

## UPR SUBMISSION

### **Subject:**

UPR submission on omission and commission of Article 8 of ICCPR, Article 7 of ICESCR, Article 23(1) of the Constitution of India and the Bonded Labour System (Abolition) Act, 1976.

### **Title of the NGO contributing for UPR:**

Odisha Goti Mukti Andolan  
(Movement for Abolition of Bonded Labour System)  
L-232, GGP Colony, Rasulgarh, Bhubaneswar-751025,  
Odisha, India

### **Kind of contribution:** Individual

### **Name of the reviewed country:** India

### **Contact person:**

Baghambar Pattanaik,  
Human Rights Activist & Adviser,  
Odisha Goti Mukti Andolan,  
L-232, GGP Colony, Rasulgarh, Bhubaneswar-751025  
Odisha, India (Mobile No.)-9238570991

### **Details of the organization:**

The organization 'Odisha Goti Mukti Andolan' is a people's movement struggling for elimination of hereditary/caste based bondage in India on peaceful way. It was established in the year 2001. Due to continuous struggle of the organization in various forums for the last 11 years, the Government of Odisha, as per direction of National Human Rights Commission has accepted 'Bartan' to be a manifestation of bonded labour system under the Bonded Labour System (Abolition) Act, 1976 and accordingly order has been issued to release 17 persons from hereditary/ caste based bonded labour system very recently. The Odisha High Court has also directed for release of 2 persons from rendering customary service. Now the door has been opened for release of millions of persons from hereditary and caste based bondage prevalent in India. Recognizing such contribution, the National Human Rights Commission, New Delhi has reorganized NHRC Core Group of NGOs taking Baghambar Pattanaik, human rights activist and adviser, Odisha Goti Mukti Andolan as a member.

### **Provisions of International Instruments:**

ICCPR Article 8(2) reads as follows,

*“No one shall be held in servitude.”*

ICCPR Article 8 (3) (a) reads as follows,

*“No one shall be required to perform forced or compulsory labour.”*

ICESCR Article 7 reads as follows,

*“The State Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular”*

Article 7 (ii) reads as follows,

*“A decent living for themselves and their families in accordance with the provisions of the present covenant.”*

### **Provisions of the Constitution of India:**

Article 23(1) of the Constitution of India reads as follows,

*“Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”*

### **Provisions of the Bonded Labour System (Abolition) Act, 1976:**

The Bonded Labour System (Abolition) Act has been enacted by Indian Parliament on 9<sup>th</sup> February, 1976 for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people.

Section 2 (g) of the Bonded Labour System (Abolition) Act, 1976 reads as follows,

*“ bonded labour system’ means the system of forced, or partly forced, labour under which a debtor enters, or has or is presumed to have, entered, into an agreement with the creditor to the effect that*

*’*  
*(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or*

*(ii) in pursuance of any customary or social obligation, or*

- (iii) *in pursuance of any obligation devolving on him by succession, or*
- (iv) *for any economic consideration received by him or by any of his lineal ascendants or descendants, or*
- (v) *by reason of his birth in any particular caste or community.*

*he would-*

- (1) *render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for benefit of the creditor, for an unspecified period, either without wages or for nominal wages, or*
- (2) *xxxxxxx, or*
- (3) *xxxxxxx, or*
- (4) *xxxxxx “*

**Omission and commission of the Article 8 of ICCPR, Article 7 of ICESCR, Article 23(1) of the Constitution of India and the Bonded Labour System (Abolition) Act, 1976.**

(1) The Bonded Labour System (Abolition) Act, 1976 addresses not only to debt bondage but also to hereditary and caste-based bondage. In villages all over India barbers and washer men render customary service like cutting hair, shaving, washing feet, lifting leaf-plates with leftover, washing clothes etc to a number of upper caste families in lieu of an advance in kind i.e. 15 kgs of paddy per head for each married male customarily paid once a year. They render service through out the year without any wage from generation to generation. When anyone refuses to render any such service which is beyond the dignity of the individual, he is socially and economically boycotted, physically assaulted and otherwise harassed. Another barber is trafficked from far-off place and employed on the same custom on advance. The National Human Rights Commission considered this matter and came to the conclusion that such practice is a manifestation of bonded labour system. The order dt.15.7.2008 of National Human Rights Commission is annexed herewith and marked as Annexure-I

(2) The Chief Secretary, Odisha has notified vide No.3795/CS (PR) dt.17.2.2011 that .anybody compelling any barber/washer man to render traditional service shall be punishable under Bonded Labour System (Abolition) Act, 1976. But except Odisha, no other State has issued such notification though in almost all states in villages such traditional service of barbers and washer men continues. No step has also been taken even if in Odisha to identify bonded labour on the basis of notification of the Chief Secretary, Odisha. The copy of the notification No.3795 dt.17.2.2011 is annexed herewith and marked as Annexure-II

(3) After a long struggle from the year 2002, 17 families of bonded labourers belonging to barber community are going to be released from bonded labour system only on the direction of National Human Rights Commission, New Delhi. It will be the first case in the release of caste-based bondage in India. The Letter No.1684 dt.30.10.2011 of the Collector, Puri for issuance of release certificate in favour of 17 nos. of bonded labourers in N.H.R.C. Case No.13/18/12 of 2006-07 is annexed herewith and marked as Annexure-III

(4) The Collector, Puri has been directed by the Odisha High Court in the W.P.(C) No.12638/2011 dt.30.10.2011 to conduct inquiry to release 2 barbers from rendering

customary service. This is a Landmark Judgment having legal sanctity to the struggle against customary and caste-based service. The copy of the order of Odisha High Court is annexed herewith and marked as Annexure-IV.

