

# Criminalizing HIV transmission or exposure in the context of West and Central French-speaking Africa

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## 1 Issues

The rise in criminalizing HIV transmission or exposure has been evident around the world even if no data indicates that it prevents HIV new infections. The trend is growing in West and Central French-speaking Africa, where HIV legislations are being adopted on the basis of a “model law” drafted in 2004 at a regional workshop. AIDS-service organizations (ASOs) and international experts are concerned that criminalization of HIV transmission or exposure could exacerbate women’s vulnerability to HIV, increase stigmatization against people living with HIV (PHAs) and undermine HIV prevention.

## 2 Description

Partner organizations collaborated to provide an analysis of the actual and potential impact of criminalization of transmission or exposure in the context of West French-Speaking Africa, as well as an overview of national and international reactions to the spread of criminal legislations in the region. The analysis<sup>1</sup> is based on the review of primary legal sources, legal and policy literature, as well as interviews of ASO stakeholders in countries of French-speaking Africa, including Mali, Cameroon, Guinea, Republic of Congo, Cote d’Ivoire, Burkina Faso, Togo and Senegal.

<sup>1</sup> C. Kazatchkine, “Criminalizing HIV transmission or exposure: the context of francophone West and Central Africa,” *HIV/AIDS Policy & Law Review* 14(3) (2010). Available at [www.aidslaw.ca/review](http://www.aidslaw.ca/review).

## 3 Lessons learned

HIV legislations have been developed to protect PHAs’ human rights. While there are some positive provisions, those addressing criminalization are imprecise or overly broad and may end up having unexpected negative effects on many PHAs, especially women. To date, their impact is perceived as limited as prosecutions seem rare. Most people don’t know about these provisions and have limited means for complaining to the police. Interviews also reveal inconsistencies between the criminal law on HIV transmission or exposure and the reality of both regional health and judicial systems. However, this does not preclude the possibility of a considerable future impact on PHAs’ rights and on HIV prevention efforts.

The debate around criminalization continues to grow internationally and some organizations from regional civil society have started to get more involved in the issue in HIV-related legislative reforms. There are signs that such mobilization is having an impact on current and future national legislations.

## 4 Next Steps

There remains a need for research and informed policy discussions about the consequences of criminalization of HIV transmission or exposure on the rights of PHAs, especially women, and on HIV prevention in the region. It is essential that national authorities and members of civil society continue to review and discuss the merits of criminalizing HIV transmission or exposure. Advocacy needs to be further developed to redirect legislative reform towards thoughtful, adequate and evidence-based use of criminal law in the context of HIV.

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