



U.S. DEPARTMENT OF LABOR
BUREAU OF INTERNATIONAL LABOR AFFAIRS

A large, faded version of the U.S. Department of Labor seal, serving as a background for the title text. It features the same eagle, shield, and circular text as the smaller seal in the top left.

BAHRAIN
LABOR RIGHTS REPORT

September 2005

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I. Introduction

This report on labor rights in Bahrain has been prepared pursuant to section 2102(c)(8) of the Trade Act of 2002 ("Trade Act") (Pub. L. No. 107-210). Section 2102(c)(8) provides that the President shall:

[i]n connection with any trade negotiations entered into under this Act, submit to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating.

The President, by Executive Order 13277 (67 Fed. Reg. 70305), assigned his responsibilities under section 2102(c)(8) of the Trade Act to the Secretary of Labor and provided that they be carried out in consultation with the Secretary of State and the U.S. Trade Representative. The Secretary of Labor subsequently provided that such responsibilities would be carried out by the Secretary of State, the U.S. Trade Representative and the Secretary of Labor (67 Fed. Reg. 77812).

The report first describes the national legal framework. It then describes the administration of labor law, labor institutions, and the system of labor justice. With regard to each of the defined labor rights, the report describes the relevant legal framework (national laws and international conventions) and practice. Information on the extent to which Bahrain has in effect laws governing exploitative child labor is provided in a companion report mandated by section 2102(c)(9) of the Trade Act.

The report relies on information obtained from the U.S. Department of State in Washington, D.C. and the U.S. Embassy in Bahrain and from other U.S. Government reports. It also relies upon a wide variety of reports and materials originating from Bahrain, international organizations, and non-governmental organizations (NGOs). In particular, this report makes use of general observations and recommendations of the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations (ILO CEACR).¹ In addition, the report draws on consultations held in Bahrain by U.S. Department of Labor officials and a U.S. interagency team with Bahraini government officials, representatives of worker and employer organizations, and NGOs pursuant to section 2102(c)(7) of the Trade Act.² Finally, the report makes use of information submitted in response to a U.S. Department of Labor request for public comment published in the *Federal Register* on November 3, 2003.³

¹ The International Labor Organization (ILO) has several standing and ad hoc bodies that review, either on an ongoing or complaint basis, the manner in which member states implement international labor standards. The independent ILO CEACR performs regular monitoring of ratified conventions and makes recommendations for amending labor law and practice. In addition, the ILO CEACR annually undertakes a general survey of the global situation with respect to a convention or a group of conventions. This report refers to the ILO CEACR's 1994 general survey on freedom of association and collective bargaining.

² The consultations were held January 26-28, 2004.

³ U.S. Department of Labor, "Request for Information Concerning Labor Rights in Bahrain and its Laws Governing Exploitative Child Labor," 68 *Federal Register* 62328-62329 (November 3, 2003). The Department received comments from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) on December 18, 2003, in response to the notice.

II. Labor Rights

This report examines the labor rights situation in Bahrain. The labor rights taken into consideration include those rights defined as “core labor standards” by section 2113 of the Trade Act (19 U.S.C. 3813(6)):

- The right of association;
- The right to organize and bargain collectively;
- A prohibition on the use of any form of forced or compulsory labor;
- A minimum age for the employment of children; and
- Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Because of the emphasis in the Trade Act on the elimination of the worst forms of child labor,⁴ this report discusses not only minimum age for employment of children but also the effective elimination of the worst forms of child labor.

III. Legal Framework for Labor Rights

Labor rights in Bahrain are set forth in its Constitution,⁵ the Labour Law for the Private Sector and subsidiary legislation,⁶ and the Workers Trade Union Law.⁷ Bahrain’s Constitution, adopted in 2002, together with the Workers Trade Union Law, guarantees citizens the right to form unions.⁸ Bahrain’s Constitution also guarantees the right to work, job opportunities, and fairness of working conditions. The Constitution generally prohibits compulsory labor.⁹

The Labour Law for the Private Sector governs specific labor and employment issues, including:

⁴ Section 2102(a) sets out overall trade negotiating objectives of the United States, including section 2102(a)(9), which requires the United States “to promote universal ratification and full compliance with ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.” Section 2102(b) sets out principal negotiating objectives of the United States, including section 2102(b)(17), which states that “[t]he principal negotiating objective of the United States with respect to the trade-related aspects of the worst forms of child labor are to seek commitments by parties to trade agreements to vigorously enforce their own laws prohibiting the worst forms of child labor.”

