



Governing Body

316th Session, Geneva, 1–16 November 2012

GB.316/INS/15/1(Rev.)

Institutional Section

INS

Date: 13 November 2012

Original: English

FIFTEENTH ITEM ON THE AGENDA

Report of the Officers of the Governing Body

Complaint concerning the non-observance by Bahrain of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made by delegates to the 100th Session (2011) of the International Labour Conference under article 26 of the ILO Constitution

1. By a letter dated 15 June 2011 addressed to the Secretary-General of the International Labour Conference, a number of Workers' delegates at the 100th Session (2011) of the International Labour Conference presented a complaint under article 26 of the ILO Constitution against the Government of Bahrain for grave violations of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The letter was signed by nine titular delegates: Sir Leroy Trotman (Barbados), Mr Bheki Ntshanlitshali (South Africa), Mr Juio Roberto Gómez (Colombia), Ms Barbara Byers (Canada), Ms Raviatou Diallo (Guinea), Mr Abdessalam Jerad (Tunisia), Mr Sam Gurney (United Kingdom), Ms Sarah Fox (United States), Ms Trine Lise Sundnes (Norway); two adviser and substitute delegates: Mr Luc Cortebeeck (Belgium) and Mr Yves Veyrier (France) and one adviser: Mr Hadja Kaddous (Algeria). In a letter dated 24 August 2011, additional information was submitted.
2. At its 22nd plenary sitting, held on 16 June 2011, Mr Trotman made a statement introducing briefly the complaint with the purpose of serving notice to the Government of Bahrain and to all members of the Conference.¹

¹ See *Provisional Record* No. 30, International Labour Conference, 100th Session, Geneva, 2011, pp. 34–35.

3. At the 311th Session of the Governing Body (June 2011), Mr Cortebeeck, the Worker Vice-Chairperson of the Governing Body, orally informed the Governing Body of the complaint presented during the Conference.
4. By a communication dated 23 September 2011, the Government submitted observations regarding the complaint, which were then withdrawn through a communication of 26 October 2011. The Government submitted its revised observations in a communication dated 31 October 2011.
5. During its 312th Session (November 2011), the Officers of the Governing Body submitted a report to the Governing Body,² which took note of the proposal of the Government of Bahrain to:
 - (a) establish a tripartite committee comprised of one member nominated by the Government, one member nominated by the General Federation of Bahrain Trade Unions and one member nominated by the Bahrain employers;
 - (b) ensure that the tripartite committee has access to all relevant documents and meets weekly to address, with the assistance of independent legal advice (ILO) if requested by the Government or the workers' or employers' representatives, the issue of dismissals and reinstatements referred to in the complaint and provide minutes of its meetings to the International Labour Office;
 - (c) provide two written progress reports to the Director-General, one in January and the second in February 2012, which would include the current individual employment status of each worker who has been alleged to have been inappropriately dismissed during the relevant period. Where appropriate, any additional information would be provided before the beginning of the March 2012 Governing Body session.
6. The Governing Body, on the recommendation of its Officers, invited the Director-General to provide any requested legal guidance or support to the Government of Bahrain or the workers' or employers' representatives in this process, and to report on the situation to the Governing Body at its next session in March 2012. The Governing Body also took note that on this basis, the Officers had deferred all consideration of the complaint until the next session of the Governing Body in March 2012.³
7. In view of the above decision of the Governing Body and in response to a request received by the General Federation of Bahrain Trade Unions (GFBTU) to the ILO Director-General dated 3 February 2012, a mission, headed by Ms Doumbia-Henry, Director of the International Labour Standards Department, visited the country from 29 February to 11 March 2012. In the course of the mission, on 11 March 2012, the tripartite constituents signed a "Tripartite agreement concerning the issues raised in the framework of the complaint concerning the non-observance by Bahrain of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made by delegates to the 100th Session (2011) of the International Labour Conference under article 26 of the ILO Constitution".

² See GB.312/INS/16/1.

³ See record of decisions, decision on the 16th item on the agenda, 18 November 2011.

8. During its 313th Session (March 2012), the Officers of the Governing Body submitted a report to the Governing Body for its consideration. Based on the recommendation of the Officers and the elements put forward, the Governing Body approved the following decision:

- (a) suspended consideration in its current session pending completion (and submission) of the Government's and Director-General's reports to the Governing Body in its 316th Session in November 2012;
- (b) requested the Government to continue to provide reports on the effective implementation of the Tripartite Agreement signed by the tripartite constituents of Bahrain on 11 March 2012 and to report to the Governing Body at its 316th Session (November 2012) on the progress made to fully implement its provisions;
- (c) requested the Director-General to write to the Government, the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Chamber of Commerce and Industry (BCCI) welcoming the significant progress made and inviting them to continue in this positive direction; and
- (d) requested the Director-General to take the necessary measures to provide all the technical assistance required by the tripartite constituents, if requested by the Government or the workers' or employers' representatives, to ensure the effective implementation of the Tripartite Agreement and to report to the Governing Body at its 316th Session (November 2012) on the progress made.⁴

9. On 11 April 2012, the GFBTU sent a communication to the Office requesting that a mission be sent urgently to Bahrain, to evaluate the progress of the implementation of the Tripartite Agreement, and indicated that recent developments concerning the dismissed workers and the pending cases required the ILO's urgent attention. The mission, originally scheduled for May 2012, needed to be postponed, and took place from 7–10 October 2012, headed by Ms Doumbia-Henry, Officer-in-Charge, Standards, Fundamental Principles and Rights at Work. The Government of Bahrain, the GFBTU and the Bahrain Chamber of Commerce and Industry provided the mission with their full support and made available to it all the information requested. Discussions on the possible adoption of a supplementary tripartite agreement were undertaken during the mission. While some progress was made, it was not possible to reach agreement in the course of the mission.

10. By a communication dated 25 October 2012 addressed to the ILO Director-General, the Minister of Labour of the Kingdom of Bahrain, His Excellency Jameel Mohamed Ali Humaidan provided a progress report on the issues related to the complaint. The report is attached as Appendix I.

11. Article 26 of the ILO Constitution provides as follows:

- 1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.
- 2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.

⁴ See minutes of the 313th Session of the Governing Body, decision on the 13th item on the agenda, para. 210 (GB.313/PV).

3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.
 4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.
 5. When any matter arising out of article 25 or 26 is being considered by the Governing Body, the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.
- 12.** Convention No. 111 was ratified by Bahrain on 26 September 2000, and thus has been in force for that country since 26 September 2001. Eleven of the signatories of the complaint were Workers' delegates of their respective countries to the 100th Session of the Conference on the date of filing the complaint. They accordingly had the right to file a complaint, under article 26, paragraph 4 of the Constitution if they were not satisfied that Bahrain was securing the effective observance of this Convention. This means that the conditions set forth in paragraph 1 of article 26 of the Constitution for the receivability of the complaint are satisfied.
- 13.** The authors of the complaint have called upon the Governing Body to propose measures for the effective observance of this fundamental Convention in law and in practice. It is for the Governing Body to decide on this request. No discussion on the merits of the complaint is admissible at this stage. Indeed, it would be inconsistent with the judicial nature of the procedure provided for in article 26 and the following articles of the Constitutions that there should be any discussion in the Governing Body on the merits of the complaint until the Governing Body has before it the contentions of the Government against which the complaint is filed, together with an objective evaluation of these contentions by an impartial body. Nor would such discussion be appropriate while a proposal to refer the complaint to a Commission of Inquiry is pending before the Governing Body or while the complaint is sub judice before a Commission of Inquiry. If there is to be a Commission of Inquiry, which is for the Governing Body to decide under article 26, paragraph 4, of the Constitution, it is when the Commission of Inquiry has reported on the merits of the complaint that the Governing Body may be called upon to take action in the matter.
- 14.** It will be recalled that the Committee of Experts on the Application of Conventions and Recommendations has made observations to the Government of Bahrain regarding the observance of the Convention referred to in the complaint submitted under article 26 of the Constitution.
- 15.** In accordance with established practice, when a Commission of Inquiry is appointed, the relevant matters before the various ILO supervisory bodies are referred to this Commission.
- 16.** The Officers are called upon to make a determination on the receivability of the complaint and to refer the matter to the Governing Body for consideration. It will be for the Governing Body to adopt the necessary decisions as to procedure regarding the complaint submitted under article 26 of the Constitution.

Draft decision**17. *The Officers of the Governing Body recommend that the Governing Body:***

- (a) request the Government to provide a report on the effective implementation of the Tripartite Agreement concerning the complaint signed by the tripartite constituents of Bahrain on 11 March 2012 and to report to the Governing Body at its 317th Session (March 2013) on the progress made to implement fully its provisions;***
- (b) request the Office to take the necessary measures to provide all the technical assistance necessary to the tripartite constituents, if requested by the Government or the organizations that signed the agreement, the GFBTU or the BCCI, to ensure the effective implementation of the Tripartite Agreement, to take measures to promote a climate of genuine industrial relations, and to report to the Governing Body at its 317th Session on the progress made; and***
- (c) on that basis, defer its decision on the complaint to its 317th Session (March 2013).***

Appendix I

Progress report on the issues related to the complaint



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**UPDATE BY
THE GOVERNMENT OF BAHRAIN
ON THE ISSUES RELATED TO
THE COMPLAINT FILED BY WORKER DELEGATES
AT THE 100TH SESSION (2011) OF THE
INTERNATIONAL LABOUR CONFERENCE**

October 2012



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**ON THE ISSUES RELATED TO THE COMPLAINT FILED BY WORKER DELEGATES AT THE
100TH SESSION (2011) OF THE INTERNATIONAL LABOUR CONFERENCE
ALLEGING VIOLATIONS OF THE OBLIGATIONS OF CONVENTION 111 ON DISCRIMINA-
TION (EMPLOYMENT AND OCCUPATION):
THE GOVERNING BODY SHOULD NOT CONSIDER THE COMPLAINT:
THE ISSUES HAVE BEEN EFFECTIVELY ADDRESSED BY THE GOVERNMENT OF BAHRAIN**

SUMMARY

1. The Complaint under Article 26 of the ILO Constitution filed against the Kingdom of Bahrain by Worker Delegates to the June 2011 International Labour Conference seeks relief for an issue that has been effectively addressed by the Government of Bahrain for many months. Moreover, for the Governing Body to consider this complaint would be procedurally unprecedented since there is no supervisory record that would substantiate the basis for an Article 26 commission of inquiry.
2. The Government of Bahrain has taken effective action to address the concerns reflected in the complaint involving workers that were dismissed from their jobs for failing to attend work during the period February/March 2011, through the reinstatement, re-employment or other agreed settlement for these cases. About 98 percent of nearly 5,000 cases of suspensions and dismissals have been resolved. The small number of remaining cases either pending in court or pending the decision of a worker to accept the re-employment or other resolution being offered.
3. The Government of Bahrain has also worked on a tripartite basis to resolve the dismissal issue and also consulted with officials of the International Labour Office on an on-going basis on this matter. The results achieved by the Government of Bahrain involving some 98 percent of the cases has been an extraordinary undertaking requiring the commitment of the entire Government of Bahrain at the highest levels. The matter is now fundamentally resolved, and any remaining issues that arise related to these workers should be handled through the normal applicable laws, procedures and courts.
4. There is no practical purpose to be served by maintaining this item on the agenda of the Governing Body. Consequently, if the Complaint is not withdrawn, the Government of Bahrain calls on the



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Governing Body not to give this complaint any consideration going forward and to remove it from the agenda.

