Fighting Femmes

The women of France's Femmes Positives want the right to put their infectors behind bars. Are these fired-up females traitors to people with HIV—or just protecting their sisters?

June 1, 2005 By David Thorpe

Last November, a distraught 24-year-old woman named Aurore forever transformed France's bitter debate over criminalizing HIV transmission. In June 2004, Aurore's ex-boyfriend, a 31-year-old bus driver named Christophe Morat, had been sentenced to six years in prison for infecting her and another woman with HIV. His conviction was an unlikely victory for Aurore: France has no HIV-criminalization law, and Morat, prosecuted under a non-HIV-specific statute, was only the second person in that country to go to jail for passing on the virus.

Yet Aurore, who didn't find out Morat had HIV until after their six-month relationship ended, was deeply troubled. Morat had appealed his conviction, and many expected him to win: AIDES, France's largest, most powerful AIDS service organization, had hired a high-profile lawyer to defend him. AIDES warned that Morat's conviction could jeopardize sane public-health policy, especially the time-honored notion that preventing HIV transmission is the "shared responsibility" of both sexual partners.

Aurore would never know the outcome of the case. In the early morning of November 1, the day before Morat's appeal would be decided, she got behind the wheel of a black Volkswagen. Then, speeding down an empty rural road in France's Alsace region, she aimed her car at a solitary tree. Her body was found beside her crushed vehicle. Morat's hearing was postponed so Aurore's family could bury her and grieve. "When Aurore killed herself, I felt guilty," says Barbara Wagner, 36, president of Femmes Positives, a controversial organization for women infected by their primary partners. "Her lawyer didn't see her despair. I thought I should have tried harder to reach her, but I didn't know how far to go." Two months later, Morat's appeal was denied.

A band of some 70 novice activists, Femmes Positives champions women who allege that they were infected by men who knowingly withheld or lied about their HIV status. With no office and virtually no funding, the 2-year-old organization, based in Marseille, has rattled France's Paris-centered, gay-dominated AIDS community: The members want a law criminalizing HIV transmission in cases like Aurore's—and their own. The women of Femmes Positives say they trusted the men who infected them and scoff at the notion that they shirked their responsibility to protect themselves. "We are victims of people who used HIV as a weapon," says the thin, pensive, dark-haired Wagner, never far from a Marlboro Red. "As long as there is no law, they will keep on."

By branding themselves victims, the members of Femmes Positives are anathema to other French AIDS organizations,founded, like their U.S. counterparts, on PWA empowerment. But Femmes Positives refuses to wait for anyone's approval to pursue its heretical agenda. The group is already consulting with Jean Roatta, a member of France's ruling UMP party—center right and tough on crime—to craft an HIV-transmission law. What's more, another UMP politician unconnected with Femmes Positives has requested that France's National Assembly debate HIV criminalization. Femmes Positives' rightist collaboration enrages and terrifies many AIDS activists, who believe that if UMP—or, worse, France's far-right Front National party—takes charge of creating an HIV-specific transmission law, irrationally stiff penalties could result, as could the targeting of immigrants, one of France's most at-risk populations.

The U.S. may never face a battle like France's: 24 U.S. states generally or specifically criminalize HIV transmission. Some 142 people in the U.S. have been convicted for HIV-related offenses. But the concept that everyone is responsible for protecting himself or herself from HIV during consensual sexual acts— so-called "shared responsibility"—is as entrenched here as it is in Europe. What's more, the dispute between Femmes Positives and France's AIDS community could have global implications: Worldwide, more than four-fifths of new HIV infections in women result from sex with husbands or primary partners. What would happen if such women—not gay men, the West's first hard-hit population—got to make the rules about HIV prevention? Didier Lestrade, 47, the legendary founder of ACT UP Paris and a defender of Femmes Positives, says gay men have subscribed to "shared responsibility"—in French, responsabilité partagée—for too long. "It took two straight women," he says, referring to Aurore and Isabelle, the other woman who pressed charges against Morat, "to make the shit hit the fan."

Femmes Positives began, in 2003, with limited ambitions. "We just wanted to talk about the problems of living with HIV as women," says cofounder Cristal (not her real name), a cheerful 42-year-old who beat an HIV-related cancer in 1992. Cristal says she was infected by a boyfriend who hadn't revealed his status. The other cofounder, who declined to speak to POZ, is a mother of four who reportedly was infected by her unfaithful husband.

