

CHAPTER VII — Other Human Rights Issues

Section A – Demolition of Religious Structures

1. Introduction

1306. The Commission received reports that 53 religious structures were demolished during or in consequence of the events that occurred in Bahrain in February/March 2011.

2. Factual Background

1307. The Al Wefaq National Islamic Society (Al Wefaq) submitted a list of 53 religious structures⁶³⁶ that had been demolished. Al Wefaq assisted the Commission in identifying 30 Shia religious structures for detailed investigation. The 30 sites selected were those that had allegedly sustained the highest degree of damage.

1308. In accordance with the Jaafari Shia doctrine, religious structures can be separated into four categories, namely: mosque, *hussaineya/ma'atam*, *madyafa* and shrine. The religious significance of a structure in the Jaafari Shia school of thought depends on its categorisation. The Commission found that that mosques, *hussaineya/ma'atam* and shrines were demolished. No structure referred to as *madyafa* was demolished. The demolition of these structures took place between 1 March 2011 and 11 May 2011.

1309. The Al Wefaq report contained a list of 44 religious structures that were allegedly demolished. There were 14 religious structures that were not investigated. Of these 14 religious structures, five were demolished between 15 March and 3 May,⁶³⁷ seven were partially demolished between 19 March and 18 April,⁶³⁸ Al Anwar mosque in al Dayyah was partially demolished on 18 April and Kareem Ahl Al Bait mosque in Hamad Town was burned down on 12 March.

1310. In the course of investigations, questions arose as to the ownership of the land upon which the structures were built, particularly as to whether the land was private or public. If the land was public, the question was whether a royal deed was issued allowing the land to be used for that purpose. If the land was private, the question was whether the owner of the land consented to the presence of the structure. Another legal question arose as to the role of a semi-public institution referred to as Jaafari Waqf, an independent religious organisation dedicated to charitable purposes and representing Bahrain nationals who adhere to the Jaafari school of thought. The Jaafari Waqf is

⁶³⁶ 44 mosques, seven ma'atams and two graveyards.

⁶³⁷ Masjid al Marouhnnah in Zinj, Masjid al Jawwad in Hamad City, Masjid wa mazar al Imam in Darklip and Masjid al Imam al Hassan in Salmabad.

⁶³⁸ Masjid Al Sheikh Haytham in al Joufayer, Masjid al Zahraain Muharrqa, Masjid al Sheikh Mohammed al Wassati in Sitra, Masjid al Sheikh Yacoub in al Naim, Masjid Saasaa Souhan in Askar, Masjid al Imam al Sadeq in al Daraz and Masjid al huwailat in Balad.

publicly recognised and is part of the Ministry of Justice and Islamic Affairs (MJIA). The Jaafari Waqf administers property held in trust for the Jaafari community, but the issuance of any decision by the Jaafari Waqf to build a religious structure must conform to the laws pertaining to land ownership, building permits and other administrative regulations.

a) Methodology

1311. To support the investigation of alleged demolition of places of worship, the Commission developed a database which was formulated through the amalgamation of various sources of information, including a questionnaire for officially appointed Qaim,⁶³⁹ witness statements and photographs. The Commission also obtained satellite imagery and plans obtained from the Ministry of Municipal Affairs and Urban Planning (MMAUP).

1312. In addition to the information received from Al Wefaq, the Commission received information from the MMAUP, Jaafari Waqf Board and other sources. The Commission also conducted on-site investigations during which investigators took photographs and measurements and interviewed witnesses to the demolition. The Commission's investigators were accompanied on these visits by a consultant architect who produced a detailed report and assisted the Commission with the interpretation of the structural remains at the sites.

b) Description of the demolished structures and timeline

1313. Of the 30 places of worship investigated by the Commission, 28 were mosques,⁶⁴⁰ one was a mosque/*ma'atam*⁶⁴¹ and one was a shrine⁶⁴². Five of these places of worship were located on lands dedicated to places of worship and had both a royal deed⁶⁴³ and building permit.⁶⁴⁴ Six were located on

