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OPINION

**DISCRIMINATION
OPINION ON THE PENALISATION
OF THE DISSEMINATION OF AN EPIDEMIC
TRANSMITTABLE DISEASE**

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The National AIDS Council, asked for its views by the competent authorities, has followed extremely closely the recent debates regarding reform of the French Code of Criminal Law. Amendment no. 302 to Article 222-18, adopted by the Senate on April 24, 1991, proposes, in the case of unintentional harm caused to another person, three years' detention and a fine of three hundred thousand francs, for "any person, being fully aware and informed" who "spreads an epidemic transmissible disease" through "careless or negligent behaviour". Although this provision was struck out by the Assemblée Nationale on June 20, 1991, the National AIDS Council considers that it is necessary to make known its views on the issue at the heart of this debate.

Criminalization of the transmission of AIDS would be an error in the context of contemporary French society, for the following reasons :

1. As has already been pointed out by numerous commentators, the criminalization of transmission, if it were to be enforced, would involve extremely intrusive investigations of individuals' private lives in order to obtain evidence. Even medical confidentiality could be compromised.
2. Other articles in the Code of Criminal Law exist which are sufficient to punish, where necessary, criminal acts deliberately intended to harm another person.
3. The proposed criminalization places the entire burden of responsibility for sexual activity on only one of the partners. However, responsibility is shared in all sexual relations.
4. By dissuading all concerned from seeking to be aware of their HIV status and from adopting a responsible attitude, criminalization would actually work against the stated goals of those proposing the amendment, and act as an impediment to prevention policies.
5. In such circumstances, criminalization would have no effect other than further stigmatizing those already suffering, which runs counter to this country's historical values.

Note :

The National AIDS Council restated its opposition to criminalization of AIDS transmission in a press release dated October 29, 1991, following the adoption, after a second reading, of the abovementioned amendment.