

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

schools beginning on 20 February in order to demand a constitutional monarchy, an elected government and accountability for security forces responsible for killing civilians. It also advised parents not to send their children to school for safety reasons, stating a belief that security forces might use excessive force against the teachers. The BTS affirmed its commitment to maintaining the non-violent character of the demonstrations.

1341. On 21 February 2011, the GFBTU announced that it was suspending the strike due to the withdrawal of security forces from the GCC Roundabout.

1342. On 23 February 2011, the BTS issued a statement declaring that its demands had been met and suspending the teachers' strike. The statement called on teachers to return to work on 24 February and advised the Ministry of Education (MoE) not to retaliate against teachers who had participated in the strike. The statement noted that the BTS would continue organising demonstrations outside school hours.

1343. On 24 February 2011, dozens of employees of the MMAUP marched to the GCC Roundabout calling for the formation of a union.

1344. On 27 February 2011, the BTS issued a statement criticising what it regarded as retaliation against teachers who had participated in the teachers' strike. In its statement, the BTS called for a withdrawal of volunteers from schools, an apology from the Minister of Education for the treatment of teachers, the suspension of all legal actions pursued against teachers and an affirmation from the MoE to ensure the safety of teachers and students.

1345. On 28 February 2011, the GFBTU issued a statement in support of the socio-economic and political demands of the demonstrators. The statement also urged officials not to take measures that would exacerbate the situation, in particular by terminating the contracts of employees participating in demonstrations.

1346. On 2 March 2011, the BTS called for a peaceful demonstration in front of the MoE building in order to condemn the MoE's treatment of teachers and students and to demand the resignation of the Minister of Education. On 10 March, the BTS called for another demonstration demanding the resignation of the Minister of Education.

1347. On 13 March 2011, following continued reports of violence by security forces, the GFBTU called for another general strike beginning 14 March. The GFBTU stated that the purpose of the strike was to protest the excessive use of force by security forces against demonstrators during the events of February/March, as well as to voice general socio-economic grievances affecting the workforce.⁶⁷² The Arab Shipbuilding and Repair Yard (ASRY) Trade Union confirmed its participation in the general strike called for by the GFBTU.⁶⁷³ In addition, the BTS affirmed its support for the strike and called upon teachers to participate.

⁶⁷² Statement by the GFBTU, 13 March 2011.

⁶⁷³ Statement by the ASRY Trade Union, 13 March 2011.

1348. On 14 March, the Trade Union of BAPCO Employees issued a letter to the Board of Directors of BAPCO complaining that employees had been subjected to beatings and property damage during their commutes to and from work. The union argued that the company was responsible for ensuring the safety of its employees.⁶⁷⁴

1349. On 20 March 2011, the GFBTU issued a statement calling on workers to continue strikes in order to protest adverse treatment of workers by security forces and to highlight the threat to the safety of employees commuting to and from work.⁶⁷⁵

1350. The GFBTU called off the strike on 22 March 2011 and urged workers to return to work the following day. It stated that it had been given assurances by the head of the Shura Council, the Deputy Prime Minister and the Minister of Labour that workers would not face any punitive measures for their participation in strikes.

1351. On 23 March 2011, the BTS suspended the teachers' strike and called upon teachers to return to school beginning on 24 March.

1352. On 27 March 2011, HRH the Prime Minister ordered all ministries and government agencies fully to comply with the rules and regulations of the CSB with respect to disciplinary measures taken against employees in the public sector.⁶⁷⁶

1353. In a statement carried by the Bahrain News Agency on 17 April 2011, the Prime Minister referred to the demonstrators who participated in the February/March 2011 protests and stated, "No violators will get away with it". He added that "all co-conspirators and abettors must be held accountable".⁶⁷⁷ In a statement carried by Reuters news agency the following day, the Prime Minister described the protests as a coup attempt.⁶⁷⁸

1354. From March 2011 through May 2011, several companies and government agencies began dismissing employees for reasons ranging from failure to appear for work to allegations of involvement in the demonstrations of February/March.

1355. On 28 August 2011, HM King Hamad delivered a speech in which he ordered institutions to work toward reinstating dismissed employees, making no distinction between public and private sector employees.

⁶⁷⁴ Letter from the Trade Union of BAPCO Employees to the Board of Directors of BAPCO, 14 March 2011.

⁶⁷⁵ Statement by the GFBTU, 20 March 2011.

⁶⁷⁶ *The Government Demands the Application of the Civil Service Regulations on All Violators*, Al Wasat News (28 March 2011), <http://www.alwasatnews.com/3125/news/read/534549/1.html> accessed 9 November 2011.

⁶⁷⁷ *HRH the Prime Minister Chairs the Ordinary Meeting of the Council of Ministers*, Bahrain News Agency (17 April 2011), <http://bna.bh/portal/news/453143> accessed 1 November 2011.

⁶⁷⁸ *Gulf troops staying until Iran "threat" gone: Bahrain*, Reuters Africa (18 April 2011), <http://af.reuters.com/article/worldNews/idAFTRE73H2PZ20110418?sp=true> accessed 1 November 2011.

1356. The Commission received a total of 1,624 statements related to employee dismissals and suspensions in connection with the events of February/March 2011. In the public sector, 465 employees alleged that they had been dismissed from work, while 355 alleged that they had been suspended. In the private sector, a total of 788 employees alleged that they had been dismissed, while 16 alleged that they had been suspended. Below are tables reflecting the employment-related statements received by the Commission:

Public Sector Employees	Dismissed	Suspended
Central Bank of Bahrain	6	0
CSB	4	0
Council of Representatives	19	21
MoE	153	111
MoH	60	154
MoI	88	6
MMAUP	48	43
Other complaints	87	20
TOTAL	465	355

Private Sector Employees	Dismissed	Suspended
ALBA	228	0
APM	43	0
ASRY	8	3
Banagas	48	0
Batelco	111	0
Garmaco	13	0
Gulf Air	91	0
Other	246	13
TOTAL	788	16

a) Public Sector Employees

1357. The most common grounds for dismissals and suspensions alleged by public sector employees were: (i) absence from work; (ii) participation in demonstrations; and (iii) public display of opinions incompatible with the internal regulations of the ministries involved.

1358. Approximately 34% of dismissed public sector employees alleged that they had not been subjected to investigations or otherwise notified of their potential dismissal prior to receiving notice of their termination.