⁶³⁹ A Qaim or al Qaim ala al Masjid (القائم على المسجد) in Jaafari Shia doctrine is a male mosque keeper appointed by the Ministry of Justice, Islamic Affairs and Waqf's Jaafari Waqf Board. He is a staff member of the Jaafari Waqf Board and carries an identification card to that effect. He is supposed to receive a salary from the Jaafari Waqf Board. In many remote mosques, Commission investigators noticed that locals appoint an unofficial Qaim. A Qaim is responsible for maintaining the mosque and calling for prayers; he is not permitted to become the imam nor does he replace the imam in any his functions.

⁶⁴⁰ Masjid Al Imam Al Hasan, Masjid Salman Al Faresi, Masjid Al Imam Al Baqer, Masjid Al Mo'men, Masjid Abou Thir Al Ghiffari, Masjid Al Douweira, Masjid Al Imam Al Sadeq, Masjid Al Imam Al Hadi, Masjid Al Imam Al Jawwad, Masjid Al Sheikh Youssef, Masjid Ein Rastan, Masjid Amir Mohamed Mohamed Barbagi, Masjid Fedak Al Zahraa, Masjid Al Rasool Al A'azam, Masjid Al Baqei, Masjid Al Imam Al Sajjad, Masjid Sayeda Zeinab, Masjid Al Imam Ali, Masjid Om Al Baneen, Masjid Abou Taleb, Masjid Salman Al Mohamadi, Masjid Al Imam Al Hasan Al Askari, Masjid Al Imam Al Ali, Masjid Fatima Al Zahraa, Masjid Al Sadeq, Masjid Al Kouweikebat, Masjid Al Sheikh Al A'abed, Masjid Al Wateyya – Masjid Saheb Al Aser wa Al Zaman.

⁶⁴¹ Masjid wa Ma'atam Al Imam Al Hadi.

⁶⁴² Maqam Kadam Al Mahdi–Al Wateyya.

⁶⁴³ A royal deed is a document issued by the GoB granting a person ownership of a particular piece of land. In the absence of a royal deed, the land is legally owned by the GoB.

private land owned by a third party⁶⁴⁵ and 19 were located on public land. Of these 19⁶⁴⁶ places of worship, built on public land, two had a royal deed⁶⁴⁷ but no building permit, one⁶⁴⁸ had a building permit but no royal deed and 16⁶⁴⁹ had neither a royal deed nor a building permit.

1314. The 30 structures were constructed as follows:

- a. One was entirely or partially built with palm trees and other wooden material.⁶⁵⁰
- b. 12 were Shinko cabins, sometimes covered from the inside with prefabricated material commonly referred to as “gypsum boards”, whose access to electricity, water and sewage⁶⁵¹ was by unauthorised connections from neighbours.⁶⁵²
- c. 12 were semi-permanent structures built with cement blocks, bricks and/or stones.⁶⁵³
- d. One was a permanent structure made with reinforced concrete.⁶⁵⁴
- e. Four were completely demolished; it was impossible to determine the type of construction.⁶⁵⁵

⁶⁴⁴ Masjid Al Imam Ali, Masjid Om Al Baneen, Masjid w Ma'atam Al Imam Al Hadi, Masjid Al Imam Al Ali, Masjid Fatima Al Zahraa.

⁶⁴⁵ Masjid Al Kouweikebat, Masjid Al Sheikh Al A'abed, Masjid Al Wateyya-Masjid Saheb Al Aser wa Al Zaman, Masjid Al Imam Al Hasan Al Askari, Masjid Al Imam Ali, Masjid Ein Rastan.

⁶⁴⁶ Masjid Al Imam Al Hasan, Masjid Salman Al Faresy, Masjid Al Imam Al Baqer, Masjid Mo'men, Masjid Abou Thir Al Ghiffari, Masjid Al Douweira, Masjid Al Imam Al Sadeq, Masjid Al Imam Al Hadi, Masjid Al Imam Al Jawwad, Masjid Al Sheikh Youssef, Masjid Amir Mohamed Mohamed Barbagi, Masjid Fedak Al Zahraa, Masjid Al Baqei', Masjid Al Imam Al Sajjad, Masjid Om Al Baneen, Masjid Abou Taleb, Masjid Salman Al Mohamadi, Masjid Fatima Al Zahraa, Masjid Al Sadeq.