⁵ *Constitution of the Kingdom of Bahrain* (February 14, 2002), available at <<http://www.bahrain.gov.bh/images/constitutione.pdf>>.

⁶ The Labour Law for the Private Sector (1976), promulgated by Amiri Decree Law No. 23 of 1976, available at <<http://www.bah-molsa.com/english/index.asp>> [hereinafter *Labour Law for the Private Sector*]. The Labour Law for the Private Sector has been amended by various subsidiary legislation available at <<http://www.bah-molsa.com/english/index.asp>>.

⁷ The Workers Trade Union Law (2002), promulgated by Legislative Decree No. 33 of 2002 [hereinafter *Workers Trade Union Law*].

⁸ *Constitution of the Kingdom of Bahrain*, Article 27; *Workers Trade Union Law*, Article 10.

⁹ *Constitution of the Kingdom of Bahrain*, Article 13.

- Employment contracts and employment termination and dismissal;
- The regulation of employment for national workers and foreigners;
- The regulation of employment for, and protections afforded to, women¹⁰ and children;
- Apprenticeships and vocational training;
- Conditions of work, wages, hours of work and holidays, and compensation for employment injuries and occupational diseases;
- Conciliation and arbitration in collective labor disputes;¹¹ and
- Labor inspection.¹²

Both national and foreign workers are covered by the Labour Law for the Private Sector, although exclusions apply. The Labour Law for the Private Sector does not apply to civil servants and military personnel,¹³ and, with the exception of certain provisions regulating foreign workers,¹⁴ also does not apply to domestic service workers, certain agricultural workers,¹⁵ maritime workers, temporary or casual workers of less than one year employed outside the employer's scope of business, and workers who are the employer's immediate family members.¹⁶ Civil servants are covered by the Civil Service Law, military personnel by the Military Service Law, and maritime workers by the Maritime Code.¹⁷

The Workers Trade Union Law was enacted in 2002 and applies to private sector workers, civil servants, and maritime workers, including foreigners working in Bahrain.¹⁸ The International Confederation of Free Trade Unions (ICFTU) and others widely acclaimed the passage of the

¹⁰ Articles 59 to 65 of the Labour Law for the Private Sector prohibit the night work of female workers and their employment in dangerous occupations, guarantee maternity leave, and afford protection to women workers from termination due to marriage or pregnancy.

¹¹ As indicated in Article 133 of the Labour Law for the Private Sector, a collective labor dispute is a dispute between an employer and all of his/her workers, or any category thereof, concerning employment or the conditions of employment.

¹² *Labour Law for the Private Sector, as amended.*

¹³ *Ibid.*, Article 2, as amended by Legislative Decree No. 14 of 1993 With Respect to Amending the Labour Law for the Private Sector Promulgated by Legislative Decree No. 23 of 1976, available at <<http://www.bah-molsa.com/english/sec2-14.htm>> [hereinafter Legislative Decree No. 14 of 1993].

¹⁴ *Labour Law for the Private Sector*, Articles 3-7; see also "Rights Guide for Expat Workers," *Gulf Daily News*, April 4, 2004, available at <<http://www.bah-molsa.com/english/newsArchive.asp?hNewsID=678&hPage=11>>.

¹⁵ The following agricultural workers are covered by the Labour Law for the Private Sector: (1) workers employed in an agricultural firm, which process or market their products; (2) workers permanently employed in operating or repairing mechanical equipment used in agriculture; and (3) workers engaged in management or as security guards in agricultural enterprises. See *Labour Law for the Private Sector*, Article 2, as amended by Legislative Decree No. 14 of 1993.

¹⁶ Specifically, the law states that it does not apply to "[m]embers of the employer's family, who are the husband, wife, his parents and offspring whom he actually supports." *Labour Law for the Private Sector*, Article 2, as amended by Legislative Decree No. 14 of 1993.

¹⁷ U.S. Embassy-Manama, electronic communication, August 10, 2005

¹⁸ *Workers Trade Union Law*, Article 2.