5. The extensive efforts taken by the Government of Bahrain, in cooperation with the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Chamber of Commerce and Industry (BCCI), to reinstate dismissed workers in Bahrain is a consequence of the events of February/March 2011, when some civil servants and employees in the private sector decided to express their political views by attending protests and otherwise not going to their jobs. In some cases, this was in response to a call for a strike by a trade union or other worker association official. While the peaceful expression of political views is protected under the laws and Constitution of the Kingdom of Bahrain, political protest is simply not a legal excuse for the unauthorized absence from work -- even more so for civil servants who have the obligation to attend their employment on behalf of the state.

6. Therefore, a number of workers in the public sector found themselves under disciplinary investigation for violations of the Civil Service Law. Other workers in the private sector found themselves terminated by their employers for being absent or leaving their jobs with no authorization or bona fide excuse, in violation of the applicable laws and regulations.

7. Despite the background for these dismissals, the Government of Bahrain took a number of extraordinary measures to advance reconciliation - through reinstatement or re-employment of these workers. His Majesty King Hamad bin Isa Al Khalifa has also lent his authority and support to this agenda, and made a number of statements, including his Ramadan address of August 28, 2011, emphasizing the importance of reconciliation and calling for those that had only committed offenses against him, and not other criminal acts, to be forgiven and not to be dismissed from their employment or otherwise punished.

8. The government has undertaken consistent efforts over the last 18 months to respond to the dismissal issue. The first response was to establish an extraordinary mechanism to review the dismissals in the private sector. On April 30, 2011, the Prime Minister, His Royal Highness Prince Khalifa Bin Salman Al Khalifa, established a special committee to review and assess whether dismissals were related to the events of February/March 2011, and whether they were in accordance with the requirements of the Labour Law for the Private Sector. The committee publicly requested all workers who believed their dismissal to be wrongful and related to such events to file a request for review.

9. The Committee adopted criteria for the review based upon the Labour Law provisions for the



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dismissal of employees for unexcused absences from work, and also taking into consideration whether there were separate allegations of criminal conduct. The Committee concluded that most of the dismissals reviewed were related to the political events and did not follow the procedures required to terminate employees for unexcused absences.

10. In addition, the report of the Bahrain Independent Commission of Inquiry was completed in November 2011, and includes recommendations on dismissals (para. 1723), which ask the government to (a) ensure the remaining dismissed employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association or assembly, and (b) use all its powers to ensure that public corporations and other employers who dismissed employees for failure to appear at work at the time of the demonstrations treat them in a way that is at least equal to that provided to civil servants.

11. Thus the BICI report does not conclude there has been any blanket infirmity in terms of the dismissals; rather it asked the government to assure that the dismissals were in accordance with law and international obligations - and in any cases of illegal dismissal in the private sector that the government use its best efforts to obtain reinstatement. The government has actually gone beyond the recommendations of the BICI report, and has sought the reinstatement, re-employment or other agreed resolution for all workers absent a criminal referral. The BICI report points to the positive decision to reverse all of the dismissals in the civil service that had already been implemented by late November 2011, and encouraged further efforts in the private sector, including with the state-invested sector. Here again, the government has gone beyond the recommendation, and virtually all workers from the state-invested companies, over 99 percent, are now reinstated, re-employed or have bona fide offers. A small number, less than one percent, have pending court cases or are otherwise unresolved.

12. On February 29, 2012 the Government of Bahrain announced the results of an intensive and multi-agency process to advance national reconciliation through the reinstatement of public and private sector workers in Bahrain. The process undertaken also met the commitments made to carry out the reinstatement recommendations of the Bahrain Independent Commission of Inquiry (BICI), as contained in the report released on November 23, 2011.

13. The results of the government review process include the full reinstatement of 180 workers covered by the Civil Service Law who had been formally dismissed from the public service. They all were returned to employment no later than January 1, 2012. One worker could not be returned because of a criminal conviction.



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14. The efforts undertaken by the government also have resolved most of the cases in the private sector on the basis of reinstatement, agreed upon reemployment, or other resolution.

15. Of the 2462 private sector cases reviewed by the government, some 2297 have been either reinstated or reemployed elsewhere (reinstated : 1783 cases , reemployed elsewhere :515 cases) , some 22 cases refuse to rejoin the same companies ,Some cases were determined unrelated to the political events (43 cases) , some other workers did not seek any action from the Ministry of Labour (30 cases). and 70 cases are in the process of being re-employed through the Ministry of Labour placement program. If these re-employment cases are also considered as representing an effective response to the needs of the workers, the percentage of cases addressed is 98 percent. (appendix No:1)

16. In recognition of the progress made, on March 11, 2012 an important agreement on the issues related to the complaint on the application of Convention 111 was signed by His Excellency Mr. Jameel Humaidan, Minister of Labour, Mr. Salman Al-Mahfoodh , General Secretary of the GFBTU, and Mr. Othman Sharif Al-Rayes, Vice-President of the BCCI. The March 11, 2012 agreement specifically recognizes the progress made on the reinstatement of workers and lays out additional agreed steps to resolve the remaining reinstatement issues in the context of a cooperative approach by the three parties.

17. The foundation for this agreement is (i) the work that has been done by the government of Bahrain to assure that workers illegally or unfairly dismissed as a result of the political events in the country in February/March 2011 were reinstated in both the civil service and the state-invested major companies of the private sector, and (ii) the cooperative national tripartite committee process chaired by the Ministry of Labour that was launched in December to resolve remaining reinstatements in the private and public sectors following the proposal put forward by the Government of Bahrain at the November 2011 ILO Governing Body meeting.

18. A delegation from the International Labour Office that visited Bahrain from February 29 to March 11 2012, was helpful in facilitating the March 11, 2012 agreement, and also offered to provide relevant technical assistance to the parties going forward.

19. It was understood that the tripartite agreement reached was the basis for further cooperation of the Parties on any remaining reinstatement concerns. The agreement recognizes that all workers in the state-invested enterprises, including all members of enterprise trade union boards who were dismissed, were reinstated or in the process of reinstatement.



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20. To advance the work under the Tripartite Agreement, two teams were established. A technical team of the MOL, GFBTU and BCCI to exchange information on what workers were still seeking reinstatement, the facts of those cases, and action taken on such cases. This work was designed to maximize the level of common agreement and coherence as to the workers covered under the scope of the agreement and their status. A legal team led by MOL was also established to address any legal issues that arose with regard to any of the workers being reviewed by the tripartite technical team.

21. Regular meetings were held to follow up the work of the MOU, and weekly meetings were also held on a bilateral basis between the Minister of Labour and the General Secretary of the GFBTU. (appendix No:2)

22. The agreement committed the Parties to reconcile the final figures for other private sector workers and workers in the public sector, although it was agreed that most government workers were back at work. Some additional cases cited by the GFBTU involving civil service workers and workers employed by other government agencies not under the Civil Service Law remained to be considered under the terms of the March 11 tripartite agreement. The Parties also agreed to resolve the remaining cases and to secure reinstatements where possible, and otherwise provide compensation and re-employment opportunities as appropriate.

23. It took somewhat longer than originally forecast for the GFBTU to present its final lists of names of workers that may have been within the mandate of the review effort.

24. With regard to public sector employees, the GFBTU ultimately provided a list of 131 names that they claimed had not been reinstated or otherwise resolved. Some 63 of those workers had been reinstated, and all other cases fully explained as to their status to both the GFBTU and the ILO technical mission that visited Bahrain from October 8-10, 2012. . (appendix No:3)

25. The only remaining issue to be resolved is 21 temporary workers that were on one year term contracts that were dismissed three months into those contracts. They have been offered an extension of nine months to complete those contracts, but are asking for permanent civil service positions rather than annual contracts. But permanent civil service positions must be posted and competitively bid under the required procedures and these workers cannot be reinstated to a better status than they enjoyed previously. The contract extension offer remains on the table, and has been accepted by some workers in a similar position.

26. Consequently, the Government of Bahrain is of the view that all cases in the public sector, 100%,



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have been addressed and resolutions offered. Any other matters or concerns that arise going forward should and must be dealt with under the normal procedures of the civil service law, regulations and administrative courts intended to handle any such grievances.

27. With regard to private sector employees, virtually all cases in the major companies (those companies that accounted for the GFBTU officers and membership impacted by the dismissals) are resolved or have bona fide offers of resolution. Of the 1765 workers impacted in the major companies sector, only a handful, or less than 1 percent, are subject to litigation or otherwise have no offer of resolution from the company. Those cases must now be handled within the judicial process for the appropriate decision.

28. In one major company there are 45 workers who have not yet accepted offers of reinstatement because of disputes over whether the positions being offered are equivalent to their prior positions. The Government of Bahrain has reviewed the position descriptions and believes they are equivalent and should be accepted. The Government has continued to encourage that these workers accept going back to work while any disputes about the positions be further negotiated in good faith. So far the workers have not done so. To try to resolve the matter, the Government has encouraged that the company hire an international job classification expert to again review the position descriptions and to follow the conclusions and recommendations of that expert should there be any different conclusion on the equivalence of the positions determined by such an expert. At the same time, if the workers continue to refuse the offers of reinstatement, their recourse is to the courts of Bahrain.

29. The most difficult and complicated part of the process has been with regard to the small and medium enterprise sector. Some 91 percent of the some 697 cases registered have been resolved through reinstatement, re-employment or other agreed resolution - but 63 cases remain. As a practical matter some of the enterprises where these people were employed no longer exist or have down-sized for economic reasons. At the same time while the Ministry of Labour has offered re-employment support through its placement programs, these workers have not yet decided that an acceptable job has been identified for them. It is now the case, however, that there is no further opportunity to have them re-employed in their prior positions and the legal authority to determine whether their dismissal was legal and if they have any recourse against the prior employer is again with the courts of Bahrain. There is no further action the Government can undertake for these 63 cases other than support for re-employment. Any other relief should be with the courts.

