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Jordan: End Trials of Protesters for “Undermining Regime”

Proposed Security Court Reform Would Preserve Status Quo



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(Beirut) – Jordanian lawmakers should amend or eliminate vague penal code provisions used to try peaceful protesters on terrorism-related charges.

The cabinet on September 1, 2013, proposed a legal change to restrict the jurisdiction of the quasi-military State Security Court over civilians to terrorism and four other serious crimes – espionage, treason, currency counterfeiting, and drug offenses. But legislators should also narrow the overly broad definition of terrorism to make the new restriction meaningful.

“Jordan’s move to limit civilian trials before military courts is good, but it needs to call a halt to trying peaceful protesters for terrorism,” said [Joe Stork](#), acting Middle East director at Human Rights Watch. “Jordan should overhaul its outdated penal code and stop dragging civilians in front of the State Security Court just for demonstrating for reform.”

The vaguely worded article 149 of [Jordan’s](#) 1960 penal code includes “undermining the political regime” and “inciting resistance” to the government in the “terrorism” section. Since 2011, prosecutors of the State Security Court have increasingly pursued cases against largely peaceful protesters on these grounds. The authorities should release and drop charges against all protesters facing trial before the security court for offenses related solely to the peaceful exercise of their right to free expression and assembly, Human Rights Watch said.

Prime Minister Abdullah Ensour [described](#) the cabinet proposal as “a huge and brave step in the reform process,” according to Petra, the official government news agency. The proposal, which requires a parliamentary vote and the king’s signature to become law, aims to bring the State Security Court law into compliance with article 101 of Jordan’s 2011 constitution, which prohibits civilians from facing trial in military court except when the charges fall into the five categories.

Media Affairs Minister Mohammed al-Momani, the government spokesman, [told](#) the Associated Press that the law would, for example, remove from court jurisdiction the crime of “lengthening the tongue,” which means insulting or criticizing the king (penal code article 195).

Addressing concerns that terrorism in Jordan is broadly defined, Justice Minister Bassam al-Talhouni [told](#) the online news website Amman Net: “public prosecutors have enough knowledge and experience that qualifies them to know the characteristics of a crime, [including] characteristics of the crime of terrorism.”

Yet many cases currently before the State Security Court involve activists arrested merely for chanting a slogan or carrying a sign at a protest.

Al-Momani [said](#) at a September 11 news conference that under the proposed amendments, a panel of civilian judges in the security court would try cases involving civilians. He said the changes would not apply to cases currently before the court though.

The State Security Court was established in 1959 with jurisdiction over penal code crimes deemed to harm Jordan’s internal and external security. The prime minister appoints the civilian judges, and the head of Jordan’s military appoints the military judges. The judges sit in panels of three – some military, some civilian and some mixed. The court’s prosecutors are all military officers.

Abdullah Mahadeen, 25, an activist affiliated with the Hirak pro-reform youth movement, faces two trials before the State Security Court, one for “undermining the political regime,” and another for that charge and for “lengthening the tongue” and “illegal gathering.” The charge sheet for the first case, presented to the State Security Court on November 1, 2012, cites as its sole evidence signs that Mahadeen allegedly carried during a September 7, 2012 protest, and other signs that police discovered when they searched his car on September 11.

According to the charge sheet, slogans on the signs include “The Regime Wants to Overthrow the Regime;” “Monitoring Phone Calls is a Violation of our Constitutional Rights;” and “You Can Fence Off a Traffic Circle [to keep protesters from entering] But You Can’t Fence Off a Country.”

Human Rights Watch also reviewed the State Security Court charge sheet for the group trial of Hirak-affiliated Hisham al-Heesa, Bassem al-Rawabdeh, and Adnan `Arqub. The prosecutor’s charge of “undermining the political regime” in this case depended solely on chants the men had allegedly called out during four protests in Amman in early 2013. The charge sheet for al-Heesa says he allegedly led chants including: “O Abdullah, son of Hussein, where has the people’s money gone?;” “O Abdullah, son of Hussein, look what happened to Mubarak;” and “Your Arabic is broken; but just understand us, your gambling doesn’t concern us.”

The same charge sheet includes al-Rawabdeh, who allegedly attended a protest celebrating al-Heesa’s release, chanting: “Listen, listen, Hisham, you have angered the regime ... freedom comes from God, in spite of you, Abdullah.”

Human Rights Watch has not found any evidence of chants that called for violence, nor did prosecutors allege incitement to violence. Instead, prosecutors make the vague claim that the chants “incited the street and those present to oppose the political regime of the kingdom.”

Al-Heesa’s brother told Human Rights Watch that al-Heesa, along with 20 other defendants from the central town of al-Dhiban, faces a separate group trial before the State Security Court for “undermining the political regime” and “engaging in acts of terrorism” in regard to a protest that turned violent in al-Dhiban in late 2012. His brother denied that al-Heesa was there.

Al-Heesa and al-Rawabdeh are among 11 Hirak-affiliated protesters in detention.

Despite the proposal to change the State Security Court law, public prosecutors have continued to refer people to the court for alleged crimes beyond the five categories the proposal specifies. On September 18, they referred the publisher and editor-in-chief of the *Jafra News* website to the court. The charge was “disturbing relations with a foreign state” (penal code article 118), for [posting](#) a YouTube video showing a man

who is allegedly a Qatari prince sitting, dancing, and showering with several women. The two journalists were detained and denied bail.

On September 30, police [arrested](#) Hirak activists Humam Qufaisha, Ayman al-Bahrawi, and Diyya' al-Din al-Shalabi. Officials referred them for trial to the State Security Court on charges of “disturbing relations with a foreign state.” They are accused of distributing posters carrying the word *Raba`*, a reference to a square in Cairo where Muslim Brotherhood protesters were dispersed by security forces on August 14, their lawyer told Human Rights Watch. Al-Bahrawi faces additional charges of “lengthening the tongue” (penal code article 195) and “insulting foreign leaders” (penal code article 122), apparently based on messages he sent via the social networking application WhatsApp, the lawyer said.

Human Rights Watch opposes the creation and use of special courts to try national security crimes. National security courts are frequently authorized by law to conduct trials in a manner that restricts the rights of defendants beyond what is permissible under international human rights law. In a number of countries, regular criminal courts have proven very effective in prosecuting terrorism offenses in accordance with international due process standards. Restricting the Jordanian State Security Court’s jurisdiction over civilians should be a step toward abolishing the court, Human Rights Watch said.

Freedom of expression is guaranteed under article 15 of Jordan’s constitution. The International Covenant on Civil and Political Rights (ICCPR), to which Jordan is a state party, protects the right to freedom of expression, including “freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice” (article 19).

International law allows only narrowly defined restrictions on these rights that conform with the law and are necessary in a democratic society for national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.

“Jordan’s promises to stop sending civilians for trial before the State Security Court for speech-related crimes ring hollow when they won’t even put a moratorium on the practice while revising the law,” Stork said. “It’s time for Jordan to make reform real by fixing its outdated penal code.”

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