

# Indian human rights activist jailed for life on frame-up charges

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Dr. Binayak Sen, an internationally-known human rights activist and pediatrician, has been sentenced to life imprisonment, following his conviction in late December by a Sessions, or district, court in the eastern state of Chhattisgarh on charges of aiding the Communist Party of India (Maoist). Also convicted and sentenced to rigorous life-imprisonment were Kolkata-based small businessman Piyush Guha and Narayan Sanyal, a 74-year old alleged Maoist.

Sen's conviction has been condemned by Indian and international human rights groups, as well as by significant sections of the Indian press and legal establishment. They note that the case against Sen was based almost entirely on police testimony that was challenged by the accused, that the judge discounted key discrepancies in the prosecution's case, and that the charges against Sen were clearly a politically-motivated attempt to silence a vigorous critic of state abuses of human rights.

"Dr. Sen, who is considered a prisoner of conscience by Amnesty International, was convicted under laws that are impermissibly vague and fall well short of international standards for criminal prosecution," declared Amnesty's Asia-Pacific director, Sam Zarifi.

Under the provisions of the notorious catch-all "anti-terrorist" legislation of the Indian and Chhattisgarh state governments, Sen and his co-accused were charged with sedition, providing support to the Maoist insurgency, and in Sanyal's case, of belonging to an illegal organization.

Sen was accused of acting as a courier for the Maoist Sanyal, who has been in jail since his arrest by Chhattisgarh police in April 2006. In his capacity as a medical doctor and human rights advocate, Sen visited Sanyal more than thirty times under strict state supervision, before himself being arrested in May 2007.

The Indian government's Unlawful Activities (Prevention) Act (UAPA) and the Chhattisgarh Public Safety Act (CPSA) are so broad and sweeping in their definition of "unlawful activity" that even innocuous political or social activity conducted on behalf of the marginalized and the desperately

poor can be criminalized. Thousands of innocent people have been caught up in the arbitrary dragnet of these notorious legislations with a majority of them convicted through fabricated evidence planted by the police and/or forced confessions obtained through the endemic employment of torture.

Such has been the case with Sen, who has worked for many years among the oppressed tribal people of Chhattisgarh to secure them medical care and other basic amenities that the Indian and state governments have systematically failed to provide. Sen, in his capacity as national vice-president of the People's Union for Civil Liberties (PUCCL) and General Secretary of its Chhattisgarh unit, has also frequently spoken out against the numerous gross violations of human rights and outright atrocities that have been committed by security forces in their ever widening counter-insurgency war against the Maoist-led tribal rebellion in eastern India.

While the 74-year-old Sanyal's alleged Maoist links were used by the prosecutors to charge both Sen and Guha under the UAPA and CPSA, Sanyal was himself not initially charged under these laws. He was arrested for murder and only after charging Sen and Guha under the anti-terrorist laws did the state extend similar charges against Sanyal, whose alleged Maoist ties then became the linchpin for the state's case against all three.

What earned Sen the special enmity of the state authorities in Chhattisgarh was his exposure of atrocities—including rape, kidnappings and murder—committed by an ostensible "popular" anti-Maoist militia, the Salwa Judum or Peace March. In fact the Salwa Judum was sponsored by two steel companies, Tata and Essar Steel, which conspired with the state government, formed by the virulently right-wing Hindu supremacist Bharatiya Janata Party (BJP), to dispossess tribal people in Chhattisgarh's Dantewada district. Salwa Judum, although now officially disbanded, has also received support from India's Congress Party-led central government.

In the middle of the last decade, Sen led a joint fact-

finding mission involving the PUCL and four other human rights organisations into the Salwa Judum. Its December 2005 report concluded that the Salwa Judum was “far from the spontaneous uprising of tribals against Maoists that it is claimed to be. It is an organized, state managed enterprise. ...The Salwa Judum has led to the forcible displacement of people throughout Bhairamgarh, Geedam and Bijapur areas, under police and administrative supervision... Both the local Congress and the BJP are supporting the Salwa Judum together. ... In addition, people are being encouraged to carry arms. ... Although Chhattisgarh is claimed to be a tribal state, adivasi (tribal) society and culture is being actively destroyed.”

A month after the report was released, the Chhattisgarh Director General of Police, O.P. Rathore, declared to the press, “*Hum PUCL ko dekh lenge* (We will look after the PUCL).”

So shocking and mendacious has been the conviction of Sen that even well-known jurists have condemned it. The former chief justice of Delhi High Court Rajender Sachar denounced the conviction in no uncertain terms: “There is no way that there could be any secret talks with Sanyal. ...There can’t be a greater nonsensical judgment than this. I am ashamed of belonging to the judiciary. ... Never was such a ridiculous judgment delivered.”

Earlier, Krishna Iyer, a former Indian Supreme Court Justice, wrote to Indian Prime Minister Manmohan Singh to denounce the government’s and court’s refusal to grant Sen bail for two years following his 2007 arrest. “[T]he Indian state,” wrote Iyer, “by wrongly branding Dr. Sen and many other human rights defenders like him as ‘terrorists’, is making a complete mockery of not just democratic norms and fair governance but its entire anti-terrorist strategy and operations.”

Such statements reflect widespread concern that the brutal and indiscriminate manner in which the government is carrying out its purported anti-Maoist war—it is in fact a war to assert Indian government control over the tribal peoples and their resource-rich lands—is alienating large sections of the population. This war has been greatly expanded by the Congress-led central government since it won re-election in May 2009, with Indian Prime Minister Manmohan Singh labeling the Maoist insurgency the country’s “greatest internal security threat.”

Just days after Singh declared it necessary to defeat the insurgency so that the tribal belt’s resources could be thrown open to Indian and foreign business, his government declared the Communist Party of India (Maoist) a “terrorist” organization. (See: India bans CPI (Maoist) under draconian “anti-terror” law )

The ultra-reactionary character of the prosecution of Sen is

exemplified by the government’s use against him of Section 124 (sedition) of the Indian Penal code—a relic of British colonial rule used to silence Indian nationalist leaders including Bal Gangadhar Tilak in 1897 and Mahatma Gandhi in 1922.

This provision states, “Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government ... shall be punished with imprisonment for life...”

Following Sen’s conviction the *Times of India* remarked, “The life sentence imposed on globally acclaimed human rights activist Binayak Sen on the charge of sedition is easily the most scandalous abuse of a colonial remnant in independent India.”

For his part, prominent liberal historian Ramachandra Guha declared, “In the eyes of the government of Chhattisgarh, the crime of Binayak Sen is that he dared question the corrupt and brutal methods used to tackle the Maoist upsurge. ... His conviction will and should be challenged. As it stands, however, it is a disgrace to democracy.”

Binayak Sen has refused to be cowed by the state repression directed against him. He told the court, “I submit that my prosecution is malafide; in fact it is a persecution. I am being made an example of by the state government of Chhattisgarh as a warning to others not to expose the patent trampling of human rights taking place in the state. Documents have been fabricated by the police and false witnesses introduced in order to falsely implicate me.”

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