

# 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.

### 1) TAKE ACTION

**Write a letter, send an email, call, fax or tweet:**

- 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.

**Contact these two officials by 12 April, 2018:**

Chief Minister of Odisha  
Naveen Patnaik  
Odisha Secretariat  
3rd Floor  
Bhubaneswar-751001  
Odisha, India  
Phone: +91 674 2530700  
Email: [cmodisha@nic.in](mailto:cmodisha@nic.in)  
Salutation: Dear Chief Minister

Ambassador H.E. Navtej Sarna, Embassy of India  
2107 Massachusetts Ave. NW, Washington DC 20008  
Phone: 1 202 939 7000 | Fax: 1 202 265 4351  
Email: [amb.washington@mea.gov.in](mailto:amb.washington@mea.gov.in)  
Twitter: [@NavtejSarna](https://twitter.com/NavtejSarna)  
Facebook: <https://goo.gl/FxcMH7>  
Salutation: Dear Ambassador

### 2) LET US KNOW YOU TOOK ACTION

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INTERNATIONAL**



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### 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.

Name: Upendra Nayak  
Gender: M

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