

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: ASA 20/003/2008 (Public)
Date: 03 March 2008

India: Reports of torture and threat to fair trial of three journalists arrested for alleged links to banned Maoist organization

Amnesty International is concerned that three journalists arrested in three Indian states and charged with working for or having links to the banned Communist Party of India (Maoist) are at risk of being denied their right to a fair trial. Defence attorneys for the three men have reportedly not received all the relevant information and evidence used against them.

Amnesty International is also gravely concerned at reports that one of the detainees was tortured in detention by police officers.

All three men are being held for charges relating to their suspected involvement in the CPI (Maoist) and its various wings. The three arrested journalists are: Prashant Rahi, a journalist in the northern state of Uttarkhand; Govindan Kutty, editor of a monthly journal *People's March* in the southern state of Kerala; and Praful Jha, a journalist in the central state of Chhattisgarh. Two of the detainees, Prashant Rahi and Govindan Kutty, have been charged under the amended Unlawful Activities Prevention Act, 1967 (UAPA).

Amnesty International is concerned that these arrests may reflect a pattern of harassment by state authorities of local journalists reporting the rising violence in several states involving the CPI (Maoist), or suspected of sympathy with the party's activities.

The Cases

According to Prashant Rahi, he was detained on 15 December 2007 at Dehra Dun in Uttarkhand. During the next three days, he was held at a Provincial Armed Constabulary Camp at Hardwar where he was kept blindfolded, confined to a small room and reportedly tortured with daily beatings of his body, lasting for three to four hours at a stretch, after which a doctor came to examine him. Amnesty International has received reports that he was similarly tortured for two more days at another unknown location in Udhamsingh Nagar before being taken to the Khatima magistrate court on 23 December.

Prashant Rahi has been charged under the Indian Penal Code (IPC) with criminal conspiracy (Section 120B), waging or attempting to wage war or abetting waging of war, against the state (Section 121), conspiracy to commit offences (S. 121A), sedition (S. 124A) and permitting unlawful assembly in one's land (S. 153B). He has also been charged under the UAPA with being a member of an unlawful organisation (S. 10) and being a member of a banned or a terrorist organisation (S. 20).

Police have charged Prashant Rahi as being the regional commander for the CPI (Maoist). They claimed that he was arrested only on 21 December 2007 from Hanspur Khatta forests; and that at the time of his arrest he was plotting to overthrow the State along with five others. He is currently being held at the Dehra Dun central prison and his petition for bail is pending before court.

Govindan Kutty was arrested in Kerala on charges related to an article he wrote in 2002 justifying an attack, allegedly by Maoists on then Andhra Pradesh Chief Minister, Chandrababu Naidu. The arrest took place on 19 December 2007 at Govindan Kutty's office at Aluva near Ernakulam city. He has been charged under the IPC with abetting an offence (S. 124A), abetting assault on a security official (S. 133) and abetting assault on a government official (S. 134). He has also been charged under the UAPA with being a member of a banned or a terrorist organisation (S. 20).

Amnesty International has learnt that the Kerala High Court denied Govindan Kutty's plea for bail on the grounds that the police was investigating his links with the banned CPI (Maoist).

Praful Jha was arrested on 22 January 2008 in the Dangania suburb of Raipur city in Chhattisgarh. Police claimed to have recovered from him nine pistols, five country-made guns, 511,000 INR (US \$12,275) in cash and telecommunication equipment. He has been charged under Sections 120 and 121 of the IPC and Section 25 of the Arms Act.

Human rights standards

Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which India is a state party, provides that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law". This includes access to prosecutorial evidence before the trial, in order to have adequate time and facilities to prepare a defence, and the right to examine witnesses against them.

Amnesty International therefore urges the Governments of Uttarkhand, Kerala and Chhattisgarh to ensure that the trial of the three arrested journalists meets international standards of fairness, in particular their right to examine or have examined all witnesses under the principle of equality of arms, and to an effective defence.

Amnesty International also urges the Government of Uttarkhand to order an impartial investigation into the circumstances under which Prashant Rahi was arrested and the allegations of torture and cruel, inhuman and degrading treatment during his detention.

Background

The CPI (Maoist) and its various wings remain banned under Section 13(1) (B) of the UAPA which was amended in 2004 to include sections from the Prevention of Terrorist Activities Act (POTA), 2002. The POTA was repealed in 2004 following widespread criticism of abuse and human rights violations. However, the relevant sections of the POTA now incorporated in the UAPA have not been repealed.

Amnesty International has repeatedly pointed out that these sections constitute:

- violation of the principle of certainty in criminal law (including vague definition of membership and support to terrorist or unlawful organizations);
- absence of pre-trial safeguards (including insufficient safeguards on arrest, the risk of torture, obstacles to confidential communications with counsel);
- virtual impossibility of obtaining bail as there is no provision for remedy of appeal or review of detention; and
- undue restrictions on freedoms of expression and association guaranteed respectively by Articles 19 and 22 of the ICCPR.