(5) There are approximately 10 million bonded labourers all over India who are to be identified, released and rehabilitated. A petition to that effect has been filed before the President of India for taking up a special survey on bonded labour which has been forwarded to the Government of India, Ministry of Labour vide President Secretariat No. PI -C/ 9913 dt.12.03.2010. It has been subsequently received by the Ministry of Labour vide Diary

No.535/10 and communicated to the sender vide NO.Z-16025/9/2010-SS.II (PG) Dated 20.04.10. But ultimately no step has been taken for survey of bonded labour. The petition filed before the President of India and the letter regarding receipt of the petition as well as the reply given by the Government of India, Ministry of labour on the petition Vide No. M-13011/4/2010-BL dt.19/07/2010 is annexed herewith and marked as Annexure-V.

(6) Civil society member communicated to the UN Centre for Human Rights, UN Office at Geneva, 1211 Geneva 10, Switzerland on dt.19/06/2010 relating to a consistent pattern of violations affecting a large number of people over a protracted period of time intended for handling under 1503 procedure. It was communicated to take up the matter with Government of India for conducting survey for identification, release and rehabilitation of approximately 10 million bonded labourers all over India. The copy of the communicated dt.19/06/2010 is annexed herewith and marked as Annexure-VI.

(7) A news-item on the captioned subject 'Bartans' will not wash guests' feet anymore – Practice Of Bonded Labour All Set To End has been published in the daily news paper "Times of India" on 23.11.2011. The news-item further reads that the state government formally declares at least 17 persons freed from 'hereditary bonded labour,' a social justice possibly never done before in the country. The copy of the news-item published on 23-11-2011 is annexed herewith and marked as Annexure-VII

## ANNEXURE-1

Speed Post

Assistant Registrar(LAW)  
Tel. No.: 011-2338 5368  
Fax No.: 011-2338 6521  
Telegraphic Add.: "HUMANRIGHTS"  
Home Page : <http://nhrc.nic.in>

Case No. 13/18/2006-2007/FC/FC  
NATIONAL HUMAN RIGHTS COMMISSION  
( LAW DIVISION )  
\* \* \*  
FARIDKOT HOUSE  
COPERNICUS MARG, NEW DELHI - 110 001

To  
THE DISTRICT COLLECTOR  
PURI, ORISSA

Dated 22/08/2008

2618108

Sub : Complaint / Intimation from  
BAGHAMBAR PATTANAİK  
ODISHA GOTIMUKTI ANDOLAN BANK COLONY  
SRI RAM NAGAR, TALABANIA,  
PURI, ORISSA.

Sir/Madam,

With reference to your letter No. ~~Case No. 21/2007/FC~~, I am directed to say that the matter was considered by the Commission on 15/07/2008 and the Commission has directed as follows.

*Shri J.M. Mohanti, learned counsel for the Government of Orissa, files copies of 17 orders passed by District Magistrate and Collector, Puri on 7th January, 2008. The District Magistrate concluded that none of the 17 persons identified as bonded labourers by District Bonded Labour Vigilance Committee, Puri fell in the category of bonded labour as defined in Section 2 of the Bonded Labour System (Abolition) Act, 1976. Preliminary inquiry in the 17 cases was conducted by BDO, Brahmagiri and Project Director, DRDA, Puri and finally an open inquiry was held by the Collector on 24th August, 2007. On appraisal of evidence produced at the inquiry the District Collector held as follows:-*

*"From the deposition it reveals that he neither has taken any 'bartan' from anybody nor has entered or presumed to have entered into any agreement with the creditor".*

*According to complainant Baghambar Pattanaik, the aforementioned 17 persons and many others were victims of the pernicious custom of 'bartan' prevailing in District Puri. Under the custom of 'bartan' the upper caste families give an advance of about 15 Kg. of paddy for each married male at a particular time of the year and in consideration of such advance the sewak has to render service to all members of the family, including unmarried males, throughout the year without any remuneration. Not only this, the sewak is also required to wash the feet of the guests visiting the family and he has to perform many other menial jobs on the occasion of death and marriage in the family. In addition, he is also required to perform community services like spreading banana leaves at the time of community feasts and lifting the leaves with left-overs.*

*Collector, Puri informed the Commission vide communication dated 30th April, 2007 that the District Administration had sought clarification from the State Government and "the government in Panchayati Raj Department vide their letter No. 3364 dated 8.4.2004 clarified that the barbers and washer-men working in rural areas cannot be identified as bonded labour citing the guidelines of Revenue Department's letter No. 2525 dated 12.1.1981".*

The term 'bonded labour system' has been defined in Section 2 (g) of Bonded Labour System Abolition Act as follows:-

"Bonded labour system" means the system of forced, or partly forced labour under which a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that,-

(i).....

(ii).....

(iii).....

(iv).....

(v) by reason of his birth in any particular caste or community, he would -

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2).....

(3).....

(4)....."

