



## Morocco: Drop Homosexuality Charges Against Teenage Girls

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Authorities in Marrakesh, [Morocco](#) should drop charges against two teenage girls suspected of same-sex conduct, Human Rights Watch and the Aswat Group for Sexual Minorities, a Moroccan group, said today. The two girls, ages 16 and 17, face up to three years in prison for allegedly kissing each other.

Morocco's courts frequently [prosecute men](#) under the country's anti-homosexuality laws. This is the first known case involving girls.

"These two girls could go to prison for simply expressing affection for each other," said [Sarah Leah Whitson](#), Middle East and North Africa director at Human Rights Watch. "Moroccan authorities should drop charges against them and stop prosecuting people for private consensual acts."

On October 27, 2016, the mother of C.S. brought C.S. and B.H. to a police station in Marrakesh. Police reports state that C.S.'s mother told police that she suspected the girls of homosexual behavior because she had seen a photo of them kissing in her daughter's phone and had noticed a red mark on her daughter's neck. Both girls were immediately arrested and detained for 48 hours on suspicion of homosexual conduct. On October 29, the girls appeared before the prosecutor, who brought charges under article 489 of Morocco's penal code and set a November 25 trial date. He also charged B.H. with vagrancy.

Moroccan law criminalizes what it refers to as acts of "sexual deviancy" between members of the same sex, a term that police reports and court documents use to refer to homosexuality more generally. The law provides for prison terms of up to three years and fines of up to 1,000 dirhams (US\$104). In Morocco, the age of full criminal responsibility is 18, but minors are tried in adult court, with some special provisions, such as closing the trial to the public.

[Moroccan](#) and [regional human rights groups](#) spoke out after the arrests, calling on authorities to release the girls. On November 3, the court provisionally released both girls, pending the trial.

B.H. told Aswat that C.S.'s mother and sister beat both girls before taking them to the police. Aswat and Human Rights Watch expressed concern about the physical and emotional well-being of C.S., who is now back at home, and emphasized that C.S. should be protected against [domestic abuse](#).

The case also raises fair trial concerns, in light of allegations of rights violations during detention, Human Rights Watch said. One of the defense lawyers, Moulay Elghourfi, told Human Rights Watch that the only evidence he has seen are the "confessions" written in the police report.

He said the girls repudiated the content of the police statements in front of the prosecutor, saying the police had coerced them into signing statements they had not read. B.H. told Aswat she was made to sign five statements, none of which she was allowed to read. The police reports, reviewed by Human Rights Watch, are identical, except for the names of the girls. In both statements, police have written identical testimony and identical confessions relating to "sexual deviancy."

Human Rights Watch has [documented a pattern](#) in which Moroccan courts violate the right to a fair trial by often relying on confessions to convict defendants and by failing to investigate seriously or at all when defendants repudiate those statements as either coerced or falsified. In five cases involving 77 defendants adjudicated between 2008 and 2013, Moroccan courts convicted the defendants primarily on the basis of contested confessions. Defendants in many cases or their lawyers have repeatedly told Human Rights Watch that the police either forced or intimidated the defendants into signing their statements without reading them.

B.H. told Aswat that she was forced to sign the statements after police transferred her to an adult prison, where she was held in a cell with adults. B.H. said she was threatened by other prisoners, who appeared to know the details of her case. Family members told Aswat that B.H. was transferred to Boulmharez prison and C.S. to a detention center for minors. B.H.'s mother told Aswat that she was not aware of her daughter's detention for the first 24 hours.

Moroccan law and international standards require the separation of minors from adults in detention. In October 2014, the UN Committee on the Rights of the Child in its concluding observations urged the Moroccan government to ensure that detention, including pretrial detention, is used as a measure of last resort for minor defendants.

"The girls' experience in detention was traumatic and humiliating," said a member of Aswat. "B.H. told us she was threatened by adult prisoners. She said she was so afraid she didn't eat for three days. C.S. told us that before she was sent to the juvenile detention center, the girls were forced to undress for inspection in front of other prisoners."

Criminalizing consensual, homosexual conduct violates fundamental human rights protected under international law. The International Covenant on Civil and Political Rights (ICCPR), which Morocco ratified in 1979, prohibits interference with the right to privacy. The United Nations Human Rights Committee has condemned laws against consensual homosexual conduct as violations of the ICCPR. The UN Working Group on Arbitrary Detention has held that arrests for consensual homosexual conduct are, by definition, human rights violations.

Morocco's 2011 constitution, in its preamble, states that Morocco "commits to banning and combatting all discrimination toward anyone, because of gender, color, beliefs, culture, social or regional origin, language, handicap, or whatever personal circumstance." Article 24 also protects the right to privacy, including private communications. Only judicial authorities in accordance with Moroccan law can order access to private content.

Moroccan authorities should drop charges under article 489 against B.H and C.S. and legislators should abolish article 489, which contravenes the most basic rights enshrined in Morocco's constitution, Human Rights Watch and Aswat said.

"While Morocco grapples with the real problems of poverty, unemployment and extremism, the authorities find time to prosecute two teenagers for an alleged kiss," Whitson said.

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