1359. Of the public sector employees who were subjected to investigations, some reported having been questioned about the reasons for their absence, their political affiliations, whether they had participated in the demonstrations

at the GCC Roundabout, which sect they belonged to, and their opinions about the regime and/or high profile religious or political figures.⁶⁷⁹

1360. Approximately 120 employees reported that they were presented with photographs associating them with the demonstrations.⁶⁸⁰ At least 95 employees⁶⁸¹ were threatened that their cases would be referred for public prosecution and 44 employees⁶⁸² were suspended prior to having been referred for investigations.

(1) The Civil Service Bureau and Public Sector Employees

1361. The Commission met with the CSB on three separate occasions to inquire about the dismissals and suspensions of employees in the public sector. The CSB oversees employment matters for employees working for government agencies.

1362. On 26 April 2011, the head of the CSB publicly denied reports of dismissals in government agencies under the umbrella of the civil service, stating that no employees had been dismissed for disciplinary reasons.⁶⁸³ He added that investigation committees in all ministries were completing their investigations and that employees would be referred to disciplinary boards to issue dismissals.⁶⁸⁴ He also stated that the disciplinary boards had already been formed in some government agencies in accordance with article 22 of Civil Service Law No. 48 of 2010.⁶⁸⁵

1363. During the Commission's first meeting with the CSB on 21 August 2011, the CSB alleged that according to its records, 174 employees in the public sector had been dismissed in connection with the events of February/March. Of these employees, 79 were MoE employees, 41 were MMAUP employees and 36 were MoH employees. The CSB also briefed the Commission on the procedures and guarantees afforded to public sector

⁶⁷⁹ Most commonly reported by MoI employees.

⁶⁸⁰ The government agencies involved in these allegations are: Ministry of Municipalities; MoE; University of Bahrain; Electricity and Water Authority; MoH; General Authority for the Protection of Marine Resources, Environment and Wildlife; Bahrain Training Institute; Parliament; Survey and Land Registration Bureau; and Capital Market Authority.

⁶⁸¹ The government agencies involved in these allegations are: MoE; University of Bahrain; MoI; Survey and Land Registration Bureau; MoH; Shura Council; Parliament; Ministry of Municipalities; MJIA; Ministry of Human Rights and Social Development; General Authority for the Protection of Marine Resources, Environment and Wildlife; Electricity and Water Authority; Al Areen Nature Reserve; General Authority of Social Insurance; and Capital Market Authority.

⁶⁸² The government agencies involved in these allegations are: MoH; MoE; Media Affairs Authority; Ministry of Municipalities; Survey and Land Registration Bureau; University of Bahrain Al Areen Nature Reserve; and MoI.

⁶⁸³ *Head of Civil Service Bureau reports no dismissals*, Bahrain News Agency (26 August 2011) <http://www.bahrainnewsagency.com/portal/news/454385> accessed 1 November 2011.

⁶⁸⁴ *Head of Civil Service Bureau reports no dismissals*, Bahrain News Agency (26 August 2011) <http://www.bahrainnewsagency.com/portal/news/454385> accessed 1 November 2011.

⁶⁸⁵ *Head of Civil Service Bureau reports no dismissals*, Bahrain News Agency (26 August 2011) <http://www.bahrainnewsagency.com/portal/news/454385> accessed 1 November 2011.

employees facing disciplinary action under Civil Service Law No. 48 of 2010, but disclosed that although the law had been enacted in November of 2010, the CSB had not yet applied the law consistently and did not anticipate doing so for the next several months.

1364. A report from the CSB reiterated the claim that 174 employees in the public sector had been dismissed, and added that 148 had been suspended and eight exonerated in connection with the events of February/March.⁶⁸⁶ The report also disclosed that since 15 February 2011, 615 new employees had been hired in public sector jobs.⁶⁸⁷

1365. Additionally, the Commission received statements from four witnesses who reported having been dismissed from their employment with the CSB. One witness reported having been dismissed for “immoral conduct”, and alleged that her dismissal was based on statements she had made on an instant messaging service. Another witness stated that he was a computer specialist for the CSB and was terminated for “calling for unlicensed protests”.

1366. The CSB provided copies of the dismissal letters for the four employees it had dismissed. The stated reasons for these dismissals involved “organising or calling for sit-ins”, “cursing or disparaging the reputation of others” and “behaviour inconsistent with a public post”.

1367. On 20 November 2011, the Commission received a letter from the CSB indicating the following:

- a. 37 employees were exonerated and returned to their work.
- b. 219 employees were referred to the Public Prosecution, but were not suspended from work and are receive full pay.
- c. 180 dismissals were confirmed. The employees may challenge these dismissals in administrative court.

1,639 referrals for dismissal made to the CSB by government agencies were overturned after consultation with the Public Prosecution. These employees have been reinstated and returned to work, but were suspended for periods up to 10 days as provided by the law.

(2) Council of Representatives

1368. The Commission received complaints from 53 employees of the Council of Representatives who had been dismissed, suspended or subjected to some form of disciplinary action or review in connection with the events of February/March 2011. Of these employees, 19 had been dismissed and 21 suspended. Employee suspensions ranged from five to 15 days, and two of the suspended employees were referred for public prosecution.

⁶⁸⁶ Civil Service Bureau, Report to the Commission [on file with the Commission].

⁶⁸⁷ Civil Service Bureau, Report to the Commission [on file with the Commission].

1369. The Commission met with the Speaker of the House and his Chief Legal Adviser, who both alleged that the employees had been dismissed for committing crimes against HM King Hamad, HRH the Prime Minister and the GoB. During this meeting, the Commission referred to HM King Hamad's speech of 28 August 2011, in which he pardoned individuals who had spoken out against him and members of the GoB and urged the reinstatement of dismissed employees. The Speaker of the House stated that the decisions to dismiss would be reviewed and an update would be submitted to the Commission within one week. No response was submitted. Rather, when the Commission followed up on the matter, it was informed that the review board that had been established had confirmed the decisions to dismiss and that the employees would need to challenge their dismissals in administrative court.

(3) Ministry of Education

1370. The Commission received complaints from 87 dismissed and 96 suspended employees from the MoE.

1371. The BTS submitted a report to the Commission alleging that following the teachers' strikes of 20-24 February and 14-24 March 2011, as well as the subsequent demonstrations organised by the BTS outside school hours, the MoE began retaliating by dismissing and suspending teachers.