30. A final category of workers that were raised subsequent to the March 2012 Tripartite Agreement by the GFBTU are trainees under a government-sponsored program called Tamkeen. These are trainees placed for six month to two year periods in both private sector jobs and government agen-



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cies. The GFBTU provided a subsequent list of 155 Tamkeen trainees that were dismissed from their placements subsequent to February/March 2011. The Government has succeeded in resolving 100% of these cases, replacing 127 of these trainees into their former enterprise or agency, and the additional 28 into other placements.

31. Overall, the Government of Bahrain has successfully resolved some 98 percent of the almost 5000 cases of suspensions and dismissal cases that were registered through the Government's procedures and in dialogue with the GFBTU. This is an extraordinary achievement. But the scope of action available to the Government of Bahrain is now exhausted. A small number of cases are in litigation (only the courts have the legal authority to rule on whether a dismissal was illegal and to order the relief for any such dismissal), and any other worker has the right to pursue remedies with the courts. At the same time the Ministry of Labour will continue to offer all available assistance to re-employ any worker that still seeks employment. Other possible disputes about job equivalence or other grievances should be handled as routine labour disputes under the normal public sector and private labour law procedures.

32. ILO technical team visited Bahrain, from October 8-10, 2012, during which the team acknowledged that Bahrain has achieved significant progress, and provided some suggestions to the management of the companies regarding resolving the remaining cases through equitable settlements. The Ministry of Labour followed-up such issues and our efforts resulted in reinstating the majority of the pending cases. Such results shall be sent to the ILO before the end of October 2012.

33. There is simply no reason to maintain the question of whether to consider the Article 26 Complaint on the agenda of the Governing Body. The Government of Bahrain has taken extraordinary efforts to reinstate, re-employ or otherwise reconcile with workers that were dismissed during the political events of February/March 2011 -- even though they failed to appear at their jobs or violated their obligations as civil servants. This same spirit of reconciliation should now be applied by those that filed the Complaint. It should be withdrawn -- and a path of cooperative and constructive dialogue pursued going forward.



BACKGROUND: THE GOVERNMENT'S RESPONSE TO THE EVENTS OF FEBRUARY/MARCH 2011

34. Beginning on February 14, 2011, the Kingdom of Bahrain experienced demonstrations calling for political changes. These demonstrations did not take place in compliance with the legal permitting process and disrupted normal activities in the capital of Manama. They were also accompanied by acts of vandalism and violence.

35. Several important steps have been taken by the government since that time to address the consequences of the February-March period, and also the causes. The future peace and stability of the nation depends upon an effective process to do so, and clearly all parties in Bahraini society must be willing to engage in the dialogue and the consensus-building necessary for success.

36. Since March 2011, the Government of Bahrain has taken the initiative to advance both reconciliation and further political reform. His Majesty King Hamad bin Isa Al Khalifa has lent his authority and support to this agenda, and made a number of important public statements, including his Ramadan address of August 28, 2011, affirming the need for reconciliation, further political reform and equal treatment under the law. The steps already taken include (1) judicial accountability for those that committed crimes during the attempt to overthrow the government, including members of the security forces who might have committed violations against protesters or detainees, (2) a National Dialogue process that resulted in recommendations for additional political and social reforms, and (3) the appointment of the Bahrain Independent Commission of Inquiry (BICI), chaired by Professor Cherif Bassiouni, which on November 23, 2011 issued a full and independent report and recommendations on all of the events in Bahrain.

37. On the same day the BICI report was issued, His Majesty King Hamad Bin Isa Al Khalifa accepted without reservation the report and all its recommendations, and a process was established to implement them. The process has involved intensive work by virtually the entire senior level of Bahrain's Government coordinated by His Highness Shaikh Muhammad bin Mubarak Al Khalifa, Deputy Prime Minister, and has been overseen by the special national committee established to oversee the implementation of the BICI recommendations under the chairmanship of His Excellency Ali bin Saleh Al-Saleh, the Chairman of the Shura Council. The commitment was made by the government to make progress on the implementation of all recommendations by the end of February 2012, and the national commission formally reported on the status of the implementation of the recommendations on March 20, 2012. A further follow-up report was published in June 2012.



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38. Among the recommendations contained in the BICI report were two elements related to the dismissal of workers as a result of the February/March 2011 events. Recommendation No (1723) of the BICI report has two subparagraphs (a) and (b) related to the reinstatement of dismissed workers. Paragraph 1723(a) recommends actions: "To ensure the remaining dismissed employees have not been dismissed because of their exercise of their right to freedom of expression, opinion, association, or assembly." Paragraph 1723(b) likewise recommends the government: "To 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 in a way that is at least equal to that provided by the GOB to civil servants."

39. The actions taken by the government, in cooperation with the GFBTU and the BCCI, exceed the scope of the recommendations contained in the BICI report. With regard to the 180 completed dismissals in the civil service noted in the BICI report, a circular was subsequently issued by His Excellency Shaikh Khalid bin Abdullah Al Khalifa, Deputy Prime Minister and Vice President of the Civil Service Council on December 20, 2011 which required "All government entities governed by the Civil Service Law to reinstate all the (180) employees who were dismissed based on disciplinary decisions on the background of the recent events, as of the first of January 2012." This directive was implemented by the CSB, and all 180 dismissals were withdrawn before January 1, 2012.

40. Moreover, all disciplinary investigations that had been opened involving some 1870 additional members of the civil service that could have resulted in their dismissals were terminated under the directive that they were to receive no more than a two-week suspension for violations that were committed during the relevant period.

41. In addition, a number of steps have been taken by the government to resolve the private sector dismissal issues. As indicated, the first response was on April 30, 2011, when His Royal Highness Prince Khalifa Bin Salman Al Khalifa, the Prime Minister, established a special committee to review the issue of worker dismissals, and to establish whether the dismissals related to the events of February and March 2011 were in accordance with the Labour Law for the Private Sector, Decree Law No. 23 of 1976.

42. The Committee convened for the first time on May 2, 2011. It was chaired by the Minister of Labour, and other members of the Prime Minister's Committee included the (i) President of the Civil Service Bureau, (ii) the Under-Secretary of the Ministry of Justice and Islamic Affairs and (iii) the President of the Legislation and Legal Opinions Office. The committee publicly announced its work and solicited all workers who believed their dismissal related to the events of February and March to file a request for review with the committee. The work of the committee was announced on radio and television and in the print media, and the Ministry of Labour consulted regularly with the GFBTU on its work.



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43. The Committee adopted criteria for the review based upon the provisions contained in the Labour Law relating to the dismissal of employees for unexcused absences from work, and also taking into consideration whether there were separate allegations of criminal conduct by the employees. These criteria were generally based upon those established in Chapter 14 of the Labour Law.

44. The Prime Minister's Committee established a universe of 2,462 workers who were dismissed during the relevant period. The review process was largely completed by early July 2011.

45. The majority of the dismissals were at large enterprises, such as Bahraini Petroleum Company (BAPCO), Bahraini Telecommunications Company (BATELCO), Arab Shipbuilding and Repair Yard (ASRY), Gulf Air, Aluminium Bahrain (ALBA), Bahrain Airport Services (BAS), Bahrain National Gas Company (BANAGAS) and the Gulf Aluminium Rolling Mill Company (GARMCO).

46. On July 2, 2011 His Royal Highness the Prime Minister issued a finding urging the reinstatement of all employees the committee had determined were not dismissed in accordance with the legal notice requirements.

47. Immediately thereafter, on July 5, 2011 the Minister of Labour sent written letters to companies, and follow-up letters on July 18, instructing them that the workers dismissed should be reinstated within ten days. A number of reinstatements occurred in the period from July. At the same time, there was no specific legal authority upon which the Minister of Labour could order the reinstatements. Under the Labour Law for the Private Sector the recourse for a worker wrongfully dismissed is through the courts, and many wrongful dismissal cases were filed. . (appendix No:4)

48. The Minister of Labour also made additional outreach efforts with the private sector after the August 28, 2011 Ramadan speech of His Majesty King Hamad ibn Isa Al Khalifa encouraging that workers dismissed for crimes against the King, and not for other reasons, be reinstated. On September 11, 2011 the Minister wrote to the Bahrain Chamber of Commerce and Industry asking them to undertake efforts with their member companies to address reinstatements based upon the guidance from His Majesty the King.

49. In addition, efforts were made by Deputy Prime Minister Sheikh Khalid bin Abdullah Al Khalifa to also encourage the state-invested companies to move forward on the reinstatements. The Deputy Prime Minister held a meeting with the companies on October 19, 2011 to reaffirm the policy of the government in favor of finalizing the reinstatements of the workers determined to have been ille-



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gally dismissed by the special committee of the Prime Minister, chaired by the Minister of Labour.

50. By mid-August more than 500 workers had been reinstated, and by mid-October some 820 workers had been reinstated. In other cases, private employers continued to resist certain reinstatements since they view the actions of the workers that stopped coming to work in February and March, often in circumstances that put vital company operations at risk, as a grave breach of the relationship between employee and employer.

51. The government then determined on October 23, 2011 that the Minister of Labour would undertake one additional round of conciliation efforts with each company with workers still on dismissal that the Prime Minister's Committee determined to have a claim for reinstatement based upon the termination process used. In those cases where such efforts were not successful, the Minister of Labour would refer those cases to the courts which has the legal authority to resolve them under the Labour Law.

52. At this time, it may also be the case that companies were waiting to see the results and findings from the BICI report before taking final decision on reinstatements. Given the recommendations from the BICI report issued on November 23, 2011 the Minister of Labour again wrote to companies on November 29 noting the need for reinstatements, and the commitments of His Majesty the King and His Royal Highness the Prime Minister that all BICI recommendations be fully implemented.

53. The process and deadline for implementing the BICI recommendations further accelerated the high level attention given to the remaining reinstatements. Substantial progress had been made over the prior months, and by the end of 2011 more than 900 workers had been reinstated, but a number of cases remained, and concerns about the conditions placed on some of the reinstatements and movement on certain trade union enterprise union board members remained significant issues.

54. Consequently, on February 9, 2012, H.E. Sheikh Khalid bin Abdullah Al Khalifa, Deputy Prime Minister, wrote a further communication to all of the state-invested enterprises instructing them that all reinstatements should be finalized within one week, by February 16, and that workers should be reinstated on the prior contracts without new conditions. In addition, Deputy Prime Minister Sheikh Khalid and other officials of the government under the leadership of His Highness Sheikh Muhammad bin Mubarak Al Khalifa, Deputy Prime Minister, continued to work diligently on clearing any remaining obstacles in the way of individual reinstatements. For example, H.E. Sheikh Khalid bin Abdullah Al Khalifa, Deputy Prime Minister, wrote to the Office of Public Prosecution formally asking whether a criminal case was still pending against 38 workers - and was able to get a formal verification that



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the case had been dropped so that their reinstatements could proceed . (appendix No:5)

55. All of these efforts led to a public accounting by the government on February 28 to the national commission overseeing the implementation of the BICI report recommendations that 97 percent of the cases in the state-invested sector has been resolved, and 96 percent of the private sector cases were addressed through reinstatement, reemployment or otherwise determining no further governmental action was necessary.