Workers Trade Union Law, as it made Bahrain the first Gulf State to take steps toward an independent trade union movement.¹⁹ The Workers Trade Union Law establishes, *inter alia*:

- The role of the General Federation of Workers Trade Unions of Bahrain (GFWTUB),²⁰ which the Workers Trade Union Law tasks with oversight of all trade unions in Bahrain;
- The general objective of trade unions to protect the lawful rights of their members, defend their interests and improve their working conditions;
- Rules and procedures on the formation and structure of trade unions;
- Conditions of membership in trade unions;
- Financial sources available to trade unions and exemptions for trade unions from certain charges and duties;
- Procedures for the dissolution of trade unions and their boards of directors; and
- Procedures for conducting a strike.²¹

IV. Administration of Labor Law

1. Ministry of Labor

In January 2005, the Ministry of Labor and Social Affairs (MOLSA) divided into two agencies: the Ministry of Labor (MOL) and the Ministry of Social Affairs.²² MOL is responsible for preparing a national workforce to contribute to Bahrain's development process and improving rates of productivity in cooperation with workers' and employers' organizations.²³ MOL also implements the Government's policy of ensuring fair remuneration for work, strengthening the training sector to enhance the overall competency of the workforce, and contributing to the development of the role of women in employment.²⁴ MOL is divided functionally into two general areas: (1) employment and labor affairs and (2) training and human resources development.

MOL has three divisions responsible for the area of employment and labor affairs:

¹⁹ "Labour Movement on Right Path, Says Top Official," *Bahrain Tribune*, April 8, 2004, available at <<http://www.bah-molsa.com/english/newsArchive.asp?hNewsID=683&hPage=4>>; see also ICFTU, *Bahrain Trade Union Movement Shows the way for Region*, April 8, 2004, available at <<http://www.icftu.org/displaydocument.asp?Index=991219171&Language=EN>>.

²⁰ In some sources, due to translation from Arabic to English, the GFWTUB also is referred to as the Bahrain General Workers Trade Union Federation (BGWTUF) or the General Federation of Bahraini Workers (GFBW).

²¹ *Workers Trade Union Law*, Articles 1, 6-18, and 21.

²² Labor Officer, U.S. Embassy-Manama, electronic communication, August 20, 2005. Although the Labour Law for the Private Sector refers to MOLSA, the term MOL is used throughout the text of this report in order to be consistent and to reflect the current situation.

²³ Ministry of Labor and Social Affairs, *Main Goals of the Ministry of Labour & Social Affairs*, cited May 11, 2004, available at <<http://www.bah-molsa.com/english/index.asp>>.

²⁴ Ministry of Labor and Social Affairs, *Mission Statement*, available at <<http://www.bah-molsa.com/english/index.asp>>.

- The Labor Relations Directorate registers and investigates workers' complaints against private sector companies concerning labor relations.²⁵ Its staff also has a limited mandate to investigate complaints by domestic service workers against their employers, including non-payment of salary and the denial of annual leave, airfare, and/or service indemnity.²⁶ An investigator must try to amicably resolve such individual labor disputes, but has the authority to transfer the case to the courts if conciliation fails.²⁷ Investigators also are responsible for mediating collective labor disputes and, if unable to settle the dispute, are required to submit the case for conciliation and, if needed, to arbitration.²⁸ The Directorate also addresses complaints made by employers or workers against operators of manpower services offices (employment agencies). If the Directorate finds the operator to be in violation of the Labour Law for the Private Sector and the conditions of his/her license of operation, it may withdraw the operator's license.²⁹ The Occupational Safety Department within the Directorate conducts periodic inspections of private sector enterprises, investigates workers' complaints concerning safety and health, investigates fatal occupational accidents, and promotes awareness of occupational safety among workers and employers by organizing activities, such as training courses, for companies' occupational safety inspectors.³⁰
- The Labor Inspectorate supervises and ensures the implementation of the Labour Law for the Private Sector and its ministerial orders. The Labor Inspectorate may undertake inspections in five circumstances: (1) upon application of a work permit for foreigners; (2) upon employee complaint; (3) randomly; (4) as a follow-up inspection; and (5) upon request by the employer.³¹ In such circumstances, labor inspectors conduct comprehensive inspections of private sector enterprises with regard to wages, hours of work, the employment of children, and the protections afforded to women workers.³² Inspectors have the authority to enter all workplaces; to examine registers, files, and other such documents of relevance to the inspection; and to question both employers and workers. They may issue a citation for labor law violations, after first giving a warning to the employer, and provide a grace period of two weeks to one month for rectifying

²⁵ Ministry of Labor and Social Affairs, *Employment & Labour Affairs: Functions of the Labour Affairs Section*, available at <<http://www.bah-molsa.com/english/prog3c-3.htm>>.

²⁶ Ibid; see also Dr. Sabika al-Najjar, *Migrant Women Domestic Workers in Bahrain*, ILO, Beirut, 2001, Section I.3, available at <<http://www.ilo.org/public/english/region/arpro/beirut/infoservices/report/report07.htm>>.