1372. Among the affected employees was an active member of the BTS, who was arrested on 28 March 2011 in her home by men wearing military and civilian clothing. She reported having been blindfolded, handcuffed and taken to the Criminal Investigations Department facility where she was subjected to various forms of mistreatment. She was then taken to the Isa Town Detention Centre, a female detention facility, where she reported further mistreatment. The witness alleged that she was blindfolded for several hours and kept in isolation, and was not permitted to pray or to clean herself. The witness also stated that she was subjected to derogatory comments about her sect, Shia Islam, and that she was not permitted contact with her legal representative or family members. The MoE accused the witness of organising illegal strikes and dismissed her on that ground.

1373. Other witnesses reported having been dismissed for attending demonstrations in front of the MoE or local schools. One witness attempted to file a complaint with the CSB regarding her dismissal, but was informed by both the CSB and the MoE that the order to dismiss her had come from "higher up". Another witness was summoned for questioning by the MoE but refused to participate in the investigation, although she denied participating in any political activities. The witness stated that shortly after her refusal, she was dismissed from work because she had taken two sick days, despite having provided a medical report explaining her absence.

1374. The MoE provided the Commission with copies of the notices that it had issued to its employees.⁶⁸⁸ These notices included the following: four summonses informing employees to appear before an investigation

⁶⁸⁸ Ministry of Education, Report to the Commission [on file with the Commission].

committee; three summonses informing employees to attend a hearing before a disciplinary committee; one warning for unauthorised absence; three notices suspending employees until investigation was complete; and two notices of dismissals.

1375. The CSB provided copies of letters that had been issued to 44 employees dismissed from the MoE.⁶⁸⁹ The letters identified the following reasons for dismissal: calling for strikes; participating in sit-ins or demonstrations in front of schools; encouraging minors to participate in demonstrations; and carrying slogans disparaging leaders. Additionally, seven of the dismissal letters provided by the CSB stated that the employee was dismissed for not punishing students who did not attend class during the demonstrations.

(4) Ministry of Health

1376. The Commission collected the statements of 60 individuals who alleged that they had been improperly dismissed and 154 individuals who alleged that they had been suspended from their employment with the MoH. Employees of the MoH alleged that they had been discriminated against on the basis of their religious sect (Shia Islam) and for their support for or participation in workers' strikes and demonstrations during the events of February/March 2011. Employees also reported being detained on work premises, and interrogated and insulted by security officers.

1377. One witness working for the Human Resources Department of the MoH stated that security forces attacked the MoH building on 18 April 2011. The witness was detained in a room where security officers insulted him, refused to inform him of why he had been detained, and then transported him to the Naim Police Station where he was forced to sign documents he did not read. The witness stated that he was asked about his participation in demonstrations and events at SMC and questioned about his salary. On 2 May, the witness received a letter from the MoH informing him that he had been suspended for three months for unlawful assembly and conspiring against the GoB.

1378. Other employees alleged that they were interrogated by MoH officials about their political opinions. Witnesses reported having been asked about their participation in demonstrations and their political opinions. Witnesses also reported having been asked questions attempting to incriminate colleagues who may have been active in the demonstrations.

1379. Employees further alleged that the disciplinary measures taken against them by MoH were not in accordance with Civil Service Law No. 48 of 2010. Witnesses stated that they received written warnings without first receiving any notification that they were under investigation and that they were dismissed for missing five consecutive days (as opposed to the 15 consecutive days required by law to legally dismiss public employees for absenteeism) or 20 non-consecutive days (as opposed to the 30 non-

⁶⁸⁹ Civil Service Bureau, Report to the Commission [on file with the Commission].

consecutive days required by law to legally dismiss public employees). Some employees also alleged that they were dismissed for past actions that supervisors had known about for over three months, in violation of article 22 of Civil Service Law No. 48.

(5) Ministry of Interior

1380. The Commission interviewed 94 employees or former employees of the Ministry of Interior (MoI). Of these, 88 alleged they had been dismissed and six suspended from their positions at the MoI. The Commission also received information indicating that 110 MoI personnel had been arrested for being absent from work or refusing to carry out orders from their superiors during the events of February/March 2011. These witnesses stated that they had also been subjected to derogatory comments about their family and religious sect (Shia Islam) during their detention. Nineteen of these witnesses also alleged they had been subjected to various forms of mistreatment, including torture or cruel, inhuman or degrading treatment.⁶⁹⁰

1381. One witness stated that he was working as a police officer with the MoI, but was dismissed for allegedly participating in unauthorised demonstrations, associating with certain opposition political parties and being involved in attempting to overthrow the Government. The witness was also arrested and sentenced to four years in prison on the basis of these allegations.

1382. The most common reason for dismissal given to police personnel was participation in or support for protests and demonstrations at the GCC Roundabout. Some MoI employees were accused of attending protests dressed in their uniforms. Others were dismissed due to absence from work. One witness working as an officer at the MoI stated that he was arrested on his way to SMC where his phone was searched by other officers who went through his text messages. The witness reported that his hands were bound and he was sent to the Naim police station where he was subjected to torture and was forced to sign a confession he did not read. He was then sent to Al-Qalaa Detention Centre where he was subjected to further interrogations, forced standing and verbal abuse. The witness stated that he was also forced to provide false testimony against his colleagues. He was sentenced to three years in prison and dismissed from service at the MoI.

(6) Ministry of Municipal Affairs and Urban Planning

1383. The Commission received statements from 48 dismissed and 43 suspended employees in the MMAUP. The employees alleged that the dismissals and suspensions were issued after they participated in a march from the MMAUP building to the GCC Roundabout on 24 February 2011. Employees of the MMAUP had been demonstrating in order to call for the formation of a union.

⁶⁹⁰ See also Chapter VI, Section D.

1384. One employee working for the MMAUP stated that he was questioned by two investigation committees. The first interview was conducted by the MMAUP and the second interview was conducted by the CSB. The witness stated that he was accused of organising, calling for and inciting unlicensed protests. Although the witness denied the accusations, he was notified of his suspension by the MMAUP and later dismissed after review of the investigation by the CSB. The notice issued to the witness from the CSB stated that it was recommending dismissal due to “misconduct inside or outside the workplace: organising, calling for or inciting unlicensed protests”.

1385. The Commission obtained information from the CSB indicating that 99 employees had been dismissed from the MMAUP.⁶⁹¹ The Commission received copies of dismissal letters for 45 of these employees, which indicated they had been dismissed for organising assemblies or workers’ strikes or for “misconduct inside or outside of work”.

b) Private Sector Employees

1386. The most common grounds for the dismissal or suspension alleged by private sector employees were: (i) absence from work; and (ii) participation in demonstrations.