⁶⁴⁷ Masjid Om Al Baneen, Masjid Fatima Al Zahraa.

⁶⁴⁸ Masjid Abou Taleb.

⁶⁴⁹ Masjid Al Imam Al Hasan, Masjid Salman Al Faresy, Masjid Al Imam Al Baqer, Masjid Mo'men, Masjid Abou Thir Al Ghiffari, Masjid Al Douweira, Masjid Al Imam Al Sadeq-Masjid Al Imam Al Hadi, Masjid Al Imam Al Jawwad- Masjid Al Sheikh Youssef, Masjid Amir Mohamed Mohamed Barbagi, Masjid Fedak Al Zahraa, Masjid Al Baqei', Masjid Al Imam Al Sajjad, Masjid Salman Al Mohamadi, Masjid Al Sadeq.

⁶⁵⁰ Masjid al Sheikh Al A'abed.

⁶⁵¹ Masjid Al Sayeda Zeinab.

⁶⁵² Masjid Al Kouweikebat, Masjid Al Baqei', Masjid Al Imam Al Sajjad, Masjid Fedak Al Zahraa, Masjid Al Imam Ali, Masjid Om Al Baneen, Masjid Abou Taleb, Masjid wa Ma'atam Al Imam Al Hadi, Masjid Salman Al Mohamadi, Masjid Al Imam Al Hasan Al Askari, Masjid Al Imam Al Ali, Masjid Fatima Al Zahraa.

⁶⁵³ Masjid Al Wateyya-Masjid Saheb Al Aser wa Al Zaman, Masjid Al Sadeq, Masjid Al Rasool Al A'azam, Masjid Ein Rastan, Masjid Al Sheikh Youssef, Masjid Al Imam Al Hadi, Masjid Al Imam Al Hasan, Masjid Salman Al Faresi, Masjid Al Imam Al Baqer, Masjid Al Mo'men, Masjid Abou Thir Al Ghaffari, Masjid Al Douweira.

⁶⁵⁴ Masjid Al Sayeda Zeinab.

⁶⁵⁵ Masjid Al Imam Al Sadeq, Masjid Al Imam Al Jawwad, Masjid Amir Mohamed Mohamed Barbagi, Maqam Kadam Al Mahdi (Al Wateyya).

1315. Unless otherwise indicated, the 30 sites were demolished by the GoB, The timeline relating to these demolitions is detailed as follows:

a. March 2011

One mosque, Masjid al Sheikh Al A'abed, was demolished.

b. 31 March 2011

One mosque, Al Sayeda Zeinab in Hamad Town, was attacked by unknown assailants.⁶⁵⁶ The assailants threw two Molotov cocktails onto the inner left walls of the mosque, one in the front and one in the back. According to the complainants, the police report indicated that two Molotov cocktails were thrown from inside the mosque.⁶⁵⁷ The damage to this mosque was minor and the reported losses were at a total of 6,000 BD.

c. 10 April 2011

The Council of Ministers issued Decree No. 2105-05 of 2011⁶⁵⁸ mandating that the relevant government ministries enforce the laws concerning all violations and infringements on public roads, misappropriated state lands and illegal exploitation of those lands. This decree was cited as a basis for the demolitions detailed below.

d. 12 April 2011

One mosque, Om Al Baneen in Hamad Town, was demolished.

e. 14 April 2011

Four mosques, Abou Taleb, Al Imam Al Hasan Al Askari, Salman Al Mohamadi and Fedak Al Zahraa, and one mosque/*ma'atam*, Al Imam Al Hadi, were demolished. All were located in Hamad Town.

f. 15 April 2011

One mosque, Al Baqei' in Al Lozy district, was demolished.

g. 17 April 2011

Two mosques, Amir Mohamed Mohamed Barbagi in the A'ali district of the Middle District and Al Sadeq in Salmabad District, were demolished.

