

# **Policing Labour in Empire: The Modern Origins of the Kafala Sponsorship System in the Gulf Arab States**

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## **Abstract**

This study traces the modern origins of the Kafala migrant labour sponsorship system in the Gulf Arab States. The sponsorship system was a product of the British colonial era, particularly the period from the 1920s until independence in the 1970s. Colonial administrators introduced sponsorship requirements in order to control labour migration in the pearl industry shortly before the discovery of oil in the region, and its use was further regularized and widely applied with the increasing migrant labour working in the oil companies. British officials viewed migrant labour as both a necessity and a problem that needed to be regulated and controlled, both from the viewpoint of economic growth and security. As jurisdiction over foreigners was retroceded back to the newly created states in the independence era, sponsorship of foreign labour was ultimately restricted and delegated to citizens or companies owned by citizens. As a particular example, the case of the “bachelor” worker is detailed as a legal-bureaucratic complex of sponsorship practices. Such practices are placed within a wider ensemble of British colonial policies for controlling labour and policing empire “on the cheap” across the Indian Ocean in the 19<sup>th</sup> and 20<sup>th</sup> centuries.

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# **Policing Labour in Empire: The Modern Origins of the Kafala Sponsorship System in the Gulf Arab States**

## **I. Introduction**

The so-called “Kafala” sponsorship system that regulates labour migration into the Gulf Cooperation Council (GCC) states has become one of the most globally discussed features of their economies since the mid-20<sup>th</sup> century. Nearly thirty million migrants were subject to the Kafala system in 2017, composing about half of the population of the GCC states and a network of dependants that spans the globe. Notwithstanding its notoriety, however, research regarding the modern origins of this system is almost non-existent.

Kafala originates from the Arabic root k-f-l, whose verbs can take on multiple meanings, including to be the legal guardian; to feed and provide for; and to vouch and be responsible for someone.<sup>2</sup>As a legal practice, Kafala has roots in Sharia law, in which a party (kafil) provides a legal guarantee on behalf of another party (makful), undertaking his legal responsibilities in case the latter is unable to. This usually takes two forms: the first guarantees the person himself, such as his good behaviour or presence in court during a trial, in a manner similar to the use of bails in courts. The second form guarantees the payment of a sum of money owed by the makful in case he defaults on payment, which is usually applied in the cases of debts. Such guarantees are of course not unique in the Gulf or the Islamic world, as the similar concept of "surety" is a widely used practice globally, including in the West.<sup>3</sup>

What distinguishes its practice in the Gulf is its application to labour, and specifically migrant labour, where the ability for the migrant to seek employment for his labour power in a particular geographic area is tied to having a sponsor. Thus the sponsor, who is usually a citizen, becomes legally responsible for the migrant sponsored during his stay as an employee in one of the Gulf countries and his subsequent repatriation at the end of his employment period. Consequently, Kafala covers the migrant's legal identity and ability to use his labour power within the state's geographic jurisdiction. It is therefore useful to think of the

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<sup>2</sup> A. Longva, *Walls built on sand: Migration, exclusion, and society in Kuwait* (Westview Press, 1999), p.78.

<sup>3</sup> W. H. Loyd, 'The Surety,' *University of Pennsylvania Law Review and American Law Register*, 66.1/2 (1917): 40-68.

sponsorship system as a labour cum legal relation within a particular geographic jurisdiction, where the sponsor assumes legal responsibility and representation over the sponsored migrant labour within the country's geographic jurisdiction. The flip side is that the sponsored migrant labour has no legal right to enter the geographic boundaries of the country except through having a sponsor. This constitutes the crux of the sponsorship system, where the state delegates the authority needed for a migrant to enter the country to the citizen employer.<sup>4</sup>

This sponsorship system has been put in practice through an extensive body of bureaucratic procedures and legal requirements that regulate the relationship between the sponsor, the migrant, and the state. Although these have varied across countries and time, the main tenants of this bureaucratic-legal complex have included:

- Entry/residency visas - a visa needed by the migrant to be legally able to work in the country. A local sponsor is needed in order to obtain this visa.
- Exit visas - a visa for the migrant to exit the country
- No objection certificates - a certificate required before a migrant can exit the country or change job sponsors, in which the current sponsor declares he has no objection to the worker exiting the country or transferring his sponsorship.
- Surety/Money deposit– some countries have required the sponsor to deposit a certain amount as a guarantee for any costs associated with the migrant worker absconding or needing to be repatriated

Despite its importance within global migration patterns, surprisingly very little research has been done on the origins of this system. Beauge speculates that it originated from an old Bedouin custom of granting protection to visitors<sup>5</sup>. Longva seems to agree, suggesting that the practice might be "well-anchored in Kuwaiti traditions and was, therefore, widely understood and taken for granted by the native population".<sup>6</sup> The postulates of these two studies regarding the historical origins of the system have become the canon adopted by the subsequent literature on Kafala.

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<sup>4</sup> M. Dito, 'Kafala: Foundations of Migrant Exclusion in GCC Labour Markets,' in A. Khalaf, O. AlShehabi, and A. Hanieh (ed). *Transit states: Labour, migration and citizenship in the Gulf*, (Pluto Press, 2015), p.81.

<sup>5</sup> G. Beaugé, 'La kafala: un système de gestion transitoire,' *Revue européenne des migrations internationales* 2.1 (1986): 109-122.

<sup>6</sup> Longva, *Walls Built on Sand*, p.79.