1387. The most common questions asked of employees subjected to pre-termination investigations were related to the employees’ reason for their absence. Employees on annual leave reported having been asked why they chose the period of February/March for their leave. Employees were also asked about their participation in demonstrations and/or workers’ strikes, whether they had participated in demonstrations at the GCC Roundabout and their loyalty to the regime.

1388. Approximately 10 private sector employees reported that they were presented with photographs associating them with the demonstrations.⁶⁹² At least 37 employees⁶⁹³ were threatened that their case would be referred for public prosecution. The Commission also received reports of companies notifying employees of their dismissal by SMS message,⁶⁹⁴ verbal notice⁶⁹⁵ or telephone.⁶⁹⁶ Some employees learned of their dismissal when they appeared for work and were not allowed onto the premises.⁶⁹⁷ Employees also reported

⁶⁹¹ Civil Service Bureau, Report to the Commission [on file with the Commission].

⁶⁹² These allegations involved the following companies: Gulf Air; BAPCO; and ASRY.

⁶⁹³ These allegations involved the following companies: ASRY; ALBA; and Gulf Air.

⁶⁹⁴ These allegations involved the following companies: Batelco; Elia House; and Gulf Air.

⁶⁹⁵ These allegations involved the following companies: Gulf Air; Asry; Al Mahd Safety and Security; ALBA; The Indian School; Bahrain Fibre Glass; Al Reyah Car Company; and Ulter Tion Bahrain.

⁶⁹⁶ These allegations involved the following companies: ALBA; BahrainLimo; Banagas; Gulf Air; Bapco; Batelco; Al Bilad Newspaper; and Al Dhaen.

⁶⁹⁷ These allegations involved the following companies: IBM Terminals; and ALBA.

having been told that if they did not tender their resignation, they would be referred to investigation and subsequently dismissed.⁶⁹⁸

(1) The Ministry of Labour and Private Sector Employees

1389. The Commission met with the MoL on two occasions to discuss the dismissals and suspensions of employees in the private sector. During the Commission's first meeting with the MoL on 17 August 2011, the MoL maintained that the dismissals of employees in the private sector were lawful, and that any unlawful dismissals had already been corrected by reinstating the aggrieved employee. The MoL further stated that it had ensured that each case of dismissal was reviewed by a lawyer. At the same time, however, the MoL conveyed its belief that the employees participating in the demonstrations were attempting to destroy the country's economy. It further stated that the dismissals of employees that were conducted unlawfully were done in the interest of security. The MoL identified its role in the matter as a mediator between the employers and dismissed employees, and stated that it would consider suggestions put forth by the Commission to establish review boards and compensation funds for aggrieved employees.

1390. According to a follow up report submitted by the MoL, a total of 2,464 private sector employees were dismissed in relation to the events of February/March 2011.⁶⁹⁹ The distribution of dismissed employees was as follows: ALBA (514); BAPCO (312); APM (254); Gulf Air (219); Batelco (172); BAS (87); Banagas (68); ASRY (64); Garmco (29); and other companies (743).

1391. Of those dismissed employees, 820 were reinstated after the MoL was informed of the dismissal, 176 were hired elsewhere, retired or received financial compensation from the employer, 88 were offered compensation, 290 did not file complaints with the MoL, 223 were determined to have been dismissed for reasons unrelated to the events of February/March 2011, 51 declined to return to work, 28 were rehired by other facilities after a certificate of good conduct was issued, and seven were employed by businesses no longer in operation. The MoL reported that 686 employees were still deemed illegally dismissed but not yet reinstated, and the employers of 93 illegally dismissed employees refused to reinstate them (36 employees of Gulf Air and 57 employees of other businesses).

1392. The MoL also alleged that the workers' strikes organised by the GFBTU were unlawful because they called for political demands and were unrelated to labour issues. The MoL further alleged that the workers' strikes were unlawful because they involved employees of "vital industries" who are prevented from participating in any strikes under Bahraini law. The MoL

⁶⁹⁸ These allegations involved the following companies: Gulf Air; Asry; ALBA; Al Ahad Newspaper; and Bahrain Association for Weight Lifting.

⁶⁹⁹ Ministry of Labour, Report to the Commission, 30 October 2011.

noted that “vital industries” are determined by the President of the Council of Ministries.

(2) General Federation of Bahrain Trade Unions

1393. The GFBTU alleged that employees it represented were dismissed in retaliation for participating in workers’ strikes, in violation of Decree Law No. 33 of 2002 and article 1 of Decree Law No. 57 of 2006.

1394. The GFBTU alleged that dismissals of union leaders began after the media released photographs of them participating in demonstrations and accused them of being part of a foreign conspiracy to damage the nation’s economy. According to the GFBTU, union leaders were also threatened with legal action by companies owned either in whole or in part by the GoB if the union leaders did not tender their resignation. The GFBTU expressed the view that those threats constituted an unlawful intervention in union affairs. The GFBTU also alleged that union leaders and members were referred to criminal investigations, threatened with referrals to the National Safety Court and forced to resign from the unions.

1395. The GFBTU stated that dismissed employees were prevented from registering their unemployment with the MoL because security forces would routinely harass employees who had participated in the strikes when attempting to register. They further alleged that the union had to step in and register the employees directly with the MoL.

1396. The GFBTU submitted the names of 57 union leaders who had been dismissed from their jobs, comprising 26% of the 216 individuals representing trade union leadership. It further submitted the names of 175 additional union members who had been dismissed in connection with the strikes.

1397. In a meeting held by the Commission with the GFBTU on 18 August 2011, union representatives stated that despite the call by HRH the Prime Minister to reinstate wrongfully dismissed employees, and despite media reports that employees were being reinstated, companies were stalling this process. Union representatives further alleged that several of the employees who the MoL and private companies claimed had been reinstated were in fact new hires and not formerly dismissed employees.