⁶⁵⁶ The faithful of the mosque made a complaint to the police. An investigation was opened and subsequently ascertained that there were two assailants and that the attack was from inside the mosque as no signs of forced entry were detected.

⁶⁵⁷ The mosque was reportedly set on fire after a sermon given by Sheikh Ali Ahmad Abdul Wahhab (also known as al Goufeiry) on Wednesday 30 March 2011 after Isha prayer. In his sermon, he called for the Shia faithful to exercise self-control and not to fall into the sectarian trap set by suspected hands. He did not accuse anyone of the attack. He added that those suspected hands wanted to initiate a reaction from Shia towards the Sunnis, starting from the attacks/burning and demolition of Shia Mosques.

⁶⁵⁸ Council of Ministers Decree No. 2105-05 of 2011, 10 April 2011.

h. 19 April 2011

10 places of worship were demolished in a matter of hours. The demolition reportedly began at about 15:00 and lasted until midnight. The targets were places of worship in the Nuwaidrat village – Barboura, Middle Municipality. All the places of worship were within a radius of 250 metres. The demolition began with Abou Thir al Ghiffari mosque, followed by al Imam al Sadeq mosque, Al Douweira mosque, Al Sheikh Youssef mosque, al Imam al Baqer mosque, Al Imam al Hadi mosque, Salman al Faresi mosque, Al Imam Al Jawwad mosque and ending with Al Imam al Hasan mosque. Ein Rastan mosque was also demolished. Commission investigators visited all these sites on 18 September 2011, the first day of the field visits.

i. 20 April 2011

Three mosques, Al Imam Ali, Fatima Al Zahraa and Mo'men Mosque in Barboura Nouwaidrat, were demolished.

j. 11 May 2011

Three mosques, Al Imam Al Sajjad in Al Lozy district, Al Imam Ali in Sadad district and Al Wateyya–Saheb El Aser wa El Zaman mosque in Maqaba, were demolished.

k. During the month of April, Al Kouweikebat mosque in Al Kawra Village was burned and destroyed, and Maqam Kadam El Mahdi–Al Wateyya in Al Mahouz District was demolished.⁶⁵⁹ The date when Rasool Al A'azam was demolished was not identifiable.

c) *The manner of demolition and Government actors involved*

1316. The complainants allege that the places of worship were demolished by the MoI's Department of General Security (General Security) and Department of Riot Police (Riot Police)⁶⁶⁰ and, in one case, unknown assailants. Among the reports received were allegations of the presence of officials in civilian clothes believed to be members of the National Security Agency (NSA). While all demolitions were done under the authority of the MMAUP, the Commission investigators were unable to determine which government agencies were directly involved in any specific demolition. Furthermore, it was not possible to identify the individual representatives of these agencies who participated in or directed the demolitions. Uniformed police from General Security, Riot Police and NSA were reported to have been present during the demolition at several locations. In one case, municipal workers were identified as those responsible for the demolition.

⁶⁵⁹ Exact dates were unascertainable from complainants.

⁶⁶⁰ The complainants have reported that various government forces and BDF operatives were present at the demolished places of worship sites, in addition to municipal workers.

