

URGENT APPEAL - THE OBSERVATORY

New information

IND 004 / 0408 / OBS 055.2

Sentencing to life imprisonment

India

January 6, 2011

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), has received new information and requests your urgent intervention in the following situation in **India**.

New information:

The Observatory has been informed by People's Watch and other reliable sources about the life imprisonment sentence of Dr. **Binayak Sen**, National Vice-President of the Peoples' Union for Civil Liberties (PUCL) and Secretary General of the PUCL branch in the Chhattisgarh State.

According to the information received, on December 24, 2010, the Raipur Additional District and Sessions Judge sentenced Dr. Binayak Sen to life imprisonment under the charges of sedition and conspiracy (Sections 124 (A) and 120 (B) of the Indian Penal Code) along with convicting him concurrently under section 8 of the Chhattisgarh Special Public Safety Act, which restricts public meetings, organised protests and opposition of government policies, and under section 39 (2) of the Unlawful Activities Prevention Act.

Immediately after the sentencing, the bail granted on May 25, 2009 by the Supreme Court of India to Dr. Binayak Sen, was revoked and he was taken back into custody (see background information). He is currently detained at the Raipur Central Jail, in Chhattisgarh.

The Observatory strongly condemns the sentencing of Dr. Binayak Sen which seems to merely aim at sanctioning his human rights activities. The Observatory further urges the Indian authorities to guarantee in all circumstances the physical and psychological integrity of Dr. Binayak Sen, to take prompt action in order to immediately and unconditionally release him, and to put an end to the judicial harassment against him.

Background information:

Dr. Binayak Sen was arrested on May 14, 2007 under the Chhattisgarh Special Public Security Act and the Unlawful Activities Act for alleged links with the Naxalite Maoist guerrilla. Dr. Sen was charged for "aiding and abetting Naxal activity" and accused of having transmitted letters written by Maoist leaders of the Communist Party of India - CPI (Maoist) to a suspected CPI (Maoist) guerrilla leader in Chhattisgarh prison.

Within the framework of his human rights activities, Dr. Sen has helped to organise fact-finding investigations on human rights violations in the State of Chhattisgarh, including abuses against detainees such as deaths, fake confrontations, hunger and malnutrition, absence of adequate sanitation leading to dysentery epidemics, etc. Dr Binayak Sen is a pioneer of health care to marginalized and indigenous communities in Chhattisgarh, where the state police and armed Maoists have been engaged in clashes over the last seven years. He has reported on unlawful killings of Adivasis (Indigenous People) by the police and by Salwa Judum, a private militia widely held to be sponsored by the state authorities to fight the armed Maoists.

From March 15 to April 11, 2008 Dr. Binayak Sen was placed under solitary confinement at the Raipur Central Jail.

On May 25, 2009, the Supreme Court of India granted bail to Dr. Binayak Sen on medical grounds, as he had been suffering from a heart ailment and needed treatment at Christian Medical College, Vellore, in Tamil Nadu.

Action requested:

Please write to the Indian authorities and ask them to:

- i. Take all necessary measures to guarantee, in all circumstances, the physical and psychological integrity of Dr. Binayak Sen;
- ii. Ensure the immediate and unconditional release of Dr. Binayak Sen since his detention only aims at sanctioning his human rights activities;
- iii. Put an end to any act of harassment, including at the judicial level, against Dr. Binayak Sen as well as against all human rights defenders in India;
- iv. Comply with the provisions of the Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998, in particular Article 1, which states that "everyone has the right, individually or collectively, to promote the protection and fulfilment of human rights and fundamental freedoms at the national and international levels", as well as Article 12.2, which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration";
- v. Guarantee the respect of human rights and fundamental freedoms in accordance with the Universal Declaration on Human Rights and other international human rights instruments ratified by India.

Addresses:

- Shri Manmohan Singh, Prime Minister of India, Prime Minister's Office, Room number 152, South Block, New Delhi, Fax: + 91 11 2301 6857 E-mail: pmosb@pmo.nic.in
- Dr. P. Chidambaram, Union Minister of Home Affairs, Ministry of Home Affairs, 104-107 North Block, New Delhi 110 001 India, Fax: +91 11 2309 2979. hm@nic.in
- Justice Kapadia, Chief Justice of India, Supreme Court, Tilak Marg, New Delhi -1, Fax: +91 11 233 83792, Email: supremecourt@nic.in
- Justice K. G. Balkrishnan, Chairperson of the National Human Rights Commission of India, Faridkot House, Copernicus Marg, New Delhi 110 001, Tel: +91 11 230 74448, Fax: +91 11 2334 0016, Email: covdnhrc@nic.in ; ionhrc@nic.in
- Ambassador Extraordinary and Plenipotentiary Permanent Representative to the United Nations (Geneva), Rue du Valais 9, 1202 Geneva, Switzerland. Tel: +41 22 906 86 86, Fax: +41 22 906 86 96, Email: mission.india@ties.itu.int
- Embassy of India in Brussels, 217 Chaussée de Vleurgat, 1050 Brussels, Belgium, Fax: +32 (0)2 6489638 or +32 (0)2 6451869

Please also write to the diplomatic representations of India in your respective countries.

Geneva-Paris, January 6, 2011

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need. The Observatory was the winner of the 1998 Human Rights Prize of the French Republic.

To contact the Observatory, call the emergency line:

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