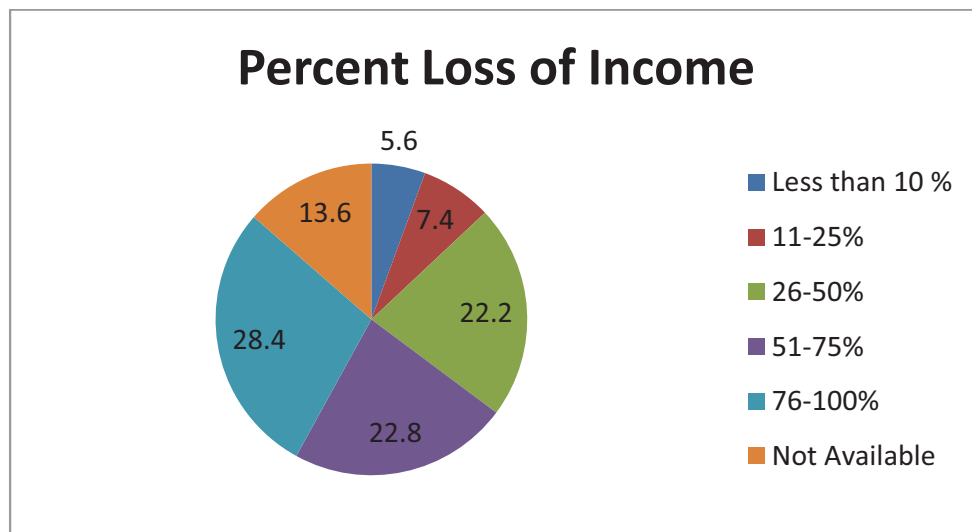
(3) Effects of the Events on Bahraini Businesses

1398. The Commission met with representatives of over 40 Bahraini businesses on 29 September 2011. During this meeting, business owners stated that the events of February/March 2011 impacted negatively on their businesses, and these negative effects inhibited them from rehiring employees who had been absent during the events.

1399. The Bahrain Chamber of Commerce (BCC) submitted a report to the Commission regarding the effects of the events of February/March 2011 on

the economy. The report stated that several sectors of the economy were negatively affected by the events, with the construction and industrial sectors most affected.⁷⁰⁰ Several businesses alleged that as a result of these negative effects, they had been unable to rehire dismissed employees. The report further stated that 835 businesses sought aid from the BCC in connection to difficulties they were facing as a result of the events.

1400. According to a survey conducted by the BCC, 97% of businesses reported that the events of February/March 2011 had a negative impact on business. 84.6% of businesses reported a loss of income, while only 4.3% reported no loss and another 4.3% reported an increase in income. Of businesses reporting a negative impact, 36% reported that they had overcome the negative effects, while 21% reported that they were still experiencing losses. Additionally, 90% of companies reported receiving government support for their businesses as a result of the negative effects of the events.



1401. In terms of employment, 46.3% of businesses reported that their employee salaries remained the same, while 27.8% reported decreasing the salaries of employees. Furthermore, the BCC reported that 34.6% of businesses employed the same number of workers, while 42.6% experienced a reduction in the number of employees.

1402. With regard to effects of the loss of employees on businesses (either by termination or resignation), 45% of businesses reported that business partially stopped, 22% reported that business came to a total stop, while 15% reported that business continued to operate as usual.⁷⁰¹

(4) ALBA

1403. The Commission reviewed the statements of 228 ALBA employees who had been dismissed. A report submitted by ALBA employees alleged

⁷⁰⁰ Bahrain Chamber of Commerce, Report to the Commission, 18 August 2011.

⁷⁰¹ Bahrain Chamber of Commerce, Report to the Commission, 18 August 2011. 18% of businesses surveyed did not provide information in response to this section of the survey.

that the company dismissed a total of 399 employees, amounting to 14% of the company's workforce. The employees reported that of these 399 dismissed employees, only six were reinstated during the first week of dismissals, and an additional 50 were reinstated on 31 July 2011. The employees alleged that employees returning to work were required to sign documents.

1404. According to a report submitted to the Commission by the MoL, 514 dismissed employees of ALBA registered their unemployment with the MoL. Of these 514 employees, 204 had been reinstated to work as of 14 September 2011. Additionally, the MoL determined that 247 of the 514 dismissed employees remained illegally terminated. The report further stated that 12 dismissed employees either retired or found other employment, 49 did not pursue complaints, and two dismissals were found to be lawful by the MoL.⁷⁰²

1405. One witness alleged that he was dismissed from ALBA without having been informed of the reason for his dismissal, and that he was not issued the complete payment to which he was entitled. The witness stated that he did not appear for work on 20 and 21 March 2011 because he feared for his safety, but that he returned to work on 22 March. He further stated that he continued to work until he was given notice of his dismissal on 11 April. The witness also stated that although he worked on 10 April, he was not paid for this day or for two other unused vacation days. The witness stated that prior to his dismissal, he was not issued any warning or otherwise given any notice that he would be disciplined for his two-day absence. Only three months after his dismissal was the witness notified of an investigation by ALBA.

1406. On 3 November, the Commission met with representatives of ALBA who stated that only 203 employees remained dismissed, but that they were working with the MoL to establish a review committee to address the dismissals.

(5) The Arab Shipbuilding and Repair Yard Company

1407. The Arab Shipbuilding and Repair Yard Company (ASRY) has provided marine services in the form of ship repair and conversion since 1977. The Commission received statements from eight dismissed and three suspended employees at ASRY. According to a report submitted by the MoL, a total of 64 employees were dismissed from the company in connection with the events of February/March 2011. Of those employees, 15 were reinstated,

⁷⁰² On 30 October 2011, the MoL submitted a follow up report that stated the following regarding ALBA employees: 204 were reinstated; 11 found employment, retired or were given financial compensation; 88 were offered compensation; 39 did not pursue complaints with the MoL; and 172 remained illegally dismissed. While these figures add up to 514 – the total number of employees reported dismissed – the breakdown of numbers does not altogether correspond with the previous report. The Commission cannot make any presumptions about the decrease in the number of employees reported to have found other employment or retired, the decrease in the number of employees reported to have not filed complaints, or the two employees previously reported by the MoL to have been found lawfully dismissed and which are not identified in its later report.

one was hired elsewhere, six did not pursue complaints with the MoL, one dismissal was found to be unrelated to the events of February/March, and 41 were found to have been illegally dismissed and not yet reinstated by ASRY.⁷⁰³

1408. According to the ASRY Trade Union, the company dismissed the employees with no prior notice or investigation. Union representatives alleged that the Chief Executive Officer (CEO) of the company informed them that the dismissals of union members were based on orders from “higher ups”.

1409. Union representatives also alleged that several employees were forced to resign after threats of being referred to public prosecution for criminal investigation and detention. The Union provided a letter addressed to the Board of Directors of ASRY and signed by 29 employees stating that their resignations were tendered under duress.

