



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

*" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "*

## **COMMUNIQUE DE PRESSE - COMUNICADO DE PRENSA**

2 November 2005

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### **ISRAEL: DRAFT LAW LEGITIMIZES INCOMMUNICADO DETENTION**

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The International Commission of Jurists (ICJ) today wrote to the Chair of the Knesset Law Committee to express its deep concerns regarding a draft law on the arrest, detention and interrogation of non-residents suspected of security offences. The draft Law would open the door to prolonged incommunicado detention, increase the risks of torture and deny the detainees their basic rights.

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The draft Criminal Procedure Law, 2005, is officially meant to fill the legal gap left by the Israeli pullout from the Gaza Strip last August. Until then, the investigative authorities had extensive powers provided by defence legislation enacted by the Israeli Defence Forces commanders.

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If adopted, the draft Law would flagrantly contradict international human rights standards and violate Israel's legal obligations, notably those under the International Covenant on Civil and Political Rights and the Convention against Torture, both of which Israel has ratified.

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The draft law provides that a detainee suspect of a security offence may not be brought before a judge before 96 hours. Experience has shown that torture occurs most frequently in the first 24 hours after arrest. Moreover, the draft law provides that a detainee may not be allowed access to a lawyer for up to 50 days. In its letter, the ICJ states that this provision not only totally disregards international jurisprudence but more specifically the 2003 recommendation of the Human Rights Committee which called on Israel to "ensure that no one is held for more than 48 hours without access to a lawyer."

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The ICJ is also concerned about the proposal not to allow the detainee to be present at hearings when the court decides on an extension of the detention or on appeals. If the detainee is not present in court, he or she cannot challenge the legality of the detention – a fundamental right that can never be suspended.

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In its letter, the ICJ stresses that: " the detainee could be denied access to a lawyer for up to 50 days after the arrest and may have to wait for 96 hours before being brought before a judge. This law creates a form of a prolonged incommunicado detention, prohibited under international law. International human rights bodies have emphasized the link between incommunicado detention and the increased risks that the detainee may be subject to torture in the hands of the investigating authorities."

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The International Commission of Jurists has urged the Knesset Law Committee not to endorse the draft law and to strictly abide by Israel's international legal obligations.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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