56. Thereafter, the progress announced was memorialized in the tripartite agreement of March 11, and additional cooperative progress made with the GFBTU in narrowing any remaining differences on individual cases. In the intervening period since the March agreement, the GFBTU presented further names for review by the Ministry of Labour, including some 155 persons under the Government's Tamkeen program that places trainees in public and private enterprises for period of six months to two years. The Government has now gotten all of these trainees back into the prior placements or in new placements , Tamkeen cases are not employed persons but trainees on two years training contracts, their salaries are fully subsidized by the Government)

57. Also since March, the GFBTU developed a list of 131 additional names related to the public sector that have been fully vetted and resolved by the Government. Some 63 of the workers from this list were verified to be reinstated, while some others were dismissed for violations unrelated to the political events, voluntarily retired, had contracts that expired, or have received a final court conviction that requires their separation from the civil service. Only 21 workers on annual contracts have not yet accepted the reinstatement offers to return to work on the same basis as they were dismissed, claiming they want permanent civil service positions. Such positions can only be provided under the competitive procedures of the Civil Service, and cannot be guaranteed as part of the reinstatements to the term contracts.

58. Although it was agreed with the GFBTU in March Tripartite Agreement that 100 percent of the cases in the state-invested sector have been reinstated or were in the process of reinstatement, a handful of cases have not resulted in reinstatements because of litigation, and in one case offers to 45 workers for reinstatement have not been accepted by them and a resolution has not been reached with five other workers. Nevertheless, the reinstatements or other resolution in this sector still reaches 99 percent of all cases and all GFBTU union officials.

59. With regard to the remaining private sector, the GFBTU also submitted some 37 additional cases



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that were not on the list in March. These cases have also been vetted by the Ministry of Labour. It is the Government's position that all but 99 of 697 cases have been resolved. While the GFBTU claims that 147 of 734 cases remain. The Ministry of Labour has explained to the GFBTU that there a number of cases on their list are unrelated to the political events of February/March 2011, involve people that have now started their own businesses, or workers who are only seeking compensation in court and not reinstatement.

RECENT EVENTS AND WORKER RIGHTS IN BAHRAIN

60. The government of Bahrain has worked over the last decade to put in place a legal regime that protects worker rights and has allowed for the development of an independent and important trade union movement. The Trade Union Law of 2002 provides the necessary legal framework to protect the rights of workers to organize independent trade unions, and the growth of the GFBTU since that time as a respected independent trade union movement is confirmation of the operation of the law in practice.

61. While the efforts to develop a legal regime in compliance with all ILO norms remain a work in process, there have been tangible results. Indeed, in recognition of these positive developments in March 2008 Bahrain was selected as the first country in the region to enter an agreement with the ILO to implement a National Program for Decent Work. Moreover, Bahrain was the first country in the region to make modifications to the sponsorship system to better assure protections of migrant workers and facilitate their movement between employers. It is also the first country in the region to implement an unemployment insurance program to support both the Bahraini and non Bahraini workforce. As recently as early 2011 a number of these achievements were lauded by both the International Labour Organization and the international trade union movement.

62. Since March 2011, there has been no effort or policy by the Government of Bahrain to roll back trade union rights or any labour protections. On the contrary, the efforts of the government to further protect the rights of vulnerable workers such as domestic workers or the rights of the disabled to enter the workplace remain robust and on-going.

63. Indeed, in the letter addressed to His Highness Sheikh Muhammad bin Mubarak Al Khalifa, Deputy Prime Minister, by the General Secretary of the GFBTU Salman AlMahfoodh on March 13, 2012, the commitment of the government to worker and trade union rights is specifically cited by the GFBTU General Secretary.



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64. Most recently, in September 2012, Bahrain passed additional improvements to the labour law that for the first time provide full labour protections for domestic workers. The new labour law also provides enhanced protections for women workers, including enhanced maternity benefits, and better protections for child workers.

THE WORKER DELEGATES COMPLAINT AT THE ILC

65. The complaint filed at the June International Labour Conference by certain worker delegates alleging violations of Bahrain's obligations under Convention 111 on Discrimination (Employment and Occupation) should not result in any action by the Governing Body. Indeed, the government of Bahrain is fully committed to assuring that it complies with the obligations of Convention 111. The Committee of Experts has provided observations in 2009 and 2010 about some improvements in the legal framework, including in the labour law, that Bahrain could take to make more explicit legal protections for certain groups from employment discrimination, including the modifications to the sponsorship system which was enacted.

66. Under the March 11, 2012 Tripartite Agreement the parties, including the government of Bahrain, have already welcomed technical assistance from the ILO on potential further legal reforms and institutional capacity for the effective implementation of Convention 111. The Government of Bahrain continues to anticipate such technical assistance being provided by the ILO.

67. Meanwhile, the allegations made in the complaint to the ILC with regard to opinion, belief or trade union status have never been considered by the Committee of Experts or the regular supervisory procedures of the ILO. There is simply no basis in fact or precedent to suggest the issues raised should be the basis of the most serious supervisory mechanism of the ILO, an investigation by a Commission of Inquiry. Indeed, the reality is that all of the trade union executive board members of the major state-invested enterprises have been reinstated to their positions.

68. In reviewing the facts the government of Bahrain recognizes the underlying concern that motivated the complaint of the worker delegates were worker dismissals that occurred in the context of the political movement to overthrow the government. But the specifics of the complaint as to the events in Bahrain and the government's policy and actions with regard to such dismissals are plainly wrong. The government of Bahrain has worked consistently and transparently to address the dismissal issues, and it has been essentially resolved as reflected in the March 11 tripartite agreement.



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69. Indeed, under the terms of the Special Committee appointed in April 2011 by the His Royal Highness, the Prime Minister, long before the March 11 tripartite agreement, the government of Bahrain reviewed the facts of each worker dismissed in the private sector to conciliate and mediate in their reinstatement, and to support them in re-employment, as appropriate. The Ministry of Labour also sought to assure that all eligible workers received their unemployment insurance benefits. Moreover, the government has also taken initiatives to resolve any cases identified for review of workers in the public sector that were dismissed for alleged violations of their civil service law obligations.

70. The worker complaint alleges that the dismissals are a violation of Convention 111 because they were made on the basis of a "workers opinion, belief and trade union affiliation." The complaint gives a distorted context in which these dismissals occurred. The complaint is built upon the following incorrect foundation statement:

71. Following a series of peaceful demonstrations in the months of February and March, demanding economic and social changes and expressing support for ongoing democratization and reform, a large number of union members, trade unionists and leaders have been dismissed. All those directly, or indirectly, supporting the demonstrations have also been affected and suffered various forms of sanctions at work. (Text of Worker Delegate Complaint filed at June 2011 ILC)

72. There are various inaccuracies conveyed in this premise for the complaint which the government of Bahrain has documented for any objective observer. First, while no doubt many who came to protest during this period were peaceful, there were many others that were not. Indeed, despite the government position that peaceful demonstrations would be permitted to continue without any interference, elements of the movement advocated and participated in acts of violence, including the murder of police and innocent migrant workers, large scale vandalism, and intimidation of peaceful citizens by roving bands. (appendix No:6)

73. In short, the breakdown of public safety and security caused by such elements that were associated with this movement were what necessitated action by the security forces of the country to restore civil order and public security. The toleration of national chaos was simply not a responsible option. The restoration of public safety was accomplished with limited loss of life and injury, and despite continuing small-scale confrontations with security forces by youths that commit serious acts of vandalism and violence against the police, there has been relative calm and limited violence since March 2011.



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74. Second, no doubt many who came to protest were “demanding economic and social changes” and “expressing support for ongoing democratization and reform,” as characterized in the complaint, and if that was all that was being demanded it is unlikely that the growing violence described above would have required the police action taken by the government. The fact is that important elements of the movement on the streets began demanding the overthrow of the government and the death of the royal family. And the increasing acts of violence associated with such demands and the unwillingness of important leadership elements of the protest movement to engage in political dialogue with high-level government representatives made clear that in the context of the “Arab Spring” there were those that very much believed the overthrow of the government would be achieved.

75. In addition, the general strike called by the GFBTU was done not only in contradiction to the provisions of Article 21 of the Trade Union Law of 2002 that govern the conditions for legal strikes in Bahrain, but also without regard to the GFBTU's own internal procedures for calling strikes. Even putting to the side these fundamental violations of the obligations of the GFBTU leadership with regard to the procedures to follow with regard to calling a strike - the strike action was also done with absolutely no notice to the employers of the companies impacted by it, which also violates a fundamental obligation in the right to strike. . (appendix No:7)

76. Furthermore, the GFBTU actually called for a general strike on two separate occasions during the political events of February/March 2011. The first strike threat was made by the GFBTU in protest of the government's action to end the demonstrations at the GCC Roundabout that had begun on February 14 without any permit according to the law and which continued in violation of the legal requirements for holding protests.

77. The GFBTU called for a strike to begin on February 20. That same date, the Minister of Labour issued a letter warning to the GFBTU that the proposed strike was in violation of the requirements of Bahraini law to hold a legal strike. The GFBTU ended up calling off that strike presumably because the government announced that Bahrainis would be allowed to peacefully protest at the Roundabout, and such protests resumed on February 17.

78. However, on March 13 as the crisis escalated and the efforts of the government to establish a political track for negotiation were rejected by leaders of the protest movement, the GFBTU a second time called a general strike this time effective immediately. Meanwhile, beginning on March 15 the government consistent with the Bahraini constitution invoked a state of national safety for a 90-day period so as to re-establish the rule of law and public safety, and the effort to overthrow the government ultimately failed.



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79. The strike initiated by the GFBTU was continued until March 20. Some number of workers followed the strike call by the GFBTU, and employers began to terminate workers who simply did not come to work and who had not obtained permission not to do so. It was in this context that the dismissals at issue occurred.

80. It must be acknowledged that the Bahrain Independent Commission of Inquiry (BICI) reached the judgment that the strike was "within the bounds of the law." The rationale provided by BICI in para. 1448, is that the strike was related "at least in part, to concerns for the safety and mistreatment of workers, calls for improvement in the socio-economic conditions of their members and their families, and assurances against retaliation against participating members," consistent with the purposes outlined in Article 20 of the Trade Union Law of 2002.

81. Furthermore, the BICI determined, as the government itself had done through the conclusions of the Special Committee, that the dismissals in the private sector did not meet the procedural requirements of the Labour Law for the Private Sector. Similarly, BICI found the Civil Service dismissals procedurally defective. Regardless of the basis of that finding, all such dismissals in the civil service were reversed and those workers reinstated no later than January 1, 2012.

