

India: Fair Trial Doubtful for Honored Rights Advocate

Chhattisgarh Government Should Not Use Naxalite Issue to Silence Critics

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(New York, April 29, 2008) – Criminal charges against award-winning human rights defender Dr. Binayak Sen raise serious concerns that he will not get a fair trial in Raipur district court in Chhattisgarh state when hearings begin on April 30, Human Rights Watch said today.

Chhattisgarh state officials charged Sen in February 2008 with being a member of a “terrorist organization.” Sen has been in custody since May 14, 2007. If convicted, he could be sentenced to life imprisonment.

For over two decades, Sen has provided medical care in remote tribal villages in Chhattisgarh. He has received numerous awards in recognition of his work. On April 22, the Global Health Council announced that he won the 2008 Jonathan Mann Award for Global Health and Human Rights.

“Dr. Sen appears to be a victim of the Chhattisgarh government’s attempt to silence those who criticize its policies and failure to protect human rights in its fight against Naxalites,” said Brad Adams, Asia director at Human Rights Watch. “The court should ensure that this trial is not used by the state government to cover up its failures by punishing the messenger.”

Human Rights Watch said that likely political motivations for the charges and other fair trial concerns in Chhattisgarh merit the trial’s change of venue to another Indian state. The case against Sen was brought after he called on the Chhattisgarh government to respect human rights in its campaign against Maoist armed combatants called Naxalites.

The presiding judge has allowed only one of Sen’s supporters to attend the hearings at a time, despite a provision in international law that trials be public. A judge may cite public order reasons to restrict the attendance of the press and public. However, the district court’s limit of one supporter of the defendant at the trial is unnecessarily restrictive and raises broader concerns about the fairness of the trial.

“The actions of the local authorities and the presiding judge call into serious question whether Dr. Sen will receive a fair trial,” said Adams. “To ensure fairness, the venue should be moved to another state with no political axe to

grind.”

In 2005, the Salwa Judum movement was started with state support in Chhattisgarh to oppose the Naxalites. With state backing, the Salwa Judum began committing serious human rights abuses, including killings, beatings of critics, burning of villages, and forced relocation of villagers into government camps. As a prominent leader of the human rights group People’s Union for Civil Liberties (PUCL), Sen called for an end to Salwa Judum abuses. He also opposed the Chhattisgarh Special Public Security Act, criticized human rights violations such as torture, extrajudicial killings and campaigned for improvements in prison conditions.

Sen was first detained under the Chhattisgarh Special Public Security Act, 2006. Human Rights Watch [has criticized this law](#) because it could lead to serious abuses. The law allows detention for “unlawful activities,” a term so loosely defined that it can severely restrict the peaceful activities of individuals and civil society organizations in violation of the Indian constitution and international human rights law.

The state’s primary evidence produced in court thus far includes letters Sen allegedly smuggled out of prison, which were written by an alleged Maoist leader, Narayan Sanyal. The police say that Sen visited Sanyal in prison a number of times, and that documents and other materials, including his computer, confiscated after his arrest, allegedly contain unspecified subversive materials. Sen has denied all these charges and said that his meetings with Sanyal were facilitated by jail authorities to provide medical care.

“The laws in Chhattisgarh make it easy for the government to prosecute human rights defenders like Dr. Sen,” said Adams. “The court must fairly decide whether a real crime has been committed.”