1410. Reported reasons for the dismissal of ASRY employees included: termination for incitement to strike; termination for political incitement using the company’s email system; termination for participating in the sit-in at the Lulu Roundabout; and termination for absence. The ASRY Trade Union alleged that all nine members of its board of directors were dismissed for inciting other employees to strike, and it provided copies of their termination letters to the Commission.

1411. The union stated that employees were dismissed for their absence from work regardless of the reasons for the absence due to assumptions about the sectarian and political affiliations of the employees. It further stated that ASRY deducted missed days from the pay of employees rather than applying the employees’ allotted personal or sick leave if the absences occurred during the general strike for the safety of workers. The union stated that it had reached out to ASRY to address these matters, but was unable to obtain any response from the company.

1412. The union also alleged that ASRY retaliated against the union by not deducting membership dues from member employees. In support of this claim, it provided copies of member pay stubs from the months of May and June 2011 indicating that member dues were not deducted. It also provided copies of correspondences between the union and ASRY, as well as between the union and the MoL, complaining of this matter.

(6) Batelco

1413. Batelco is a telecommunications corporation headquartered in Bahrain. While it is a private corporation, 35% of its shares are owned by the GoB. The Commission collected the statements of 111 Batelco employees alleging that they had been dismissed in connection with the events of February/March 2011.

1414. One witness who was dismissed from Batelco stated that at the time he was dismissed, on 4 April 2011, he was on approved annual leave. The

⁷⁰³ Ministry of Labour, Report to the Commission, 30 October 2011.

witness stated that he received a telephone call from Batelco informing him that he had been dismissed because he was absent from work. The witness provided a letter from Batelco approving his request for leave prior to his dismissal.

1415. On 16 August, the Commission met with Batelco's chairman and several other senior managers. During this meeting, Batelco stated that it had dismissed a total of 172 employees in connection with the events of February/March 2011. Batelco alleged that all of these employees were dismissed as a result of absenteeism exceeding 10 days and because they had "brought politics into the workplace". The company also reported that it had already hired 96 new employees to replace some of those who had been dismissed.

1416. Batelco admitted that it did not provide any advanced warning to employees who did not appear for work, but instead dismissed them immediately. Batelco stated that due to security threats related to the events of February/March, it would have been too difficult to have warning letters delivered to employees.

1417. The MoL established an independent investigation committee to review the dismissal of Batelco employees. The committee determined that 102 of the registered 172 dismissed employees were illegally terminated. Of the remaining 70 registered dismissed Batelco employees, 69 did not pursue MoL investigations and one employee found other employment. According to the MoL report, Batelco did not reinstate any of the registered 172 dismissed employees.⁷⁰⁴

1418. Although during its meeting with the Commission, Batelco agreed to establish a review board to investigate the employee dismissals, the Commission did not receive any subsequent information indicating that this in fact occurred or that any of the dismissed employees were reinstated.

(7) Gulf Air

1419. The Commission collected the statements of 91 employees who had been dismissed from Gulf Air.

1420. On 15 March 2011, the CEO of Gulf Air issued a statement to employees which addressed safety and security concerns regarding employees travelling to and from work.⁷⁰⁵ The statement instructed employees to notify their supervisor if they planned on missing work. The statement indicated that no disciplinary action would be taken against employees for missing work if the reason for their absence was because they feared for their safety.

1421. The Gulf Air Trade Union (GATU) submitted a report containing the names of 213 employees dismissed from Gulf Air. GATU alleged that some of the reasons used by Gulf Air to dismiss those employees were not in fact violations according to the company's internal regulations. According to

⁷⁰⁴ Ministry of Labour, Report to the Commission, 30 October 2011.

⁷⁰⁵ Email sent to the Commission from the CEO of Gulf Air, 15 March 2011.

GATU, most of the terminations were based on absenteeism. However, the union provided the Commission with a letter from the CEO of Gulf Air acknowledging that employees may be unable to appear for work due to security reasons, and stating that such absences would merely be deducted from the employees' allotted time off. The union further alleged that the dismissals were based both on discrimination against employees for their religion (Shia Islam) and on retaliation for the perceived political affiliation of the employee (ie support for the opposition).

1422. GATU alleged that on 28 and 31 March 2011, government security officers and masked individuals in civilian clothing entered Gulf Air and approached Shia employees, interrogating them and subjecting them to searches of their persons, workstations, computers, phones and personal belongings. One union board member stated that he was dragged by armed civilians into the employee lounge where he was physically assaulted and stripped. According to the union, several employees disclosed that they had been arrested in their offices and physically assaulted, and some were referred to the GoB for criminal investigations. The union further alleged that one member of its leadership was arrested by police after having been referred by Gulf Air administration, and was then subjected to mistreatment and forced to sign documents he did not have an opportunity to read.

1423. One former employee stated that he was dismissed from work on 10 April 2011 for absenteeism during the period in which the GFBTU had called for a strike. Although Gulf Air confirmed that the witness had requested personal leave prior to his absence, it alleged that he had not provided sufficient notice of his absence and it dismissed him on those grounds. The witness explained that he did not appear for work between 14 and 22 March 2011 because he feared for his safety. He further stated that he had received approval for the leave from his direct supervisor, and he believed that the notice he had given to his supervisor was sufficient because of the letter written by Gulf Air's CEO to employees to accommodate those who did not appear for work due to safety concerns. The witness stated that he was summoned to the human resources department where he was required to sign a dismissal letter stating that he had participated in the GFBTU strike.

1424. Gulf Air's CEO and several members of senior management met with the Commission on 15 August 2011. During this meeting, Gulf Air disclosed that it had dismissed 219 employees in connection with the events of February/March 2011. The company stated the following reasons for the dismissals: (i) participation in "illegal" gatherings; (ii) absence from work for less than 10 days; (iii) absence from work for more than 10 days; (iv) possession of material in support of regime change in Bahrain; (v) making disparaging remarks about the royal family and members of government; and (vi) calling for a workers' strike at Gulf Air and the nation's airport. Gulf Air failed to provide the Commission with the evidence it used against employees in making these determinations.

1425. Gulf Air's CEO and legal staff disclosed that they did not provide employees with any warning prior to the dismissals. Gulf Air stated that the

reason for this failure was that they could not securely send written notices to staff due to the problems the country was facing in terms of security. When the Commission asked why Gulf Air would not consider the possibility that dismissed employees could not report to work due to the same security problems that Gulf Air claimed prevented it from sending written warnings to its employees, its CEO stated that they assumed employees who did not appear for work attended the demonstrations at the roundabout. When asked again what evidence Gulf Air obtained in order to make these determinations, its CEO reiterated that these were assumptions made by the company and that it did not have actual evidence to support its determinations.

