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Spain: Incommunicado detention – out of sight, out of mind

Spain must end the practice of incommunicado detention as it violates the rights of people deprived of their liberty, said Amnesty International in a report published today.

“It is inadmissible that in present day Spain anyone who is arrested for whatever reason should disappear as if in a black hole for days on end. Such lack of transparency can be used as a veil to hide human rights violations,” said Nicola Duckworth, Europe and Central Asia Programme Director.

In its report, [*Out of the shadows: End incommunicado detention in Spain*](#), Amnesty International illustrates how Spain has one of the strictest detention regimes in Europe which is in breach of the country’s obligations under international human rights law.

Spain’s law of criminal procedure allows for a detainee to be held incommunicado for up to five days in all cases and for up to 13 days if suspected of terrorism-related offences. The 13-day period consists of up to five days of incommunicado detention in police custody, which can be extended by a further five days incommunicado in preventive imprisonment. An additional three days of incommunicado detention may be imposed by a judge at any time during the investigation.

“While held incommunicado, detainees cannot talk to a lawyer or a doctor of their choice. Their families live in stress not knowing what has happened to them and many detainees held incommunicado report that they have been tortured or ill-treated, but such allegations are rarely investigated,” Nicola Duckworth said.

“Incommunicado detention denies detainees the right to fair trial. Such detention in itself may constitute cruel, inhuman or degrading treatment. It does not comply with international human rights standards.”

International organizations have repeatedly expressed concern about the risk of torture and other ill-treatment during incommunicado detention. Such is the case of Mohamed Mrabet Fahsi who was arrested on terrorism-related charges on 10 January 2006 in his home near the city of Barcelona. During his detention incommunicado he was not able to call his own lawyer. Mohammed Fahsi told Amnesty International that he was tortured and ill-treated but both the doctor who examined him and the investigative judge ignored his complaints.

The Spanish government has justified the use of incommunicado detention on grounds of national security and public safety.

“Incommunicado detention must be relegated to the past. No other European Union country maintains a detention regime with such severe restrictions on the rights of detainees,” Nicola Duckworth said.

Amnesty International calls on the Spanish authorities to:

- Scrap legislation allowing incommunicado detention;
- Allow all detainees to speak in confidence with a lawyer without police officers present;
- Allow all detainees to have a lawyer of their choice who will be present during questioning;
- Allow all detainees to be examined by a doctor of their choice;
- Allow all detainees to have their families notified of their detention and location;
- Make compulsory in all cases the video and audio recording at places where detainees may be present, except where this may violate their right to private consultations with their lawyer or doctor;
- Investigate promptly, thoroughly and impartially all allegations of torture and other ill-treatment made by detainees.