²⁷ Ibid.

²⁸ Ministry of Labor and Social Affairs, *Employment & Labour Affairs: Functions of the Labour Affairs Section*, available at <<http://www.bah-molsa.com/english/index.asp>>; see also *Workers Trade Union Law*, Article 21(f).

²⁹ Ministry of Labor and Social Affairs, *Employment & Labour Affairs: Functions of the Labour Affairs Section*, available at <<http://www.bah-molsa.com/english/index.asp>>; see also Ministry of Labor and Social Affairs, *Employment & Labour Affairs: Routine Activities in the Labour Affairs Section*, available at <<http://www.bah-molsa.com/english/prog3c-5.htm>>.

³⁰ Ministry of Labor and Social Affairs, *Employment & Labour Affairs: Occupational Safety & Health – Functions and Activities of the Section*, available at <<http://www.bah-molsa.com/english/oss5.htm>>; see also Ministry of Labor and Social Affairs, *Employment & Labour Affairs: Occupational Safety & Health – Functions & Activities of the Unit of Accidents' Inspection and Investigation*, available at <<http://www.bah-molsa.com/english/oss6.htm>>.

³¹ Labor Consultations between Ministry of Labor and Social Affairs officials and U.S. Government officials, January 28, 2004.

³² Ministry of Labor and Social Welfare, *Employment & Labour Affairs: Functions of the Labour Inspection Section*, available at <http://www.bah-molsa.com/english/prog33.htm>; see also Ministry of Labor and Social Welfare, *Employment & Labour Affairs: Labour Inspection: Number of Employees Working in the Section and their Job Functions*, available at <<http://www.bah-molsa.com/english/prog32.htm>>.

violations.³³ The citation is issued after an inspector documents a violation and passes it to legal affairs, which must review it and then take it to court for action. Labor inspectors also may review the work and residence permits of foreign workers during an inspection and have the duty to identify workers with invalid residence permits and those considered “runaway” foreign workers.³⁴ As of September 2005, the Labor Inspectorate employed 30 inspectors and is in the process of hiring an additional 40 to 45.³⁵

- The Employment Services Bureau provides a professional recruitment service, matching jobseekers with companies that have positions equal to the workers’ ability.³⁶ The Foreign Employment Section of the Employment Services Bureau issues and monitors work permits for foreign workers.³⁷

MOL has two divisions responsible for training and human resources development:

- The Manpower Development Directorate acts as the Secretariat to the High Council for Vocational Training, which advises the Government on matters concerning vocational training and is responsible for developing national training plans. The Directorate also provides training programs for job seekers, operates skills testing programs for workers, and promotes awareness of technical and vocational training programs through information campaigns.³⁸
- The Training Promotion Office coordinates training initiatives with the Gulf Cooperation Council (GCC)³⁹ and a national committee composed of government agencies and private sector establishments. Bahrain hosts the GCC’s Regional Center for Training and Human Resources Development.⁴⁰

2. The Labor Court System

In order to exercise individual rights arising from the Bahraini labor law, workers must initially submit their individual labor disputes to MOL for conciliation. MOL has two weeks to attain a settlement between the parties, but, if its efforts are unsuccessful, the Ministry must immediately

³³ Order No. 28-1976, The Organization of Labor Inspection Function, Articles 14-15, available at <<http://www.bah-molsa.com/english/c18a.htm>>.

³⁴ “Runaway” workers are foreign workers who choose to leave the employ of their sponsors, either due to mistreatment or for other reasons, without following the proper procedures to be hired by another employer or to be repatriated. See Ministry of Labor and Social Welfare, *Employment & Labour Affairs: Functions of the Labour Inspection Section*; see also “Labour Inspection only at Workplace,” *Bahrain Tribune*, April 6, 2004, available at <<http://www.bah-molsa.com/english/newsArchive.asp?hNewsID=681&hPage=4>>.

³⁵ Labor consultations between Ministry of Labor officials and U.S. Government officials, September 5-7, 2005.

³⁶ Ministry of Labor and Social Welfare, *Employment & Labour Affairs: Employment Services Bureau (ESB) – The Employer*, available at <<http://www.bah-molsa.com/english/employer.htm>>.

³⁷ Subsidiary legislation enacted under the provisions of the Labour Law for the Private Sector, 1976, Order No. 13, 1976, Article 2; Ministry of Labor and Social Welfare, *Employment & Labour Affairs: Employment & Recruitment*, available at <<http://www.bah-molsa.com/english/index.asp>>.