Word quickly spread about Femmes Positives, and its mission and membership expanded. Some members are supportive HIV positive straight and gay men (anyone can join by paying a 15 euro annual fee). But the core demographic are white, middle- and low-income women in their twenties, thirties and forties, many of them single mothers. Along with the typical burdens of HIV—medside effects, loss of sexuality, discrimination—the women of Femmes Positives say their confidence in relationships has been destroyed and their financial security jeopardized. Their children, they contend, are burdened with fear, knowing that their mothers have a potentially fatal disease. Many members admit to grappling with suicide, but struggle on for their kids. "Rationally, you know there are meds," says Wagner, who lives off public assistance and has a 14-year-old son, "but there's so much pressure and anguish. Suicide seems easier than living in suffering." The young Aurore's death has made her a Femmes Positives martyr. "Her suicide," says Wagner, "was symbolic."

The women of Femmes Positives contend that they are accidental activists, pushed into fighting

for their rights as victims because the AIDS establishment—from street activists like ACT UP to crisis hotlines to traditional ASOs—adhere slavishly to responsabilité partagée. That doctrine infuriates Marie-Christine Stipo, 36, a self-possessed single mother—and the only member of Femmes Positives besides Wagner who has allowed the press to show her face and use her full name. She says her ex-boyfriend lied about his status the first time they slept together. “I’m tired of being told I should have made him wear a condom,” she explains. “He didn’t give me a choice of how to deal with the fact that he had HIV.” Stipo calls her ex an “assassin” and says she “felt raped.” Indeed, Lestrade believes that ASOs have treated women such as Marie-Christine like “rape victims who are told, ‘You asked for it.’”

Femmes Positives’ sole pamphlet says the group seeks the “clear exposition…of the rights and status of victims of [people who have hidden their HIV status]” and a “judicial pronouncement…that will end this kind of ‘crime.’” Five of its members—including Stipo and Wagner—are pressing charges under non-HIV statutes against their infectors. But the women of Femmes Positives, who wear their victim status like red ribbons, are dauntingly contradictory. There is much ambivalence within the group about how far a transmission law should go. Stipo, who has an 11-year-old daughter, originally thought a long sentence would show her ex-boyfriend “he had done something wrong,” but now thinks a few months would suffice. Wagner acknowledges that the six years Aurore’s infector, Christophe Morat, received is “a lot.” Cristal goes so far as to say she is against criminalizing altogether—but that Wagner’s pro-criminalization stance “represents who we are.” Nearly every time criminalization comes up, Femmes Positives advances the possibility of rehabilitative work programs or mandatory counseling instead of prison. The group even acknowledges that Morat was driven to put women at risk by the fear of rejection. One member, Roger, 36, says, “Morat was in denial—that could happen to anyone.”

While Femmes Positives has yet to crystallize the details, members say that, fundamentally, a law punishing infectors would provide a crucial symbolic acknowledgment that they have been wronged. The group also knows that the criminalization question is its trump card. “It’s the only way to get media attention and raise people’s consciousness,” says Cristal. And media attention, unquestionably, is the source of Femmes Positives influence. “Gay AIDS organizations have had a lobby for 20 years,”Wagner says. “Without the media attention we’ve gotten, they would have crushed us.” She adds that Femmes Positives is not homophobic, and Lestrade concurs. Says Wagner, “It’s not homophobic to say that women have been neglected.”

Wagner’s own story reaches back over a decade. She recounts it—smoking, of course—on her cramped Marseille apartment’s futon. Above her hangs a bloodred flag bearing Che Guevara’s image and the phrase Hasta la victoria siempre— always toward victory. (“Obviously, I’m a leftist,”she says.) Wagner, who has been on meds since the mid-’90s but recently went on a drug holiday due to side effects, lives with her 14-year-old son, Romain. He plays Grand Theft Auto with the sound off, as his mother explains how she met her infector, a charming, successful photojournalist, on a 1992 trip to Nice. The two fell in love, and six months later, Wagner and 1-year-old Romain moved to Paris to live with him.

Wagner says she and her ex never discussed HIV in the context of their relationship. “At the time,”

she says, “heterosexuals weren’t informed that they were at risk.” Then, in 1993, after a gynecologist urged her to get tested, Wagner was diagnosed. She says that her partner contracted the virus while addicted to heroin and was in denial that he could give her HIV: “He told me, ‘I thought our love was stronger than the virus.’” He tried to dismiss her fear of dying,she says, but it was the pre-HAART era. She dreaded leaving Romain motherless. “The sky fell. I thought, ‘I have to say good-bye to my life,’” Wagner says. She also discovered that her boyfriend’s family had long known that he was positive. “His mother told me, ‘We didn’t think you were strong enough to handle it.’” Afraid to tell anyone else she was positive for fear of losing custody of her son and feeling utterly isolated, Wagner attempted suicide. “I took pills and drank Pastis 51 all day,” she says, pantomiming raising a bottle to her lips.

