

URGENT ACTION

DETAINED FOR POSSESSING 'PRO-MAOIST' MATERIAL

Human rights activist Jaison C Cooper and Thushar Nirmal Sarathy were arrested on 30 January on suspicion of being involved in unlawful activities because they had 'pro-Maoist' materials in their homes. They were denied bail on 3 March, and continue to be held in judicial custody.

On 30 January, the Kerala police arrested **Jaison C Cooper** and **Thushar Nirmal Sarathy** in Kochi and Kozhikode in Kerala state respectively. The investigating officer in the case told Amnesty International that the men had supported banned armed Maoist groups and were also involved in an attack on the National Highway Authority of India's project office in Kochi on 29 January. The men were arrested under India's principal anti-terror legislation, the Unlawful Activities (Prevention) Act (UAPA).

The investigating officer however also admitted that the only existing evidence against the men was that the police had found pamphlets and materials 'supporting Maoist groups' in their homes, including a book titled *Why Maoism?* in Jaison C Cooper's home. The police also said that they had found a document in Thushar Sarathy's house signed by a leader of the banned Communist Party of India (Maoist) armed group, giving him power of attorney. A local court denied the two men bail on 3 March on the grounds that the case required more investigation.

Indian courts have stated on multiple occasions that the mere possession of certain literature cannot be considered a crime. India's National Human Rights Commission has asked for a report from the Kerala police on the arrests.

Thushar Nirmal Sarathy's wife believes that her husband was arrested because he is an active member of several groups protesting against land acquisition by the state government. Jaison C Cooper has also been actively engaged in protests against land acquisitions and forced evictions.

Please write immediately in English or your own language:

- Calling on the authorities to immediately and unconditionally release Jaison C Cooper and Thushar Nirmal Sarathy;
- Pending their release, demanding they ensure the two men are protected from torture and other ill-treatment;
- Urging them to ensure that human rights activists in Kerala can carry out their work without intimidation or harassment, and take prompt action against those who violate their rights.

PLEASE SEND APPEALS BEFORE 16 APRIL 2015 TO:

Chief Minister of Kerala
 Oommen Chandy
 Room No 141, 3rd Floor
 North Block, Secretariat
 Thiruvananthapuram
 India
 Phone: +91 471 2333812 (English or Hindi only)
 Fax: +91 471 2333489
 Email: chiefminister@kerala.gov.in
Salutation: Dear Chief Minister

Chairman, National Human Rights Commission
 K.G. Balakrishnan
 Manav Adhikar Bhawan
 Block-C, GPO Complex, INA
 New Delhi, India
 Phone: +91 11 24651330 (English or Hindi only)
 Fax: +91 11 24651329
 Email (via online form): <http://nhrc.nic.in/complaints.htm>
Salutation: Dear Chairman

Kochi Police Commissioner
 KG James
 Marine Drive Walkway, Marine Drive
 Ernakulam,
 Kerala, India
 Phone: +91 94 97996990 (English or Hindi only)
 Email: cp@kochicitypolice.org
Salutation: Dear Commissioner

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

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

**AMNESTY
INTERNATIONAL**



URGENT ACTION

DETAINED FOR POSSESSING 'PRO-MAOIST' MATERIAL

ADDITIONAL INFORMATION

In November 2010, the Gujarat High Court ruled in the *Vishvanath* case that 'possession of material without there being any overt act or actual execution of such ideas by itself would not form or constitute any offence.' In October 2012, the Bombay High Court stated in the *Jyoti Babasaheb Chorge* case: 'That the possession of certain literature having a particular social or political philosophy would amount to an offence, though such literature is not expressly or specifically banned under any provision of law, is a shocking proposition in a democratic country like ours.'

The UN Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights - to which India is a state party - has stated: 'No person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions... [T]he right to freedom of expression [includes] the right to seek, receive and impart information and ideas of all kinds regardless of frontiers.'

Parts of the Unlawful Activities (Prevention) Act (UAPA) do not meet international human rights standards and are likely to lead to human rights violations. Amendments to the Act in 2008 extended the minimum period of detention of suspects from 15 to 30 days and the maximum period of such detention from 90 to 180 days. These amendments also avoided adequate pre-trial safeguards against torture and other cruel, inhuman or degrading treatment or punishment of detainees, reversed certain evidential burdens of grave crimes and required, in certain circumstances, accused persons to prove their innocence.

Name: Jaison C Cooper, Thushar Nirmal Sarathy
Gender m/f: Male

UA: 52/15 Index: ASA 20/1133/2015 Issue Date: 5 March 2015