³⁸ Ministry of Labor and Social Affairs, *Training & Human Resources Development: Manpower Development*, available at <<http://www.bah-molsa.com/english/manpow1.htm>>.

³⁹ The Gulf Cooperation Council is an economic and political-coordinating forum made up of Bahrain and five other Gulf states (Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates).

⁴⁰ Ministry of Labor and Social Affairs, *Training & Human Resources Development: Training Promotion Office*, available at <<http://www.bah-molsa.com/english/prog1c.htm>>.

refer the case to the Senior Civil Court, also known as the High Court of Appeal.⁴¹ The Fourth High Court, which consists of three labor courts, has jurisdiction over labor cases.⁴²

Under the Labour Law for the Private Sector, MOL must conciliate collective labor disputes.⁴³ If conciliation fails, MOL must submit the dispute to an arbitration board. This board is composed of three judges of the Senior Civil Court, one representative of MOL, one representative of the Ministry of Commerce and Agriculture, a representative of the workers, and an employer representative.⁴⁴

The Supreme Court of Appeal, or Court of Cassation, serves as the final court of appeal for all civil, commercial, and criminal matters. The Constitutional Court also rules on challenges regarding the constitutionality of the law.⁴⁵

V. Labor Rights and Their Application

A. Freedom of Association

1. Trade Unions

Bahrain's Constitution recognizes the right of freedom of association. Specifically, the Constitution states that "freedom to form associations and unions on national principles for lawful objectives and by peaceful means is guaranteed under rules and conditions laid down by law, provided that the fundamentals of religion and public order are not infringed."⁴⁶ The Workers Trade Union Law provides that workers, including non-citizens, may form trade unions and freely join or withdraw from them.⁴⁷ The Workers Trade Union Law applies to private sector workers, maritime workers, and civil servants,⁴⁸ although MOL interprets the law to provide public sector workers the right to join trade unions but not to establish trade unions.⁴⁹ The GFWTUB has reported that the Civil Service Bureau advised the government ministries not to officially recognize public sector unions, as there is no mention of trade unions and collective bargaining in the Civil Service Law.⁵⁰

⁴¹ *Labour Law for the Private Sector*, Article 155; see also United Nations Development Program, *Program on Governance in the Arab Region: Bahrain: Judiciary*, available at <<http://www.undp-pogar.org/resources/country/judiciary.html#bahrain>>.

⁴² U.S. Department of State, *Country Reports on Human Rights Practices 2004 – Bahrain*, Section 6e, Washington, D.C., February 28, 2005, available at <<http://www.state.gov/g/drl/rls/hrrpt/2004/41719.htm>> [hereinafter U.S. Department of State, *Country Reports – 2004: Bahrain*].

⁴³ *Labour Law for the Private Sector*, Article 133.

⁴⁴ *Ibid.*, Articles 135-136. The Workers Trade Union Law contemplates a somewhat different mechanism for the conciliation and arbitration of collective labor disputes. See *Workers Trade Union Law*, Article 21(f). It is unclear which mechanism has precedence under Bahraini law.

⁴⁵ United Nations Development Program, *Program on Governance in the Arab Region: Bahrain: Judiciary*.

⁴⁶ *Constitution of the Kingdom of Bahrain*, Article 27.

⁴⁷ *Workers Trade Union Law*, Article 3; see also U.S. Department of State, *Country Reports on Human Rights Practices 2003 – Bahrain*, Section 6e, Washington D.C., February 25, 2004, available at <<http://www.state.gov/g/drl/rls/hrrpt/2003/27925.htm>> [hereinafter U.S. Department of State, *Country Reports – 2003 Bahrain*].

⁴⁸ *Workers Trade Union Law*, Article 2.

⁴⁹ U.S. Embassy-Manama, electronic communication, August 10, 2005.

⁵⁰ Meeting between Abdul Qaffar A. Hussain Abdulla, General Secretary of the General Federation of Workers Trade Union of Bahrain, and a U.S. Trade Representative Official, May 11, 2004.