Under the custom of 'bartan' the upper caste families give an advance of six gaunis (approx. 15 Kg of paddy) at a particular time of the year to the sewak who is a person born in the family of barbers. In consideration of such advance the sewak (barber) renders service by way of cutting hair throughout the year without any remuneration. Thus, the system of bartan envisages giving and taking of advance and thereby creates the relationship of debtor and creditor. The person taking the advance is called sewak by reason of his birth in a particular caste or community and he is forced to render service for the whole year in consideration of the advance. This being the factual position, there can be no doubt that the practice of bartan is a manifestation of the bonded labour system as defined in Section 2 (g) of the Act. Therefore, the stand taken by the Panchayati Raj Department in its letter No. 3364 dated 8.4.2004 is obviously erroneous.

The system of bonded labour is a relic of the feudal society. The Constitution of India, however, promises to build an egalitarian socio-economic order in which the head is held high and the mind is free from fear. Any custom which forces a person to wash the feet of another or to lift the left-over food after community feast is an affront to human dignity and such practice must be abandoned. The State Government has a constitutional duty to abolish such custom. It must also ensure that barbers and washer-men in the villages receive appropriate remuneration for services rendered by them, by notifying minimum wages for them.

If the pledge of egalitarian society made in the Constitution of India is to be redeemed, the public servants entrusted with the task of implementing social welfare legislation shall have to imbibe the values of justice, liberty, equality and fraternity enshrined in the Preamble of the Constitution. Unfortunately, in the present case the District Magistrate and Collector, Puri appears to have turned a blind eye to the ignominy and ridicule heaped on the sewaks by the upper caste families in the District. Since all the 17 orders passed by the Collector on 7th January, 2008 run on the same logic, we may extract relevant parts from one or two orders by way of sample.

In the case of Panchanan Barik, the Collector analyses the evidence in the following manner:-

"Shri Panchanan Barik had made complaint that last four years back he was serving villagers and was cutting hairs by taking Bartan. Further he said that he was socially boycotted by the villagers on the issue of feet washing and for which one Kalu Parida and Lokanath Pradhan of his village are not giving grocery items from their shop. It is an individual dispute with Kalu Parida and Loknath Pradhan. So, non-giving of grocery cannot be presumed that he is socially boycotted from the village".

In the case of Babula Barik the appraisal of evidence is made thus:-

"Further it is revealed from the evidence of Smt. Pramila Barik that four years back her husband and husband's brother were asked to wash the feet. When denied they were socially boycotted. Further it is revealed from the evidence of Babula Barik that he rendered service like hair cutting in Kalikabadi village on his own will. He is getting paddy or cash as bartan from the people of Kalikabadi".

The two victims told the Collector that they had to face social boycott because they had refused to wash feet. The shop-keepers in the village would not sell grocery to them and yet the Collector concluded that there was no element of coercion and they were not bonded labourers. He reasoned that the non-giving of grocery was an individual dispute. The logic is rather strange. It is totally incompatible with the spirit of Bonded Labour System (Abolition) Act which seeks to emancipate labourers from bondage.

On perusal of the 17 orders which were passed by District Collector, Puri on 7th January, 2008, the Commission is of the considered opinion that the Collector neither appreciated the evidence in proper perspective nor cared to give effect to the provisions of Bonded Labour System Abolition Act. A fresh inquiry in the matter is not only necessary but imperative.

The Commission directs District Collector, Puri to hold a fresh inquiry in all the 17 cases which were brought to his notice by the District Bonded Labour Vigilance Committee. Such other cases which may be brought to his notice shall also be inquired into by him and thereafter he will pass speaking order in all the cases keeping the provisions of Bonded Labour System Abolition Act in mind. Such persons who are identified as bonded labourers after conclusion of inquiry shall be given release certificates and appropriate steps shall be taken for their rehabilitation by giving them financial assistance for opening saloons or laundry etc.

The inquiry shall be expeditiously concluded and action taken report shall be submitted to the Commission within 12 weeks.

2. It is therefore, requested that the ~~additional/comple~~ report as directed by the Commission in the matter be sent latest by 21/11/2008, for further consideration by the Commission.

copy to:

✓ Shri Baghambar Pattanaik  
Odisha Gotimukti Andolan  
Bank Colony  
Sri Ram Nagar, Talabania  
PURI, ORISSA  
Pin - 752002.

Yours faithfully,

  
ASSISTANT REGISTRAR (LAW)

## ANNEXURE-II

**B. K. Patnaik**  
Chief Secretary, Orissa



Phone : (+91 674) 253 4300/6700  
Fax : (+91 674) 253 6660  
Email : csori@nic.in

No.17-STGR-22-4004/11-3795/CS(PR)  
Bhubaneswar, dated the 17 February, 2011

### NOTIFICATION

#### **Sub: Circular on Bonded Labour System (Abolition) Act, 1976.**

Since time immemorial communities like barbers and washermen have been rendering certain kinds of services to other people in a customary and traditional manner. It is seen that some of these customs and traditions are exploitative and beneath the dignity of human beings. Some have gone to the extent of forcing the barbers to wash the feet of guests during social ceremonies like marriage etc. The barbers are sometimes forced to lift leaf plates containing leftovers at the end of ceremonial feasts. It is complained that for all such traditional/customary services a barber is paid a pittance like 15 kg paddy for the whole year which is far below the minimum wage for any kind of labour notified by the Government.

Hon'ble National Human Rights Commission is of the view that

**"The practice of extracting work from the barbers and washermen by the upper caste families by paying a pittance like 15 kg of paddy for the whole year is clearly 'Bonded Labour System' and the State should take effective steps to stop this practice".**

The State Government in Panchayati Raj Department impressed upon the Collectors vide letter No.32127 Dated 06.11.2010 to instruct the field functionaries to ensure that such an evil practice is discouraged at all costs by taking stringent action against the culprits under the Bonded Labour System (Abolition) Act, 1976.

