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## Business Sector Accountability in Bahrain

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# Introduction

Business sector accountability for the effects of their activities on human rights, society, and other stakeholders is a relatively recent issue. However, it remains lacking in most, if not all, Arab countries, including the Kingdom of Bahrain. Private sector accountability is vital as it contributes to achieving justice in society, combating corruption, rationalizing the use of state resources, and creating a clean environment and a sustainable economy.

Private sector accountability in Bahrain is not completely absent. The country's financial and economic openness has prompted the authorities to adopt several modern financial and economic legislations that include related provisions, in one way or another. Nevertheless, the concept has not yet been adopted in official documents such as Bahrain Vision 2030 and other government programs. As a result, significant gaps in private accountability appear concerning issues such as human rights and the interests of society and stakeholders.

The size of these gaps is compounded by a rentier economy, which leads to a weak private sector in terms of size, role, and influence. It remains dependent on economic development patterns imposed by the state. Its activities are mainly concentrated in the labor-intensive and low-paying sectors such as trade and construction, in addition to micro and small industries. As a result, the door remains wide open to human rights violations, especially labor rights.

The report is divided into four main sections. The first section deals with evaluating the state's role in holding the private sector accountable through its strategies, programs, legislation, and bodies that directly or indirectly assume the task of holding the private sector accountable. The second section analyzes the size and extent of private sector accountability, especially in employment and the nature of its economic activities. The

third section treats the question of FDIs, assesses the extent to which it is subject to accountability, and the related legislation, regulations, and mechanisms. The fourth section presents the report's conclusions and recommendations for developing the legislative, regulatory, and judicial environment for private sector accountability Bahrain, based on the UN Guiding Principles on Business and Human Rights.



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# Part One: The State and Business Sector Accountability

There is no clear and specific official state discourse towards private sector accountability in Bahrain. For example, although Bahrain Vision 2030 touched on the importance of partnership with the private sector and its need to play a prominent role in economic development, it did not mention accountability. The same applies to the government's 2019-2022 program, which tackled governance and corruption, despite its emphasis on the same goal. A unified legislative and institutional structure for private sector accountability remains absent.

In 2018, Bahrain submitted its voluntary report (NVR) on the implementation of the sustainable development goals (SDGs) to the high-level political forum (HLPF), held in New York in June 2018. However, although the government involved the private sector and civil society in discussions, the report failed to include a framework for integrating private sector accountability towards the SDGs, as the discussion focused on the government's efforts.

Bahrain remains to this day without an official text addressing the question of accountability as a pivotal issue in development and lacks a single governance framework to legislate, manage, and monitor the private sector's involvement. The issue remains subject to economic, financial, and commercial legislation, whose implementation is monitored by the competent ministries and state agencies.

Following are some of the most relevant legislations related to private sector accountability:

## 1. Governance Legislation

Bahrain issued the Corporate Governance Code in 2010, applying to all public shareholding companies. However, it was initially limited to banks, based on an initiative by the Central Bank of Bahrain, which issued the necessary directives to banks in this regard, given the sensitive role of banking in the economy and Bahrain's financial reputation. It stipulated the following nine core principles:

- The company shall be headed by an effective, collegial and informed board.
- The directors and officers shall have full loyalty to the company.
- The board shall have rigorous controls for financial audit and reporting, internal control, and compliance with law.
- The company shall have rigorous procedures for appointment, training, and evaluation of the board.
- The company shall remunerate directors and officers fairly and responsibly.
- The board shall establish a clear and efficient management structure.
- The company shall communicate with shareholders, encourage their participation, and respect their rights.
- The company shall disclose its corporate governance.
- Companies which refer to themselves as «Islamic» must follow the principles of Islamic Sharia.

Law No.1 of 2018 amended the 2001 Companies Law, committing them to the rule of corporate governance. As a result, the Minister of Commerce, Industry, and Tourism issued Resolution 19 of 2018 regarding the "Corporate Management and Governance Code." However, it only applied to joint stock companies, although the 2018

amendment involved all commercial companies under the ministry.

The new code issued by the minister added two core principles to the nine above. They are:

- The Board of Directors shall ensure the integrity of the financial statements submitted to shareholders, through the assistance of external auditors
- The company must seek to exercise its role as a good citizen through social responsibility.

The first principle on having an effective and qualified board, the principle stipulates the necessity of appointing non-executive and independent board members to at least half the positions. The board's chairperson shall also be independent. In terms of the board's responsibilities and tasks, its members were made personally and jointly responsible for achieving the company's objectives and safeguarding its interests. The above text enhances accountability and scrutiny related to corporate activities and board member decisions that may result in harm to the company. However, it does not hold them accountable towards society and human rights, as it does not stipulate this issue's inclusion in company bylaws. Nevertheless, the principle stipulates that among the board's responsibilities is the establishment of systems and policies to manage risks and present them transparently to stakeholders. It also stipulates that the board forms special committees for auditing, remuneration, nomination, and governance, and that the audit committee would be chaired by an independent board member, in the aim of enhancing corporate accountability and transparency.

The second principle stipulates that board members shall bear personal responsibility and disclose any conflict of interests. It also stipulated that the board of directors set a work charter that consolidates standards and determinants of professional behavior and ethical values at the level of the board, executive management, and employees in the performance of their duties. Accordingly, they must be committed to all

laws, represent all stakeholders and not merely the company's interest, and avoid exploiting their position for influence and gain. It included procedures to regulate the relationship with all stakeholders, guaranteeing their rights, providing them with information, compensating them in case of violation of their rights, and establishing a program for reporting violations that guarantees confidentiality. Accordingly, joint stock companies are already developing codes of conduct for their employees, but there is no specific body responsible for monitoring and implementation. The tasks are usually entrusted to the human resources department, whose work is limited to monitoring employees' violation of company regulations or departments receiving customer complaints. In addition, it seems that the provisions are devoid of any clear text that obliges companies to protect social and human rights.

Principle 8 obliges companies to disclose governance issues in annual reports, appoint an employee responsible for the issue, and form a related committee in the board. The purpose of this disclosure is to inform the stakeholders of the extent of the company's adherence to the rules of good governance, which helps them determine their relations with the company.

The tenth principle states that the board of directors is responsible for ensuring the integrity of the company's financial statements and selecting the external auditor. It also defines the external auditor's obligations, which are limited to the company's financial situation and the regulatory requirements for governance. However, it does not require an audit of the code of conduct and the company's violations towards stakeholders or the rights of society.

Finally, the eleventh principle stipulated companies must set CSR policies approved by the Board of Directors, disclose CSR work in annual reports, and develop an annual implementation plan. The latter must include a budget, means of support, targeted segments and areas, and the values to be promoted. Several examples

could be given about companies contributing community support in health, education, religious affairs, and establishing entrepreneurial and training centers. Some companies have also linked their CSR programs to the SDGs. However, the eleventh principle only applies to programs implemented by companies. It does not cover internal operations, such as the treatment of employees and customers, products and services, risk management, marketing, financing, and investments based on social responsibility and sustainability, which would entail respect for human and social rights.

In general, the governance rules do not oblige joint stock companies to develop a written and approved policy on human rights. Therefore, governance frameworks to protect such rights are not unified. They are nevertheless scattered in codes of conduct, customer complaints offices, stakeholder interests, CSR, and whistleblowing programs. In addition, internal employment systems oblige companies to provide a work environment that adheres to safety and health requirements, provide social and health insurance, and some education and housing support. Labor laws also oblige these companies to policies of pay, bonus, vacation, equality, non-discrimination, and others, as will be noted when addressing the topic.

