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Return to Position of Principle: Time to Repeal Anti-terrorism Law

On the eve of the expected announcement of UK Government's response to the House of Lords judgement on Part 4 of the UK Anti-terrorism, Crime and Security Act, the International Commission of Jurists (ICJ) and JUSTICE, its British section, call for the repeal of the law that allows for indefinite administrative detention without trial.

"This is the only legitimate response to the clear House of Lords ruling, which reflected that holding foreign suspects for years without trial is flawed. It is time to return to a position of principle upholding fundamental freedoms", says Nicholas Howen, Secretary General of the ICJ.

Roger Smith, Director of JUSTICE, adds: 'The usual principles of the criminal justice system are quite adequate to cope with bringing terrorist suspects to trial. New legislation should respect these principles and no longer require derogation from the European Convention.'

In revising the counter-terrorism law the UK should not repeat mistakes of the past. All counter-terrorism measures must comply fully with human rights law. In particular, no one shall be expelled, returned or extradited if there is a risk of human rights violations, such as torture or ill-treatment, extrajudicial executions or the death penalty. Any proposal for a form of "civil restriction order", - i.e. an order restricting liberty short of detention – will have to be carefully considered. The justification would have to be clear and necessary safeguards, including effective judicial remedies, would be needed as such a measure may violate the right to liberty, freedom of movement or may prove discriminatory.

JUSTICE and the worldwide network of jurists of the ICJ have set out in 2004 the fundamental principles on human rights and counter-terrorism in the *ICJ Berlin Declaration*, a copy of which is attached. These principles provide guidance on any new counter-terrorism measure, including:

- In combating terrorism, states 'should apply and where necessary adapt existing criminal laws rather than create any new, broadly defined offences or resort to extreme administrative measures, especially those involving the deprivation of liberty'.
- 'States must ensure that any derogation from a right subject to derogation during an emergency is temporary, strictly necessary and proportionate to meet a specific threat and does not discriminate ...'
- 'States may not expel, return ... a person suspected ... of acts of terrorism to a state where there is a real risk that the person would be subject to a serious violation of human rights ...'

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