1317. Witnesses asserted that the following agencies were responsible for demolition:

- a. Nine mosques were reportedly demolished by General Security with the involvement of the BDF who secured the perimeter.⁶⁶¹ These were Masjid Al Imam Al Hasan, Masjid Salman Al Faresi, Masjid Al Imam Al Baqer, Masjid Al Mo'men, Masjid Al Sheikh Youssef, Masjid Amir Mohamed Mohamed Barbagi, Masjid Al Imam Al Hasan Al Askari, Masjid Al Sadeq, and Masjid Al Sheikh Al A'abed.
- b. 14 mosques were reportedly demolished by the General Security alone. These were Masjid El Abou Thir el Ghiffari, Masjid Al Douweira, Masjid Al Imam Al Sadeq, Masjid Al Imam Al Hadi, Masjid Al Imam Al Jawwad, Masjid Ein Rastan, Masjid Fedak Al Zahraa, Masjid Al Rasool Al A'azam, Masjid Al Baqei', Masjid Al Imam Al Sajjad, Masjid Al Imam Ali, Masjid Salman Al Mohamadi, Masjid Al Imam Aliand Masjid Al Wateyya–Masjid Saheb Al Aser wa Al Zaman.
- c. One mosque was reportedly demolished by General Security with the help of Asian expatriates and two others were demolished by Bahraini nationals. It was impossible for the investigators to ascertain the identity of the Asian expatriates and the civilians. These mosques were respectively Masjid Abou Taleb, Masjid Al Sadeqand and Masjid Ma'atam Al Imam Al Hadi.
- d. One mosque was demolished by municipal workers only. This was Masjid Om Al Baneen in Hamad Town.
- e. The demolition of one mosque, Masjid Fatima Al Zahraa in Zayed Town, was attributed, by the community, to a private security company but Commission investigators were unable to identify the reported company.
- f. Al Sayeda Zeinab mosque in Hamad Town was burned by unknown assailants.
- g. Maqam Kadam El Mahdi–Al Wateyya in Al Mahouz District and Masjid Al Kouweikebat were demolished by unknown assailants.

1318. The MMAUP reported that it had attached a municipal notice of violation to the 28 places of worship that were demolished after adoption of Decree No. 2105-05 of 2011. Some of the notices were issued as early as 15 March 2011. The notices were designed to advise the owners and the general

⁶⁶¹ No specific military units could be identified.

public that the location was scheduled for removal or demolition due to violations of the Building Regulation Law (1977).⁶⁶²

1319. Though Decree No. 2105-05 of 2011 was issued on 10 April 2011, GoB media outlets had begun alerting the general public the day before (9 April 2011) that the MMAUP would be carrying out the removal of unauthorised structures, illegal cabins and stores, etc. These news alerts continued for a week.

1320. The two main methods used for demolition were manual tools (sledgehammers) and heavy machinery (loaders, bulldozers, cranes and heavy trucks). Heavy machinery was used to demolish places of worship and also to remove debris and rubble from the sites. Heavy machinery was also used to demolish permanent structures, as well as Shinko cabins and other semi-permanent structures. In addition to these two main means of demolition, two mosques were burned. These were Al Kouweikebat in Al Kawra Village and Al Sayeda Zeinab mosque in Hamad Town. Both of these demolitions by fire were attributed to unknown assailants.

1321. Complainants and eyewitnesses reported that the events surrounding the demolition of the various places of worship were almost identical. They stated that General Security and/or Riot Police descended on a site, removed any worshippers and prevented the gathering crowds from interfering with the demolition. They claimed that municipal workers then started working on the demolition of the site and that, in some instances, General Security and/or Riot Police themselves carried out the demolition.

1322. During the course of their field visits, Commission investigators were informed that General Security and/or Riot Police forbade the locals from removing the Qurans and other religious artefacts from the places of worship prior to their demolition.

d) *The Government's position*

1323. The MMAUP indicated a number of legal grounds on which decisions to carry out a demolition had been reached: absence of a royal deed; occupation of public or private land; absence of an ownership deed; absence of a survey certificate; absence of a building permit; absence of the approval of the MJIA; and finally, the misuse of utilities (water and electricity).

