply chain. The government should also promote the use of guidelines such as from the Organization for Economic Cooperation and Development for multinational enterprises, with the help of the National Contact Point, or the United Nations' Guiding Principles on Business and Human Rights relative to business and human rights. Ensure a continued commitment to and implementation of the principles outlined in France's National Action Plan on Business and Human Rights, released on April 27, 2017.
- Ensure that all of these principles are incorporated into domestic law.
- Ensure that French companies respect human rights and undertake due diligence to detect and eliminate human rights abuses directly or through their supply chain. Ensure that the due diligence law adopted by the National Assembly on February 21 is put fully into effect and enforced.
- Ensure that rules such as those the EU adopted on April 3 to prevent the financing of terrorism through the trade of "conflict-minerals" are put fully into effect and respected.
- Ensure that the "Sapin II" Anti-Corruption Law enacted on December 9, 2016 is put into effect and enforced, particularly the provision expanding jurisdiction over French nationals or companies engaged in corruption outside of France.
- Support a binding international treaty on human rights in supply chains and push for a commitment to robust human rights due diligence in global supply chains in the G20 Leaders' Declaration in July.
- Use France's role as a significant shareholder in international financial institutions including the World Bank, International Monetary Fund, and regional development/investment banks to advance respect for human rights. France's representative board member should not support projects or programs that may contribute to or exacerbate human rights violations and should press these institutions to undertake due diligence to analyze the potential human rights impacts of their investments.