

***Statement of the Attorney
General***

***The Sultanate of Oman's
Experience in Combating
Trafficking in Persons
United Nations Global
Initiative to Fight Trafficking
in Persons (UN GIFT)
Vienna February 13-15, 2008***

Technical Committee For The Study
Of Treaties On Prevention Of
Regional & International Crime



اللجنة الفنية لدراسة اتفاقيات
مكافحة الجريمة الاقليمية والدولية

Introduction:

Freedom is a natural unalienable human right; it is, indeed the most sacred and precious of all rights. Therefore, humans guard it as they guard their lives and defend it with all their power for it is the essence of the human existence. History tells us, since time immemorial, that people's revolutions, were triggered by the need for freedom. Based on this, constitutions, in various jurisdictions, ensured that freedom and human rights are safeguarded.

The legislator in my country has not deviated from this path but rather has attached special attention to it. One can notice this clearly in the Basic Statute of the State (the constitution) promulgated by Royal Decree number 101/96 which devoted an entire chapter to the Public Rights and Freedoms, which constitutes almost one third of the of Basic Statute of the State's articles. For example, in Article (20), it has specifically covered not only the physical and psychological torture of humans, but also to any enticement or treatment that degrades humans` s dignity. The legislator has followed this path in promulgating Penal Code and Penal Procedures law.

Based on my country's belief in the importance of enhancing international cooperation in the field of combating crime, it has ratified the United Nations Convention Against Transnational Organised Crime and its three Protocols. This ratification has rendered the Convention an integral part of the national law. As the Omani legislator, in Article (76) of the Basic Statute of the State, has established a salient principle which is 'granting international conventions and agreements, after ratification, the status of national laws in terms of enforceability.

Based on our determination to continue the relentless efforts to finalise the modern legislations; directives have been issued to

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form a taskforce – comprising various concerned authorities, to draft a comprehensive relevant legislation. Recently, the taskforce finalised the final draft of the law, and referred it to the legislative authority in order to take the necessary procedures to issue the law.

Thus, an absence of a comprehensive legislation, until this moment, which only a temporary matter that does not constitute an issue of threat. This is due to the fact that even if, hypothetically speaking, a crime categorised as a trafficking in persons suddenly surfaces, contrary to the criminal status indicator in the Sultanate, we shall not stand helpless before it, perpetrator would be prosecuted based on our ratification to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, a protocol which enjoys the full force of the national laws by virtue of the ratification of my country's government. This, in addition to the fact that the legislator has already covered direct forms of trafficking in persons in the Penal Code issued in the year 1974, and also in the Labor Law issued in 2003, as outlined in the following statement:

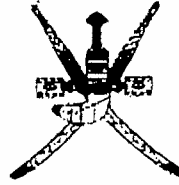
First: The Penal Code:

The legislator under the unit, "Crimes Committed Against Personal Freedom and Honor," which is the second unit of the sixth chapter, has prescribed the following articles:

Article (260): Anyone who enslaves a person or places him/her in a state that resembles slavery should be punished by imprisonment of terms between five to fifteen years.

Article (260): Anyone who brings into the country, or takes out from the country, a person in a state of slavery or involuntary servitude, or disposes of him/her in any way, or receives or possesses or gains or keeps him/her in that state, should be punished by imprisonment of terms between three to five years.

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It is clear that the aforementioned articles cover the aspects relevant to the term "trafficking in persons," as per article (3/A) of "UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children," which is fundamentally based on transporting the victim from one country to another by means of threat, or use of force or by other forms of coercion, abduction, fraud, or deception, for the purpose of various sexual exploitation (prostitution), forced labor or services, or servitude.

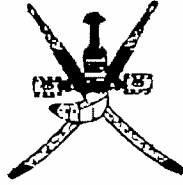
Among other forms of trafficking in persons' that the law has fiercely fought, is the act of sexual exploitation by those who have authority over the exploited (such as domestic servants and others). In this respect, Article (218/3) of the Penal Code considers the act a forced sexual intercourse even if it occurred without coercion, threat or deception (statutory rape).