## 2. Companies Law

The Commercial Companies Law, promulgated by Legislative Decree No.21 of 2001, and its executive regulations sets the rules of compliance with standards of accounting and internal and external financial and administrative audits. Companies are obliged to submit annual audited financial reports electronically to the Ministry of Industry, Commerce and Tourism and keep regular accounting records. It also stipulated the duties and responsibilities of boards of directors and executive management and the protection of minority interests in companies. In addition, it obligated joint stock companies to abide by the rules of governance, as explained earlier.

The Ministry of Industry, Commerce and Tourism acts as a business registrar and conducts periodic field inspections of licensed audit offices. Data related to owners and managers of private entities is available on the website: [www.sijilat.bh](http://www.sijilat.bh) and the commercial registry's portal provides data on final beneficiaries. The public administration also grants financial rewards to everyone who cooperates and reports illegal practices that contain suspicion of corruption. The Ministry has also developed special legislations for combating money laundering, financing terrorism, reporting, ultimate beneficiaries, and other issues.

However, the Companies Law lacks clauses requiring companies of all kinds, including joint stock companies upon incorporation or listing on the Bahrain Stock Exchange, to include in their articles of incorporation and internal regulations clauses related to observing the commitment to community rights, human rights, or the environment. The Board of Directors is only responsible towards the shareholders and not the stakeholders (this topic has been included in the Governance Rules).



Establishment requirements for companies of any kind do not include clauses obliging companies to disclose data or information related to the impact of their business on society and related parties and the protection of human rights, the community, and the environment. On the other hand, disclosure requirements do not oblige companies to inform supervisory authorities about the impact of their policies and activities on human rights, the community, and stakeholders, and to make the information available to the public. Companies are not required to have written regulations approved by their highest authority regarding the protection of human rights, the community, and stakeholders or to educate shareholders about the importance of accountability for human rights as part of their shareholder duties.

Furthermore, all the above issues were left to the companies. They set their own codes of conduct that might cover some of the aspects, which are presented in the board reports to shareholders.

### **3. Public Procurement and Tenders**

Public procurement is centrally regulated in accordance with Legislative Decree No.36 of 2002 and Legislative Decree No.37 of 2002 regarding its executive regulations and related administrative decisions. However, purchases of a military, security, or confidential nature and those related to state interests are exempt from the Tenders Law.

Purchases are supervised by the Tender Board (Article 10), which imposes penalties and takes decisions regarding complaints (Article 96 of the Executive Regulations). The Tender Board, whose seven members are appointed by royal decree, is an independent entity that reports directly to the Council of Ministers (Article 8 of the Tender Law). However, neither the Tenders Law nor its bylaws include provisions on human rights, such as having a clean record regarding violations, especially when applying to official construction and procurement tenders, which are open to

all Bahraini and foreign companies. It is up to the government entity issuing the tender or initiating the project to include such provisions in contracts delivered to the Tender Board. Often, large companies running projects that impact the environment, such as Bapco (oil) or Alba (aluminum), include in their tender contracts clauses related to the issue but not human rights.

Based on the Environment Law No 21 of 1996, the Minister of Housing, Municipalities, and Environment issued Resolution No.1 of 1998 regarding the environmental assessment of projects. The resolution obliged all new projects or those that want to expand, with the exception of homes and residential buildings, to fill out an environmental assessment form to be attached with the application for obtaining a commercial register or a work permit. The form includes all information related to the project's environmental impact and proposed measures during construction and operation to preserve the environment.

### **4. Consumer Protection**

The Consumer Protection Law (No.35) was issued in 2012 aiming to guarantee consumer rights pre- and post-transaction. It focused on safety and health issues related to the regular use of products and the consumers' right to obtain correct information on purchased, used, or provided goods. It also stipulated consumers' right to privacy and safety of personal information that must not be used for other purposes, in addition to the right to a healthy environment. The law also sets measures to protect freedom of competition, preventing harmful monopolistic practices, and setting controls to prevent monopoly.

In practice, however, consumer protection is characterized by many weaknesses as a result of the absence of a strong supervisory body affiliated with the Ministry of Commerce, Industry, and Agriculture. The Consumer Protection Department only employs 22 people to cover all markets in Bahrain and more than 15,000

commercial records. The law also neglects the role of community oversight. Despite the presence of a consumer rights association, the law does not provide it with any role and the association was not granted any real oversight authority related to consumer protection.

## 5. Social Responsibility

Bahrain lacked legislation obliging companies and businesses to CSR practices or reports, including banks and financial organizations, until the issuing of the Corporate Governance Code in 2018. The Code required public shareholding companies to develop a CSR policy and disclose related issues in annual reports.

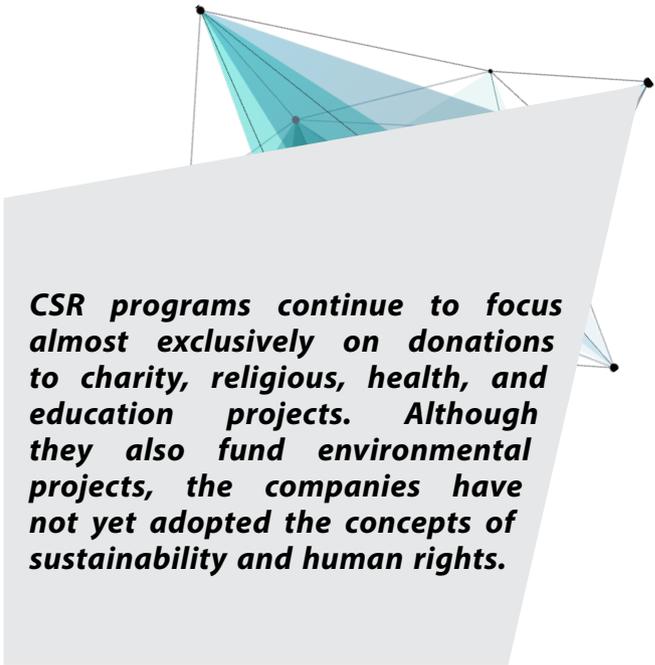
Following the announcement of ISO 26000 Guidelines on Social Responsibility in 2010, the Ministry of Industry, Commerce, and Tourism formed the Bahraini Committee for ISO Standardization for Social Responsibility to address implementing the standard on companies in Bahrain. The committee was composed of official and CSO representatives and held several meetings. However, it seems that it folded without reaching specific results.

In June 2020, Bahrain Bourse issued a guide on the optional Environmental, Social, and Governance (ESG) disclosure standards for listed companies and related entities. The Bourse cooperates with Sustainability Excellence, a Dubai-based company that classifies joint stock companies listed on the exchange according to their compliance with these standards. However, the reports are sold to investors and not publicly available. The Bloomberg ESG Index also covers four companies listed on the stock exchange, namely, the National Bank of Bahrain, Ahli United Bank, Bank of Bahrain and Kuwait, and Batelco. The commitment ratio ranges between 25.44% (National Bank of Bahrain) and 13.22% for Batelco (Dr. Jassim Al-Ajmi, Gulf News, August 23, 2020).

Banks, financial institutions, listed joint stock companies, and major private establishments

usually address their CSR initiatives in annual reports. Some banks have issued annual reports on their sustainability and CSR programs, linking them to the SDGs. One example is Al Baraka Banking Group, an Islamic bank established in Bahrain in 2002, with 15 banking units in 15 Arab, Asian, and Middle Eastern countries. It decided to link its Sustainability and Social Responsibility Program (2016-2020) with the SDGs and has set specific priorities and goals for the next five years related to creating job opportunities and supporting sustainable education, health, and energy projects. The Group conducts annual assessments of the impact of the finances and donations provided by the Group and its banking units in achieving the SDGs and publishes independent reports on the issue.