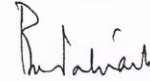
At the camp sittings of NHRC held in Bhubaneswar on 18<sup>th</sup> January, 2011 the Hon'ble Chairperson, NHRC advised the State Government to issue orders abolishing the 'Bartan' system.

The State Government have been satisfied that such 'Bartan' and such 'labour' are coming within the definitions of 'bonded debt' and 'bonded labour' as defined under Section 2(d) and 2(e) respectively of the Bonded Labour System (Abolition) Act, 1976. Besides, the State Government are convinced that the entire Bartan system, i.e., payment of Bartan (15 kg) for the whole year and receiving traditional/customary services is clearly a bonded labour system as defined under Section 2(g) of the Bonded Labour System (Abolition) Act, 1976.



It is hereby notified that such practice of offering "Bartan" to get the traditional/customary services of barbers and washermen should be abolished. Anybody compelling any barber/washer man to render traditional service shall be punishable under Bonded Labour System (Abolition) Act, 1976.

By order of Governor



**CHIEF SECRETARY**

CC: for information and necessary action to

- 1) Principal Secretary, Home Department
- 2) Principal Secretary, Labour & Employment Deptt.
- 3) Commissioner-cum-Secretary, Revenue & Disaster Management Deptt.
- 4) All Revenue Divisional Commissioners
- 5) Deputy Registrar (Law), NHRC, Faridkot House, Copernicus Marg, New Delhi-110001
- 6) All Collectors
- 7) All Project Directors, DRDAs

**ANNEXURE-III**

**DISTRICT OFFICE, PURI  
JUDICIAL SECTION**

Letter No. 1654 /Judl., dated 2-10-2011

To

**The Sub-Collector and Sub-Divisional Magistrate, Puri.**

**Sub:** Issuance of release certificate in favour of 17 nos. of bonded labourers in N.H.R.C. Case No. 13/18/12 of 2006-07.

**Ref:-** This Office letter No.1650/Judl. Dt.20.09.2011.

**Sir,**

Apropos the subject and letter cited above and enclosing letter No.18802 dt. 17.9.2011 of Govt. in Panchayati Raj Department, I am to say that necessary and immediate action may be taken at your end to issue release certificate to 17 bonded labourers as per the list enclosed.

The National Human Rights Commission vide order dated 28.9.2010 passed in NHRC Case No.13/18/12 of 2006-07,directed the Chief Secretary, Orissa, Bhubaneswar to declare these 17 cases of barber community of Brahamgiri Block as Bonded labourers. Relying upon the said direction Govt. in Panchayati Raj Depdtt,Orissa,Bhubaneswar vide the letter cited above,issued direction to release them with immediate effect.

You are therefore requested to collect the age,and photograph of 17 persons through Tahasildar,Brahamgri and after opening a case record on the matter issue release certificate as quick as possible following to the provisions of bonded labour system(Abolition) Act, 1976 and report compliance.

This may please be treated as extremely urgent.

Yours faithfully,

  
Sub-Collector, Puri

**Enclosures:**

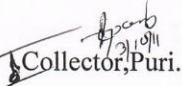
1. List of 17 persons of barber community to be declared as Bonded labourers
- ✓ 2. Copy of order dated 28.9.2010 of Hon'ble NHRC passed in case No.13/18/12 of 2006-07.
3. Copy of letter No.18802 dt.17.9.2011 of Govt. in Panchayati Raj Deptt.
4. Copy of letter No.29204/R&DM dt. 8.7.2011 issued by Revenue & DM Deptt.
- ✓ 5. Copy of Notification issued by Chief Secretary, Orissa dated 7.2.2011.

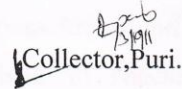
Memo No. 1685 /Judl. Date 2.10.2011

Copy forwarded to the Under Secretary to Govt., Panchayati Raj Department, Orissa, Bhubaneswar for information and necessary action with reference to his letter No.18802 dt. 17.9.2011.

Memo No. 1686 /Judl. Date 2.10.2011 ✓

Copy forwarded to Sri Baghambar Pattnaik, Human Rights Activist, GGP Colony, Rasulgarh, Bhubaneswar for information and necessary action.

  
Collector, Puri.

  
Collector, Puri.

ANNEXURE-IV

FIVE RUPEES

एक रुपया ONE RUPEE

IN THE HIGH COURT OF ORISSA, CUTTACK

5/5

WRIT PETITION (CIVIL)

W.P. (C) No. 12698 /2011

Code No 219900

**IN THE MATTER OF:** PUBLIC INTEREST LITIGATION

AND

**IN THE MATTER OF:**

A writ petition under Article 226 & 227 of the Constitution of India for challenging the negligence in duties of the Opposite Parties to interdict the violation of fundamental right of two bonded labour families belonging to barber caste and apathy of the State from its constitutional obligation to prevent such violation.

