
French Doctors On Trial

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French doctors on trial

The first week of the trial of four French doctors charged with knowingly having distributed blood contaminated with HIV ended before major witnesses were called to testify. The trial is the culmination of a long and bitter controversy that has raged since about half of France's 2500 haemophilic patients became infected with HIV. Many of them were infected after the risk of transmission of HIV became known, when safer, heat treated products were available.

Two doctors, Michel Garetta, former director of the National Transfusion Centre (CNTS), and his assistant, Jean-Pierre Allain, are charged with "deception over the quality of a product," a violation of commercial legislation that carries a maximum sentence of four years. Two other doctors, Jacques Roux, former director general of health, and Robert Netter, former director of the health service laboratory, are charged with "non-assistance to persons in danger," a charge usually brought against people who fail to help victims of accidents. This carries a prison term of up to five years.

The trial is being conducted by a *tribunal correctionnel*, a form of court that does not usually deal with serious crime. Plaintiffs have protested that the accused should appear before the *cour d'assises*, which deals with serious crime and whose jury can mete out heavier sentences. Georges Holleaux, the attorney who filed the first complaint on behalf of infected haemophilic patients in March 1988, said that the tribunal was the surest way to bring the case to court, and Madame Michel Bernard-Requin, public prosecutor, supported this choice, "although it may be difficult for the plaintiffs, who have been so much deceived, to understand it." She said, "In the face of the cynicism of some of the accused, a popular jury could have condemned Dr Garetta to 20 years in jail. Or else, overcome by experts, it could have acquitted him. Would this have been justice? ... The accused did not decide to destroy the haemophiliacs. They have not tried to poison them. They did not hope to kill, but they didn't care, and this indifference is criminal in the moral, not judicial, sense."

Court president Jean-Louis Mazières intends to continue hearings for a month. He is particularly interested in what happened between two key dates: 12 March 1985, when an epidemiologist tracking the progression of AIDS wrote to Professor Roux that, "it is probable that all blood products prepared from donors' pools are now contaminated," and 24 July of the same year, when the government decreed that as of October blood products not sterilised by heat would no longer be paid for by the national health insurance system.

During the first days of the trial demonstrators at the Palais de Justice in Paris paraded with portraits of government officials, maintaining that they were also responsible. Dr Garetta has made it clear that he will not bear the brunt of the guilt, and his testimony is likely to implicate politicians.



Michel Garetta arrives at court.

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The testimony of Dr Allain, research director at the CNTS but who also had an active therapeutic role, is expected to throw light on the events that took place until 1986, when he left for the United States. He now teaches transfusion medicine at Cambridge University.

The verdict is not expected before October. Bernard Kouchner, the current minister of health, said, "Let justice pass. We'll draw conclusions concerning the functioning of health care." Kouchner is planning a thorough reform of France's health care delivery system. —ALEXANDER DOROZYNSKI, medical journalist, Paris

Spreading HIV is not an offence

The British government has decided not to introduce laws to criminalise behaviour whereby somebody knowingly spreads HIV through sexual contact. Calls for legislation along the lines of laws already in place in some American and Australian states came after the revelation that an HIV positive haemophilic patient had infected at least three women and was blamed (although he denies it) of having infected a fourth, who has since died.

As the story developed in the media a network of casual sexual relationships at the Birmingham factory where the man used to work came to light, raising fears that the contacts known to be infected were the tip of an iceberg. At least 16 women had rung an AIDS helpline by the end of the week, claiming to have had sexual intercourse with the man.

The saga has exposed the inadequacies of the system for tracing and notifying sexual contacts. Lack of resources and concerns about confidentiality mean that many clinics leave it to the patient infected with HIV to notify partners and former partners. In fact, the duty of confidentiality is not absolute, and doctors may breach it in the public interest. The courts would be likely to hold that a doctor was justified in warning at least a

current sexual partner if the patient refused to do so.

At present the criminal law in England and Wales seems powerless in cases in which an infected person knowingly exposes others, either deliberately—the so called "revenge sex" cases—or recklessly. Charges of murder, manslaughter, or attempted murder are ruled out because of the virus's long incubation. For charges of murder and manslaughter to be brought, death must occur within a year and a day of the act that causes it.

Prosecutions for causing grievous bodily harm, whether intentionally or recklessly, are also problematic because of difficulties in proving intent, and the possible need to show that force was used. Whatever the charge, proving that the victim was infected through contact with the accused rather than someone else, particularly in a community where casual sex was rife, could be an insuperable hurdle.

The only legislation drafted specifically to protect the public from AIDS—the Infectious Diseases Regulations 1985, made under the Public Health (Control of Diseases) Act 1984—allows a single magistrate to detain a person with AIDS if satisfied that proper precautions to prevent the spread of the disease are not being taken or will not be taken.

The regulations have an obvious gap—they cover only those who have AIDS, not those who are merely infected with HIV. The power has been used only once, in 1985, to stop a patient with AIDS who was bleeding profusely from discharging himself from a hospital in Manchester. The order was lifted on appeal to a High Court judge. The wording, it seems, would allow patients to be detained if they risked spreading the disease through unprotected sexual contact, but only if they had AIDS.

Ruling out legislation to impose penal sanctions on those who knowingly risk spreading HIV, the health minister, Virginia Bottomley, said that criminalising such behaviour would risk driving suspected carriers underground rather than encouraging more people to come forward for testing and counselling. —CLARE DYER, legal correspondent, BMJ