To stress the note mentioned in the section on governance principles, CSR programs continue to focus almost exclusively on donations to charity, religious, health, and education projects. Although they also fund environmental projects, the companies have not yet adopted the concepts of sustainability and human rights throughout their operations, starting with a written text approved by their highest authorities and a governance framework to monitor its implementation.



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## **6. Combating Corruption**

The Kingdom of Bahrain signed the United Nations Convention against Corruption in February 2005 and ratified it in February 2010. The national anti-corruption legal framework includes the Penal Code, the Criminal Procedure Law, the Anti-Money Laundering Law, the Judicial Authority Law, the Law on Regulating Tenders and Government Procurement (Tender Law), the Financial Disclosure Law, and the Civil Service Law. Bahrain is also a party to a number of international conventions concerned with international cooperation and combating and preventing crime.

The authorities concerned with preventing and combating corruption include the following: the General Department for Anti-Corruption and Economic and Electronic Security in the Ministry of Interior (General Directorate), the Financial Investigation Department, the Public Prosecution, the Judicial Authority, the Ministry of Justice, Islamic Affairs, and Endowments, the Ministry of Finance, the Administrative Financial Supervision Bureau, the Civil Service Bureau, the Tender and Auction Board, and the Examination of Financial Disclosure Declarations committee (under the Supreme Judicial Council).

Bahraini law enforcement authorities cooperate through various mechanisms and networks, including the MENA Financial Action Task Force, the Egmont Group of Financial Intelligence Units, INTERPOL, and the GCC. Parliament also has studied the possibility of establishing an anti-corruption body and decided not to proceed with the proposal.

The Financial Supervision Bureau monitors the financial and administrative performance of state agencies and issues an annual report to Parliament. However, the scope of oversight and audit does not include these agencies' commitment to human rights or community issues when concluding contracts related to projects and procurement with private sector companies.

There is a lack of transparency in announcing cases of corruption and human rights violations by companies in Bahrain. However, some official statistics have been issued, in addition to some cases covered by foreign media.

On December 15, 2019, the General Department for Combating Corruption and Economic and Electronic Security at the Ministry of Interior announced the total number of corruption cases it dealt with during that year in the local press. It mentioned 67 cases, of which 47 were referred to the Public Prosecution, while 9 cases were pending before the competent courts. Court rulings were issued in 5 cases. The administration stressed that the major forms of corruption were bribery requests, offers, or acceptance, embezzlement, seizure, abuse of position and influence, and damage to public money. On March 31, 2019, the Minister of Justice, Islamic Affairs, and Endowments also announced through the local press that the number of corruption cases filed by the Financial and Administrative Oversight Bureau, which the Public Prosecution began investigating, had reached 178 during the past five years.

More recently, many cases involved companies that stopped paying workers' wages, especially during the COVID-19 pandemic. A growing number of suicides was registered among expatriate workers, reaching about 30 cases in 2018 (Gulf News, November 24, 2018).

Although Bahrain's position in the Corruption Perceptions Index improved by 22 degrees to reach 77 in 2019, it is still far from what it was at the beginning of the reforms launched by His Majesty the King in 2002, when Bahrain was ranked 34th globally. Several reasons are behind the decline, including the narrowing of political freedoms and the weakness of the legislative and governance structure to combat corruption. There is no anti-corruption law that establishes a national strategy to combat corruption and the legislative and oversight structure of Parliament remains weak, in the absence of an independent body for integrity and anti-corruption.

## 7. Protecting Human Rights

Law No.26 of 2014 established the National Institution for Human Rights in Bahrain (NIHR), whose mission revolves around the promotion, development, and protection of human rights, working to consolidate their values and spread awareness thereof. Although it adopted the Paris Principles as a legal reference, NIHR remains classified under box B by the International Alliance of National Human Rights Institutions, since it meets those principles only partially. NIHR was established after the political events in Bahrain in 2011 and the report of the independent investigation commission, which accused the authorities of committing grave and serious human rights violations while suppressing popular movements.

The law gave NIHR the right to develop a national plan to promote human rights in the Kingdom, study human rights legislation, submit proposals to the competent authorities, and monitor human rights violations and receive complaints. However, its annual reports and periodic reports submitted to the Human Rights Council tend to focus on human rights in general and on the security and political situation in particular. It has no clear activity in the area of business accountability, although the reports mention criminalizing discrimination in employment and against migrant workers, in addition to human trafficking. In 2018, NIHR organized the Global Forum on the United Nations Guiding Principles on Business and Human Rights, which was attended by more than 200 personalities. Nevertheless, the conference did not propose any practical steps related to Bahrain's adoption of these principles.

Currently, the Ministry of Foreign Affairs is engaged in consultations with the Parliament, NIHR, and human rights associations, holding workshops to develop a new national human rights strategy for the country. However, according to official statements, the strategy does not include policies related to private sector accountability.

Therefore, civil society and the national human rights institution must demand that this issue be included in the new strategy and that NIHR take the initiative to adopt this vital issue in its activities and charters.

Many other legislations are related to private sector accountability and human rights. Due to the limitations of this report, only some will be addressed in the second section, such as labor legislations. However, other laws are also as important, such as the Anti-Money Laundering Law, the Environmental Law, the Penal Code, the Civil Law, and the Crimes Law Electronic law, commercial cover-up law, commercial registry law, illegal competition law, anti-commercial fraud law, personal data protection law, and the trademark law.

In conclusion, despite the many legislations related to private sector accountability, this issue is absent from official documents related to development programs such as Bahrain Vision 2030 and other government and ministry programs. However, there is no official governance framework to monitor the private sector in terms of respecting human rights, the environment, and the community, such as a supervisory body or an official government mandate to a specific agency or ministry to carry out, supervise, and follow-up on the task. The question is left to the discretion of each ministry within the limits of its functions and governing legislations. Although such legislations exist, whether directly or indirectly, they remain extremely flawed.



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## Part Two: Assessment of Private Sector Accountability

Bahrain has always been known for its commercial openness. In the introduction to Bahrain Vision 2030, the state's main objective was to move away from an oil-based economy. It aimed for a productive economy capable of competing globally, whose features are drawn by the government, while the pioneering private sector takes charge of its development. The government's work program (2019-2022), on the other hand, aims to push the private sector into a greater role as a major driver of development to create qualitative opportunities for citizens, work, and investment. The program also adopted several initiatives, including the private sector's involvement in providing some government services.

Bahrain's economic openness allows the local private sector and foreign investors to actively invest in all economic sectors (except for security, defense, and oil). Foreign investors are also entitled to own 100% of their projects in most sectors in accordance with the Companies Law of 2001 and subsequent amendments.

However, the size, role, and influence of the private sector in a rentier economy such as Bahrain's is usually determined by the economic development pattern pursued by the state. The private sector is dependent on the approach, and its activities revolve around government spending patterns and activities. The rentier economy in the country is dominated by elements of external rent (oil) and not rent resulting from the effort expended in converting domestic natural resources into a commodity. Oil makes up most of the GDP (directly and indirectly), budget revenues (about 70%) and exports (80%). This creates an imbalance between oil revenues and the productive effort of society as a whole, especially since the prices of

oil exports as determined in the global market are completely separate from the prices of domestic oil production.

Regarding accountability, rentier states, by virtue of the government domination of financial resources, also use these resources to control political and cultural life and run the economy in a manner that benefits influential groups in society. A prominent manifestation of this reality is the deliberate weakening of governance, accountability, and transparency frameworks. Given the limited space, six governance indicators published by the World Bank will be addressed. The Voice and Accountability Index dropped from -0.719 in 1996 to -1.406 in 2018, approaching the minimum. The Political Stability and Absence of Violence index decreased from -0.318 in 1996 to -0.840 in 2018. The Government Effectiveness index, which includes issues of governance, productivity, transparency, and accountability, was positive 1996 (0.777) but decreased to 0.180 in 2018. The Regulator Quality index decreased from 0.790 in 1996 to 0.446 in 2018. The Rule of Law index improved from -0.010 in 1996 to 0.413 in 2018. Finally, Control of Corruption had registered 0.329 in 1996, but gradually declined to -0.147 in 2018. With the exception of the Rule of Law index, Bahrain's governance indicators all witnessed a significant decline.

