



### **Improving the Bahrain Labor Environment** *by Steven Brown*

***Wage protections, proactive  
enforcement key to pushing  
reforms forward***

**T**he Kingdom of Bahrain stands at the forefront of labor regulations in the Middle East. The worker protections built into the 2012 Bahrain Labor Law,<sup>1</sup> reflect a dedicated effort to balance public and private interests in the employment relationship while reflecting the varied societal requirements associated with labor regulations. Bahrain has substantially furthered worker rights, including protection from arbitrary dismissal, assurances of medical and retirement protection, and the right to unionize and strike. Moreover, the success of the Labor Law evidences that worker protective regulations can succeed in the Gulf Cooperation Council States.

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<sup>1</sup>Bahrain Labour Law for the Private Sector, Legislative Decree No. 26 of 2012

Under the labor law, governmental bodies responsible for enforcing labor regulations in Bahrain, namely the Bahrain Ministry of Labor (MoL) and Labor Market Regulatory Authority (LMRA), have enhanced their enforcement mechanisms to protect lawful workers and law abiding employers. The LMRA ensures application of a worker nationalization scheme, commonly referred to as Bahrainization, through a sophisticated work permitting system designed to block expatriate work permits from being issued to non-compliant employers. The LMRA also undertakes unscheduled inspections to confirm that an employer is employing workers within the limits of the law. Coordination between the LMRA and the Bahrain Social Insurance Organization also ensures that social insurance, workplace injury and unemployment protection contributions are paid on time.

Proactive enforcement by the MoL and LMRA has proven successful. Moreover, a dispute resolution mechanism set out in the labor law endeavors to resolve disputes within five months from filing of a complaint (compared with disputes persisting for many years previously).

The law, and particularly labor regulations, is constantly evolving. The balance between employer and worker interests must both protect workers' contractual rights as well as spurring economic growth. The interests of freedom to contract and protection of parties in unbalanced economic relationships are often at odds. From this perspective, we believe there are three suggested changes which could enhance the employment and economic environment in Bahrain: (1) improved legislative clarity; (2) exempt worker status; and (3) greater at-risk worker protection.

#### **Improved legislative clarity**

The labor law was developed over a multi-year period drawing from best practices in the Middle East, Europe, North America and globally.

The rights set out in the law reflect tested practices and balanced concepts between employer needs and worker rights. There are, however, certain aspects of the law which could be drafted more clearly to ensure employers and workers enter into—or exit from—an employment relationship fully aware of their respective rights and obligations.

Interpretation issues surrounding leave entitlements, end of service entitlement calculation, discipline and summary dismissal remain.

It is notable, however, that the labor law is particularly transparent in outlining the calculation of rights; particularly wrongful termination benefits applicable at the time of employment termination. It should be emphasized that while suggested clarifications are relatively minor, by implementing them, substantial costs of litigating claims could be avoided.

#### Exempt worker status

Benefits like overtime wage entitlement, statutory transportation entitlement and guarantees against wage reduction are crucial to protect low wage workers. Nevertheless such benefits are arguably outdated in some respects in relation to high wage professionals. A concept similar to exempt status under US overtime regulations may be appropriate in Bahrain to protect employers' reasonable expectations of professional employees. Whether this would involve qualifications on minimum salary,<sup>2</sup> a job title or a combination of both, this could alleviate a major source of employment litigation.

If it is accepted that high wage professional workers are in a position to fairly negotiate their wage and benefits,<sup>3</sup> other typical labor benefits which could be excluded or varied for high wage professionals may include: a longer maximum resignation notice period,<sup>4</sup> permitted termination for convenience and simplified settlement arrangements.

#### Greater at-risk worker protections

The large number of expatriate workers in Bahrain<sup>5</sup> with median monthly income of \$580 (~BD219)<sup>6</sup> and a median monthly income for private sector Bahraini employees of \$986 (~BD372)<sup>7</sup> evidences the large portion of workers in need of labor protection. The enforcement efforts of the LMRA focus on eliminating illegal employment. Accordingly, the primary mechanism for protection against non-payment of wages is the Bahrain court process.

In practice, access to court protection generally involves appointment of a lawyer at a substantial cost vis-à-vis a low earner's wages.

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The hurdles to court protection and limited enforcement to ensure entitlement payments together create an environment that can be potentially exploited by employers who do not comply with the law.

The most practical protection may be a wage protection program similar to the system in place in the United Arab Emirates and Saudi Arabia. Such a program could alleviate costs and reliability concerns associated with onsite inspections. A system could be designed ensuring that wage deductions comply with the law and require an employer to adequately document wage deductions. It could also ensure compliant payment of end of service entitlements.

The Bahrain labor law is a positive example of legislating appropriate protections in a diverse and healthy economic environment. The regulatory regime has been highly successful in reducing illegal employment and creating avenues for workers to protect their rights. With appropriate subtle improvements, Bahrain could further reduce costs associated with employment regulation while improving the conditions of workers and employers.

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<sup>2</sup> Bahrain has no statutory minimum wage.

<sup>3</sup> Exclusions in the Labor Union regulations would suggest a legislative view that this is the case.

<sup>4</sup> The maximum resignation notice period for employees is 30 days.

<sup>5</sup> Over 530,000 expatriate workers (423,000 excluding domestic workers) and representing 77% (73% excluding domestic workers) of the workforce according to 2014 LMRA numbers.

<sup>6</sup> According to 2014 LMRA numbers for select industries, specifically: Construction, Trade, Hotels and Restaurants and small-scale Manufacturing.

<sup>7</sup> Equating to \$11,800 annually based 2014 LMRA numbers.