AND

**IN THE MATTER OF:**

A writ petition praying for issuance of a writ of mandamus or any other writ of like nature and direction(s) or order(s) to Opposite Parties for passing executive orders for conducting inquiry as per provisions, release of bonded laborers,

Baghambor Pattanah  
Adviser  
Odisha Goti Mukti Andolan

5/5



Cultural Rights (ICESCR), ILO Abolition of Forced Labour  
Convention (No105)

AND

IN THE MATTER OF:

1. Odisha Goti Mukti Andolan  
Represented through its adviser  
Baghambar Pattanaik, aged about 62 years  
S/o Late Sanatan Pattanaik  
L-232, GGP Colony, Rasulgarh,  
P.S.- Mancheswar  
Bhubaneswar, Dist.-Khurdha
2. Laxmidhar Barik, aged about 58 years  
S/o Late Bhramar Barik  
Village- Belapada, Post- Muninda  
P.S.-Deiang, Dist.-Puri
3. Keshab Barik , aged about 65 years  
S/o Late Aparti Barik  
Village- Pattanaiksahi,  
Post-Biraharekrishnapur  
P.S.-Puri Sadar, Dist- Puri

----- Petitioners

Verses



*(Handwritten signature)*

Baghambar Pattanaik  
Adviser  
Odisha Goti Mukti Andolan

4

1. State of Orissa represented through its  
Principal Secretary,  
Home Department  
Secretariat Building,  
Bhubaneswar, District- Khurdha
2. The District Magistrate and Collector, Puri,  
At/PO-Puri,  
Dist- Puri
3. The Superintendent of Police, Puri  
At/P.O.- Puri  
Dist.- Puri
4. Amiya Parada, aged about 45 yrs  
S/o Late Madan Parida
5. Narendra Parida aged about 50 yrs  
S/o Late Damodar Parida  
Serial No.4 to 5 is of Village- Belapada, Post- Muninda,  
P.S.- Delang, Dist.-Puri
6. Bhaskar Patra, aged about 40 yrs  
S/o Late Uchhab Patra
7. Prafulla Patra, aged about 42 yrs  
S/o Lingaraj Patra
8. Nakul Patra, aged about 70 yrs  
S/o Late Govind Patra  
Serial No.6 to 8 is of Village- Pattanaiksahi  
Post- Biraharekrishnapur, P.S.- Puri Sadar, Dist.-Puri

.....Opp. Parties



*[Handwritten signature]*

*Baghambor Patanara*  
Adviser  
Odisha Gati Mukti Andolan

[O. H. C.-98]

W.P.(C) NO. 12638 of 2011

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
7	31.10.2011	<p>Heard the petitioners represented through Mr. Baghambar Pattanaik, adviser, Odisha Goti Mukti Andolan, appearing in person who is also representing the Odisha Goti Mukti Andolan (petitioner no.1), a social action group espousing for expulsion of bonded labour system in the State of Orissa. The petitioners 2 and 3 are barbers by caste who render service in their villages as per custom hereditarily in exchange of 'Bartan' amounting to nearly 15 Kgs. of paddy per head for each married male member of the families of Opposite Parties 4 to 8. Since the petitioners 2 and 3 do not render service breaking the custom, they are ostracized, physically assaulted and threatened to be killed for which they have been forced to leave their villages. Placing reliance upon the Government Notification No. 3795 dated 17.2.2011, the petitioner no.1 approached the opposite party no.2 to release the victims from bonded labour system. The petitioner no.1 also approached the opposite party no.3 to take preventive measures against the trouble mongers as per circular No. 6156 dated 24.11.2010 of the Addl. D.G. of Police, HRPC, Orissa, Cuttack. But the opposite parties 2 &amp; 3 turned a deaf ear to such request. Therefore, the petitioners have approached this Court seeking the relief sought for.</p> <p>2. Counter-affidavit, rejoinder to the counter-affidavit and additional affidavit filed in the matter, need not be adverted in this order as the prayer of the</p>	



No. of Order	Date of Order	ORDER WITH SIGNATURE <sup>2</sup>	Office note as to action (if any), taken on Order
		<p>petitioners in the writ petition is to conduct enquiry under the notification issued by opposite party no.2 to release the petitioners 2 &amp; 3 from the bondage of rendering customary service of the villagers.</p> <p><b>3.</b> The fact is that since the petitioners 2 &amp; 3 are not performing their customary service to the villagers, particularly to opposite parties 4 to 8, these opposite parties not only physically assaulted and tortured the petitioners 2 &amp; 3 along with their family members, they also forced these petitioners to leave their village, thereby they have been permanently displaced from their residence.</p> <p><b>4.</b> Therefore, it would be just and proper for this Court to direct O.P. No.2 to conduct enquiry on the petition filed by the petitioners or take this writ petition as the petition and consider the claim of the petitioners to release the petitioners 2 and 3 from rendering customary service to the villagers upon hearing the representative of the State and the petitioner no.1 on behalf of petitioners 2 and 3. The matter shall be disposed of within two weeks from the date of receipt of this order. During the pendency of this enquiry, the petitioners 2 and 3 shall be allowed to reside in their respective houses along with their family members in their respective villages in Belapada and Pattanaiksahi under Delang and Puri Sadar P.S. in the district of Puri. We further direct O.P. No.3 to provide police protection</p>	



*[Handwritten signature]*



[O. H. C.-98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any), taken on Order
cutta		<p style="text-align: center;">3</p> <p>for the peaceful living of the petitioners 2 and 3 in their respective villages. Mr. Mohapatra, learned Government Advocate is directed to communicate this order to both O.Ps.2 and 3 to facilitate them to comply with our order.</p> <p>With the aforesaid observation and direction, this writ petition is disposed of.</p> <p>A copy of the order be handed over to Mr. Mohapatra, learned Government Advocate for compliance.</p> <p>Urgent certified copy of this order be granted on proper application.</p>	<p>Sd- V. Gopala Gouda: C.J.</p> <p>Sd- B. N. Mahapatra: J.</p>



