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The Syrian government is using its sweeping Counterterrorism Law and its recently established special court against human rights defenders and other peaceful activists. On June 26, 2013, the court will resume the trial of Mazen Darwish and four of his colleagues from the Syrian Center for Media and Freedom of Expression on accusations of "publicizing terrorist acts."

The special court uses the overbroad provisions in the Counterterrorism Law, enacted in July 2012, to convict peaceful activists on charges of aiding terrorists in trials that violate basic due process rights, Human Rights Watch said. The charges are brought under the guise of countering violent militancy, but the allegations against the activists actually amount to such acts as distributing humanitarian aid, participating in protests, and documenting human rights abuses.

"The new Counterterrorism Court is providing judicial cover for the persecution of peaceful activists by Syria's security agencies," said Nadim Houry, deputy Middle East director at Human Rights Watch. "The government may have a new counterterrorism law, but there is nothing legal about trying peaceful activists without fair trial safeguards for acts that should never be considered crimes in the first place."

Darwish is on trial along with Hussein Gharir, Hani Zaitani, Mansour Omari, and Abdel Rahman Hamada. The indictment, which Human Rights Watch reviewed, states that their activities advancing freedom of expression and human rights, such as monitoring online news and publishing the names of the dead and disappeared, as reason for the charges. Omari and Hamada were conditionally released on February 6, pending trial, but the other three men remain in detention. Human Rights Watch urged the Syrian authorities to release and drop all charges against Darwish and his colleagues as well as other peaceful activists charged before the court merely for exercising their basic right to freedom of expression and assembly.

President Bashar al-Assad adopted Law No. 19, the Counterterrorism Law, on July 2, following his decision to lift the state of emergency in April. On July 25, the president enacted Law No. 22, establishing the Counterterrorism Court to apply the new law. The court, based in the Justice

Ministry, is tasked with trying both civilians and military personnel on "terrorism"-related charges.

A Syrian lawyer who has represented defendants before the court told Human Rights Watch that his clients have, for example, been charged with aiding terrorists or conducting terrorist acts for distributing humanitarian aid or participating in protests. He estimated based on his research and information he received from other lawyers that, as of mid-June, at least 50,000 people had been referred to the Counterterrorism Court. A second lawyer working on behalf of political detainees in Damascus told Human Rights Watch that to his knowledge at least 35,000 nonviolent political detainees were being tried before the court. He believes that the court was set up specifically to target the opposition. Some of the detainees are being held in Adra Central prison in Damascus pending trial.

The new law defines terrorism as: "every act that aims at creating a state of panic among the people, destabilizing public security and damaging the basic infrastructure of the country by using weapons, ammunition, explosives, flammable materials, toxic products, epidemiological or bacteriological factors or any method fulfilling the same purposes." The reference to "any method" opens the door to labeling virtually any act as a terrorist offense, Human Rights Watch said.

Article 8 prescribes imprisonment and hard labor for a variety of other "terrorism"-related offenses, including distributing written materials or information in other formats. The February 27 indictment against all five Syrian Center for Media and Freedom of Expression staff members accuses them of "publicizing terrorist acts" under this article. If convicted the men may face up to 15 years in prison.

The indictment states that these charges were brought for the men's activities as staff members of the organization. The activities included monitoring online news by the Syrian opposition, publishing studies on the human rights and media situation in Syria, documenting names of the detained, disappeared, wanted and killed within the context of the Syrian conflict, and receiving funding from Western organizations. The indictment further states that an investigative judge in Damascus considered these actions part of an attempt to "stir the internal situation in Syria and so provoke international organizations to condemn Syria in international forums."

Article 1 of the law defines "financing terrorism" as providing, either directly or indirectly, money, weapons, ammunition, explosives, means of communication, information, or "other things" with the intention of using them to carry out a terrorist act. It is also punishable by imprisonment and hard labor.

Article 2 of Law No. 22, establishing the Counterterrorism Court, stipulates that three judges, one them a member of the military, will preside over the court. Article 3 grants the court's prosecutor the discretion to refer other, non-terrorism related offenses to the court.

The law does not clearly outline the procedures governing the court's operations but the few references to procedural standards reveal several fair trial concerns, including inadequate oversight and appellate procedures. A lawyer representing detainees before the court and a family member of two of the accused also told Human Rights Watch that confessions extracted under torture are used as evidence.

Article 7 gives the accused the "right of defense," but stipulates that the court does not adhere to standard trial procedures. For example, the court does not have to have open trials - the standard procedure for criminal trials, which is required under international law as the norm for all trials. Further, the law's failure to outline trial procedures, effectively grants the court sweeping discretion to determine its procedures.

Article 5 stipulates that instead of standard criminal appellate procedures, the accused may only seek review of a judgment from a special branch of the Court of Cassation. In the case of trials in

absentia, Article 6 stipulates that the accused does not have a right to a retrial unless the person surrenders voluntarily.

A lawyer who represents people before the court told Human Rights Watch that two people currently outside of the country have been sentenced to death in absentia by the court. He said that two of his clients, who are relatives, were sentenced to 15 and 20 years in prison respectively for weapons smuggling and working with terrorists based on what he said were coerced confessions extracted under torture.

A relative of the two men told Human Rights Watch that the men had enlisted the aid of someone who smuggles people out of the country to reach Europe via Turkey. When they were stopped in Latakia by the army, their smuggler told the army that the men were terrorists who were smuggling weapons from Lebanon and Turkey into Syria. That was not true, the relative said.

The lawyer said that while defendants have the right to appoint a defense attorney, to see the charges against them, and to have their lawyer present in the courtroom, the only evidence against them in many cases was forced confessions extracted during interrogations under pressure or torture. Detainees frequently allege that Syrian security services tortured them to extract their confessions, but the court does not reject these confessions on the basis that they have been coerced.

People tried before the court are also subject to lengthy pretrial detention in apparent violation of Syrian law. On April 21, 2011, the government enacted Legislative Decree 55 limiting the time that a person may be lawfully held in detention without judicial review to 60 days for certain crimes, including terrorism offenses. Several former detainees told Human Rights Watch that they were held well beyond the 60-day period without judicial review.

"As the discussion about future negotiations between the opposition and government continue, all parties should remember the peaceful activists languishing in detention, subject to torture, mistreatment, and judicial processes that deny them their basic rights," Houry said. "Their release should be on everyone's priority list."

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