Before the passage of the Workers Trade Union Law and adoption of the Constitution in 2002, the Government banned independent trade unions; as a result, there was no freedom of association and no trade unions in Bahrain.⁵¹ As of August 2005, there were 37 private sector trade unions operating in the country, representing four percent of the workforce, and five unofficial public sector unions.⁵²

The Workers Trade Union Law states that trade unions shall be independent legal entities.⁵³ Trade unions in Bahrain are organized to protect the rights of their members, defend their interests, and improve their working conditions. They may not use threats, force, or violence to infringe upon the right of others to work.⁵⁴ Workers may form trade unions by craft, sector, industry, or company.⁵⁵ To register a trade union, workers must provide the union constitution and the names of the founding members to MOL. The provisions of the union constitution must not be in conflict with Bahraini law.⁵⁶ No trade unions have been denied registration.⁵⁷

Under the Workers Trade Union Law, only one union may be recognized in an establishment.⁵⁸ In at least one instance involving Gulf Air, two unions have been established; however, the second union is not recognized by Gulf Air or MOL.⁵⁹ According to the ILO Committee on Freedom of Association (ILO CFA), “[t]he right of workers to establish organizations of their own choosing implies, in particular, the effective possibility to create – if the workers so choose – more than one workers’ organization per enterprise.”⁶⁰ While the ILO CEACR has acknowledged that it is generally to the advantage of workers to avoid a proliferation of competing trade unions, it noted that a trade union monopoly imposed by law is counter to ILO freedom of association principles.⁶¹

The Workers Trade Union Law defines the GFWTUB as comprising all trade unions and tasks it as being responsible for trade union activities.⁶² Although the Workers Trade Union Law sets no minimum number of employees to form a union, the GFWTUB encourages unions to have at least 20 workers before applying to join the federation.⁶³ There are no express penalties associated with withdrawing from the GFWTUB.⁶⁴ Under international standards, trade unions have the right to establish and join federations and confederations of their own choosing without previous authorization,⁶⁵ and national law should not institutionalize a *de facto* monopoly but

⁵¹ U.S. Department of State, *Country Reports on Human Rights Practices 2002 – Bahrain*, Section 6a, Washington D.C., March 31, 2003, available at <<http://www.state.gov/g/drl/rls/hrrpt/2002/18273.htm>>.

⁵² U.S. Embassy-Manama, electronic communication, August 10, 2005.

⁵³ *Workers Trade Union Law*, Article 4.

⁵⁴ *Ibid.*, Articles 7 and 20.

⁵⁵ *Ibid.*, Article 10.

⁵⁶ *Ibid.*, Article 11.

⁵⁷ Trade union statistics of the General Federation of Workers Trade Unions of Bahrain, as provided by the Labor Officer, U.S. Embassy-Manama, electronic communication, May 18, 2004.

⁵⁸ *Workers Trade Union Law*, Article 10.

⁵⁹ U.S. Embassy-Manama, electronic communication, August 10, 2005.

⁶⁰ ILO, *Freedom of Association*, 4th (revised) ed., 1996, para. 280.

⁶¹ International Labor Conference, 81st session, 1994, Report III (Part 4B), *Freedom of Association and Collective Bargaining*, para. 91.

⁶² *Workers Trade Union Law*, Articles 1 and 8.

⁶³ U.S. Embassy-Manama, electronic communication, August 10, 2005.

⁶⁴ *Ibid.*; see generally *Workers Trade Union Law*.

⁶⁵ ILO, *ILO Declaration on Fundamental Principles and Rights at Work: The Issues: Freedom of Association and Effective Recognition of the Right to Collective Bargaining*, available at

should allow workers the freedom to establish labor organizations outside the established structures if they so choose.⁶⁶

The GFWTUB oversees activities of all Bahraini trade unions. Among its duties, the GFWTUB proposes the formation of new trade unions and participates with the Government in drawing up strategies for collective bargaining and enhancing social dialogue.⁶⁷ It also provides trade unions with model guidelines for internal financial and administrative rules and regulations.⁶⁸

The Workers Trade Union Law prohibits trade unions from engaging in political activities.⁶⁹ How broadly “political activities” will be interpreted is unclear; however, the Government of Bahrain has indicated that it is appropriate for workers to engage members of Parliament concerning labor law reform.⁷⁰ The ILO CEACR has noted that such legal provisions might give rise to difficulties with regard to principles of freedom of association. The ILO CEACR has indicated that trade union activities cannot be limited to occupational matters since a government’s general policy impacts workers.⁷¹ According to the ILO CEACR, “workers’ organizations must be able to voice their opinions on political issues in the broad sense of the term, and, in particular, to express their views publicly on a government’s economic and social policy.”⁷²

