

URGENT ACTION

INDIGENOUS PEOPLES ADVOCATE ARRESTED FOR "SEDITION"

Upendra Nayak, a 65-year-old lawyer who defends the rights of indigenous Adivasi people, was arrested by the Odisha state police in eastern India on 20 February 2018 for his alleged links with Maoist armed groups, in relation to cases registered by the police over eight years ago. Upendra Nayak faces charges including 'sedition' under the Indian Penal Code and various sections of the draconian anti-terror law, the Unlawful Activities Prevention Act (UAPA). If found guilty, he could face life imprisonment.

Upendra Nayak was arrested on 20 February 2018 in Gajapati in Odisha state, eastern India on charges including "waging war against the government of India", conspiracy, and committing a "terrorist act". The charges relate to cases that were filed in 2009 and 2010 against several people, some of whom were represented by Upendra Nayak and were subsequently acquitted. On 21 February, Nayak was remanded in judicial custody to a jail in Gajapati by a local court. His bail application was rejected on 23 February. If found guilty, he could be imprisoned for life.

The Odisha state police have accused Upendra Nayak of providing Maoist armed groups with logistical support from 2009 to 2010. During that time period, several Adivasis were arrested for supporting Maoists, and Upendra Nayak defended them in at least 10 court cases, leading to the acquittal of many of those arrested.

A spokesperson for the Ganatantrik Adhikar Surakhya Sangathan (GASS), a local organisation in Odisha that challenges fabricated cases filed by the police against Adivasis in the state, told Amnesty International India that Upendra Nayak was arrested because he had represented Adivasis in the courts, and that the state had fabricated charges against the advocate. GASS has filed a bail application in the Gajapati district court for the release of the advocate. It is unclear when his trial will begin.

Please write immediately in English or your own language, urging the authorities to:

- Immediately and unconditionally release Upendra Nayak, and drop fabricated charges against him.
- Ensure that lawyers are able to perform their professional duties without intimidation, hindrance, harassment, or improper interference, in accordance with the UN Basic Principles on the Role of Lawyers
- Urge the central government to repeal Section 124A of the Indian Penal Code, which criminalises 'sedition', and repeal the the Unlawful Activities Prevention Act or amend it to bring it in line with international human rights law and standards.

PLEASE SEND APPEALS BEFORE 12 APRIL 2018 TO:

Chief Minister of Odisha

Naveen Patnaik
Odisha Secretariat
3rd Floor
Bhubaneswar-751001
Odisha, India
Phone: +91 674 2530700
Email: cmodisha@nic.in

Salutation: Dear Chief Minister

Minister of Home Affairs

Rajnath Singh
17 Akbar Road
New Delhi 110001
India
Tel: +91 11 23793881
Fax: +91 11 23014184
Email: 38ashokroad@gmail.com,
rajnathsingh@nic.in
Twitter: @HMOIndia

Salutation: Dear Minister

And copies to:

Chairperson, National Human Rights Commission
Justice H.L. Dattu
Manav Adhikar Bhawan Block-C,
GPO Complex, INA,
New Delhi – 110023
Tel: +91 11 24663247
Email: chairnhrc@nic.in

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY MR YASHVARDHAN KUMAR SINHA, Office of the High Commissioner for India, India House Aldwych WC2B 4NA, 020 7836 8484, Fax 020 7836 4331, info.london@hcilondon.in, www.hcilondon.in, salutation: Your Excellency

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

INDIGENOUS PEOPLES ADVOCATE ARRESTED FOR "SEDITION"

ADDITIONAL INFORMATION

For over three decades, Upendra Nayak has defended Adivasis accused facing fabricated charges. In one case, he defended an Adivasi woman who was allegedly gang raped in police custody in 2010, and subsequently arrested for allegedly burning a bus and a telecom tower. She was acquitted in 2012. Upendra Nayak also sought justice in cases of 'fake encounters', or staged extrajudicial executions. According to information obtained through Right to Information applications, 87 people were killed in police 'encounters' in Odisha between 2011 and 2015.

Several lawyers and human rights defenders have been subjected to arbitrary detention under draconian laws like the UAPA, India's principal anti-terror law. Human rights groups in India have highlighted several instances where the UAPA has been abused, with the use of fabricated evidence and false charges, to detain people peacefully exercising their rights to freedom of expression and association. Parts of the UAPA do not meet international human rights standards and are likely to lead to human rights violations. For example, the UAPA dilutes the evidentiary requirement for convictions and uses sweeping definitions of 'acts of terrorism' and 'membership' of 'unlawful' organizations. Suspects can be detained for up to 180 days without charge.

UA: 49/18 Index: ASA 20/7984/2018 Issue Date: 2 March 2018