The private sector in Bahrain has historically focused on trade following the demise of the pearl fishing industry. It was followed by the establishment of some banks. However, after the oil price boom in the mid-1970s, it became involved in small industries based on oil and aluminum, in addition to construction, tourism, and real estate. This section will address two critical related issues, the private sector's role in economic activity and employment, to shed light on some aspects of its handling of issues related to human rights, the environment, and the community.

# 1. The Private Sector's Economic Activities

The following table lists the various economic activities' share of GDP, published by the Ministry of Finance in 2019.

<b>Sector</b>	<b>Share</b>
<b>Oil and gas</b>	17.9%
<b>Financial Projects</b>	16.6%
<b>Manufacturing</b>	14.5%
<b>Government Services</b>	11.8%
<b>Transport and Communications</b>	7.6%
<b>Construction</b>	7.4%
<b>Social and personal services</b>	6.4%
<b>Real estate</b>	5.4%
<b>Others</b>	5.5%
<b>Trade</b>	4.5%
<b>Hotels and Restaurants</b>	2.5%

The table above shows that the total share of non-oil sectors reached 82.1%, but this does not necessarily reflect on the private sector's shares. A major part of non-oil sector establishments, such as banks and industry (Aluminum Bahrain [ALBA], Petrochemicals Company, Iron and Steel Company, and telecom and transport companies), are either fully or partially owned by the government. The private sector is particularly active in the banking sector, manufacturing industries, telecommunications, building and construction, real estate, trade, hotels, restaurants, health, and education.

However, measuring the business sector's adherence to human rights remains elusive due to the absence of a bonding legislative framework, on the one hand, and the sector's reluctance to disclose this information, on the other. The concept is also relatively recent and is just emerging in Bahrain. However, there is a strong

correlation between business sector activities in the international environment, export, and global investment and the extent of commitment to accountability and human rights principles.

For example, Bahrain has been a global banking center for nearly 50 years. In the mid-1970s, it witnessed the proliferation of offshore banks and the influx of dozens of international banks. Today, around 93 local, Arab, and international banks operate in Bahrain. Thus, legislation related to governance, money laundering, combating terrorism, and social responsibility is very advanced. It also has direct repercussions on the extent of these banks' commitment to human rights and the community. Legislation related to governance in the sector is binding and includes the appointment of independent members to the board of directors, transparency in announcing data and information, combating money laundering, financing terrorism, and data privacy.

Banks also have internal regulations approved by their boards related to risk management, protection of the rights of employees, customers, and other stakeholders in the provision of high-quality services, privacy of customer data, non-discrimination in lending, due diligence, equal pay, confidential channels for whistleblowers, and policies to avoid funding projects harmful to society. The same applies to the insurance sector, exchange companies, and telecommunications. Their annual reports include detailed sections on governance and CSR. However, the above legislations are mainly related to protecting banks from money laundering and financing terrorist operations, safeguarding deposits, and the safety of financial operations. They include several aspects related to protecting human rights and the community, although not necessarily under that title.

The manufacturing industries in which the private sector is active can be divided into two categories. The first encompasses major companies such as ALBA, the Petrochemicals Company, the Iron and Steel Company, and a number of large national industries exporting abroad. By virtue of their commitment to export requirements and international regulations, they are obliged to adopt advanced systems and regulations related to environmental, workforce, and customer protection. For example, Bahrain Petroleum Company (Bapco) is remarkably committed to environmental protection requirements. Since 2000, the company has been following a policy of producing unleaded gasoline. It has reduced the amount of sulfur in diesel from 6500 to 500 parts per million for local use and less than 10 parts per million for export. It also implemented the Kerosene Mercox project, leading to a significant reduction in emissions after its implementation at a cost of US\$29.5 million. ALBA, on the other hand, won the UN Millennium Prize for the business sector in the field of environmental protection.

Its projects included providing electric power and creating an environmentally friendly green oasis that includes a garden, a vegetable farm, and the largest artificial lake in the Kingdom of Bahrain. Furthermore, the Gulf Petrochemical

Industries Company (GPIC) established several environmental projects, including Her Highness Sheikha Sabeeka bint Ibrahim Al Khalifa Park, a fish farm, and a bird sanctuary. The above companies run extensive CSR programs, setting up charitable projects, educational grants, and entrepreneur training centers. They also adopt an adequate system in terms of salary levels, bonuses, employee savings programs, and health and social insurance.

Nevertheless, these companies suffer from the influence of private interests due to the government's control of their boards of directors. The absence of a strong governance framework to limit such overlap has led to cases of major corruption. The most infamous of such cases involved ALBA in 2008 and took several years to resolve. In brief, several company officials were accused of bribery and illegal kickbacks, including the board's chairman who came from the ruling family. It was revealed that US based company Alcoa had deliberately inflated the price of raw materials sold to ALBA in collusion with the latter's officials. The price difference went to fake companies and accounts. ALBA was entangled in a series of contracts ending in 2019 at a cost much higher than the international market. Alcoa also attempted to acquire a share of the company at lower prices through intimidation and threats of cutting supplies. During the signing of a contract in 2005, Alcoa tried to impose additional unfair conditions on ALBA, demanding 62% of the government's share of 77% for a meagre \$600 million, although the value was estimated at around \$1 billion. In return, it would provide 1 million tons of raw materials annually. The other option was raising the price of those materials. The contract with Alcoa was renewed several times without looking into competitors' offers or even requesting them. None of the successive board members asked questions. Finally, the case was brought to the open in US and British courts (Alcoa being a US company and some of those accused of bribery were British). In 2014, the court ruled (Reuters, January 9, 2014) that Alcoa's subsidiaries had bribed foreign government officials. It was fined \$384 million to be paid to the US Department of Justice. However, the main

defendant, the board's chairman, was not tried and, Despite being dismissed from his position, he was appointed as a consultant to the Prime Minister at the time.

The second category in manufacturing includes micro and small enterprises employing the majority of foreign labor. About 90% operate in manufacturing, crafts, contracting, construction, trade, and restaurants. They lack controls related to human rights, especially for their employees, except for those stipulated by the Labor Law and the Labor Market Regulatory Authority, which will be addressed in the next item of this section. The most prominent violations documented by human rights institutions, the Ministry of Labor, and the General Federation of Trade Unions are the lack of social insurance for expatriate workers, illegal long working hours, low salaries, unhealthy working conditions, non-payment of salaries for months, and inadequate housing. In addition, a large part of expatriate workers are migrants without official residence and work permits.

In education, local and foreign private sector investors have been active in establishing and managing schools and universities through joint projects funded by local investors and managed by international institutions. The number of private educational institutions reached 162 in 2018, in addition to more than 10 private universities. The same applies to healthcare, which witnessed large local and foreign investments to establish more than 51 private integrated hospitals. According to the latest survey conducted In 2017, the volume of foreign investment in the education sector was \$64 million, compared to \$36 million in the health sector.

The Higher Education Council, which is the body responsible for licensing and supervising universities, and the National Authority for Regulating Health Professions and Services, which is responsible for licensing and supervising hospitals, impose strict conditions regarding the quality of services provided and adherence to the highest international health and educational professional standards. However, permits do not include any items related to the protection

of human rights or the environment, with the exception of the Labor Market Law requirements, even if the nature of the work or service implicitly and closely imply such a relationship.