Bahraini trade unions may join regional and international trade union organizations with approval from the GFWTUB.⁷³ The GFWTUB is affiliated with the ICFTU and the International Confederation of Arab Trade Unions (ICATU).⁷⁴ The ICFTU has indicated that the trade unions in Bahrain are on the right path to better serve and represent workers but that the Workers Trade Union Law, while good, needs further improvement.⁷⁵ As stated by ICFTU General Secretary Guy Ryder, “[t]he significance of an independent trade union movement in Bahrain should not be underestimated in a region characterized by trade union rights violations. We will be encouraging other Gulf States to follow the example of Bahrain and working towards a truly independent labour movement in the region.”⁷⁶

2. Right to Strike

The Workers Trade Union Law provides for the right to strike as a legitimate means for workers to defend their rights and interests. The purpose for striking must be to achieve the social and

<http://www.ilo.org/dyn/declares/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=ISSUESFREEDOM>; see also ILO Convention No. 87, Freedom of Association and Protection of the Right to Organize and ILO Convention No. 98, The Right to Organize and Collective Bargaining.

⁶⁶ International Labor Conference, *Freedom of Association and Collective Bargaining*, para. 96.

⁶⁷ *Workers Trade Union Law*, Article 8.

⁶⁸ *Ibid.*, Article 9.

⁶⁹ *Ibid.*, Article 20(d).

⁷⁰ Labor Consultations between Ministry of Labor officials and U.S. Government officials, September 5-7, 2005.

⁷¹ International Labor Conference, *Freedom of Association and Collective Bargaining*, paras. 131 and 133.

⁷² *Ibid.*, para. 131.

⁷³ *Workers Trade Union Law*, Article 8(h).

⁷⁴ U.S. Embassy-Manama, electronic communication, August 10, 2005.

⁷⁵ “Labour Movement on Right Path, Says Top Official,” *Bahrain Tribune*, April 8, 2004, available at <<http://www.bahmolsa.com/english/newsArchive.asp?hNewsID=683&hPage=4>>.

⁷⁶ ICFTU, *Bahrain Trade Union Movement Shows the way for Region*, April 8, 2004, available at <<http://www.icftu.org/displaydocument.asp?Index=991219171&Language=EN>>.

economic demands of the workers.⁷⁷ Prior to the 2002 law, the penalty for conducting a strike was 10 years in prison.⁷⁸

Some restrictions remain on the right to strike. Striking is prohibited for workers employed in “vital and important facilities such as security, civil defense, airports, ports, hospitals, transportation, telecommunications, electricity and water.”⁷⁹ The ILO CEACR has indicated that such restrictions generally should be limited to sectors that provide essential services, i.e., those in which the interruption would endanger the life, personal safety, or health of all or part of the populace, and that essential services should be defined very narrowly.⁸⁰ The Workers Trade Union Law requires that three-fourths of all trade union members vote in favor of striking.⁸¹ The ILO CEACR has indicated that, in general, national legislation should ensure that the count is only of votes cast and that the required majority is fixed at a reasonable level.⁸² The trade union must provide notice of a strike to the employer two weeks before its commencement and also must notify MOL.⁸³ The strike must be peaceful, not harming property and ensuring the safety and security of individuals.⁸⁴

The Workers Trade Union Law also stipulates that a strike may not be conducted until after attempts at conciliation have failed. If MOL is unable to amicably resolve the collective labor dispute, it must refer the case to the Conciliation and Arbitration Board, which will delegate one of its members to conciliate if requested by both parties. If one or both parties refuse to participate in conciliation or are unable to agree to the proposed settlement, the Board must resolve the labor dispute through arbitration.⁸⁵ MOL has indicated that the Bahrain Ministry of Justice is in the process of establishing regulations on an arbitration committee on the right to strike. Under the proposed regulations, the arbitration committee would review the matter to determine if the union may strike. If the decision by the arbitration committee is unsatisfactory to either party, then the employer or trade union could take the issue to court. The court would determine whether the union has the legal right to strike, and, in some cases, the court could make a binding decision on the issue that caused the collective dispute.⁸⁶

There have been nine strikes since the 2002 law came into effect. In 2005, a strike occurred at Al Alayan/Kimberly Clark after the dismissal of four workers who were planning to establish a trade union. Following arbitration, the workers were reinstated and have formed a union. Since 2003, four strikes have taken place in the garment industry over factory closures and unpaid wages. In 2004, workers in the engineering section of Gulf Air struck after allegedly being denied additional benefits, and Gulf Air workers went on strike again in 2005 to protest the suspension of the union president.⁸⁷ The two strikes at Gulf Air were declared illegal by MOL

⁷⁷ *Workers Trade Union Law*, Article 21.