1324. In addition to the grounds above, the MMAUP stated the following specific reasons with respect to particular places of worship:

- a. Amir Mohamed Mohamed Barbagi mosque in the A'ali district of the Middle District located on the Sheikh Khalifa Bin Salman highway: according to official documents provided by the MMAUP, this mosque constituted a "clear and present danger" to the users of the highway. The Ministry specifically claimed that it obstructed the safety lane

⁶⁶² Building Regulation Law of 1977.

of the highway.⁶⁶³ Aerial photographic imagery of the mosque's location supplied by the MMAUP indicated that before its demolition, the surface area of the mosque increased over time and caused a serious infringement to the highway's safety lane.⁶⁶⁴ According to media sources, the GoB earlier had rerouted the highway in order to preserve this mosque.⁶⁶⁵

- b. 10 places of worship in the Nuwaidrat village, Barboura, Middle Municipality:⁶⁶⁶ during a meeting held on 21 September 2011 between the Commission and the Minister of Municipal Affairs and Urban Planning, HE Dr Jumaa Bin Ahmad Al Kaabi, the Minister replied that they were demolished for reasons contained in information received from the MoI. The Minister said that Nuwaidrat village, Barboura was considered one of the main flash points of riots during the February/March 2011 events. Dr Al Kaabi also said that these sites were labelled by the MoI as dangerous sites where Shia youth gathered, organised and armed themselves. He further stated that the sites were also used as staging grounds to attack government forces stationed nearby and that incitement and provocation against government forces took place there. He added that the MMAUP was also informed that some of these sites were used for weapons storage, especially for Molotov cocktail and associated materials. This information was also contained in the written report received from the MMAUP.

3. Applicable Law

1325. Article 18 of the ICCPR⁶⁶⁷ applies to the facts described above, as does Article 22 of the Bahrain Constitution.⁶⁶⁸ Other legal issues arise in

⁶⁶³ Map supplied by the MMAUP [on file with the Commission].

⁶⁶⁴ See Ministry of Municipal Affairs and Urban Planning, Report to the Commission [on file with the Commission].

⁶⁶⁵ Roy Gutman, *While Bahrain demolishes mosques, US stays silent*, McClatchy Newspapers (8 May 2011), <http://www.mcclatchydc.com/2011/05/08/v-print/113839/while-bahrain-demolishes-mosques.html> accessed 1 October 2011.

⁶⁶⁶ The Commission investigators were concerned about the demolition of the ten places of worship in the Nuwaidrat village, Barboura, Middle Municipality. This was the largest number of places of worship to be demolished both in one day and in one single location during the February/March 2011 events.

⁶⁶⁷ Article 18 of the ICCPR provides: "1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching... 3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others..."

⁶⁶⁸ Article 22 of the Constitution of Bahrain 2002 guarantees the freedom of worship and sanctity of places of worship. It states: "[F]reedom of conscience is absolute. The State shall guarantee the inviolability of places of worship and the freedom to perform religious rites and

connection with the determination of whether the demolition carried out by the Government constituted abusive or vindictive acts in reliance upon legal technicalities such as domestic laws governing public land ownership, violations of administrative regulations concerning construction on public or private lands and other violations of administrative law applicable to buildings and structures.⁶⁶⁹

1326. In 28 instances, demolition was carried out pursuant to Decree No. 2105-05 of 2011.⁶⁷⁰ This Decree requires competent government authorities to coordinate their efforts for the removal of all forms of infringements on public lands and roads. In implementing Decree No. 2105-05 of 2011, the responsible authorities were to act in accordance with articles 23 and 24 of Building Regulation Law No. 13 of 1977.⁶⁷¹

to hold religious processions and meetings in accordance with the customs observed in the country.”

⁶⁶⁹ The process of land registration and building permits for public lands in Bahrain can be summarised as follows:

Pursuant to Royal Decree Law No. 19 of 2002, the King is the sole legally accredited authority in Bahrain to determine the allocation, reallocation and usage of public land. The Royal Court issues a royal deed of ownership, which is the most important document to start any dealings with the concerned ministries.

The Registration Department of the Survey and Registration Directorate, part of the MMAUP, is responsible for the registration and issuance of ownership deeds. The Registration Department is the sole legally accredited authority in Bahrain to issue these deeds, which confirm the ownership rights of the land and allow the owner to dispose of it in any legal manner.

The Survey Department, at the same ministry, issues the survey certificates detailing the exact dimensions and surface of that land. This certificate is valid for only two years from the date of issuance. This certificate carries a red seal of authenticity and does not replace the ownership deed.