On the other hand, the construction sector, which employs 24% of the workforce (92% of whom are expatriates), witnesses many human rights violations. In addition to low salaries, construction workers suffer from long working hours and lack of holiday vacations. They have no retirement benefits, are not insured for injuries outside the workplace, or afforded decent housing, in addition to harsh working conditions and layoffs. There are around 40 thousand informal foreign workers in the job market. The situation is similar in the trade, mechanics, and retail sector employing 23% of the workforce (85% expatriate). It is dominated by Asian workers who have commercial records, either subcontracted or officially, but they do not have any social or insurance protection because the Social Insurance Law is voluntary for business owners. This is in addition to the unbalanced competition with small Bahraini merchants.

Indicators of improving the business environment are not directly related to human rights principles, but they lead in different ways to enhancing private sector accountability, whether through greater transparency of government procedures regarding business licensing, which limits fraud and corruption, or the development of law enforcement legislation, litigation, and tax compliance procedures.

Bahrain ranked 43rd globally in the Doing Business 2020 report (World Bank, 2020). In 2019, it ranked first in terms of tax compliance time, 67 in starting a business, 17 in dealing with building permits, 72 in getting electricity, 17 in registering property ownership, and 94 in obtaining finance. It ranks 51st in protecting minority investor rights, 1st in tax compliance time, 77 in cross-border trading, 59 in contract enforcement, and 69 in insolvency processing.

As mentioned earlier, the above indicators have a positive impact on private sector accountability. Indicators such as minority rights protection,

tax compliance, and contract enforcement are directly related to protecting the rights of clients and stakeholders. Almost all of these services are now provided directly online through service provider platforms, allowing transparency and a fair opportunity to obtain the service, as well as reducing corruption and red tape. On the other hand, a number of these indicators are quantitative and have nothing to do with human rights, but are related to the efficiency and effectiveness of the government apparatus.

To conclude, business activities in Bahrain are not subject to direct legislation holding them accountable to human rights principles, the community, and the environment. However, these activities are governed by several legislations and related provisions, which vary according to the activity's connection to global centers and exports. While banks in particular and some industrial and major telecommunications companies are subject to a number of legislations that impose various forms of respect for human rights, most commercial, industrial, tourism, and real estate activities carried out by SMEs are not subject to accountability, especially in terms of labor rights as per the labor law. This issue will be expanded upon further in the next section.

## ***2. The Private Sector's Role in Employment***

According to the Labor Market Regulatory Authority database, around 77,000 business establishments were registered in Bahrain by mid-2019, employing 605,000 workers and representing 92% of total employment (excluding domestic workers). Bahrainis made up 18% of the total workforce in business establishments; the remaining 82% were expatriate workers.

Around 33% of the workforce is in establishments employing between 1 and 9 workers, of whom 92% are expatriate. The remaining two-thirds are employed in establishments with 10 or more workers; 79% are expatriate. However, 75.4% of the total is made up of micro enterprises

(up to five workers), which impacts the issue of private sector accountability. Micro enterprises are usually difficult to control, even in relation to rights contained in the Labor Law in terms of salaries, working hours, vacations, housing, social insurance, and arbitrary dismissal, especially since the vast majority of their workers are expatriates. Bahraini Labor Law No.36 of 2012 and its amendments equated Bahraini and non-Bahraini workers. It prohibits discrimination between workers subject to the provisions of the law on the grounds of gender, origin, language, religion, or belief. The law also prohibits wage discrimination based on gender, origin, language, religion, or belief. Termination of work contracts is also considered arbitrary if due to gender, color, religion, creed, marital status, family responsibilities, pregnancy, childbirth, breastfeeding, or affiliation with a labor union. The law also includes provisions relating to domestic servants, their wages, working hours, and end-of-service benefits.

The law also permitted collective bargaining, strikes, and unions. It established working hours, wage and bonus policies, and health and safety regulations and prohibited forced labor and child labor. Special labor courts were also established, exempting workers from litigation fees. It also stipulated the establishment of a body in the Ministry of Labor called the «Individual Labor Disputes Settlement Agency» to undertake amicable settlement of individual disputes between workers and employers with the consent of both parties and before resorting to the courts. The Labor Market Regulation Law No.15 of 2011 (Article 25) also provided foreign workers the right to change jobs without the consent of the current employer, provided they had spent at least one calendar year in their current job. The law also included provisions related to the prevention and criminalization of human trafficking. A decision was also issued by the Labor Market Regulatory Authority to grant flexible visas, allowing expatriate workers who have been laid off or whose status is illegal to obtain work permits without a sponsor in return monthly fees and an annual amount paid to the authority of up to \$800 for the first time and then renewed annually for about \$540.

The National Committee for Combating Human Trafficking also established a fund to support victims of trafficking from expatriate workers. An unemployment fund was also established in which workers (Bahraini and non-Bahraini), employers, and the government contribute 1% of the worker's monthly salary each. It is managed by the Ministry of Labor and provides salaries to unemployed or dismissed new graduates for a period of 6 to 9 months.

In addition, Bahrain has been an ILO member since 1977 and ratified 10 of its conventions, including five of the eight fundamental conventions, on the basis of which the Labor Law and Labor Market Regulatory Authority legislations were developed. However, unionists, lawyers, and human rights advocates (Al-Ayyam Newspaper, December 23, 2012) believe that the Labor Law is tainted by several defects that violate labor rights. For example, it stipulated the suspension of work contracts during strikes and canceled a previous article that gave priority to Bahraini workers in recruitment and layoffs. It also removed everything related to a minimum wage and failed to include a clear text criminalizing discrimination in employment and occupation based on Convention 111. The law also gave 60 days of maternity leave and has not signed on to Convention 183, which sets the minimum leave at 14 weeks. It also allowed arbitrary dismissal in the event of institutional restructuring. Experts also believe that the law does not do justice to the national workforce.

The law also allowed employment based on temporary contracts devoid of insurance contributions and other job benefits. Temporary contracts have become a serious issue and led to increasing complaints over the past years. In the past ten years, temporary salary contract allocations for Bahraini employees in the state budget increased by 212% (Al-Ayyam, January 14, 2018). Foreign workers, on the other hand, are not covered by the Social Insurance Law of 1976, with the exception of insurance against work injuries and unfair dismissal. They do not benefit

from insurance upon retirement, death, or injury outside work. In the case of insurance against work injuries, three percent of workers' wages are deducted.

Nevertheless, the private sector's responsibility for employment goes beyond the question of legislation. It is linked to the economic structure based on cheap foreign labor and lacking responsibility towards employing citizens and providing them with a decent life. Between 2004 and 2018, foreign labor in the private sector grew from about 200 thousand to 503 thousand, an increase of about 300 thousand. The national workforce grew from 75 thousand to 105 thousand, an increase of thirty thousand (Labor Market Regulatory Authority database) or 10 times less than foreign workers who currently represent 83% of total employment in the private sector.

In 2006, the Economic Development Board launched three initiatives for economic reform, labor market reform, and education reform. Unfortunately, the economic model based on cheap labor did not witness any change, leading to an increase in the demand for foreign labor, as evidenced by the figures above. Uncontrolled economic openness policies generated more pressures on the labor market. Amendments in the Labor Law removed the priority of national employment. It effectively abandoned Bahrainisation rates and allowed the so-called flexible visa for foreigners, contributing to growing unemployment. According to official data issued by the Ministry of Labor and Social Development, the unemployment rate in Bahrain ranges between 4 and 6% (Annual Statistical Report, 2018).

The Ministry of Labor continues to deal opaquely with unemployment figures in Bahrain. They are limited to job seekers, new graduates, and dismissals. Thousands of job seekers, who left their jobs due to harassment, low salaries, or similar reasons, are unregistered. In addition, thousands of young people working in simple liberal

professions, especially through social media, are not registered with the Ministry.