82. Most importantly for the ILO proceedings, the BICI report in para. 1453 suggests that there was discrimination in these dismissals implicating the obligations of Convention 111- but not discrimination related to trade union status as alleged in the pending worker complaint filed at the ILC in June 2011, but discrimination related to religious sect.

83. Again regardless of the potential rebuttal to any particular finding or conclusion, what is most important in this matter is that the government embraced all of the recommendations of BICI, including those with regard to the dismissals. Indeed, as already indicated, the efforts by the government on the reinstatements actually go beyond the BICI recommendations. The policy and approach of the government, as initiated by the review process in April, as emphasized by His Majesty the King in August, and as implemented for the civil service and the state-invested enterprises in 2011, is that all workers dismissed in the context of the February/March 2011 events should be reinstated absent being subject to a criminal proceeding. This policy and position is also reflected in the tripartite agreement signed on March 11, 2012.

84. Consequently, there is simply no basis in fact or precedent for the Governing Body to take any action on the pending Article 26 complaint other than to decide there is no purpose to be served in further reviewing a matter which has already been fully reviewed by the government of Bahrain and



by a fully independent Commission of Inquiry. Furthermore, and most importantly, the substantive concern behind the complaint has also been resolved through the reinstatements of almost all workers dismissed, and re-employment and other support being provided to those where reinstatement has not been possible.

THE PENDING COMPLAINT SHOULD BE WITHDRAWN OR REJECTED

85. While there is clearly no basis to seek to proceed with the pending Article 26 complaint, as the complaint remains pending for decision of the Governing Body it is necessary for the government to address the specific allegations in the complaint on the failure of the government to meet its obligations on non-discrimination under Convention 111. The specific allegations in the complaint to be addressed, include the following:

1. The Government has failed to meet its constitutional obligation towards non-discrimination and, despite ratification of Convention No. 111, discrimination in employment and occupation has been sanctioned on an increasing scale in both the private and public sectors.
2. The process of reprisals against workers was initiated by official authorities requesting the submission of reports on absences from work and of threatening to use legal action and measures ranging from pay cuts to termination of employment. This process has been further emulated by the private sector.
3. Large-scale dismissals from employment have taken place on such grounds as workers' opinion, belief and trade union affiliation, after lists were drawn up to screen them systematically. Some 2,000 workers have thus been dismissed including many on the basis of videos and photos identifying participants and demonstrations as grounds for dismissal.
4. Mechanisms were set up to look into complaints against dismissals in both the public and private sectors with no guarantees of redress for established abuses by employers and Government.
5. Doctors and health-care workers have similarly been dismissed and/or affected in their professional lives on the sole grounds of treating victims of acts of brutality during demonstrations.
6. The same joint committee of major companies that announced the formation of committees to investigate dismissals in response to the Prime Minister's earlier call, is now publicly threatening trade union leaders with criminal and civil prosecution in case they do not resign. The management of one company, Gulf Aluminium Rolling Mill Company - GARMCO, wrote a letter telling dismissed workers that their relationship with the Company ended with the decision to dismiss them, leaving them with the limited right to address the Company on individual and personal grievances.
7. New hiring processes are taking place with explicitly stated preference for specific workers on



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such grounds as opinion, belief, trade union affiliation and national extraction.

8. Workers and new recruits are being requested to sign also political allegiance and pledges restricting their rights at work, including the right to strike and the right to certain benefits, as a pre-condition for their continued employment.

9. In at least one instance (the board of the General Organization for Social Assurance), workers' representatives on a tripartite body have been excluded from taking part in board meetings on the basis of their trade union affiliation.

(Text of Worker Delegate Complaint Filed at June 2011 ILC)

RESPONSE TO SPECIFIC ALLEGATIONS OF THE COMPLAINT

86. This document addresses the specific allegations in the complaint in the context of the overall response of the government of Bahrain as to what has occurred with regard to worker dismissals and the actions taken by the government in that regard.

87. Allegation One:

a) The Government has failed to meet its constitutional obligation towards non-discrimination and, despite ratification of Convention No. 111, discrimination in employment and occupation has been sanctioned on an increasing scale in both the private and public sectors.

b) This is a general statement, lacking specifics. The ILO Committee of Experts has commented on the compliance of Bahrain with the obligations of C. 111 on several occasions, and as recently as 2010. The comments of the Committee suggested no such trend in Bahrain, and largely raised issues that involve gender equality and access for women to training and vocational education opportunities and requested further information about measures taken under Bahrain's National Strategy for the Advancement of Women. The Committee also asked for additional information about equality of opportunity on the grounds other than gender enumerated in the convention, and enforcement and statistical data collection mechanisms in Bahrain. No concerns were expressed about "an increasing scale" of discrimination being sanctioned in the private and public sectors. Bahrain has also never been asked to appear before the Committee on the Application of Standards of the International Labour Conference.



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c) These allegations relate to the work place dismissals that occurred in the context of the political crisis that swept the country in February/March 2011, when a lot of workers did not comply with their obligations to come to work either by choice or because their ability to do so was severely impacted because of the political situation in the country that included road blocks and transportation interruptions. At the same time, it must be acknowledged that the report of the BICI does find that there was a disparate experience in the dismissals of workers based on sect indicating a form of discrimination implicating Convention 111, but this issue has never been considered by any supervisory mechanism of the ILO, nor have there been any ILO findings in this regard.

88. Allegations two and three link the lay-offs in Bahrain to alleged political opinion or trade union status discrimination:

a) The process of reprisals against workers was initiated by official authorities requesting the submission of reports on absences from work and of threatening to use legal action and measures ranging from pay cuts to termination of employment. This process has been further emulated by the private sector.

b) Large-scale dismissals from employment have taken place on such grounds as workers' opinion, belief and trade union affiliation, after lists were drawn up to screen them systematically. Some 2,000 workers have thus been dismissed including many on the basis of videos and photos identifying participants and demonstrations as grounds for dismissal.

c) These allegations appear to either intentionally or inadvertently merge together two separate issues. First, is the fact that certain public sector employees decided to absent themselves from work to participate in demonstrations and strike against the government. Failing to come to work without permitted leave is a violation of the Civil Services Law in Bahrain, as it would be in any country, and any decision of public employees to fail to come to work is an action that subjects such employees to disciplinary procedures and potential dismissal. No government would tolerate public employees failing to come to work in violation of the law.

d) The disciplinary procedures used by the government with regard to such workers were consistent with the Civil Services Law. Nevertheless, the government of Bahrain, at the urging of the political leadership of His Majesty the King and His Royal Highness the Prime Minister, took extraordinary measures to first limit dismissals from the public service despite the number of employees that committed violations of illegal work stoppages that make them liable for such loss of employment, and



then ultimately to reverse the 180 dismissals that did occur.

e) A similar experience occurred in a number of firms in the private sector. Some workers failed to come to work in favor of attending demonstrations or otherwise engaging in strike action which was not initiated pursuant to the legal requirements of the Trade Union law in Bahrain. A number of companies took action to terminate such employees. With regard to such workers, however, the government almost immediately established a special committee to review every such case to assess whether such dismissals complied with the requirements of the Labour Code. Finding that most dismissals did not follow the procedural requirements, between July 2011 and February 2012 the government undertook a successful effort to encourage the reinstatement of most workers in the private sector who were dismissed, even though the law does not provide for a legal right of reinstatement for most workers other than trade union officials - the applicable legal relief is actually for a court to assess the required level of compensation for an illegal dismissal.

89. Allegation four:

a) Mechanisms were set up to look into complaints against dismissals in both the public and private sectors with no guarantees of redress for established abuses by employers and Government.

b) The statement here is correct that mechanisms were established to look into the issue of dismissals in both the public and private sector. Indeed, these mechanisms were designed to establish precisely what the allegation says they are not - to assure that any abuse in terms of dismissal would be corrected - and that is precisely what happened in Bahrain. In fact, the government set up procedures to assure that the law is appropriately applied and that workers who were not dismissed according to the established legal procedures are able to be reinstated. At the same time, the underlying premise of the allegation is again incorrect. The general abuse that occurred is the failure of workers to come to their places of employment and to engage in strikes or illegal work stoppages not permitted under the Labour Law for the Private Sector or the Civil Service Law.

c) H.M the King gave a Ramadan address to the nation on August 28, 2011 emphasizing the importance of reconciliation and calling for those that had only committed offenses against him, and not other criminal acts, to be forgiven and not to be dismissed from their employment or otherwise punished. This message was well-received and supported by the GFBTU, as it was by different segments of Bahraini society.

d) Moreover, the conclusions and recommendation of the BICI report, and the government's full ac-



ceptance of them, also gave additional momentum and a committed timeline by the end of February for the reinstatement process in the private sector (across-the-board reinstatements for all those dismissed in the civil service were effective as of January 1, 2012). This could be accomplished most clearly in the state-invested enterprises, which involved two-thirds of the workers impacted, where the government had the ability to encourage the reinstatements. The government also effectively addressed almost all other affected workers in the private sector by the end of February through achieving reinstatements, re-employment or other resolution.

MEDICAL PERSONNEL

90. Allegation five:

a) Doctors and health-care workers have similarly been dismissed and/or affected in their professional lives on the sole grounds of treating victims of acts of brutality during demonstrations.

b) There is no basis for the allegation that medical personnel are being dismissed or are being prosecuted for simply treating patients. Some medical personnel committed serious criminal acts. Others breached their ethical obligations as medical professionals. These facts are also substantiated in the BICI report.

c) By February 18, 2011 the Salmaniya Medical Complex, had been effectively taken over by the protesters and was being used to coordinate their activities as an annex to the GCC Roundabout. Soon thereafter, the facility entrances were blocked with ambulances and other equipment and the protesters exerted control over who would get access to the hospital.

d) There was no longer effective control over major parts of the hospital facility by its administration or any security - rather it was now run by the protesters and the medical personnel that were in sympathy with their objectives.

e) There was no police presence -- because of threats of violence towards police officers and the government was trying to avoid any provocations or additional violence. The protesters and medical personnel sympathetic to them also began to block access points to the emergency room, including by welding doors. Access to medical care was arbitrarily blocked, emergency calls ignored



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and political rallies held at the hospital. Medical records were manipulated and patient injuries were mischaracterized. Other medical personnel not trusted by those supporting the protesters, including foreign nurses, were threatened and intimidated. Because of the loss of control over the facility, the government had to make alternative arrangements to open private hospitals or the military hospital to patients that otherwise should have received treatment at Salmaniya.

f) Certain protesters and sympathetic medical personnel also began to stage anti-government rallies in front of the Ministry of Health every morning, blocking the access to the building.

g) Probably the most extraordinary is the allegation of some type of poison gas being used by the police or security forces on the demonstrators. Any such use of chemical agents by the police or security forces would have jeopardized their own safety and probably would have impacted large numbers of civilians given the close proximity of these demonstrations to major population centers in downtown Manama.

h) Similar fabrications for media purposes were also made with regard to the type and number of injuries suffered by protesters. In other instances, claims were made that people that died from natural causes actually died from protest related injuries.

i) Only as part of the decision to restore public order in mid-March was the government able to return normal administrative functioning to the hospital to serve the medical needs of all citizens and to provide security for patients to enter the hospital without intimidation.

j) At no time did the government act to prevent any parties from receiving medical attention. The opposite was the case. The government took measures to re-establish security control over the hospital so that all citizens could be treated.

k) The results of a subsequent official investigation by the Ministries of Justice and Health concluded that in addition to protesters taking control of the gates and access to the hospital, the following criminal actions took place during the period between February 18, 2011 and the reassertion of police control on March 16, 2011:

l) Some patients were either refused treatment or received limited treatment based on their religious sect.

m) Some security personnel and foreign workers were kidnapped and detained at the hospital.



