

**BARAK HUMAN RIGHTS PROTECTION COMMITTEE**

Rongpur Part-iv (Near Uco Bank), Silchar - 9, Cachar (Assam)

A human rights organisation of the nature as is contemplated under Sec 12 (i) of the Protection of Human Rights Act, 1993 and registered under the Societies Registration Act, 1860.

**FOR  
EQUALITY,  
JUSTICE  
AND PEACE**

সৰ্ব মান-স্বত্ব সুৰাৰ্থিন

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Ref. No. *BHRPC/*

Date:

**Press Statement****To be released immediately**

31 January, 2011, Silchar

**Release Dr. Binayak Sen, Protect HRDs and Repeal Repressive Laws**

Barak Human Rights Protection Committee (BHRPC) on 31 January 2011 wrote to the Prime Minister of India and other authorities including the Chief Justice of India to express its shock and deep concern at the incarceration of Dr. Binayak Sen, an internationally recognized physician, health worker and human rights defender. He has been convicted on 24 December 2010 along with two others and has been sentenced to imprisonment for life. Dr. Sen has been charged with sedition under sections 124A read with section 120B of the Indian Penal Code, 1860. He has also been charged with working for outlawed Maoists under sections 8(1), 8(2), 8(3) and 8(5) of the Chhattisgarh Vishesh Jan Suraksha Adhiniyam (Chhattisgarh Special Public Safety Act), 2005 and section 39(2) of the Unlawful Activities Prevention Act, 1967.

Reports show that the trial was unfair and failed to meet the standard of criminal jurisprudence and human rights norms. It is seen that documents have been fabricated by the police and false witnesses introduced. The judgment suggests that the judge has ignored evidence provided by the defence and has relied on hearsay evidence of the prosecution. Guilt of Dr. Sen has not been proved beyond reasonable doubt, which is a primary requirement for conviction.

BHRPC believes that Dr. Sen has been targeted maliciously for his peaceful and legitimate human rights works and criticism of the government policy that violates international human rights norms. His prosecution is malafide; in fact it is a persecution. He has been made an example of by the state as a warning to other human rights defenders not to expose human rights violations.

Dr. Sen, giving up great career opportunities, dedicated his life in providing health care to the poorest people in the remote villages in Chattishgarh without access to public medical care, where he founded a hospital and trained women to provide basic health care. He also served as an adviser to the state government's public-health committee until May 2007, when he was arrested. As human rights defender holding the positions of national vice president and president of Chattishgarh Unit of the People's Union for Civil Liberties (PUCL), a leading civil liberties organization in India, Dr. Sen documented numerous cases of gross human rights violations by the security forces and Salwa Judum, a private militia held to be sponsored by the Chattishgarh government in the name of fight against Maoists, an armed opposition group which also does not respect the rights of people. Dr. Sen often raised his voice against the massacres of people by both the sides and appealed for dialogue and peace.

Human rights defenders like Dr. Sen provide services that should be provided by the government. They play a great role in upholding and fulfilling the constitutional mandates and establishment of the rule of law by documenting incidents of unlawful actions and atrocities of state agencies, offering legal advice and intervention and constructive criticisms of the wrong policies. They provide legitimate outlet for the grievances of the people. They are not the enemies but the friends of the state and people.

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This has been recognised by the United Nations as well as by the government of India. The UN adopted a Declaration on Human Rights Defenders in 1998 that provides for the support and protection of human rights defenders in the context of their work. The Indian parliament passed the Protection of Human Rights Act in 1993 that recognises the role of HRDs and mandates the National Human Rights Commission to support non-governmental organisations in their human rights work. But in reality people like Dr. Binayak Sen are persecuted and prosecuted under the same laws that were used by the British colonial rulers against people like Mahatma Gandhi and Bal Gangadhar Tilak.

BHRPC believes that using repressive laws of colonial era against HRDs and innocent people and enacting new such laws empowering the law enforcement agencies to trample upon universally recognised human rights of the citizens is not the solution to the problem of unrest and insurgency. The rule of law, fundamental constitutional rights and universally recognised human rights must be upheld.

Many Indian laws meant to deal with insurgency and terrorism fall well short of the constitutional and human rights standards even keeping in consideration the derogation provided therein. Some of them have been struck down by the SC (for example, some provisions of the Terrorist and Disruptive Activities (Prevention) Act, 1985), some of them have been modified and their imports narrowed down (for example, section 124A of the IPC) and in cases of some others the SC provided additional guidelines to save them from unconstitutionality (for example, the National Security Act, 1980, the Armed Forces (Special Power) Act, 1958 some special laws enacted by state legislatures including the Assam Disturbed Areas Act, 1955 etc.). The UN Human Rights Committee and other organs continue to recommend the Indian state to repeal or amend such laws in order to make them compatible with the international human rights standards. However, these laws are maliciously being used against HRDs increasingly in many states in India.

BHRPC understands and hopes that legal questions in the case of Dr. Sen will be addressed in the High Court and Supreme Court expeditiously. But there is no judicial avenues to undo the damage done particularly to the mental and physical health of Dr. Sen who is a 61 year old heart patient, his family and friends by putting him in this legal wrangle. Facing trial in India is itself a punishment and deterrent. Human rights works in India and country's image in the world have been affected adversely by this trial. This unfair trial has also put the Indian judiciary and democracy on trial before the international community. Further damage must be stopped and it can be done by releasing Dr. Sen and providing him with adequate reparation and by bringing to book those who conspired to falsely implicate Dr. Sen, fabricated evidence, committed perjury and unduly influenced the judge.

BHRPC, therefore, urged the authorities to ensure that (1) Dr. Binayak Sen must be released immediately and his appeal must be disposed of as soon as possible; (2) An independent inquiry must be instituted to find out those who conspired to falsely implicate Dr. Sen, fabricated evidence, committed perjury and unduly influenced the judge; (3) Dr. Sen and his family must be provided with adequate reparation; (4) Human rights defenders must be provided full protection and special professional privileges; (5) Repressive laws such as section 124A of the IPC, the Chattishgarh Special Public Safety Act, 2005, the Unlawful Activities (Prevention) Act, 1967, the Armed Forces (Special Power) Act, 1958, the Assam Disturbed Areas Act, 1955 etc. must be repealed or adequately amended and brought in conformity with the international human rights standards.

Neharul Ahmed Mazumder