The labor market reform initiative established the Labor Market Regulatory Authority and the Tamkeen Labor Fund. It imposed fees on businesses for each expatriate worker employed, aiming to raise the cost of using expatriate labor and bridging the gap with employing national labor. These fees are collected by the Labor Market Regulatory Authority and mostly transferred to the Labor Fund.

The Labor Market Regulatory Authority is tasked with developing a labor market plan to balance the private sector's need to hire foreign workers and the national needs to hire citizens. It also aims at directing the recruitment of foreign workers towards professions that include a shortage of national labor to avoid competition. However, the Financial Supervision Bureau's 2019 report clearly shows that the authority did not develop such a plan, which in turn contributed to causing a major imbalance in the labor market in favor of foreign workers.

The Authority focused on improving Bahrain's image abroad with regard to its dealings with expatriate workers. It allowed expatriate workers to change their sponsor one year from their arrival without the need for the sponsor's approval. It also granted a flexible sponsorless work permit in exchange for exorbitant fees. It also worked on creating shelters for expatriate workers who were laid off or abandoned by their sponsor (Labor Market Regulatory Authority), in addition to establishing the Combating Trafficking in Persons Authority.

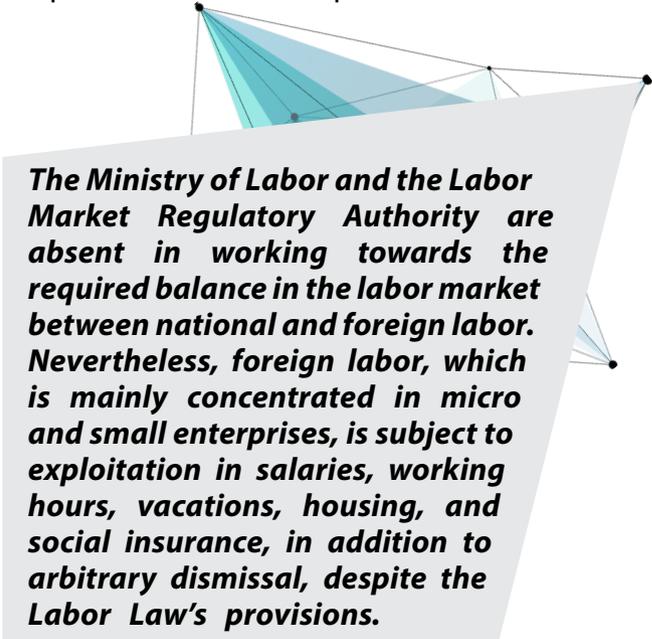
Flexible visas have been highly praised internationally, especially by labor-exporting countries. In practice, however, they were applied without restriction and granted to expatriate workers who, in turn, were able to extract commercial records to compete with local merchants. They were also granted for professions like doctors and engineers, contributing to

unbalanced competition in the job market (even after imposing labor fees).

However, the Labor Fund's experience has been positive in many aspects. Collected funds were used to support private sector enterprises and Bahraini workers through several direct financial grant programs, salary support, and removing obstacles to women's participation in the labor market by designing support programs especially for businesswomen and entrepreneurs.

However, covering the salaries of fresh graduates has generated a dangerous precedent. A large large portion of graduates in private sector establishments were employed in jobs that do not match their qualifications, weakening their aspirations and the national economy's efficiency and productivity in general.

In conclusion, the private sector prefers to employ cheaper foreign labor in the absence of economic diversification beyond trade, real estate, and services. The Ministry of Labor and the Labor Market Regulatory Authority are absent in working towards the required balance in the labor market between national and foreign labor. Nevertheless, foreign labor, which is mainly concentrated in micro and small enterprises, is subject to exploitation in salaries, working hours, vacations, housing, and social insurance, in addition to arbitrary dismissal, despite the Labor Law's provisions.



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# Part Three: Foreign Investment and Human Rights

## 1. Investment Situation in Bahrain

Foreign investment in Bahrain goes back to the beginning of the nineteenth century, with the intensification of the British presence in the Arabian Gulf. Indian merchants, considered British subjects, were allowed to live in the country and work in trade. In 1961, Financial Decree No.1 established the commercial registry, its executive regulations, and explanatory memorandum, allowing for Asian merchants to operate freely in Bahrain. This was followed by the Commercial Companies Law No.28 of 1975 and its amendments.

Bahrain witnessed the establishment of the first foreign bank (currently Standard Chartered Bank) in 1919, more than 100 years ago. In 1929, the Standard Oil Company of California was established, which took over the discovery and production of oil in Bahrain (Wikipedia - Oil in Bahrain). In 1969, Alba was founded as the largest aluminum factory in the Middle East, 20.6% of which is owned by Saudi Arabia. Many retail and wholesale banks, investment banks, and insurance companies are wholly owned by non-Bahrainis. In the telecommunications sector, Zain (Kuwait) and Viva (Saudi) work alongside the Bahrain Telecom Company, Batelco, (Bahrain Stock Exchange website).

Several joint projects between local and the foreign investors were established during those years, including banks, insurance companies, real estate development companies, hotels, tourist resorts, industries, and logistics facilities. However, Bahrain lacks a foreign investment law. The Companies Law of 2001 and its subsequent amendments is considered the main regulator

of investment, as it allowed the establishment of companies of all kinds, including public shareholding companies with foreign capital. Since 2001, the Council of Ministers has issued several decisions allowing foreigners to own commercial records in retail, trade, pharmacies, restaurants, and other activities.

In addition to liberalizing legislation related to the ownership of foreign capital for companies of all kinds, Bahrain has focused its efforts, through the Economic Development Board established in 2000, on improving the business environment as evident from the World Bank's business environment indicators. Recently, the board developed several legislations, such as the Government Tenders and Procurement Law, the Anti-Money Laundering Law, the Unlawful Competition Law, the Consumer Protection Law, the Commercial Fraud Law, the Labor Law Amendment, the Economic Essence Law, and the Cybercrime Law (discussed in the next section). It established the Bahrain Investors Center, which represents a one-stop shop to complete all procedures for investment in Bahrain. Bahrain has a solid infrastructure in terms of communications, transportation, aviation, audit offices, legal advice, e-government services, land designated for investment, electricity provision, skilled labor, and an open social environment. It allows freedom of resettlement and transfer of profits and capital, links the price of the dinar to a fixed rate, allows the free import and export of local and foreign currencies, and does not impose taxes on income, capital gains, sales, real estate, interests, or distribution of corporate profits and royalty fees. The Bahrain Chamber for Dispute Resolution was established pursuant to Legislative Decree No.30 of 2009, which was amended by Legislative Decree No.64 of 2014. The Chamber exercises its functions in partnership with the American Arbitration Association (AAA), including two specific roles, namely as a special court (the Chamber's Court) and as an international center for arbitration and mediation (the Chamber's Center).

National and foreign investment in Bahrain are regulated by the same legislation, whether with regard to incorporation and activities or taking into account environmental, labor, and community issues. Since the Companies Law does not include specific requirements related to human rights, foreign investment is not legally obligated to take this aspect into account. However, some exceptions are imposed by other legislation such as the Labor Law, the Environmental Protection Law, and the Money Laundering and Due Diligence Law.