The concerned party desiring to erect a place of worship must meet the following requirements to obtain a building permit. These requirements are:

- The building permit application form;
- The royal deed; and
- The survey certificate.

The MMAUP, represented by the five municipalities of Bahrain, receives the requests and issues the building permit. This is done in cooperation with the MJIA's Jaafari Waqf Board and other competent authorities.

⁶⁷⁰ Council of Ministers Decree No. 2105-05 of 2011.

⁶⁷¹ Articles 23 and 24 of Decree Law No. 13 on the Building Regulation Law of 1977 set out the procedures that the GoB must follow when addressing an alleged violation. These provisions state:

Art 23: any violation of the provisions of this Act, or implementing decisions, shall be punished by a fine of not less than ten dinars and not more than one hundred dinars. In addition to the fine, a judgment must be issued ordering the rectification, completion or demolition of the violation. Also a judgment must be issued ordering the doubling of the licensing fees in the case where the issue of the violation is for the act of building without a licence. Additionally, the municipality shall request the submission of drawing plans, detailing the exact dimensions and surface of the piece of land as requested by law. If the offender does not submit the requested plans within the time limit, he will be fined not less than fifty dinars and not exceeding five hundred dinars and given a new deadline to provide the plans. The fine will be repeated each time the offender does not provide the plans within the required time limit.

1327. The legal situation of structures on publicly owned property differs from that of structures on privately owned property. In respect of the former, it is on the initiative of the GoB that a court order is sought for the demolition or removal of a structure, the MMAUP having competence to seek the order. In respect of structures on privately owned land, only the owner or a person having other legal interest in the land can seek removal or demolition, and this is through civil action.

1328. If the demolition is based on an administrative violation, then the MMAUP can issue a demolition order. In this case it needs to notify the owner of record and to place a notice in a visible way on the structure. The purpose of the notice is to give the owner or custodian of the structure the opportunity to object and have an administrative hearing on the objection. If the structure is a religious one authorized by the Jaafari Waqf, that body also has to be notified and has to be given an opportunity to object and be heard at an administrative hearing. There are exceptions whenever a situation of danger exists (such as the danger that the structure will collapse and either kill or injure persons in sight of it). In such cases, the period of notice can be shortened and the demolition can be as immediate as the danger justifies.

4. Findings and Conclusions

1329. The Commission inspected 30 places of worship and found that only five of them had both the requisite royal deed and building permit. The other places of worship were in violation of Royal Decree Law No. 19 of 2002.

1330. The Commission found that 19 places of worship were erected on public land and did not have a building permit and royal deed. These places of worship were thus in violation of Royal Decree Law No. 19 of 2002, which prescribes that all mosques must have at least a building permit and a royal deed in order to comply with Bahrain law. The GoB did not follow the requirement of the national law concerning the notice and issuance of a judicial order for demolition. Instead, it relied on the National Safety Law.

1331. The Commission found that six places of worship were built on private land but none had obtained a royal deed or building permit. In cases where the land is owned by a private person, the MMAUP may only act on the basis of a violation of administrative law with respect to whether a building or construction permit has been obtained or whether a structure conforms to the administrative regulations applicable to structures intended for use for religious purposes.

1332. The action by the GoB with respect to 28 of the 30 places of worship was undertaken after the issuance of Council of Ministers' Decree No. 2105-05 of 2011. All the orders issued by municipalities in connection with the demolition of the religious structures described in this Chapter were issued for

Art 24: if the concerned parties do not adhere to the decision calling for the rectification, completion or demolition of the Building Regulation Law violation within the required time limit by the municipality, the municipality may remove the cause of the violation at their expense.

“immediate application”. No distinction was made by the MMAUP between structures constructed on private as opposed to public land, and demolition was conducted without regard to authorisations for construction by the Jaafari Waqf. In accordance with applicable administrative law, notice should have been given requesting that cause be shown why the given structure should not be demolished, followed by an administrative hearing to allow a defence to be presented. This procedure was not followed. Instead, the order was deemed applicable immediately without providing an opportunity for those who opposed the demolition to be heard before an administrative body and eventually before the judiciary.

