



Morocco: Victims of Attack Jailed for "Homosexual Acts"

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(Tunis) – A [Moroccan](#) court has convicted one man and is trying a second for homosexual acts, after a group of youths attacked and brutalized them on the night of March 9, 2016. The youths broke into the home of one of the men in the city of Beni Mellal, beat them, and dragged them naked onto the streets.

The case attracted international attention when a video clip appeared online on March 25, showing two men cowering naked, one of them covered in blood, being beaten, kicked, and dragged outside, while anti-gay slurs and "Call the authorities!" – apparently uttered by the assailants – can be heard on the soundtrack.

"Beaten, bloodied, and pushed naked into the street, and then sent to prison for your private life," said [Sarah Leah Whitson](#), Middle East and North Africa director. "This verdict will discourage victims from seeking justice and increase the likelihood of homophobic crimes."

Beaten, bloodied, and pushed naked into the street, and then sent to prison for your private life

Sarah Leah Whitson

Middle East and North Africa director

The prosecution shows the determination of Moroccan authorities to enforce anti-homosexuality laws, even when the acts in question allegedly took place in a private residence between consenting adults, and after neighbors assaulted them for their supposed sexual orientation, Human Rights Watch said.

On March 15, the Beni Mellal Court of First Instance convicted one of the victims, A.B., for "acts of sexual deviancy with a person of the same sex," under [penal code article 489](#), and "[public drunkenness](#)." The defendant, who according to his police statement had waived his right to legal counsel, was sentenced to four months in prison and a 500 dirham (US\$52) fine and remains in

prison. The same court that day convicted two of the attackers for assault and sentenced them to suspended two-month sentences.

On April 4, the same court postponed to April 11 a second trial involving the same incident. The defendants are A.R., whom police arrested two weeks after the incident and who faces charges for same-sex acts and public drunkenness, and three men and one minor who face charges related to the assault. All five are in pretrial detention.

Human Rights Watch urged the authorities to drop charges under article 489 against A.R., to void the conviction of A.B. on this charge, and to abolish article 489 and all laws penalizing consensual sexual acts among adults. Morocco's 2011 constitution states, in article 24, "All persons have the right to protection of their private life."

On March 9, police arrived in front of A.B.'s home, in a poor neighborhood of Beni Mellal, 220 kilometers southeast of Casablanca, in response to reports of a fight, says their report in the case file, which Human Rights Watch reviewed. The people involved had dispersed, but the police later found A.R., who was visibly drunk and injured. He told them that the incident stemmed from a dispute over an alcohol purchase, the police report says.

But on March 11, one of those implicated told the police that it began over the fact that A.B. was receiving A.R. in his home and that both were homosexual. On March 11, the police visited A.B., who runs a nuts and candy shop in the neighborhood. A.B. confessed to having sex with A.R. and to being drunk, the police report says. A.B. said the assailants had scaled a low wall to gain entry to his home and assault him and A.R. The police took A.B. into custody. On March 12, he gave the police a similar formal statement, and identified some of his alleged assailants as neighbors, providing their names or nicknames. The same day, a doctor at Beni Mellal hospital examined him and issued a report saying that his injuries required 22 days of rest.

The court cited A.B.'s confession when it convicted him. The court did not explain why it found him guilty of "public drunkenness" when it was the attackers who had forced him out of his home. A.B. is appealing his conviction, said Brahim Hassala, a lawyer who took his case following the verdict.

The police arrested A.R. on March 25, and took his statement the next day. He described the attack inside the home, identifying a man who he said slashed his ear and finger with a knife. He also confessed to being drunk and having sex with A.B., the police statement says.

It is unclear whether either man plans to challenge the truth of the police reports saying they confessed to having sex with each other.

One of the alleged assailants, S.F., denied to the police in a March 27 statement that he had participated in the violence but admitted to filming the incident on his phone. The video is still accessible on Facebook and YouTube. S.F. claimed that he had erased the video immediately after the incident and did not know how it got online. He and three others, including one minor, are in detention, facing trial. They are charged with forcing their way into the home of another person under penal code article 441, assault under articles 400-401, and one count relating to disseminating a "pornographic video," lawyers following the trial told Human Rights Watch.

On the eve of the April 4 court session, police [detained](#) a crew of the French news program "Le Petit Journal" as it tried to film in the neighborhood where the assault took place, as part of a report on homosexuals in Morocco. The police drove them to the airport in Casablanca and placed them on a flight to France the next morning.

Though the judiciary does not provide statistics, Morocco frequently [imprisons](#) men under penal code article 489, which provides for terms of up to three years and fines of up to 1000 dirhams (US\$104). The draft revisions to the penal code that the Justice Ministry introduced in 2015 maintain this offense and the applicable prison terms, while increasing the fines.

Justice Minister Mustapha Ramid was [quoted](#) by *TelQuel* magazine as saying, in relation to this case, "The law punishes homosexuals and persons who assault others....If it turns out that they are homosexuals, the justice system will punish them, and if it turns out that they were assaulted, the attackers will also be punished."

Moroccan law does not penalize "being homosexual;" rather, it prohibits same-sex sexual acts.

Laws that criminalize consensual same-sex conduct [violate](#) rights protected by the International Covenant on Civil and Political Rights (ICCPR), to which Morocco is a state party, including the right to privacy and the right to nondiscrimination. The [United Nations Working Group on Arbitrary Detention](#) has ruled that arrests for consensual same-sex conduct are, by definition, arbitrary.

In response to the Beni Mellal case, at least 20 nongovernmental organizations in Morocco have [called](#) for the repeal of penal code article 489.

"Repealing the ban on same-sex acts among consenting adults would both affirm Moroccans' right to privacy and help to protect people from hate crimes," Whitson said.

Update: Response from Government of Morocco

On April 8, Morocco's Ministry of Communication responded to two elements in the Human Rights Watch news release issued the same day. Clarifying the quote attributed to Minister of Justice Mustapha Ramid, the ministry noted that "the intention is not to punish the gay person because he is gay," but only if he committed an act punishable under the law, and if a court convicts him. With respect to the expulsion of a French television crew, the ministry noted that "the administration is predisposed" to deliver authorization to film "if the channel requests it." One of the expelled journalists, Martin Weill, [said](#) the crew was filming without authorization because obtaining such authorization is a laborious process that takes weeks, and when the proposed subject is one that displeases the authorities, it is rarely granted.

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