- n) The hospital was used to store weapons, including several firearms, bladed weapons, and incendiary devices, such as Molotov cocktails.
- o) Several physicians made untrue statements as to the number of injured and the nature of their injuries in an attempt to inflate them for media purposes.
- p) Some physicians caused or aggravated injuries to make the situation seem more sensational for media purposes.
- q) Some physicians performed surgeries that were neither necessary nor appropriate and allowed selected press to film such operations again to try to dramatize events for media purposes.
- r) As the investigation found, certain medical personnel sympathetic to the movement committed various crimes for which they are now being prosecuted. The 48 doctors and other medical personnel who are being prosecuted are a relatively very small number as compared to the overall staff at Salmaniya, indicating that most medical personnel, regardless of their political views, carried out their professional medical responsibilities. Twenty of them are being prosecuted on charges that include illegal occupation of the hospital, weapons charges, theft of medicine and medical equipment, and incitement to overthrow the regime. The other 28 face lesser charges. Ultimately, of the twenty that faced more serious charges the Office of Public Prosecution has decided to stop the criminal charges against 15 of the 20, in favor of recommending those 15 be subjected to medical disciplinary boards, but not criminal charges.
- s) Given that Salmaniya is the main hospital center for the entire country, with a number of critical capacities centrally located there, such as chemotherapy and dialysis, the actions by certain medical personnel were extremely serious and put at risk many people who were either blocked from being treated or were too intimidated by the environment at the hospital to dare go there. The importance of Salmaniya is underscored by the fact that of the 9,000 medical personnel that work within the Ministry of Health medical services system, some 5,000 are at Salmaniya, with the remaining 4,000 at the other 23 health centers and other facilities across the country.

91. Allegation 6:

- a) The same joint committee of major companies that announced the formation of committees to investigate dismissals in response to the Prime Minister's earlier call, is now publicly threatening trade union leaders with criminal and civil prosecution in case they do not resign. The management



of one company, Gulf Aluminium Rolling Mill Company - GARMCO, wrote a letter telling dismissed workers that their relationship with the Company ended with the decision to dismiss them, leaving them with the limited right to address the Company on individual and personal grievances.

b) Much of this allegation is also unsubstantiated and incorrect. The Prime Minister made no such call for major companies to establish committees to investigate dismissals. Quite the opposite, the Prime Minister established a special committee chaired by the Minister of Labour to undertake the review described in detail above which has already resulted in the reinstatement of hundreds of workers. The threat in the letter by the joint committee of major companies to seek damages against the union leadership for the losses incurred through the illegal strike was in fact made. However, this was discouraged by the government, and there has been no action taken to move forward on this threat, and none is expected.

92. Allegation seven:

a) New hiring processes are taking place with explicitly stated preference for specific workers on such grounds as opinion, belief, trade union affiliation and national extraction.

b) The Ministry of Labour has not received complaints that new hiring processes are occurring on the basis alleged. Here, again, without any substantiated allegation it is not possible for the government to respond. Such discrimination would violate Bahrain's obligations under Convention 111, articles of Bahrain's Constitution and provisions of the Labour Law. At the same time, the government of Bahrain has made a request to the ILO to provide technical assistance to the government under the national Decent Work Programme on potential additions to the legal regime to assure that it effectively implements the obligations of Convention 111, and this request was also repeated as part of the tripartite agreement signed on March 11, 2012.

93. Allegation eight:

a) Workers and new recruits are being requested to sign also political allegiance and pledges restricting their rights at work, including the right to strike and the right to certain benefits, as a precondition for their continued employment.

b) Any requirement for a worker to sign any such a pledge is inconsistent with the legal rights of workers and would be null and void under the law of Bahrain. The government of Bahrain has is-



sued a directive that makes that clear and encourages any firm that has developed such a pledge to withdraw it.

94. **Allegation nine:**

a) In at least one instance (the board of the General Organization for Social Assurance), workers' representatives on a tripartite body have been excluded from taking part in board meetings on the basis of their trade union affiliation.

b) The government is aware of the complaint made by the GFBTU about the exclusion of two specific GFBTU members from these board meetings. The issue is that the board membership is periodically renewed, and during the latest renewal since the two workers are on dismissal from their prior company, it was not clear they could legally represent works on this board so the designation was left open. This matter is now being litigated by the GFBTU in court. The government will abide by whatever decision the court makes in this matter. In the meantime, if these workers are fully reinstated in may be possible to resolve this matter without further court proceedings.

c) The final allegation in the complaint is that "all attempts by trade unions to reinstate social dialogue have been shamefully rejected by the Government." This is simply and categorically untrue. The GFBTU continues to meet regularly with the Minister of Labour under the established social dialogue committee that has been functioning for many years in Bahrain. That dialogue remains robust, and they meet on a weekly basis.

d) The GFBTU was also invited to participate in the National Dialogue initiated by H.M the King in July 2011, and the GFBTU was able to fully participate in that process. The GFBTU was the designated union representative on the tripartite committee to address dismissals established in December, and also is a signatory with the Minister of Labour of the March 11, 2012 agreement.

e) Moreover, the General Secretary of the GFBTU as recently as March 20, 2012 was present at an event with the entire government and other leaders of Bahrain, when His Majesty the King received the report from the Chairman of the Committee on the implementation of the BICI recommendations. The General Secretary of the GFBTU had the opportunity to speak directly to H.M. the King at that meeting.

f) The following day, on March 21, 2012, His Majesty the King met with the Executive Board of the GFBTU to make clear that the legitimacy of the GFBTU is respected and supported by the Govern-



**KINGDOM OF BAHRAIN
MINISTRY OF LABOUR**

ment and to encourage the work being done to resolve the dismissal cases.

g) Officers of the GFBTU also met with His Highness the Deputy Prime Minister Sheikh Mohammad bin Mubarak Al-Khalifa on May 22, 2012, to again confer on the status of the dismissal cases towards bringing a final resolution to the matter. Any suggestion that the GFBTU is unable to interact with officials of the government is simply groundless.

Appendix II



الاتحاد العام لنقابات عمال البحرين

General Federation of Bahrain Trade Unions

Dear Mr. Guy Rider,
Director-General
International Labour Organization,

31 October 2012

Kindly find attached the report of General federation of Bahrain Trade Unions (GFBTU) regarding the complaint, filed under article 26 of the ILO Constitution, against the Kingdom of Bahrain for Violations of C111 on Discrimination (Employment and Occupation). It includes tables with the latest updates on workers and employees who continue to be dismissed to date and whose number is around 750 workers and employees living in a state of poverty, discrimination and oppression.

The General Federation of Bahrain Trade Unions continues to consider that the government did not commit to the full and effective implementation of the Tripartite Agreement adopted by the Governing Body session in March 2012. Moreover, the government did not commit to hold regular meetings of the Tripartite Committee meetings as stipulated by decision of the ILO-GB in its session of March 2012.

Thus, The GFBTU considers that the reasons for the persistence of the complaint continue to hold, particularly that the violations of ILO Convention 111 continue to persist.

The GFBTU wishes to stress that the reports sent by the Government of the Kingdom of Bahrain reflect only its views since it was not the result of consultations with the concerned parties. Indeed the Government as Chair of the Tripartite Committee, has failed to shoulder its responsibility in following up on the implementation of the Agreement and to report regularly on progress made.

Accordingly, the GFBTU, for the purpose of having its views duly reflected, kindly requests that the present report be included as appendix to the Office document and to be circulated to the officers of the Governing Body for their consideration when discussing the complaint during the November, 2012 Session of the GB.



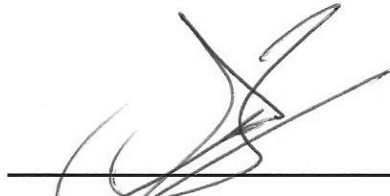
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General Federation of Bahrain Trade Unions

The GFBTU also considers that denying the ILO delegation to attend its congress in Bahrain, that had on its agenda the subject of the Tripartite Agreement, as well as the continued media campaign against the ILO and its staff, as a breach of the GB decision (March, 2012 Session) which stressed the right of the General Federation to request ILO technical assistance to ensure the effective implementation of the tripartite agreement.

In light of all the above, the GFBTU calls on the ILO to exert all efforts in order to press the government to the full and effective implementation of the tripartite agreement, and to open the door for genuine and equitable dialogue at the national level between the government and the GFBTU, being the most representative workers' organization, as well as between the managements of enterprises and GFBTU enterprise unions with a view to promoting sound industrial relations, social peace and stability.

Please Accept my highest consideration and respect,



السيد سلمان جعفر المحفوظ
الأمين العام



الائتلاف العام لنقابات عمال البحرين

General Federation of Bahrain Trade Unions

The Report of the General Federation of Bahrain Trade Union (GFBTU) Regarding the Complaint Under Article 26 of the ILO Constitution Filed By Trade Unions against the Kingdom of Bahrain for Non-observances of Convention 111 On Discrimination (Employment and Occupation)

I. On the Issue of Violations and Discrimination:

- The number of dismissed, according to the GFBTU verified lists of names, reveals that 750 workers continue to be dismissed and have not been reinstated. Back to their original jobs. 99% of them are **SHIA**. Moreover, there is no progress made regarding the issue of wages during the dismissal period, rights to social insurance, the jobs that were changed and the issue of discrimination against reinstated workers. These issues remain to be resolved.
- The GFBTU stresses that it is risky and disquieting to consider that the case of those dismissed -- targeted for their views, freedom of expression, political opinion, ideological belief and cultural convictions -- is only limited to dismissals during the events of 2011. Dismissals have never stopped since then, and have been taking place under different pretexts, but always targeting the same kind of people. Different reasons have been cited for new dismissals, including security reasons, restructuring, redundant labour, administrative infringements, etc..., but all remain unsustainable when facts and trends are closely monitored. This kind of discrimination is very serious and dangerous. It is a reflection of what is taking place at work places in both the private and public sectors.
- The last meeting of the Tripartite Committee held on the 21st of October 2012, the government representative in the Committee refused to discuss any other issue than trying repeatedly to have the GFBTU approval of the very high government claims regarding figures and percentages of those reinstated out of the total number of those dismissed. They wanted to forget that the issue is not only percentages but big numbers of workers that are denied with their families of their dignity and decent life to live in conditions of poverty and repression. In fact the Government Representative stated that the Tripartite Committee is only concerned with percentages and not in discussing other issues related to the dignity of people and discrimination exercised against them. He suggested that such issues be discussed at the level of the bilateral committee between the Government and the GFBTU thus defying the purpose behind establishing the tripartite committee.