With greater reason, the Penal Code criminalised acts of incitement to commit prostitution or debauchery, as well as depending on what others gain from practicing debauchery or prostitution.

Despite being totally convinced that a special law must exist; its absence to this moment has not undermined the basic human rights which the protocol aims to protect, due to the presence of the aforementioned provisions.

It is worth noting that my country has not recorded any single transnational prostitution case, similar to cases we hear about in other countries where the victim is deceived into believing that she has a contract in an honorable job, only to find, when she reaches the destination country, by means of 'deceit,' that she has to work in the field of prostitution against her will, and that she has fallen into the hands of sexual exploitation gangs.

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This is not to claim that there are no cases of prostitution, but rather to assert that prostitution categorized as "trafficking in persons," and criminalized under the aforementioned protocol, does not exist.

Second: Labor Law:

Bearing in mind that trafficking in persons is closely connected to coerced or forced labor; and to the inability to protect workers, whether country national or expatriates; the concerned authorities have intervened to alleviate any of its possible effects or causes. For example, in the case of the camel racing sport, where previously children in early ages from poor countries where hired as jockeys, where their financial need has been exploited to perform a very risk work, the Cabinet of Ministers has issued a decision banning the participation of non-Omanis in this sport. It also, generally, bans the participation of those less than 18 years of age to commensurate with the requirements of the International Labor Organisation conventions ratified by the Sultanate. These conventions are, "Worst Forms of Child Labor Convention number 182/1999," which is more related to trafficking in persons, the "Minimum Age Convention number 138/1973," the "Forced Labor Convention number 29/1930," and the "Abolition of Forced Labor Convention number 105/1957."

Regarding what could be raised on the issue of the harsh treatment to those in the category of domestic servants and those in similar positions, we would like to indicate that such category, similar to comparable legislations, is exempted from applying the Labor Law. However, the legislator has enacted special protection to this category in the new Labor Law issued on April 26, 2003, which referred, in article (2), all matters related to this category to the Ministerial order issued by the minister.

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By examining Ministerial order number (189/2004) issued by the minister on June 6, 2004, its provision clearly stated articles that protect the worker. For example: Providing housing, food, and health insurance, payment of wages within seven days of the end of each month. Moreover, the employer is not to be exonerate from his responsibilities, unless the employee has signed a statement that he/she has been paid his/her wage. The decision has also referred other matters to the contract signed between the employee and the employer, after indicating, as a general provision, that both contractual parties must abide by the conditions of the contract, including, the specified working hours, providing travel ticket to spend the annual vacation, according to the agreed period, and other provisions.

In an effort to preserve the rights of employees, my country's government has signed a number of memorandums of understanding in the area of manpower with a number of labor exporting countries, and these are: The Republic of India, The Islamic Republic of Pakistan, The Peoples' Republic of Bangladesh, and The Socialist Republic of Vietnam. Moreover, there is an intention to sign similar MoUs with other countries.

These MoUs included provisions regarding:

- Regulating work contract between the employer and employee.
- The legal procedures to settle labor disputes.
- The status of expatriate workers, the work contracts, their accommodations, and lastly
- Cooperation to monitor the workers' conditions.

In Article (3) of the law the legislator has clearly prescribed the following: "Any condition violating the provisions of this law, even it has preceded its effectiveness, unless it is deemed to the advantage of the worker, is rendered null and void. It is also rendered null and void any exoneration, conciliation, or waiver to

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the rights promulgated by this law if it contradicts with its provisions. In addition, conditions that favor the employer by the virtue of laws, regulations and decisions that went into effect as of the date the effectiveness of this law are to be in effect.

Also, Article (10) of the new Labor Law has facilitated the path for the worker to bring suit against his/her employer by exempting him from paying the legal fees in all levels of litigation (first instance, appeals and supreme).

In the year 2006, an amendment to the law was issued where article (3) ibis was added banning the employer from imposing any form of coerced or forced labor.

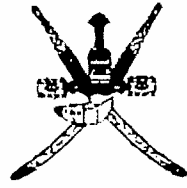
Indeed, this law has included many guarantees for the worker (citizens, as well as, expatriates), and the legal protection against any violation or infringement. It also blocked the way before any crime against the worker. All of this is within the framework of fighting the crime of trafficking in persons.

