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RIGHTS-INDIA: Activist Doctor's Incarceration Flouts Democratic Norms

By Keya Acharya

BANGALORE, May 8 (IPS) - Even while India goes to the polls in a lumbering show of democracy, human rights activist-doctor Binayak Sen remains in prison on unproven terrorism charges.

Sen's bail plea was finally admitted by the apex Supreme Court (SC) on May 4, 10 days short of his second anniversary in jail in Raipur, capital of the central state of Chhatisgarh where Sen has practiced as a doctor to the rural poor for nearly three decades.

The SC has now asked the state government to report, posting a final hearing in another fortnight. The SC has also asked the Chhatisgarh government to ensure that the best medical treatment be made available to Sen.

Prison authorities have refused Sen, who was diagnosed with cardiac symptoms, permission to go to his alma mater, the reputed Christian Medical College, Vellore, south India, for cardiac surgery.

Sen has refused treatment in Raipur saying he perceived a threat to his life from a local hospital and that he had the legal right to a hospital of his choice.

"I think he's in danger," his wife Ilina Sen, a professor of women's studies in Wardha University, told IPS on the telephone from Raipur. "... Binayak is absolutely right that his life may be in danger in any facility controlled by the state in Chhatisgarh."

The government accused Sen of passing on a set of letters from Narayan Sanyal, a guerrilla Naxal, or Maoist leader in Raipur jail, to a businessman with alleged close links to the radical left movement in Chhatisgarh. He is charged under the sweepingly-powerful Chhatisgarh State Public Security Act 2005, for "hatching a conspiracy" and abetting terrorism.

The Naxal movement, rampant in the southern forested belt of Chhattisgarh, is an armed and violent guerilla conflict born from long years of socio-economic inequality, alienation and displacement of tribals from their lands.

In turn, the state authorities have aided and abetted an even more violent vigilante movement started in 2005 to quash the Maoists.

The movement, called Salwa Judum is charged by the independent, national People's Union for Civil Liberties (PUCL), of which Sen is the state co-ordinator, of using rape, arson, intimidation and other brutalities to forcefully evict all tribal settlements in the district under the guise of their being Naxals.

Tribal rights groups say at least 700 villages and a population of 350,000 were brutally emptied in Bijapur and Dantewada districts alone in 2005-2006. As PUCL leader, Sen was vociferous in denouncing the government's brutal repression of these tribal communities. That public denouncement by Sen obviously irked the government who then charged him with abetting Naxalism.

But try as it might, the right-wing Hindu Bharatiya Janata Party (BJP) government in Chhatisgarh, has been unable to prove its charge.

By March 2009, the state government withdrew 16 of the 83 witnesses it produced, fearing they would jeopardise its case, 6 were termed 'hostile' while nothing in the remaining 61 testimonies could incriminate Sen.

"There is no case," says Ilina. "What is the point of keeping him in jail?" she asks in frustration.

Sen's baseless incarceration has drawn widespread protests, including a letter of complaint to Prime Minister Manmohan Singh by a retired Supreme Court Justice, V.R. Krishna Iyer, reputed for several pathbreaking civil judgements in India.

"The trial of Dr. Sen has not thrown up a shred of evidence to justify any of the charges against him", says Justice Iyer's letter, dated Apr. 17 and printed in the national daily The Hindu. Iyer termed the case a "grave injustice" and "a cause of much shame to Indian democracy."

A non-violent movement to free Sen called the 'Raipur Satyagraha' now courts arrest every Monday in Raipur, where Sen is in jail. Eight similar satyagrahas are taking place in different cities of India.

Last month, Amnesty International called Sen "a prisoner of conscience" whose jailing was 'politically motivated', calling upon the Indian government to release Sen. Ilina has issued a global appeal on her husband's behalf. "The international community cannot just stand by and do nothing," she told IPS. "India is a signatory to all the major international human rights treaties and conventions. All these years my husband worked on the premise that that these rights actually existed." Sen's case underlines the growing repression of both political dissent and its prisoners in India, hundreds of whom, including poor and displaced tribal peoples, languish in jails without hope of a fair trial.



A file picture of Binayak Sen, an activist health professional who is in prison on unproven terrorism charges.

Credit:Binayaksen.net

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Counter-terrorism laws in India have a dubious history of misuse.

India's first such law, the Terrorist and Disruptive Activities (Prevention) Act, 1985 (TADA), convicted just 725 of the 59,509 people detained under it, being controversially used to harass media and use confessions under duress.

"It is these draconian laws that are causing terrorism in the country," charges respected Supreme Court advocate Prashant Bhushan.

"Instead of recognising their social contributions, the Indian State, 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," Justice Iyer observes in his letter to the prime minister. (END/2009)

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