



**For Immediate Release – 26 November 2008**

## **France: No More ‘Memory Laws’**

**ARTICLE 19 welcomes the recommendation of an official report on ‘memory laws’ that no new laws on ‘historical truth’ and memory should be adopted. The report made public on 18 November 2008, indicates that it is not the role of Parliament to adopt laws which, in effect, pre-judge the relative importance or value of historical facts, particularly when such laws include criminal sanctions.**

The report was commissioned by the French National Assembly, as part of the work of a mission of inquiry (*Mission d’information sur les questions mémorielles*) headed by Bernard Accoyer, President of the National Assembly. All 32 members of the *Mission* adopted the report recommendations.

A week earlier, a group of world renowned historians and writers had published the “Appel de Blois” which maintained that it is not the business of any political authority to define historical truth and to restrict the liberty of historians by penal sanctions. The Appel called on politicians not to adopt, through legal means, “State-led truths” which undermine intellectual freedoms.

*“The French deputies’ decision is a major step for a country and a parliament that has too often used the law and the parliament to define historical truth. Memory laws too often end up elevating history to dogma, thus preventing and punishing research and debate. They legally muzzle potentially dissenting or controversial research and publications, create taboos, and create or reinforce an overall atmosphere that effectively chills controversial research,”* said Dr. Agnes Callamard, ARTICLE 19 Executive Director.

ARTICLE 19 regrets that the report did not also recommend that existing ‘memory laws’ – including the 1990 Gayssot law on Holocaust denial and the January 2001 Armenian genocide denial law – should be repealed.

ARTICLE 19 believes that laws which impose blanket prohibitions on the denial of genocide or of other crimes breach international guarantees of freedom of expression. It is inherently illegitimate for the State to impose a blanket ban on discussion of historical matters. Such laws are both unnecessary – since generic hate speech laws already prohibit

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incitement to hatred – and open to abuse to stifle legitimate historical debate and research.

In February 2005, the French parliament passed a law on French presence overseas, Article 4 of which prescribed that school curricula should recognise “the positive role played by the French presence overseas, especially in North Africa.” The provision was repealed a year later but it highlights the dangers inherent in laws attempting to impose historical truth.

International guarantees of freedom of expression require any limits on that right to be necessary to protect a legitimate aim. To meet this standard, the law must both be needed to protect a legitimate aim of sufficient importance to warrant overriding a fundamental human right and be proportionate, in the sense that the benefits outweigh the harm to freedom of expression. ‘Memory laws’ fail on both counts: they are not necessary to protect a legitimate aim and, because they are open to abuse, the risk of disproportionate harm to freedom of expression is significant.

States have an obligation to protect individuals against hate speech, for example pursuant to Article 20 of the *International Covenant on Civil and Political Rights* (ICCPR). However, the ICCPR achieves a careful balance between the right to freedom of expression and protection against hate speech by limiting the latter to cases of incitement to hatred, discrimination or violence. ‘Memory laws’ are overbroad because where a denial of the historical facts they cover does not actually promote hatred, it would be protected speech. It is very clear that international law protects merely offensive, as opposed to harmful, speech.

#### **FURTHER INFORMATION:**

- For more information: please contact Agnes Callamard, ARTICLE 19 Executive Director, +44 20 7278 9292.
- For a French version of the report on the memory laws: [http://www.assemblee-nationale.fr/13/dossiers/mi\\_questions\\_memorielles.asp](http://www.assemblee-nationale.fr/13/dossiers/mi_questions_memorielles.asp)
- A copy of the “Appel de Blois” is available at: <http://www.lph-asso.fr/actualites/50.html>
- For further information on hate speech and ARTICLE 19 is available at: <http://www.article19.org/publications/global-issues/hate-speech.html>
- ARTICLE 19 is an independent human rights organization that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.