Compld by  
Mag.  
8-11-11

Date of Application 5/7/11  
 Date of Notification 20 / 11  
 Date of Supply 27/11 / 11  
 Date of Ready 27/11 / 11  
 Date of Delivery 9/11

@ - 77982/11

MEMORANDUM OF COSTS	
	Rs. P.
Application	5 50
Searching	— —
Extra fee of urgency	4 00
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*(Signature) 11/11/2011*

ANNEXURE-V

# ODISHA GOTIMUKTI ANDOLAN

(An Organisation for Abolition of Bonded Labour System)

L-232, GGP Colony, Rasulgarh, Bhubaneswar-751025, India

*Baghambar Pattanaiik*

Human Rights Activist & Adviser  
Mobile - 9238570993

*Krushna Kumar Das*

President  
Mobile - 9437318369

Ref No. ....

Date: .....

To

H.E. The President of India  
Rastropati Bhawan  
New Delhi - 110004

**Sub: Abolition of Bonded Labour System.**

Esteemed Madam,

We, the undersigned are groups of persons having direct or second hand knowledge of the violation of the Article 23 of the Constitution of India. We feel constrained to inform you that our country India is not fulfilling its obligations under International Covenant on Civil and Political Rights to release a large number of people from bonded labour system.

As per custom prevalent in rural areas all over India the upper caste people give an advance in kinds of food-grains for each married male once or twice a year and in consideration of such advance the recipient Sewak barber or washer man has to render service to all members of the family including unmarried males throughout the year without any remuneration. Not only this, the Sewak barber is also required to wash the feet of the guests visiting the family and he has to perform many other menial jobs on the occasion of death and marriage in the family.

When a barber declines to render any such service which is beyond the dignity of the individual, he is assaulted, socially and economically boycotted and other wise harassed. Another barber is internally trafficked and employed under the same custom. Only the Hindu upper caste people are benefited from which Scheduled Castes and Scheduled Tribes are excluded. Therefore such pernicious custom not only perpetuates bonded labour system but also perpetuates untouchability, human trafficking and caste atrocities.

The National Human Rights Commission considered this matter on date 15/07/2008 and observed that such a practice is a manifestation of the Bonded Labour System as defined in Section 2 (g) of the Bonded Labour System Abolition Act, 1976. There are approximately 10 million bonded laborers all over India who are to be identified released and rehabilitated.

Contd.....P/2

# ODISHA GOTIMUKTI ANDOLAN

(An Organisation for Abolition of Bonded Labour System)

L-232, GGP Colony, Rasulgarh, Bhubaneswar-751025, India

Baghambar Pattanaik

Human Rights Activist & Adviser  
Mobile - 9238570993

Krushna Kumar Das

President  
Mobile - 9437318369

Ref No. ....

Date: .....

It is therefore requested to kindly ask the Government of India, Ministry of Labour to take the following steps for abolition of bonded labour system in India.

- i. Revise the Centrally Sponsored Scheme to include the elements (1) Survey of bonded laborers (2) Awareness generation activities (3) Evaluatory studies (4) Rehabilitation grant.
- ii. Issue direction to Collectors/SDMs to strictly follow the observation of the Hon'ble Supreme Court in a case reported in AIR 1984 SC 1099 at Para 4 in which the representative of the informant social action group is to be accompanied for enquiry of bonded laborers by the local administrative officer and a copy of the report must be given at once.
- iii. Remind the Chief Secretaries of all States/UTs to strictly adhere to the directions to Collectors/SDMs and to all those connected with the work of identification, release and rehabilitation of bonded laborers in their respective States/UTs mentioned in D.O. No.H-11016/14/2001-BL Dt.30.7.2002 of the Government of India, Ministry of Labour.
- iv. Require the Chief Secretaries of all States/UTs to take up a special survey on identification, release and rehabilitation of bonded laborers basing upon the direction of the National Human Rights Commission given on dated 15.7.2008.

Saswati Swetkna  
Programme officer  
National Centre for Advocacy Studies  
K-18, 2nd Floor, Green Park Main  
New Delhi - 110016  
09971220062

Yours faithfully  
Baghambar Pattanaik  
Human Rights Activist-  
Adviser  
Odisha Goti Mukti Andolan  
L-232, GGP Colony, Rasulgarh  
Bhubaneswar-751025



**PRESIDENT'S SECRETARIAT  
(PUBLIC SECTION)  
RASHTRAPATI BHAVAN  
NEW DELHI - 110004**

**Serial Number : P1-C /9913**

**Dated : 12-Mar-2010**

Enclosed please find for appropriate attention a petition dated nil  
received from SHRI BAGHAAMBAR PATTANAİK, L-232, GGP COLONY RASULGARH  
BHUBANESWAR, 751025, Orissa

Action taken in the matter may please be communicated to the petitioner directly under  
intimation to this Secretariat.