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General Federation of Bahrain Trade Unions

- Despite what the government offers in terms of embellishing expressions at the international level, matters at the domestic level do not reflect an inclination towards resolving the issues of concern. In fact, discriminating policies have continued to exist against the rights of the reinstated as well as an important category of workers in both public and private sectors.
- The regressive trend in reinstating dismissed workers has started as early May 2012 with threats to create an “alternative” union and continued after the formation of the so called Bahrain Labour Union Free Federation (BLUFF), a federation created by the Government and certain employers on sectarian basis. It lacks independence representivity, credibility and legitimacy. In fact the creation of BLUFF came to life after the refusal of the GFBTU of a Government proposal to exchange the GFBTU acceptance to close the dismissals file for the government not following up on its threats to form the other trade union entity BLUFF.
- The initial major process of reinstatements in April 2012, following the first mission of the ILO to Bahrain in February 2012, has come to a stop since then, and no real efforts have been exerted to end fully and effectively the issue of the dismissed, including what concerns their other rights of such as wages, social insurance and discrimination at work places.
- Our demand for a full and effective resolution of the issue of dismissals as well of issues of discrimination in employment and occupation stems from Article 18 of the constitution guarantees human dignity and equality between all citizens, it affirms that: “People are equal in human dignity, and citizens are equal before the law in public rights and duties, there is no discrimination between them for reasons of sex or origin or language or religion or creed”. Moreover, it is worth mentioning that the ILO convention No. 111 has been ratified by Bahrain in the year 2000. But unfortunately the Bahraini Government remains far from providing real guarantees to promote non-discrimination between workers in employment and occupation. It is worth mentioning in this regard the ILO/GB has already provided recommendations for the Bahraini Government to take into account.
- The same demand came after the 14 February 2011 regretful events in Bahrain, when workers in both public and private sectors were subject to mass dismissals that affected 4400 workers and employees, according to Bassiouni Independent Commission of Inquiry, which documented and reported on the violations of human rights after the above mentioned events. The latter recommended the following with regards to the termination of employees’ contracts:



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- 1723 (A) Take the necessary towards ensuring that none of the dismissed employees was dismissed based on his practice of his right to freedom of expression, assembly and association
- 1723 (B) The government to use all its authorities to ensure that the private enterprises and other employers, who dismissed employees for not coming to work in the times of demonstrations, are not treated in a lesser manner than the way the government treated its employees in public service.
- Moreover, the government of Bahrain became accountable to the ILO due to the complaint filed against it by 12 workers' organization in June 2011 for its violation of Convention 111 on discrimination in employment and occupation signed by the government of Bahrain. Consequently the government of Bahrain, represented by the Minister of Labour signed an ILO sponsored tripartite agreement in March 11 2012, pledging to unconditionally reinstate all dismissed and suspended workers to their jobs by April 1 2012. And in case the return to the former job is not possible, the dismissed worker will be provided with job opportunities similar in grade, status and wage. Adding to that, according to the agreement the government commits to close the file of the dismissed by the end of May 2012. However and till today the Ministry and Government of Bahrain have failed to keep its commitments and pledges and thus the issues that given rise to the complaint continue to be without a full and effective solution.

Bahrain Pledges and GFBTU Comments

The table here below is meant to indicate the pledges made by the Bahraini Government in the signed March 11, 2012 tripartite agreement and the status of implementation on October 7, 2012.

	Pledge	GFBTU Remarks
1	The government pledged to reinstate 1520 dismissed workers from the public-private enterprises to their jobs	There are still 91 dismissed and 18 arrested



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2	The government and the chamber of commerce and industry in Bahrain pledged to work on reinstating the dismissed in the public sector to their former jobs or find employment to those who could not be reinstated to their former jobs	There are still 426 dismissed who were not reinstated
3	The government pledged to review all lawsuits against public servants and to make sure that they are in conformity with national and international standards	a. Those who were acquitted did not return to their jobs; b. Those who were reinstated in the public sector are either suspended or under investigation; c. The trials of the group whose cases were transformed from felonies to misdemeanors are being repeatedly postponed.
4	Reinstating all dismissed workers whose cases are not in conformity with the above mentioned standards and provide them all their due wages and benefits.	With the exception of the dismissed workers of the University of Bahrain in the public sector and the chamber of commerce in the private sector, none of the dismissed were provided with all their wages for the dismissal period
5	The government pledged that all the reinstated workers in the public sector return to their former jobs prior to the dismissal or suspension. In case it is not possible, the jobs of these workers should be replaced with others of the same grade, wage, allowances and benefits, including transportation allowances if necessary.	Some workers were not reinstated despite the availability of their former jobs, such as jobs in the Ministry of Health, Media Commission and the Ministry of Education.
6	The government pledges to remove all documents related to 2011 events from the files of public servants	These documents were not removed and there were not any orders to remove them from the files of public servants resulting in depriving the reinstated workers from promotions, bonuses, annual salary increases and social insurances for the period of dismissal.



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7	All private public-private enterprises will pledge to reinstate all its dismissed workers and will present their plans of the reinstatement process no later than 20 Mars 2012	It did not occur
8	The reinstatement of all dismissed workers in all sites will be completed no later than 30 May 2012	It did not occur
9	The removal of all documents related to the 2011 events from the files of reinstated workers in the private sector	These documents were not removed and there were no orders to remove them from the files of public servants resulting in depriving the reinstated workers from promotions, bonuses, annual salary increases and social insurances for the period of dismissal.
10	All parties commit to withdraw all lawsuits presented to courts	Workers committed to withdraw all lawsuits and the GFBTU was orally notified of the withdrawal of lawsuits filed by companies and enterprises
11	The three signatory parties pledge to work on making sure that the integration process of workers is smooth and to re-establish social security.	The reinstatement was not smooth and many workers are still suffering from the integration process
12	The government pledges to work on the possibility of ratifying Conventions number 87 and 98	No indications
13	The tripartite committee ought to continue its work in order to make sure that all dismissed workers are reinstated	The committee held only two meetings since the signature of the tripartite agreement. Many workers were not reinstated to their former jobs in the enterprises despite that these jobs are vacant, such as their positions in human resources



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In light of all the aforementioned, the GFBTU considers that the reasons for the persistence of the complaint still hold as its subject is the discrimination in employment and occupation according to the ILO convention number 111, which still holds as well. The details of the violations are as follow:

1. Aluminum Bahrain (ALBA) Company:

- Some are being laid-off after their dismissal
- The reinstated workers or those affiliated to them of the Shiite sect are denied from promotions.
- Despite the approval of the company to reinstate the remaining workers who signed the settlements done by the ILO in Mars 2012, the dismissed were surprised when the company requested them to sign new settlements with different conditions. The company claimed that the ILO, following its last visit in October 2012, approved these settlements.
- All Shiite workers in the security, human resources and IT departments were replaced by Sunni workers.
- A new employment policy was placed in the company that enabled it, during the dismissal period, to employ an important group of new only Sunni workers without considering any employment standards such as tests, assessment of qualification, experience and other.

2. Bahrain Airport Services (BAS) Company:

- The Civil Aviation management is still refusing to grant the president of the trade union and some dismissed permission to work inside the airport.
- The reinstated workers were denied from the wage adjustment and the annual salary increase for the year 2012 and the bonus for the year 2012.

3. The Bahrain Petroleum Company (BAPCO):

- Workers in the departments of medical services and marketing were replaced by migrant workers or Sunnis, and the former Shiite workers were transferred to other departments.
- Reinstated workers were denied from promotions and salary increases

4. Ministry of Public Works:

- The Ministry canceled at least two missions of the trainees missions in civil engineering who were studying at the expense of the Ministry



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5. Ministry of Health:

- A number of the medical staff were tried because of practicing their humanitarian functions in medically treating the protestors. They were given sentences raging from 3 months to five years and were dismissed from Bahrain Medical Association. The latter's administration was re-formed with a governmental team through the government's interference in its elections.
- The acquitted medical staff did not return to their jobs, on the contrary they were re-investigated with by the Civil Service Council and were suspended for 3 paid months without knowing their fate after the suspension period is over.
- Workers in the Human Ressources department where either transferred to other departments that are not suitable with the qualifications and experiences, or marginalized without any work. They are all Shiites.
- Those who were considered as implicitly resigned and waiting to return through negotiations with the government, were either laid off or not reinstated, knowing that there is an agreement to reinstate them.

6. Ministry of Education

- Those who were considered as implicitly resigned – they were obliged to be absent from work due to the period of national security – were not reinstated, knowing that there is agreement with the minister of labour to reinstate them.
- Most of the reinstated were denied from incentives.
- The worksites of some managers and supervisors were changed.
- The Shiite teachers are being provoked in their worksites through provocations of sectarian nature.

7. Information Affairs Authority

- The dismissed with open-ended contracts, artists and employees, were reinstated but not to their former jobs but to marginal ones.
- All the dismissed from the Information Authority with fixed-term contracts (some were accorded open-ended contracts before dismissal) were not reinstated to their jobs and were offered only the remaining part of the contract.
- Investigations are repeatedly undergone with the reinstated employees on account of their activities in forums and social media.

8. Ministry of Culture:

- All 6 dismissed workers were reinstated but they were neither given back their former offices nor positions.



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9. Municipalities Authority:

- Not all dismissed workers with open-ended contracts were reinstated to their work sites
- Some of the dismissed workers with fixed-term contracts were reinstated than dismissed again under the pretext that their contracts ended, despite the fact that some of them worked for more than 6 years under fixed-term contracts.

10. Gulf Air:

- The company is targeting dismissed of high positions and it is not reinstating them for sectarian reasons.
- The reinstated workers from the bookings department did not get authorization from the Civil Aviation management denying them from working in their work sites inside the airport.
- There are serious concerns that the restructuring of the company will aim to dismiss a group of reinstated workers, also on sectarian basis for some.
- There is a Shiite physician, whose job is to check on pilotes, who did not an authorization for the Civil Aviation management to practice his functions and he is marginalized and jobless.