It is perhaps worth mentioning an important guarantee among these guarantees which decisively exonerates my country from any trafficking in persons' allegations in this field. This guarantee, which is covered by Article (20) of the law, bans the employer or the licensed recruitment agency from receiving any sum of money in return for employment.

In addition, the Minister of Manpower has issued a ministerial order banning employers from withholding the passports of expatriate workers working for them, and another decision obligating employers to transfer the salaries of private sector workers to banks, in order to close the door to any possibility of forging workers' payroll records.

For these noble provisions to be more than just an ink on paper,

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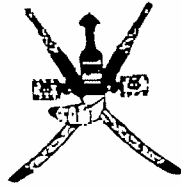


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the Ministry of Manpower has worked, in cooperation with other concerned entities to pass a number of protection measures against trafficking in persons. Here is a number of these measures:

- A 24/7 toll free hotline (8007700) dedicated to labor complaints;
- Awareness publications enlightening expatriate workers of their rights and duties against any forms of trafficking in persons, and to protect them from being exploited. These pamphlets have been printed in a form of leaflets, and were placed in for the public at the Sultanate's embassies abroad. To insure effectiveness of such awareness, these leaflets are made available at all points of entry airports, seaports, and land border points. It is worth noting that the hotline number has been printed on these leaflets, and is also on the Ministry of Manpower's website to spread awareness.
- These publications have been translated into nine languages: English, Urdu, Indonesian, Philippines, Malayalam (An Indian language), Malawi, Bengali, Chinese, and Sir Lankan.
- Cooperating with the embassies of the manpower sending countries to resolve any labor rights related issues raised by their nationals.
- Amending a number of legal provisions to strengthen the punishments against violators.
- Preparing a labor inspection guide for the purpose of avoiding wrongful inspectors' interpretations, and to ensure that these procedures commensurate with provisions and procedures of the Labor Law in accordance with international labor inspection standards.

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Last but not least, the efforts of conformation and bringing regulations into harmony with the provisions of the convention and its protocols were not confined to the abovementioned per-se; but rather, many other authorities have followed suit. For example, Royal Oman Police, as the authority entrusted with granting residency permit status, has taken legal steps towards abolishing Article (11) of Foreign Residency Law, and Article (17) of its Executive Regulations. These articles banned granting an entry visa to the foreign worker who has worked in the Sultanate, except after two years elapsed since the last date of departing from the Sultanate, unless he/ she to return to work for the same sponsor, or if the worker has obtained a no objection letter from the sponsor. Upon noticing that these conditions make foreign workers vulnerable, these articles were abolished in 2007. We would like to emphasise in this regard that these articles were not legislated, as some people might think, to exploit the vulnerability of the expatriate, they were rather passed to protect employers from fierce competition that might result from worker quitting to work for a competing sponsor.

Conclusion:

We look forward, within the UN family and its relentless, sincere and unmistakable efforts to the success of the of this global gathering in clarifying the erroneous perception held by some governmental and nongovernmental authorities and organisations, which they might have drawn them from unofficial sources, which claim that our country, because it is categorised as a destination for foreign workers, is violating these workers' rights or is taking advantage of their vulnerability. These sources even claim that we did not comply with the minimum standards to eliminate trafficking in persons nor did we make significant efforts to prosecute those involved in the crime, nor in protecting its victims. In addi-

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tion, and in an attempt to undermine the aforementioned legal protection measures, they refer to the punishments as insufficiently stringent to deter the crime!! I do not stand before you today to defend my country's stance toward this heinous crime which constitutes a grave violation to human values and principles, I rather stand before you to shed the light on the facts that our pride disdains from bragging about it, bearing in mind that these facts are decided by the human being, who our Lord has honored and preserved his rightful place among all creatures, distancing him from any violation or indignity.

Wa Assalam Alikum Wa Rahmat Allah Wa Barakatuh

Hussain Ali Zaher AL-Helali
ATTORNEY GENERAL