1426. During this meeting, Gulf Air also stated that several of the employees it had reported were reinstated were in fact new hires. Gulf Air also stated that it had halted the reinstatement of at least eight employees because of orders it received from the National Security Agency.

1427. A report submitted to the Commission from the MoL disclosed that a total of 219 Gulf Air employees were dismissed in connection with the events of February/March. Of those, it reported that 135 were reinstated, 14 did not pursue complaints with the MoL, 26 were hired at another facility after receiving a certificate of good conduct, eight were determined to have been illegally dismissed but not reinstated by the employer, and 36 were refused reinstatement by the employer.⁷⁰⁶

2. Applicable Law

1428. The right to work is a fundamental human right which is enshrined in a number of international conventions to which Bahrain is a party and domestic laws.

a) International Law

1429. Article 6 of the ICESCR provides that States Parties “recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.”⁷⁰⁷ Article 2(2) provides that States Parties “undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

1430. In relation to trade unions, article 8 of the ICESCR provides as follows:

1. The States Parties to the present Covenant undertake to ensure:

⁷⁰⁶ Ministry of Labour, Report to the Commission, 30 October 2011.

⁷⁰⁷ International Covenant on Economic, Social and Cultural Rights, adopted by GA res 2200A (XXI), 16 December 1966, entered into force 3 January 1976. See also article 34 of the Arab Charter on Human Rights 2004.

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.⁷⁰⁸

1431. These provisions must be read in conjunction with article 4, which provides that “the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.”

1432. Bahrain is also a party to the following nine International Labour Organization (ILO) fundamental conventions: Convention No. 14 on Weekly Rest (Industry); Convention No. 29 on Forced or Compulsory Labour; Convention No. 81 on Labour Inspection; Convention No. 89 on Night Work (Women); Convention No. 105 on the Abolition of Forced Labour; Convention No. 111 on Discrimination in Respect of Employment and Occupation; Convention No. 155 on Occupational Safety and Health; Convention No. 159 on Vocational Rehabilitation and Employment of Disabled Persons; and Convention No. 182 on Worst Form of Child Labour.

⁷⁰⁸ See also article 35 of the Arab Charter on Human Rights 2004.

1433. ILO Convention No. 111 on Discrimination in Respect of Employment and Occupation defines discrimination as “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing the equality of opportunity or treatment in employment or occupation.”

b) National Law

(1) Constitution of Bahrain

1434. The Constitution of Bahrain contains a number of provisions that are relevant to the allegations of unfair dismissals in the context of the February/March 2011 protests. In particular, article 13 provides as follows:

(a) Work is a duty of every citizen, is required by personal dignity and is dictated by the public good. Every citizen has the right to work and to choose the type of work within the bounds of public order and decency.

(b) The State guarantees the provision of job opportunities for its citizens and the fairness of work conditions.

(c) Compulsory work cannot be imposed on any person except in the cases specified by law for national exigency and for a fair consideration, or pursuant to a judicial ruling.

(d) The law regulates the relationship between employees and employers on economic basis while observing social justice.

1435. Article 18 of the Constitution guarantees human dignity and equality of its citizens, providing as follows: “People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.” Article (28)(b) provides that public meetings, parades and assemblies are permitted under the rules and conditions laid down by law, but the purposes and means of the meeting must be peaceful and must not be prejudicial to public decency.

(2) Other Domestic Laws

1436. Other domestic legislative instruments safeguarding and protecting the right to work include:

- a. Decree Law No. 78 of 2006 pertaining to Social Security;
- b. Decree Law No. 35 of 2006 promulgating the Civil Service Law;
- c. Decree Law No. 19 of 2006 promulgating the Civil Code;

- d. Decree Law No. 57 of 2006 establishing the Labour Fund;
- e. Decree Law No. 17 of 2007 on Vocational Training;
- f. Decree Law No. 37 of 2007 promulgating the Executive Regulations of the Civil Service Law issued by the Council of Ministers;
- g. Decree Law No. 3 of 2008 on the General Authority for Social Insurance; and
- h. Decree Law No. 48 of 2010 promulgating the Civil Service Law.

1437. The Bahraini Act No. 32 of 2006, amending Decree Law No. 18 of 1973, concerning public meetings, demonstrations and gatherings, authorises the holding of peaceful gatherings and demonstrations, subject to notification of the authorities by three of the organisers, and calls on the authorities to provide the necessary protection for peaceful demonstrations and gatherings.

1438. Decree Law No. 33 of 2002 promulgating the Law on Trade Unions states:

Trade union organisations shall aim at protecting the lawful rights of their members, defending their interests and improving their working conditions. In particular, they shall endeavour to attain the following objectives: (a) dissemination of trade union awareness among workers; (b) improvement of the cultural standard of workers; (c) promotion of professional and occupational standards of workers; (d) improvement of health, economic and social standards of workers and their families; and (d) participation in Arab and international labour forums and events and presenting the viewpoint of Bahrain workers.⁷⁰⁹

The law applies to both private and public sector employees.⁷¹⁰ The law prohibits trade unions from: (i) engaging in any activity outside of the purposes prescribed by law; (ii) using force, violence, threats or illegal measures to obstruct or attempt to obstruct the rights of others; or (iii) engaging in any political activity.⁷¹¹

1439. Decree Law No. 33 of 2002 also provides that a strike “is a legitimate means to defend workers’ rights and interests”, but prohibits workers in “vital facilities” from striking.⁷¹² The vital facilities identified under the law are: security, civil defence [police], airports, ports or harbours, hospitals, transportation, wired and wireless communication, electricity and water.

⁷⁰⁹ Decree Law No. 33 of 2002, art 7.

⁷¹⁰ Decree Law No. 33 of 2002, art 2.

⁷¹¹ Decree Law No. 33 of 2002, art 20.

⁷¹² Decree Law No. 33 of 2002, art 21.