1333. The Commission takes note of the explanation of the GoB that its decision to demolish the 30 places of worship was based on information received by the MoI that these places were used as a staging point for attacks against police forces and for the manufacture and storage of weapons such as Molotov cocktails. MoI officials informed the Commission that such attacks resulted in injuries to tens of police personnel within the same areas of the places of worship. On 10 November 2011, the Commission received two photographs showing weapons and Molotov cocktails inside one of the demolished places of worship in Nuwaidrat. The Commission notes, however, that administrative orders for the demolition of these structures did not invoke or rely on security grounds. They based themselves on violation of administrative requirements. In some of the demolitions referred to above, the GoB has argued that certain structures were used to store weapons, to assemble Molotov cocktails, and to stage violent protests, including attacks upon security forces. On its face this is a valid justification qualifying for imminent danger and thus demolition without any more than the issuance of the administrative order and the posting of the notice. This is obviously a question of fact. Moreover, at the time of these demolitions, the National Safety Law was in effect. It gives the Military Governor General such broad powers as to include issuing directives to the MMAUP to issue demolition orders of structures identified by the Military Governor General as constituting a threat to security. Based on the above, the GoB has acted pursuant to National Safety Laws.

1334. Nonetheless, the Commission notes with some concern the timing of demolition (1 March 2011 to 11 May 2011), which relates it to events of February and March. The GoB must have been aware of the construction of these structures and that they lacked proper legal permits and did not conform to building regulations. Nonetheless, the GoB had not stopped the construction of these structures nor taken action to remove them for a number of years. The Government should have realised that under the circumstances, in particular the timing, the manner in which demolitions were conducted and the fact that these were primarily Shia religious structures, the demolitions would be perceived as a collective punishment and would therefore inflame the tension between the GoB and the Shia population.

5. Recommendations

1335. On 22 May 2011, HM King Hamad announced that new Shia places of worship would be built. The statement was made shortly after several religious structures were demolished by the GoB.

1336. The Commission recommends a follow up on the King's statement to the effect that the GoB will consider rebuilding, at its expense, some of the demolished religious structures in accordance with administrative regulations. The Commission welcomes the GoB addressing this question at the earliest possible time.

Section B – Terminations of Public and Private Sector Employment

1. Factual Background

1337. The Commission received a total of 1,624 complaints from individuals alleging that they had been dismissed or suspended from employment as a result of the events of February/March 2011. These allegations included dismissals in both the public and private sectors. What follows is a discussion of what occurred in the two sectors.

1338. The three main grounds used to dismiss employees in the public sector were: (i) absence from work; (ii) involvement in the demonstrations, at times occurring on work premises; and (iii) public display of opinions incompatible with the internal regulations of the ministries involved. In the private sector, the two main grounds used to dismiss employees were: (i) absence from work; and (ii) involvement in union activity related to the demonstrations.

1339. The information received by the Commission from government agencies has been in near-constant fluctuation. The Ministry of Labour (MoL) has reported that a large number of employees have been reinstated in the private sector, due in large part to its work on the matter, while the Civil Service Bureau (CSB) has reported low numbers of reinstatements and has on occasion denied reports of large-scale dismissals in the public sector.

1340. The General Federation of Bahrain Trade Unions (GFBTU) represents more than 70 trade unions in Bahrain, which cumulatively represent over 20,000 workers throughout the country. On 19 February 2011, the GFBTU issued a statement condemning the injuries caused to demonstrators, calling for a general strike beginning on 20 February and demanding the withdrawal of security forces in order to allow demonstrators to continue their peaceful demonstrations. The GFBTU also stated that they were striking because of what they perceived to be the GoB's inhibition of medical personnel from carrying out their duties to attend to the injured. On the same day, the Bahrain Teachers' Society (BTS) issued a statement criticising security forces for using violence against demonstrators at the GCC Roundabout. The BTS statement called on teachers to strike in front of their