

THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

August 5, 2008

The Honorable Gregory G. Katsas
Assistant Attorney General
Civil Division
United States Department of Justice
Washington D.C. 20530

Re: *Mother Doe I v. Sheikh Hamdan bin Rashid Al Maktoum*, No. 07-cv-293 (E.D. Ky.)

Dear Mr. Katsas:

I am writing to ask that the Department of Justice submit a Statement of Interest on behalf of the United States seeking dismissal of the above-referenced suit. The plaintiffs in the subject suit allege that Sheikh Hamdan bin Rashid Al Maktoum, the Minister of Finance of the United Arab Emirates, enslaved children as camel jockeys in connection with his personal camel racing activities in the UAE. The suit is styled as a class action on behalf of all children who were trafficked and forced to work as camel jockeys, as well as their parents or guardians. The plaintiffs allege that Sheikh Hamdan Al Maktoum, along with other unnamed defendants, directly violated the law of nations by engaging in the slave trade and forced labor and that he aided and abetted and otherwise facilitated such violations. The plaintiffs also allege counts of battery, assault, emotional distress, wrongful death, and survival.

Over the last several years, the UAE has developed a two-pronged program to address and remedy the abuse of child camel jockeys, which the State Department has repeatedly condemned since first documenting the abuse of children as child camel jockeys in the UAE in its 1999 Country Report on Human Rights Practices. The 2005 Trafficking in Persons (TIP) Report described the situation as follows:

Some South Asian and East African boys were trafficked into the country and forced to work as camel jockeys. Some were sold by their parents to traffickers, and others were brought into the U.A.E. by their parents.... Personal observations by U.S. Government officials and video and photographic evidence indicated the continued use of trafficked children as camel jockeys. There were instances of child camel jockey victims who were reportedly starved to make them light, abused physically and sexually, denied education and health care, and subjected to harsh living and working conditions. Some boys as young as 6 months old were reportedly kidnapped or sold to traffickers and raised to become camel jockeys. Some were injured seriously during races and training sessions, and one child died after being trampled by the camel he was riding. Some victims trafficked for labor exploitation endured harsh living and working conditions and

were subjected to debt bondage, passport withholding, and physical and sexual abuse.

2005 TIP Report, *available at* <http://www.state.gov/g/tip/rls/tiprpt/2005/46616.htm>. The same report urged the UAE to take action on this issue: "The government should take immediate steps to rescue and care for the many foreign children trafficked to the U.A.E. as camel jockeys, repatriating them through responsible channels if appropriate." *Id.*

The UAE is taking these steps and more. In addition to banning the use of children as camel jockeys in 2005, the UAE has pursued a two-part remedial program to provide social services and compensation to benefit former child camel jockeys. Because these programs are described in detail in the defendant's filings, I will only note some key elements here.

The first phase of the UAE program has been conducted with UNICEF. Initiated in 2005 in conjunction with the ban, the UNICEF program identified and repatriated approximately 1,070 former child jockeys to their home countries and continues to provide additional services to them in their home communities. Broadly speaking, the community-based UNICEF programs seek to ensure that the children's reintegration into their families and communities is successful and lasting to prevent those children from being trafficked again. With initial UAE funding of \$2.7 million and subsequent additional funding of \$8 million, the UAE has given UNICEF roughly \$10.7 million for the repatriation and community-based programs, which are expected to last through April 2009.

The second claims component of the UAE program was launched in April 2007, when the UAE signed bilateral MOUs with Pakistan, Bangladesh, Sudan, and Mauritania that created claims facilities to compensate child camel jockeys for injuries that they suffered. The UAE is funding the payments, activities, and expenses of the claims facilities, which are run by administrative boards made up of three members, two from the home country and one from the UAE Ministry of the Interior. According to the MOUs, each administrative board operates under simplified and efficient procedural rules, employs relaxed standards of proof, and seeks to ensure prompt and direct payment to former child camel jockeys or their families. The claims facilities provide \$1,000 to each former child camel jockey for nonphysical injuries. For physical injuries, the children can receive up to \$5,000 by majority vote (in the case of Sudan by a unanimous vote) of the administrative board. In exceptional cases – including those where a child died or was permanently disabled – the amount can be increased by a unanimous vote of the board.

The State Department believes that the courts of the United States should defer to the UAE-funded remedial programs operating in Pakistan, Bangladesh, Sudan, and Mauritania for the benefit of those countries' nationals. Dismissal of the suit is necessary to implement and respect the policy decision taken by the governments of Pakistan, Bangladesh, Sudan, and Mauritania that the UAE-UNICEF program coupled with the claims facility should constitute the exclusive remedy for former child camel jockeys.

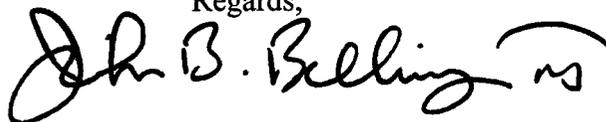
Deference to this policy decision is appropriate even where every facet of the policy choices taken by those governments may not align with the choices that the United States itself might have made.

The UAE remedial programs offer benefits that are unavailable through litigation in U.S. courts. Both the community-based social services and monetary compensation the claims facilities provide are available to all former child camel jockeys who worked in the UAE, without regard to who their particular employer was (and thus, without a need to identify a particular "defendant"). Moreover, the social services have already been made available and continue to be available, without any need to await formal adjudication. Further, the claims adjudication process that will make monetary compensation available is an expedited process designed to provide prompt payment. In contrast, the plaintiffs' ability to recover in U.S. courts at all is uncertain, and any recovery could be delayed by years of litigation.

Continuation of the lawsuit could also undercut the United States' efforts to encourage countries to develop programs to aid trafficking victims. The innovative remedial programs for child camel jockeys in the UAE and the home countries are the most comprehensive programs that have been developed to date. Other countries may be less likely to develop similar programs if they perceive a risk that lawsuits in the United States may undermine or disrespect their choices about the appropriate remedial mechanisms. This is especially true in this case as the UAE and the United States enjoy a close and cooperative relationship. Other countries with less strong ties may doubt the value of taking positive steps to combat trafficking in response to pressure and encouragement from the United States.

Working together with Pakistan, Bangladesh, Sudan, and Mauritania, the UAE has designed a program to provide services and compensation to former child camel jockeys that is unavailable elsewhere. It is through that program, and not through litigation in the courts of the United States, that injuries to children exploited as camel jockeys in the UAE should be remedied.

Regards,

A handwritten signature in black ink that reads "John B. Bellinger, III". The signature is written in a cursive style with a large, stylized "J" and "B".

John B. Bellinger, III