Wagner’s life improved, briefly, with the arrival of combination therapy in 1996. Although she and her estranged boyfriend continued to live together, Wagner’s doctor insisted she pull herself together emotionally. “Otherwise, don’t bother taking the meds,” he said. Wagner also got a taste of PWA empowerment—and the female disempowerment that drives her today. She dabbled in activism, participating in an ACT UP action against Pfizer. As a woman infected by her boyfriend, she says she found little sympathy from her fellow activists. “They only cared about treatment access,” Wagner says. ASOs were understanding, but urged her to put the past behind her.

Wagner eventually left her boyfriend and moved back to Marseille. Some time later, her ex confessed that he’d been having an affair—and unprotected sex—with a 40-year-old mother. “That,” says Wagner “woke me up. I wanted to stop him.” She discovered Femmes Positives in 2003, and the group put her in touch with a sympathetic attorney. But Wagner isn’t optimistic about her case against her ex-boyfriend. The poisoning law under which she’s pursuing him has a three-year statute of limitations and has proved futile in other HIV-related suits. If a prosecutor throws out her case, she’ll try the civil courts. “I know I probably won’t win,” she says, “but I’m fighting to protect other women.”

That sense of sisterhood is also what inspired her to become president of Femmes Positives. She spearheaded the group’s involvement in the Morat trial. Femmes Positives joined Aurore and Isabelle’s case as a civil, or supporting, party. Wagner was present when Morat’s appeal was denied, and she was quoted in major newspapers, praising Morat’s conviction and lambasting ASOs for responsabilité partagée. Sympathetic profiles of Femmes Positives followed, culminating in a segment on Envoyé Spécial, France’s most respected television news magazine. Wagner became, once and for all, a national figure on France’s AIDS scene.

Wagner and Femmes Positives canal ready claim one victory. The day the Envoyé Spécial segment aired, the president of AIDES, Christian Saout, made a remarkable admission in an editorial in the newspaper Le Monde. The head of one of Europe’s foremost ASOs admitted that responsabilité partagée, the HIV-prevention tenet that the entire French AIDS community had relied upon for two decades to stem the tide of the epidemic, was a “true failure.” He explained that the doctrine was a product of ’80s gay culture but no longer sufficed against an increasingly heterosexual epidemic, where the power dynamic between men and women put women at a disadvantage. It was time, he said, for a new principle that would combine both“informed consent” and responsabilité partagée.

The editorial refers to Femmes Positives only obliquely—and never to Aurore. Although Saout, an Adidas-wearing former judge, told POZ that AIDES may some day reconcile with Femmes Positives, he's embittered by their "troublemaking" at Morat's hearing. "That wasn't very chic," he says.

Not all HIV positive Frenchwomen agree with Femmes Positives' crusade. Catherine Kapusta, who organized France's first major summit on HIV and women in 2004, says the group's emphasis on victimization is antifeminist. Morat's conviction, she adds, will exacerbate "the fear of people with HIV and of getting infected." ACT UP Paris' Marjolaine Degremont says, "Femmes Positives makes me very scared." She believes that prosecuting people with HIV creates "good people with HIV, who are victims of bad people with HIV." French AIDS activists of all stripes say that turning over public-health policy to government prosecutors would be disastrous: People will stop getting tested because they can't be prosecuted if they don't know their status. People with HIV will shoulder all the responsibility for not transmitting the virus, thereby encouraging HIV negative people to abandon safe-sex practices. In addition, conditions for HIV positive prisoners, who already experience brutal treatment and inadequate care, might worsen.

Involving a UMP deputy, critics add, could make criminalizing HIV especially problematic. UMP came to power on a law-and-order platform; if it authors an HIV transmission law, many fear its penalties could be stricter than the six years Morat got. Olivier Jablonski of the prevention website Warning says that if France's extreme-right Front National party gets involved, it could "lead to a catastrophic outcome." Front National has advocated for quarantining people with HIV and routinely scapegoats immigrants; HIV criminalization could give the party an incendiary rallying cry.

Survivreausida ("Surviving AIDS"), a website for HIV positive immigrants (mostly African) and people from France's ghettoized banlieue, or suburbs, has voiced the strongest opposition to HIV criminalization and Femmes Positives, calling them "reactionary," "repressive" and "venomous." The site, which has published numerous testimonies of positive women who are anti-criminalization, points out that European countries with HIV transmission laws use them disproportionately against immigrants.

Survivreausida has also published an "open letter" from Youcef Ameur, a recent ex-boyfriend of Wagner's who was expelled from Femmes Positives last March. Ameur claims that his former colleagues "don't seek justice but extol punishment and vengeance." It was Ameur who alerted the press and other AIDS groups that Femmes Positives had met with Roatta's staff. During that meeting, one Roatta staff member compared men who consciously transmit the virus to terrorists. "I looked at Barbara and the others," Ameur says. "They just nodded." Ameur, who is of Algerian descent, also claims that Femmes Positives has disregarded immigrant women, the majority of France's female HIV cases. (France started mandatory HIV case reporting in 2003, so statistics are trickling in. Preliminary numbers show that women accounted for almost half of new infections in 2004. 120,000 to 150,000 of France's 60 million people have HIV.)