⁷⁸ ICFTU, *Annual Survey of Violations of Trade Union Rights, 2004*, Brussels, 2004, 276, available at <<http://www.icftu.org/www/pdf/Survey04-EN.pdf>>.

⁷⁹ *Workers Trade Union Law*, Article 21(e).

⁸⁰ International Labor Conference, *Freedom of Association and Collective Bargaining*, paras. 159-160.

⁸¹ *Workers Trade Union Law*, Article 21(a).

⁸² International Labor Conference, *Freedom of Association and Collective Bargaining*, para. 170.

⁸³ *Workers Trade Union Law*, Article 21(b).

⁸⁴ *Ibid.*, Article 21(d).

⁸⁵ *Ibid.*, Article 21(f).

⁸⁶ U.S. Embassy-Manama, electronic communication, August 10, 2005.

⁸⁷ Economic/Commercial Officer, U.S. Embassy-Manama, electronic communication to U.S. Trade Representative official, August 23, 2005.

because the Workers Trade Union Law bans strikes in the transportation sector and because appropriate notice was not given.⁸⁸ In 2004, strikes took place at the Bahrain Danish Dairy Company with respect to the cancellation of the drivers' allowance and at Seef Properties when security guards received notice of termination.⁸⁹ All strikes concluded amicably after MOL, the GFWTUB, the trade union, and the employer negotiated and reached an agreement.⁹⁰ There are no reports that workers engaged in the strikes were dismissed from employment or otherwise subject to discrimination.⁹¹

B. Right to Organize and Bargain Collectively

1. Right to Organize

The Workers Trade Union Law prohibits trade union activities from being used as justification for discrimination in employment.⁹² Additionally, anti-union discrimination is covered under the broader rubric of discrimination as defined in the Labour Law for the Private Sector. If an employer terminates a worker's employment contract for a reason other than those legally prescribed, then the employer is liable to pay the worker compensation in respect of the damages incurred by him/her.⁹³ Similar protections are afforded a worker suspended after being accused of having committed a crime or misdemeanor; if the competent authority decides against prosecution or the worker is acquitted, then the worker must be reinstated or it will be considered an unjustified dismissal.⁹⁴ An employer who fires an employee unjustly is punishable by a fine between 50 and 300 dinars (US\$132 to US\$789),⁹⁵ with the fine being multiplied by the number of affected employees.⁹⁶

Any allegation that an employer improperly dismissed a worker, including an assertion of discrimination may be reported through a complaint to MOL's Labor Relations Directorate. The Directorate must summon the employer and attempt to mediate. If no agreement is reached within two weeks from the date of the filing of the complaint, MOL is obliged to refer the case to court, along with a summary of the dispute, the arguments of both parties and the comments and recommendations of MOL.⁹⁷ The referral to the court is done without any fees to the employee, and legal representation is neither required nor prohibited by law.⁹⁸ The court has the authority to require the employer to pay compensation.⁹⁹ Currently, a worker cannot be reinstated against the employer's will; however, the judge may give the employer a choice of reinstatement or

⁸⁸ Economic/Commercial Officer, U.S. Embassy-Manama, electronic communication to U.S. Department of Labor official, August 23, 2005.

⁸⁹ U.S. Embassy-Manama, electronic communication to U.S. Trade Representative official, August 23, 2005.

⁹⁰ U.S. Embassy-Manama, electronic communication to U.S. Trade Representative official, August 10, 2005.

⁹¹ U.S. Embassy-Manama, electronic communication to U.S. Trade Representative official, September 15, 2005.

⁹² *Workers Trade Union Law*, Article 3. This article states, "[t]rade union activities shall not be used as a means and justification for discrimination in employment or influencing workers in any manner whatsoever."

⁹³ *Labour Law for the Private Sector*, Articles 108 and 109. Article 113 of the Labour Law of the Private Sector details the reasons for which an employer may dismiss or terminate a worker's employment contract without payment of indemnity, allowances, notice or compensation.

⁹⁴ *Ibid.*, Article 104.

⁹⁵ As of August 14, 2005, US\$1.00=0.38 dinars.

⁹⁶ *Labour Law for the Private Sector*, Article 165.

⁹⁷ *Ibid.*, Article 110, as amended by Legislative Decree No. 14 of 1993.

⁹⁸ Communication from the Government of Bahrain, July 1, 2005.

⁹⁹ *Labour Law for the Private Sector*, Article 110, as amended by Legislative Decree No. 14 of 1993.