## 2. FDI Inflows

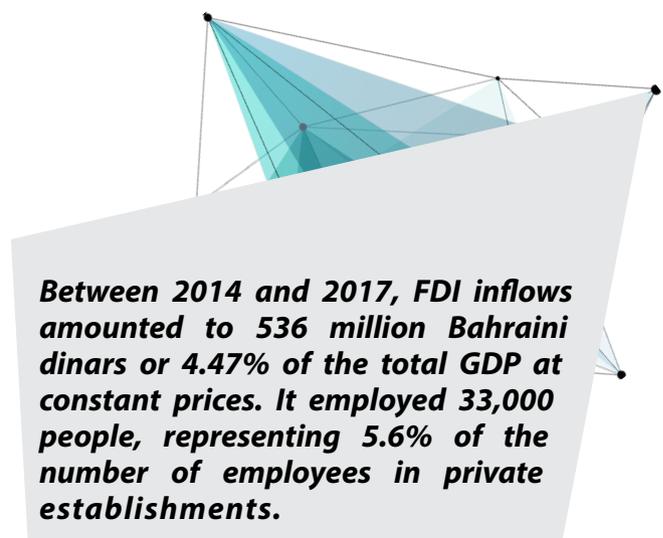
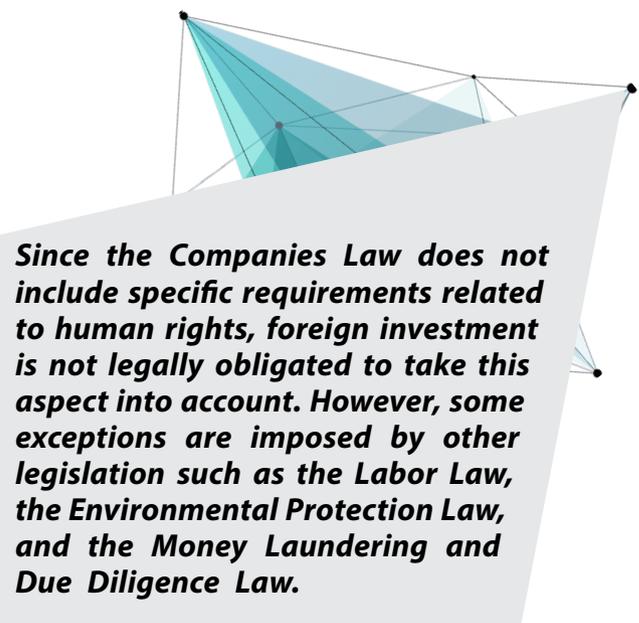
Being home to several banks, financial institutions, and large foreign companies, Bahrain is both an importer and an exporter of capital. According to the Central Bank of Bahrain (Table 1), the international investment balance amounted to \$26.3 billion at the end of 2019, with foreign assets amounting to \$134 billion and foreign liabilities at \$108 billion. Bahrain's foreign assets abroad represent those of foreign financial institutions, primarily based in Bahrain, for their operations in the form of direct investments, portfolio investments, reserve assets, and other investments.

The Information and eGovernment Authority database, on the other hand, shows that FDI stock amounted to 10.9 billion dinars (\$29 billion) by the end of 2019, including an equity portfolio of 8.1 billion dinars and a portfolio of debt instruments worth 2.8 billion dinars.

Investment was concentrated in the banking and financial services sector, with a value of 9 billion dinars (83% of the total), of which 6.7 billion dinars were in the equity portfolio and 2.3 billion dinars in the debt portfolio. Also, 904 million dinars were invested in the wholesale and retail trade sector, 513 million dinars in the communications and technology sector, 260 million dinars in industry, about 98 million dinars in the real estate activities sector, 55 million dinars in construction, 13 million

dinars in the health sector, and 11 million dinars in professional, scientific, technical, and educational services. There is little investment in hospitality, transportation, and warehousing activities.

Kuwait tops the list of exporters of investment to Bahrain with a value of 4 billion dinars. It is followed by the UAE with 1.9 billion dinars, Saudi Arabia with 965 million dinars, the US with 713 million dinars, and Taiwan with 405 million dinars.



**Table 2: Economic Sector Contribution to GDP 2019**

Item	2015	2016	2017	2018	2019
<b>International Investment Status (Net)</b>	32.4	30.8	29.7	26.8	26.3
<b>Foreign Assets</b>	127.1	128.4	130.0	134.7	134.0
<b>FDIs</b>	19.9	18.8	19.1	19.4	19.1
<b>Portfolio investments</b>	37.7	40.1	39.3	41.6	43.0
<b>Other investments</b>	66.3	66.8	69.8	71.9	68.4
<b>Reserves</b>	3.4	2.4	2.7	2.4	3.7
<b>Foreign Liabilities</b>	94.7	97.3	101.1	108.2	108.0
<b>FDIs in Bahrain</b>	25.7	26.0	27.3	28.9	30.0
<b>Portfolio investments</b>	9.0	13.3	15.6	16.4	16.4
<b>Other investments</b>	60.2	58.	57.8	62.	62.9

In terms of contribution to the national economy and according to a survey by the Information and e-Government Authority for foreign investment in Bahrain between 2014 and 2017, FDI inflows amounted to 536 million Bahraini dinars or 4.47% of the total GDP at constant prices. It employed 33,000 people, representing 5.6% of the number of employees in private establishments. These establishments also recorded exports worth 726 million Bahraini dinars and re-exports worth 59 million, compared to their imports, which amounted to 1.2 billion Bahraini dinars.

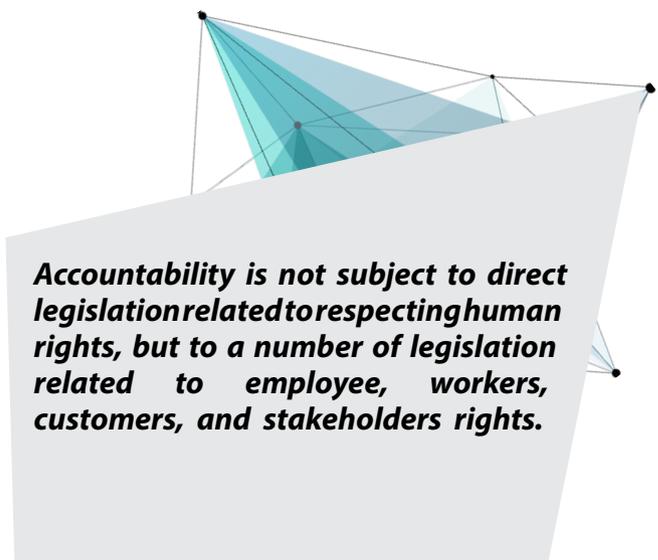
As far as accountability and human rights, all these investments are subject to the same legislation that governs national business activities. Thus, they are equally accountable in their activities. However, as mentioned earlier, accountability is not subject to direct legislation related to respecting human rights, but to a number of legislation related to employee, workers, customers, and stakeholders rights. On the other hand, foreign investment's consideration of accountability and human rights varies from one sector to another, noting that 83% of FDIs go to the banking and financial sector.

Due to Bahrain's status as a global banking center that includes about 93 local, Arab, and international banks, the sector is subject to advanced and serious legislation by the Central Bank of Bahrain related to governance, social responsibility, anti-money laundering, due diligence, customer complaints, and reporting violations. It also provides good salaries, social and health insurance, and a conducive work environment. It offers advanced services to customers, has systems to protect from financing projects harmful to society, and has created initiatives to finance clean energy. The sector has also adopted systems to protect the privacy of customer data. It accounts for 17% of GDP and employs about 14,000 people. Thus, foreign investment in this sector is restricted by several legislations involving requirements for accountability, disclosure, and protection of the economy and society.