Saout, who stops short of categorically opposing criminalization, says

IS IT JUST A FRENCH THING?

Shirlene Cooper, 42 community organizer, New York City AIDS Housing Network
"If you know you have HIV and you pass it on to me, that is a crime, sure as putting your hand on a gun and pulling
the trigger. I would definitely press charges. If you have HIV, you should do your best to protect others. I didn't get HIV by myself."

Annette Lizzul, 43 AIDS activist
"I probably wouldn't have pressed charges against my husband when I was diagnosed—I was young and in love. Now, I'd go after him with a vengeance. But it's a catch-22. I hate the idea of criminalizing HIV. What if I gave it to someone unknowingly? But there's also gotta be protection. A law would make men think twice. "

Susan Rodriguez, 45 president of SMART University, an ASO for women
"I don't know all of the details about [these particular women], but it definitely shows that women need more control in HIV prevention— we need to put more money into microbicide research and make microbicides."

that AIDES remains at odds with Femmes Positives' raison d'être. "We are not a victim's organization," he says. "We combat AIDS." He points out that AIDES provides extensive support services for women, many of whom were infected by their primary partners—and didn't press charges.

Femmes Positives answers that a law criminalizing HIV will deter infectors. Members also say that it won't discourage testing—because few people get tested anyway. As for working with UMP, Wagner says Femmes Positives has little choice: One left-wing politician told the group that "the issue was too hot, you can't put positive people in prison." She believes that media pressure will force the left to get involved, adding that "we're careful that any [criminalization] law will not be repressive." Wagner claims that Femmes Positives is "open" organization and all women,including immigrants, are welcome. She won't apologize for concurring with the UMP staffer who compared infectors to terrorists. "In the pure sense of the term, that's right," says Wagner, "it's terrorizing." As for acting out of vengeance, Stipo says, "If I had wanted revenge, I would have shot my ex in the head."

Lestrade discounts activists' fears of right-wing repression. The true conflict between Femmes Positives and other AIDS organizations isn't right versus left, he says, but "gay versus straight." According to Lestrade, these working-class mothers and single women have unwittingly exposed an unpleasant truth to mainstream French society: The gay community doesn't want to deal honestly with the dangers and ethics of HIV transmission—look no further, he says, than France's unchecked barebacking crisis. "Gays are afraid that [people with HIV acting [irresponsibly] will give them a bad reputation. People will have the right to wonder, 'You have everything, you have free treatment, and this is how you behave?'" (In France, meds are free.) As a result, the gay community could face not only embarrassment—but become a target itself. "We believed justice would never come," Lestrade says ominously. "Now, it just might." Lestrade, the website Warning and others point out that gay men have also suffered from the notion of responsabilité partagée. André Sarcq, a gay man who says another man knowingly infected him, published an editorial in Le Monde. "[I] have been destroyed, and it's been decided that counts for nothing," he wrote.

Despite all the heated rhetoric, a major Paris powwow on criminalization this spring didn't become the ugly slugfest most expected. Participants say a true exchange of ideas emerged. An unusually upbeat Wagner, the event's star speaker, says that "it was super. We finally were able to clearly express ourselves to 150 people—and everyone stayed to the very end." "People" included France's AIDS elite: Saout, ACT UP, Survivreausida, Warning, LeStrade and many others.

But the current calm is unlikely to last: Numerous high-stakes battles loom—and not just in the French National Assembly. Unlike AIDES, France's National Council on AIDS, which advises the government on HIV policy, has yet to abandon responsabilité partagée. Christophe Morat has appealed his conviction to a higher court, and observers believe that he has an excellent chance of having his sentence overturned. Meanwhile, two more women are pressing charges against him.And this time, both women have asked Wagner and Femmes Positives for help.

Whether Wagner can continue in her new role as women's-rights crusader is also uncertain. When asked where she sees herself in 10 years, she replies, "I don't. I'm ashamed to say that because I have a child. I can't believe I'm still here, fighting."

And even if Wagner holds on and Femmes Positives gets the legal recognition it so badly craves,

there remains a deeply personal wound that no law can ever heal. Wagner says she is in regular contact with Isabelle, the other woman besides Aurore who initially brought charges against Morat. “She’s not doing well,” Wagner says. “Christophe didn’t look her in the eye and say he was sorry. How will she feel when he gets out? She has to move on.” The lack of an apology from her own infector haunts Wagner, too. “If he had said he was sorry,” she says. “I never would have joined Femmes Positives.”

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