**(K.C. Jayarajan)  
Addl. Comptroller**

To,  
**SECRETARY TO THE GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT  
SHRAM SHAKTI BHAWAN, RAFI MARG  
NEW DELHI**

Copy to:

**SHRI BAGHAAMBAR PATTANAİK  
L-232, GGP COLONY RASULGARH  
BHUBANESWAR  
751025  
Orissa**

Requested to liaise with the  
aforementioned addressee directly  
for further information in the matter

  
**(K.C. Jayarajan)  
Addl. Comptroller**

**BOOK POST**

**ON INDIA GOVERNMENT SERVICE**

**TO**  
**SHRI BAGHAAMBAR PATTANAİK  
L-232, GGP COLONY RASULGARH  
BHUBANESWAR  
751025  
Orissa**

**Serial Number :**  
**P1-C /9913**

**FROM:**  
**President's Secretariat  
Rashtrapati Bhavan  
NEW DELHI - 110 004.**

*Received on  
4-4-10  
JK*

No. Z- 16025/9/2010-SS.II (PG)  
Govt. of India  
Ministry of Labour and Employment  
(Public Grievances Cell)

Shram Shakti Bhawan, Rafi Marg,  
New Delhi. Dated 20.04.10

NOTE

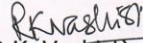
Subject: Public grievances/ representations received from individuals/associations/ unions etc.

\*\*\*\*

The undersigned is directed to forward the following letter(s)/ representation(s), **in original**, received from President's Sectt. on the subject mentioned above for appropriate action as the matter falls under your jurisdiction.

Dy. No.	President sectt. No.	Name and place of the petitioner ( Sh./ Smt. Ms.)	Date of petition
535/10	P1-C/9913 12/03/10	Baghaambar Pattanaik, L-232, GGP Colony Rasulgarh, Bhubaneswar, Orissa.	nil
536/10	P1-A/11803 20/02/10	N Sikhamani Moses, Po. – Akkagaripet Pellakur S.O, Nellore. A.P.	25/1/10
537/10	P1-A/16744 12/03/10	K.K.Ajmal, Bagore, Bhilwara, Rajasthan.	16/1/10

2 You are requested to intimate action taken **to petitioner directly** under intimation to President's Secretariat and this Ministry.

  
(R.K. Vashist)  
Section Officer

D.G. (L.W.), Ministry of Labour & Employment, New Delhi.

Copy to:-

1. Sh. Baghaambar Pattanaik, L-232, GGP Colony Rasulgarh, Bhubaneswar, Orissa., for information. You are requested to contact D.G. (L.W.), Ministry of Labour & Employment, N. D in this regard.
2. Sh. N Sikhamani Moses, Po. – Akkagaripet Pellakur S.O, Nellore. A.P., for information. You are requested to contact D.G. (L.W.), Ministry of Labour & Employment, N. D in this regard.
- 3 President Sectt. w.r.t. their letter number as mentioned above for information.

SPEED POST



No. M-13011/4/2010-BL

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR AND EMPLOYMENT

Jaisalmer House, Mansingh Road  
NEW DELHI-110011, Dated the 19<sup>th</sup> July, 2010

To,

Shri Baghaambar Pattanaik,  
Human Rights Activist Adviser,  
Odisha Gotimukti Andolan,  
L-232, GGP Colony, rasulgarh,  
Bhubaneswar -751025.

**Subject: - Abolition of Bonded Labour System.**

Sir,

I am directed to refer to your letter dated Nil, addressed to the President of India on the above mentioned subject and to say that the Bonded Labour System has been abolished by law throughout the country with effect from October 25, 1975 under the Bonded Labour System (Abolition) Ordinance which was replaced by the Bonded Labour System (Abolition) Act, 1976. The Act provides for the abolition of bonded labour. It freed unilaterally all the bonded labourers from bondage with simultaneous liquidation of their debts. It made the practice of bondage a cognizable offence punishable by law. The Act inter-alia stipulates full implementation of laws abolishing bonded labour which implies (1) identification; (2) release and rehabilitation; (3) action against offenders; (4) constitution and holding of regular meetings of the Vigilance Committees at the district and sub-divisional levels; (5) conferring of powers of Judicial Magistrates on Executive Magistrates under Section 21 of the Bonded Labour System (Abolition) Act, 1976; and (6) maintenance of registers etc. as prescribed under Rule 7 of the Bonded Labour System (Abolition) Rules, 1976. Under the Bonded Labour System (Abolition) Act, 1976 identification and release of bonded labourers and rehabilitation of freed bonded labourers is the direct responsibility of the State Governments concerned. Detailed guidelines have been issued to the State Governments for implementing the scheme.

received  
on 26/7/10  
JL


In order to assist the State Governments in their task of rehabilitation of released bonded labourers, the Government launched a Centrally Sponsored Scheme on 50-50 basis since May 1978 for rehabilitation of bonded labourers. The scheme has undergone a lot of qualitative changes from time to time and has been progressively liberalized. This scheme was modified in May 2000. Under the modified scheme, the rehabilitation assistance has been increased from Rs.10000/- to Rs.20000/- per bonded labourer. This expenditure is to be shared between the Central Government and the State Government on 50-50 basis. However, in case of North Eastern States, 100% Central assistance may be given if these States express their inability to

provide their share. The modified scheme also provides for financial assistance to the State Governments/UTs @ Rs.2 Lakhs per district for conducting survey of bonded labourers once in 3 years. Further, Rs.10 Lakhs for awareness generation activities and Rs.5 Lakhs for evaluation studies can be provided to the State Governments/UTs per year under this scheme.

Under the directions of the Prime Minister's Office a Special Group under the Chairpersonship of Secretary (L&E) had been constituted to review and monitor the implementation of the Bonded Labour System (Abolition) Act, 1976. The Group is holding region-wise meetings to impress upon the State Governments to effectively implement the Act. Till now the Group has held 19 meetings in different regions.