On the other hand, investment in wholesale and trade, which comes in second place, is not covered by advanced legislation related to accountability as in the banking sector. However, labor and anti-money laundering legislation applies. The sector

is mostly owned by Asian capital and dominated by cheap expat workers with unsuitable working conditions. It does not generate real added value to the economy and constitutes a burden on Bahrain's trade balance, as the value of its imports exceeds the value of its exports. Foreign investment in this sector generated intense and unequal competition in the retail markets, which harmed small Bahraini merchants. According to official statements and statistics on the website of the Ministry of Commerce, Industry and Tourism, 74,000 new records were issued during 2016-2019, a huge increase for a small local market. It led to stagnation and unfair competition with Bahraini traders, many of whom eventually exited the market. Around 16,000 records were cancelled in 2018 and 11,000 in 2019 (Ministry of Trade, Industry and Agriculture, Commercial Registration Sector Statistics). It seems this investment seriously damaged the rights of small merchants and enterprises and created unequal competition that harmed the national economy as a whole.

A study by the Bahrain Chamber of Industry and Commerce under the title «The Implications of Allowing Companies with Foreign Capital to Engage in some Commercial Activities at Different Rates,» 73% of surveyed merchants rejected the decision to allow foreigners to own commercial records and 71% said the decision had direct repercussions on their work. The study called for granting 100% foreign ownership to activities in which Bahrainis lack the required skills or experience, with a minimum value of foreign investment to ensure job opportunities for Bahrainis and an added value to the economy. It also called for the creation of a government agency to monitor the impact of FDIs on the local market, specifically SMEs. It proposed the introduction of a value-added strategy for foreign companies that apply for government contracts, with priority being given to foreign investors who employ Bahrainis and deal with Bahraini suppliers.



***Accountability is not subject to direct legislation related to respecting human rights, but to a number of legislation related to employee, workers, customers, and stakeholders rights.***

# Part Four: Developing Legislation on Business Accountability

## 1. Conclusions

The accountability framework for business enterprises in Bahrain is governed by several national legislations and directives related to the protection of society and human rights. They include legislation and charters related to corporate governance, anti-corruption, money laundering, the environment, and many others that were reviewed in detail above. However, none of them contain any explicit provisions related to private sector accountability towards human rights and sustainable development.

Bahrain today faces many great challenges brought about by its weak approach to sustainable development, productive economic diversification, corruption, unemployment, demographic imbalance, citizens' low income, and environmental pollution. They all have an impact on human rights and sustainable development, whether directly or indirectly. The political events of 2011 during the Arab Spring were brought about by restriction of political freedoms and also by an aggravating political situation affecting livelihood and employment rights.

In all cases, the need for political and economic reform, including the promotion of accountability and respect for human rights, whether by the state or the private sector, requires several constitutional, legislative, institutional, and regulatory reforms. But as far as the objectives of this report are concerned, reforming the legislative, regulatory, institutional, and judicial structure will obligate, motivate, and encourage the private sector to adopt sustainable development practices and

protect human rights and the environment. However, in rentier societies such as in Bahrain, the responsibility of business enterprises remains restricted by the economic pattern sponsored and encouraged by the state. Therefore, achieving accountability in its fair and required form must not be limited to reforming that structure. It should also transform the economic development model from one based on cheap expatriate labor to a productive economy based on diversification, sustainability, knowledge, and value-added job creation. Then it would be possible to create a strong, cohesive and productive private sector that is more capable of being accountable following the required development, support, and awareness.

Thus, recommendations for developing an environment for private sector accountability must include several political, economic, and social aspects, not just the legislative environment. However, in keeping with the main objective of this report, the recommendations will focus on the last aspect.

## 2. Recommendations

The above conclusions and many others, which cannot be expanded here due to the report's limitations, compel the recommendation to adopt the United Nations Guiding Principles on Business and Human Rights announced in 2011 and develop a national plan and a road map that includes the enactment of binding legislation to implement the Principles.

This report recommends that the government take the following steps in accordance with a national plan and roadmap in which all relevant parties in the economy and society are consulted:

## First: The State

- Enact new legislation and develop existing legislation, such as the Companies Law and the Governance Charter, to enhance their role in protecting human rights. For example, the 2001 companies act must be adapted to include articles related to:
  1. Protecting human rights, society, and the environment as part of the approval requirements of the application for incorporation of companies from the Ministry of Commerce, Industry and Tourism or upon listing on the stock exchange.
  2. That the corporate governance framework includes an obligation for the board of directors to consider and protect the interests of stakeholders, not just shareholders.
  3. Disclosure and reporting requirements for the entities supervising companies and business establishments include showing the effects of the company's policies and activities on human rights, society, and stakeholders, and making this information available to the public.
  4. The company should have written internal regulations approved by its boards of directors that are concerned with the protection of human rights, society and stakeholders.
  5. Awareness of shareholders of the importance of holding the company accountable for its protection of human rights as part of their rights as shareholders.
- Develop a national campaign to raise awareness about respecting human rights and community rights in business practices and issue effective instructions to business enterprises on respecting human rights in all their operations.
- Prioritize protection against human rights abuses by state-owned, controlled, or involved institutions by, inter alia, establishing written policies and regulations for such institutions with a governance framework responsible for their implementation at the highest level, as well as, where appropriate, seeking obligatory attention to human rights. The same applies when the state contracts commercial establishments or conducts commercial transactions.
- Require institutions and companies that operate in other countries and have supervisory and judicial jurisdiction over them, such as some banks residing in Bahrain and that have subsidiaries, branches, or investments abroad, to observe the policies applied in Bahrain with regard to the protection of human rights in their work.
- Request from NIHR to exercise its role in protecting human rights in business and to form a committee to monitor and report on compliance with these rights, as well as to propose legislation that contributes to achieving this goal.
- Request from the ministries and entities concerned with business, especially the Ministry of Commerce, Industry and Tourism and the Central Bank of Bahrain, to develop bylaws and regulations that obligate companies and banks to protect and observe human rights in their activities and investments, and to exercise due diligence and reporting.
- Request from the Bahrain Bourse to issue indicators related to social investment, environmental protection, and human rights for companies listed on the stock exchange.

## Second: Corporate Responsibility to Respect Human Rights

Responsibility towards human rights protection entails the following from business enterprises:

- Adopt policies and processes appropriate to their size and circumstances and documented in a written policy statement approved by the highest level in the company, including a policy commitment to fulfill their responsibility to respect human rights and the human rights due diligence process, in order to determine how to address harmful effects on human rights, prevent their occurrence, mitigate their severity, and clarify how to address them, and processes that enable the treatment of any harmful human rights effects that may be caused or contributed to by their activities.
- To measure human rights risks, enterprises must identify and assess any actual or potential adverse human rights impacts they may be involved in, either through their activities or as a result of their business relationships, and incorporate the results of this assessment into all relevant internal functions and processes; and to take appropriate measures. They should also assess the effectiveness of the actions taken, and whether they should be corrected, and formally report how they have been addressed.
- The Ministry of Commerce must direct external audit institutions to include audits on companies' accounts, assess the effects of their operations on human rights and society, and announce the results in the companies' annual reports.

## Third: Access to Remedies

- The state should support non-judicial grievance mechanisms and enable them to perform their role effectively and appropriately, in addition to judicial mechanisms, as part of a comprehensive state-level redress system for human rights violations by business enterprises. Grievance mechanisms can be at the state level, such as the National Institution of Human Rights, or at the level of commercial enterprises, such as the General Federation of Trade Unions, individual trade unions, arbitration chambers, and the commercial mediation mechanism.
- To allow grievances to be addressed quickly and directly, businesses should put in place effective grievance mechanisms at the internal level for the benefit of individuals, groups, and stakeholders that may be exposed to harm, such as establishing special and confidential channels of communication, whether from employees or by clients. They must also develop written codes of conduct and performance standards approved by the highest authority in the company.
- Non-judicial grievance mechanisms must be legitimate, accessible, provide clear procedures with a specific time frame, be fair and transparent, in line with recognized global standards, and based on participation and dialogue among stakeholders.

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