(3) Public Sector Employee Law

1440. Decree Law No. 48 of 2010 pertains to employees in the public sector and requires the employing agency to conduct an investigation and impose disciplinary penalties on an offending employee⁷¹³ if the employee contravenes any of the provisions of the Decree Law, the Executive Regulations, their implementing instructions, or “the requirement of his duties or behaves in a manner prejudicial to the dignity of his position.”⁷¹⁴ The potential for disciplinary action exists “without prejudice” to the criminal or civil liability of the accused employee.⁷¹⁵ The CSB may undertake the investigation if it deems it necessary, and this is done in coordination with the employing agency.⁷¹⁶

1441. Upon an initial recommendation to dismiss an employee, the employing agency must refer the employee to a disciplinary board constituted in accordance with the decision of the President of CSB.⁷¹⁷ On its face, the Executive Regulations provide employees with notice, process and opportunity for representation and defence throughout an investigation and subsequent appeal.⁷¹⁸ An aggrieved employee may also challenge the final determination in a civil court of law.⁷¹⁹ At each stage of review, the decisions by the reviewing authority are made in the form of recommendations, which can then be approved, amended or rejected by the employing agency.⁷²⁰

1442. Article 20 of Decree Law No. 48 prescribes the types of leave afforded to employees. Article 28 states that an employee is deemed to have resigned if the employee has been absent from work “without permission” for 15 consecutive days or for 30 inconsecutive days in the course of one year. The employee must be notified in writing of the potential disciplinary action within five days of a consecutive 15 day absence, and within 20 days of a nonconsecutive 30 day absence.

1443. Article 226 of Decision No. 37 of 2007 promulgating the Executive Regulations of the Civil Service Law outlines the following disciplinary measures that can be taken against employees: verbal reprimand; written warning; withholding Annual Rotational Allowance for a period of up to three months; or suspension from work without a salary for a period not exceeding one month per year, with each period of suspension not exceeding ten days. However, dismissal from service has to be referred to the CSB for action.

⁷¹³ Decree Law No. 48 of 2010, art 22(2).

⁷¹⁴ Decree Law No. 48 of 2010, art 22(1).

⁷¹⁵ Decree Law No. 48 of 2010, art 22(1).

⁷¹⁶ Decree Law No. 48 of 2010, art 22(3).

⁷¹⁷ Decree Law No. 48 of 2010, art 22(4).

⁷¹⁸ Decision No. 37 of 2007 promulgating the Executive Regulations of Civil Service Law issued by Law No. 35 of 2006, arts 217-256.

⁷¹⁹ Decision No. 37 of 2007, art 254.

⁷²⁰ Decision No. 37 of 2007, arts 225 and 253.

(4) Private Sector Employee Law

1444. Decree Law No. 23 of 1976 permits an employer to dismiss an employee who is absent without authorisation for 10 consecutive days or 20 nonconsecutive days in the course of one year.⁷²¹ The Law also requires an employer first to issue a warning to the employee of the potential disciplinary action within five days of the unauthorised absence.

1445. Decree Law No. 23 of 1976 also states that employers should not impose penalties for offences committed outside the workplace.⁷²²

3. Findings and Conclusions

1446. Various government officials, having publicly condemned the demonstrations, created an environment whereby individuals participating in demonstrations and strikes could face retaliation for their involvement by employers. In addition, the Commission has received anecdotal evidence suggesting that government representatives directly encouraged companies to dismiss employees suspected to be involved in the events of February/March 2011.

1447. Civil Service Law No. 48 of 2010, although in effect since November 2010, has not been consistently applied. The CSB's own admission to the Commission that it would not implement the law for several months, as well as evidence and statements provided by employees and government agencies, indicates that while notice and procedural guarantees may have been given to some employees, they were not given to all employees. The failure to universally apply procedural guarantees afforded by law has resulted in the denial of due process for dismissed and suspended employees, in contravention of the Constitution of Bahrain and Civil Service Law No. 48 of 2010.

1448. The Commission is unable to confirm the contention put forth by the MoL, CSB and several companies that the workers' strikes that occurred during February/March 2011 were unlawful because they were unrelated to labour issues. It appears that the workers' strikes that occurred during February/March 2011 were within the permissible bounds of the law. The calls by various labour and trade unions to strike were related, at least in part, to concerns for the safety and mistreatment of workers, calls for an improvement in the socio-economic conditions of their members and their families, and assurances against retaliation against participating members, pursuant to the purposes outlined under article 20 of Decree Law No. 33 of 2002.

1449. Dismissals of both public and private sector employees as a result of absences were inconsistent with article 28 of Civil Service Law No. 48 of 2010 and article 113 of Decree Law No. 23 of 1976, respectively, as a

⁷²¹ Decree Law No. 23 of 1976, art 113.

⁷²² Decree Law No. 23 of 1976, art 102(4).

substantial number of employees were dismissed for absences shorter than the periods proscribed as punishable by an employer.

1450. Statements made to the Commission by representatives of government agencies and companies involved in the dismissals indicated that many of the dismissals ostensibly based on absence from work were in fact motivated by retaliation against employees suspected of being involved in the demonstrations. This was particularly evident in the cases of the MoE, Batelco and Gulf Air dismissals.

1451. In many instances, employers in both the public and private sector referred or threatened to refer employees to criminal investigations based on suspicions that they had been active in the demonstrations. In some cases, such as in the case of Gulf Air, employers permitted security officers to search and interrogate employees on work premises, at times resulting in mistreatment in the form of physical and verbal abuse.

1452. Employees were often questioned about opinions and activities protected under the Constitution of Bahrain, Bahrain civil law and international conventions.

1453. Shia employees were often treated differently from similarly-situated employees who were not Shia, thus creating a reasonable presumption that many were subjected to discrimination. This is the case especially in circumstances where the employer admitted not dismissing Sunni employees who had been absent during the events of February/March 2011. This indicates an assumption that Shia employees who missed work during the events of February/March 2011 participated in the demonstrations and were subject to disciplinary action. The disparity with which Shia employees have been treated in this context indicates that they have been discriminated against in contravention of the Constitution of Bahrain and ILO Convention No. 111.

1454. According to the latest information provided to the Commission by the CSB, of the 2,075 public sector employees who were dismissed, 1,682 were reinstated. 180 employees remain dismissed with rights of appeal. In addition, 219 employees were referred to the Public Prosecution but were not suspended and are still receiving full pay.

1455. The MoL is working to have dismissed private sector employees reinstated following HM King Hamad's speech on 28 August 2011. The Commission recommends that the GoB use all its powers to ensure that public corporations and other employers who dismissed employees for failure to appear for work at the time of the demonstrations treat them no worse than the Government has treated its own civil servants.

4. Recommendations

1456. The Commission urges the GoB to ensure that these remaining dismissed employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association or assembly.