11. GARMCO:

- In some of the reinstated worksites in the Human Resources, employees were replaced on a sectarian basis by retirees.
- Whereas the dismissed were not reinstated to their former jobs under the pretext that there are no vacancies, the company announces vacancies in the same positions, migrants and Sunnis are employed instead.
- The newly arrested were dismissed again after their reinstatements despite the fact that they were acquitted by the Ministry of Interior charges were proven.

12. Bahrain Telecommunication Company (BATELCO)

- Despite that workers with open-ended contracts were reinstated, the company seems determined to get rid of the Shiites under the title of amicable settlements through offers leading to replace them with Sunnis.
- The contracts of those who were reinstated with fixed-term contracts and who work on training contracts with TAMKEEN were modified with the Ministry of Labour with lesser conditions.



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13. Steel Group for Iron and Steel

- All those who were targeted by dismissal had short-term contracts and belong to one sect.
- Despite the company's promise to the Ministry of Labour to reinstate the dismissed workers in the group, the company is employing a new group of workers who belong to a certain sect.

14. Construction Sector

- Although this sector did not witness large dismissals like other sectors due to the fact that most of employers are Shiites, these Shiites contractors are being targeted through denying them from tenders provided by the state. The state implicitly imposed on them to get rid of Shiite labour, especially in middle positions and well-paid workers.

15. Other examples of Violations:

- Except the reinstated workers of the Bahrain university and the Bahrain Chamber of Commerce and industry, the reinstated workers did not get their salaries.
- Most of the reinstated workers were denied from social insurances for the period of their dismissal.
- Among the 4500 dismissed and suspended, there are still over 400 who were not reinstated.
- The new employment in large enterprises and the public sector is completely excluding Shiites from employment.
- The dismissed who sought work outside Bahrain, in the Gulf States were also excluded for unknown reasons which are probably linked to targeting them on a sectarian basis in Bahrain.
- The media attacks are still ongoing on the dismissed who are being accused of sabotaging the economy, damaging the country and betraying Bahrain's interests, making them vulnerable to unemployment.
- Despite the fact that the government pledged that it will seek rewarding employment for the dismissed of the private sector in case they were not reinstated, the fact remains that, now, the Bahraini labour market does not provide adequate wages for the dismissed whose wages increased due to their long years of experience.



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Tables of the dismissed and reinstated until October 7 2012

Private-Private (Small and Medium Enterprises)

The total number of dismissed workers from SMEs registered at the GFBTU reached **640 cases**, amongst which **214 were resolved**. The remaining **426 cases** are classified as follows:

Item	number	Remarks
Those who work in different sites but wish to return to their former jobs	132	Due to either a low salary or different nature of work
The Ministry is demanding to close their files as they are unreachable	72	The GFBTU demands that their files remain open until the whole file of the dismissed is closed
The Ministry claims that they have fixed-term contracts and their claim is to compensate for the remaining period of the contract	11	Their contracts were unjustifiably terminated, knowing that their enterprises are profitable and employ migrant workers belonging to a certain sect.
The Ministry seeks to exclude them because they have active business records	12	The majority of them are willing to give away their records as long as they are reinstated. Most of the aforementioned records are not of a profitable activity.
The Ministry demands to exclude them because they were dismissed after the month of September 2011 or newly introduces names	25	All evidence indicates that among all employees, only they were targeted because of their sectarian belonging.
The Ministry demands to exclude them because they do not have any relation with the events	19	The GFBTU views that their dismissal is related to the events
Illegally laid-off workers because of the events and their cases were not solved	145	95 of which agreed upon between the Ministry and the GFBTU
The Ministry claims that they are being followed up and nominated for other jobs	10	6 of which confirmed their unwillingness to return
Total	426	



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Public-Private Enterprises

The total number of dismissed in large enterprises reached 1520 cases (according to the tripartite agreement), and the following cases remained:

Name of the Party	Suspended	Dismissed	Remarks
ALBA		60	According to the documented data at the GFBTU, there are 60 remaining cases, among which 10 cases have not been contacted to sign agreement of reinstatement and 49 signed the settlement but were neither reinstated, nor receive salaries and 1 dismissed after being reinstated
BABCO	14	6	There are 6 cases who have not been contacted. and 14 suspended who did not return to their jobs
GULF AIR		11	There are 3 cases registered among trainees, and one case dismissed for baseless accusations and 8 still waiting gate passes.
BAS		10	There are 5 workers who signed the reinstatement agreement and their entry licenses to the airport were not issued and they do not receive their salaries and 5 workers were not yet called upon to sign
JARMCO		6	In prison
Total	18	91	



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Annex III: Public Sector

The number of the dismissed in the public and quasi-public sector reached 311 dismissed workers and 560 suspended according to the data of the GFBTU (as mentioned in the tripartite agreement). The following cases remained:

Name of the Party	Number of Cases					Remarks
	Suspended	Temporary	Dismissed	Re-dismissed	total	
Quasi-Governmental entities	2	8	35	-	45	Cases remaining to be solved
Government	37	30	4	33	104	Cases Remaining to be solved

Annex IV: the dismissed of TAMKEEN list (1912):

The number of dismissed from TAMKEEN trainees list (1912) reached 154 case distributed between the public sector and large enterprises according to the data of the GFBTU, the following cases remained:

Name of the Party	Registered at the GFBTU	Remarks
BATELCO	16	refused to sign
Ministry of Health	36	Dismissed despite Government claims
Ministry of Finance	6	Still not reinstated
Information Affairs Authority	3	Still dismissed



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Name of the Party	Registered at the GFBTU	Remarks
Gulf Air	3	Government claims no responsible to reinstate
Municipalities	1	Still dismissed
Tamkeen	1	Still not reinstated
Total	56	

Trade Union Violation of 87 and 98

The following are other violation of trade union rights, particularly the conventions on Freedom of Association (87) and Collective Bargaining (98).

1. The decree 35 was used to establish employer-backed trade unions in BAPCO, BATELCO, GULF AIR, BAFCO and others in order to fight the already established trade unions.
2. The government supported the founding congress of the Free Federation in July 2012. Moreover, the Prime Minister, after few hours, announced his support of a clear government intention to break the GFBTU.
3. The government responded to the Free Federation's indirectly government-backed demand (announced in a TV interview) to deny the GFBTU invitees VISAS who were attending its 2nd General Congress in October 2012.
4. Some companies, such as Rolling Aluminum, directly asked migrant workers to withdraw from the GFBTU trade unions and join the Free Federation. This is based on the testimonies of migrant workers.
5. The Media attacks by the Free Federation and the governmental writers and newspapers on the GFBTU are ongoing. They are accusing it of treason, damaging the country's interests and demanding its dissolution.



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6. All Parliamentary blocks, without exception, stood against the GFBTU and accused it of politicization and treason. It called for its dissolution and trial.
7. All the newspapers, except one, are withholding from publishing GFBTU's statements and news, unless it was in the context of the attacks on the GFBTU.
8. Collective bargaining with employers have stopped in most of trade unions. Moreover, some trade union offices were closed down in BAS and BAFCO for instance, and the deduction of membership fees in others were halted. Adding to that, companies have stopped dealing with the GFBTU and its trade unions, even on the level of nominating of people to be honored on May Day.
9. The agreements with the GFBTU regarding collective bargaining mechanisms and representation on joint committees were undone.
10. After saving the previous law suits against trade unionists, the trade unionists of BAPCO were re-summoned. This indicates that there is a probability to summon trade unionists from other companies who faced similar lawsuits.

We thank you for your cooperation and we appreciate your sincere efforts towards establishing the standards and principles of the International Labour Organization



السيد سلمان جعفر المحفوظ
الأمين العام

Appendix III



ADMN/263/2012

6th November 2012

Dear Mr. Guy Rider,
Director General of the International Labour Organization,
4 route des Morillons
CH - 1211 Genève 22
Switzerland

Dear Mr. Rider,

At the outset, Bahrain Chamber of Commerce & Industry (BCCI) is honored to express its respect and appreciation to ILO for its support to the Employers world wide in general and Bahrain in particular in addressing the diverse tripartite matters.

The Unrest in Bahrain :

The unrest that rocked the Kingdom of Bahrain in February 2011, as you are aware, had adversely affected the national economy. The operations of the financial, commercial and other business sectors were crippled, productivity was affected. Some companies were temporarily or permanently shut down while some of them moved to neighbouring countries. Many agreements were terminated as the companies were not able to fulfil their obligations. Bahrain's economy is yet to recover from the negative impacts of the crisis.

Report :

We are enclosing herewith the report that articulates, in brief, the losses being experienced by some of the major companies, as an aftermath of the unprecedented unrest.

General Federation of Bahrain Trade Union (GFBTU) - Workers rights :

Most of the major companies in Bahrain acknowledge the rights of the workers to go on strike to safeguard their legitimate rights as stated in Constitution No. 33 of 2002 pertaining to GFBTU. It is also a tribute to our Kingdom that His Majesty King Hamad Bin Isa Al Khalifa favours the welfare and betterment of the workers.

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Article No. (1) of the constitution of GFBTU gives the workers the right to strike as per the conditions in the same article. Article 20 stipulates that the workers are not to get involved in political matters. According to the major companies, the strike of the in February 2011 violated the constitution of the GBTU and therefore was not legal.

The sectarian conflict at the work environment had its far reaching effect on the productivity of the companies and paralysed the economy of Bahrain. It caused heavy financial as well as moral losses. To sum up, it affected the tripartite including qualified and skilled manpower, creating an adverse situation for the tripartite. We would like also to inform you that 1320 workers in the major companies in the Kingdom Of Bahrain out of 1463 have been returned to their jobs.

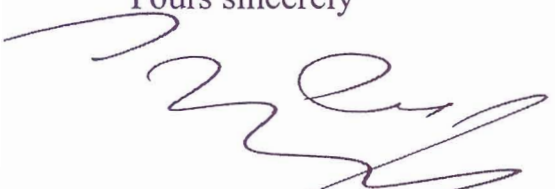
Employers understanding and Reinstatement :

The tripartite did their utmost to alleviate the adverse implications of the unrest. Despite the surplus manpower due to the new recruits to cover the shortage during the unrest, 98% of the dismissed employees were reinstated. The remaining 2%, which is very minimal, might include those who were prosecuted due to the nature of the violence or yet to have completion of investigation as the case may be. It is remarkable that companies were willing to bear the long term financial impact of the additional operational expenses due to the surplus manpower.

We believe that with this achievement by the tripartite committee, with the cooperation of the Government and private sector, the matter can be considered as resolved.

We look forward to your continued support.

Best regards ,
Yours sincerely



Dr. Esam Abdullah Fakhro
Chairman Of BCCI