In pursuance of the Supreme Court order dated 11.11.1997, National Human Rights Commission (NHRC) has been involved in the overseeing/reviewing the implementation of Bonded Labour System (Abolition) Act, 1976 and the Centrally Sponsored Scheme for rehabilitation of bonded labour etc. Further NHRC has appointed Special Rapporteurs to make periodic visits to district and interact with local people. NGOs and Government functionaries to ascertain the position at the ground level. Their reports are studied by the NHRC and follow up action initiated. Sensitization Workshops are also being held at various places by the NHRC in collaboration with the Ministry of Labour and Employment for the frontline staff and district functionaries.

Yours faithfully,

  
(Ishwar Singh)  
Under Secretary to the Govt. of India  
Tele.: 23389222



## ANNEXURE-VI

To

The UN Centre for Human Rights  
UN Office at Geneva,  
1211 Geneva 10  
Switzerland.

BHUBANESWAR RMS <751001>  
fgn-AIR-RLA RA300687083IN  
Counter No:1, OP-Code:SAWAD  
To:UN CENTRE HUMAN RIGH,GENEVA,1211 UN OFFIC  
SWITZERLAND, PIN:1211 GENEVA 10



Wt:90grams,  
Amt:127.00 , 20/06/2010 , 13:17  
<<Have a nice day>>

Re: India: Communication relating to a consistent pattern of violations affecting a large number of people over a protracted period of time intended for handling under the 1503 procedure.

We, the undersigned are groups of persons having direct or second hand knowledge of the violation of the Article 8 of the International Covenant on Civil and Political Rights (ICCPR). We feel constrained to communicate that our country India is not fulfilling its obligations under the said Covenant in releasing a large number of people from bonded labour system.

As per custom prevalent in rural areas all over India the upper caste people give an advance in kinds of food-grains for each married male once or twice a year and in consideration of such advance, the recipient barber or washer man has to render service to all members of the family, including unmarried males, throughout the year without any remuneration. Not only this, the servitor barber is also required to wash the feet of the guests visiting the family and he has to perform many other menial jobs on the occasion of death and marriage in the family. In addition, he is also required to perform community services like spreading banana leaves at the time of community feasts and lifting the leaves with leftovers.

The matter was considered by the National Human Rights Commission, New Delhi on 15.07.08. The Commission observed this custom to be a manifestation of the bonded labour system as defined in Bonded Labour System Abolition Act passed by the Indian Parliament in the year 1976. The Commission also directed to identify, release and rehabilitate such persons keeping the provisions of the Bonded Labour System Abolition Act in mind.

Under the custom only the upper caste people are benefitted from which Scheduled Castes & Scheduled Tribes are excluded from generation to generation. When a servitor barber declines to render any customary service which is beyond the dignity of the individual, he is socially and economically boycotted and other wise harassed. Another barber is trafficked and employed under the same custom. So the custom not only perpetuates bonded labour but also perpetuates untouchability, internal human trafficking and caste atrocities.

There are approximately 10 million bonded laborers all over India who are to be identified, released and rehabilitated.

It is therefore requested to take up the matter with the Government of India for conducting surveys for identification, release and rehabilitation of bonded laborers throughout India on the basis of directions given by the Supreme Court of India as well as direction given by the National Human Rights Commission in its order dated 15.7.08.

19<sup>th</sup> June 2010

HENRI TIPHAGNE  
People's Watch  
6, Vallabai Road,  
Masturai 625 002, Tamilnadu

# 'Bartans' will not wash guests' feet anymore

## Practice Of Bonded Labour All Set To End

Rajaram Satapathy | TNN

**Bhubaneswar:** It is a matter of days before the state government formally declares at least 17 persons freed from 'hereditary bonded labour', a social justice possibly never done before in the country.

The Puri district administration is currently preparing 'certificates' to be handed over to these men of barber caste from Bramhagiri area, who were bound by the age-old practice of what is locally called 'Bartan'. The practice mandated them to wash the feet of guests during social functions in villages in lieu of about 15 kgs of paddy per annum. "The Bartan victims would be declared released through the certificates soon," said a senior district official.

As per the law, each person will be given Rs 1,000, along with the certificate and Rs 19,000 later by the government towards the cost of their rehabilitation.

"The rehabilitation cost is too meager and needs to be hiked. But what is more important is the social change this development is set to beckon, not only in Odisha but throughout the country, ending a retrograde practice that has been going on for generations," said 64-year-old Baghambar Pattanaik, human rights activist, who waged the battle for ending

### CAST CURSE

the practice a decade ago.

Pattanaik's battle began when in 2002 some barbers in Bramhagiri area refused to wash the feet of guests on a family occasion, sparking severe tension in the area. They were not only physically assaulted by the upper caste people but also ostracized in the village. Many of them, unable to bear the brunt of caste violence, had deserted their homes.

Pattanaik took up their case at every forum - the district administration, state

government, national human rights commission (NHRC) and high court. In 2005, while leading a protest rally on the issue, the state government arrested Pattanaik in Bhubaneswar and put him in jail for 110 days.

The breakthrough came in July 2008 when the NHRC declared 'Bartan' a manifestation of bonded labour and directed the state government to initiate steps for the release and rehabilitation of the victims. But the government started acting in the matter only after the NHRC visited the state in January. The official notification finally came on February 17 this year. "The government notification certainly removed the thick blanket of social injustice the backward class people continued to endure for generations. This was further followed up by the NHRC issuing the directive to the government to complete the formalities of release of the 17 people." Pattanaik smiled.

TIMES OF INDIA 23-11-2011