This paper will detail how each of the above legal and bureaucratic procedures of the sponsorship system originated during the British colonial era in the Gulf, particularly in Bahrain and Kuwait in the period from the 1920s to the 1970s. Up until the Arab Gulf States achieved independence, Britain had legal jurisdiction over all “foreigners”. As British officials increasingly viewed “migrant labour” as both a necessity and a problem that needed to be regulated, both from the viewpoints of economic growth and security, a collection of laws and procedures were formulated to control the flow of workers. Sponsorship requirements were introduced to control migration in the pearling industry, where the legal responsibility over the presence of a “foreign worker” was delegated from the state unto a private individual. The use of sponsorship requirements were further regularized and widely applied with the advent of the oil era. As a particular example, I will look at the case of the “bachelor” worker a legal-bureaucratic complex of sponsorship practices. Such practices are placed within a wider setting of British colonial policies for controlling labour and policing empire “on the cheap” across the Indian Ocean in the 19<sup>th</sup> and 20<sup>th</sup> centuries.

## **II. Britain in the Gulf: Orders in Council and Dual Jurisdictions**

The British Empire had established its supremacy over the waters of the Gulf by the mid-19<sup>th</sup> century. As British officials became increasingly worried about encroaching imperial rivalry by the end of the century, they signed treaties of exclusivity with the ruler of Bahrain in 1880 and 1892, which forbade him to establish diplomatic ties with any other international power. Similar exclusive agreements that effectively ceded control over foreign relations to Britain were signed by the rulers of Oman in 1891, the Trucial States (modern day United Arab Emirates) in 1892, Kuwait in 1899, and eventually Qatar in 1916, under which they became British protected states.

In the earlier parts of the 19<sup>th</sup> century, Britain confined its interest mainly to the regulation of the external affairs of the Gulf. As the century drew to a close, the empire's direct involvement in the internal affairs of the rulers increased considerably. The Viceroy of India Lord Curzon formulated the gulf "Forward Policy" in the late 1890s. As trade boomed in the Gulf and it became the stop of many traders, he advocated for increasing ground presence in the Gulf to counteract the heightened imperial rivalry around its waters.

Ground zero for Britain's manoeuvres in the Gulf was Bahrain, the hub of the pearl trade in the region, which would become the primary stage for our story and the site where British colonial presence in the Gulf would reach its zenith. The Government of India sent an officer with the rank of (Assistant) Political Agent to the islands in 1900, marking the first permanent British officer on the Arabian side of the Gulf. As part of a reorganization of the political structure, the new Political Agent in Bahrain would now report to the Gulf Residency in Bushehr, which in turn would report to the government of India. A new power was in town, and unlike before, where it limited itself to keeping the peace and trade between regional powers, this time it was focused on increasing its jurisdiction domestically.<sup>7</sup>

In 1904, British officials expanded the realms of their sovereignty beyond the previous domain of "British subjects" only. Individuals were now to be categorized as either "foreigners" or "locals", with foreigners under British jurisdiction and "locals" under the Al-Khalifa ruler. The category of "foreigner", however, was not predefined, and thus would become a site of contestation between British officials and the local ruler, with significant political and legal repercussions. This was compounded by the fact that neither modern state bureaucracies, borders, emigration offices nor naturalization policies were yet to become a norm across the region. Furthermore, Bahrain's population fluctuated sharply during the year, with several thousand divers arriving from the areas surrounding the Gulf during the pearling season.

This system was codified through the 1913 "Bahrain Order in Council" (BOIC), which was formally put into practice after the end of the Great War in February 1919, marking the beginning of the "rationalizing" of the legal bureaucracy in Bahrain. The BOIC established courts headed by British officials that were responsible for legal cases of "foreigners", as well as "mixed cases" that involved both foreigners and locals.

Thus, by 1923, the British political agent would claim that although there were only 550 British subjects (mainly from India) out of roughly 100,000 residents, the number to whom

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<sup>7</sup> I have detailed the following events in:

O. AlShehabi, 'Contested modernity: divided rule and the birth of sectarianism, nationalism, and absolutism in Bahrain,' *British Journal of Middle Eastern Studies* (2016): 1-23.

British jurisdiction applied, including "foreigners" under British protection, amounted to 40,000, increasing in the diving season to 60,000 - 70,000.<sup>8</sup>

By 1923, the contradictions from this system of divided and contested rule had reached boiling point, and British officials decided that the system had to be reorganized in order to consolidate political power in a more manageable setup. Events climaxed in May 1923 as British officials completely took over local rule. The ruler Sh. 'Isa was deposed and his powers transferred to his son Sh. Hamad.

This turning point marked the ascent of the modernized form of absolutism that would become a distinguishing trait of political practice in Bahrain and the other Gulf Arab States throughout the twentieth century. Instead of ending Al-Khalifa rule in Bahrain, the aim of British officials centred on reforming the political system to be more stable and compatible with their interests. The resultant mode of rule was largely based on models of "indirect rule" practiced in other areas under British colonialism, particularly the Indian princely states.<sup>9</sup> The newly installed ruler had few allies and many more foes, and he came to depend almost entirely on British officials to prop his authority. An 'advisor' would arrive in 1926, the infamous Charles Belgrave, who effectively became the island's chief executive and first prime minister until 1957.

British officials wagered that the new rationalized and modernized mode of absolutist rule would drive economic and social reform, thus quashing any opposition. A modern bureaucracy was set up, including police, customs, and passports control. Divided rule continued under the new system, but by this point the contestations over the borders of sovereignty were largely resolved, as both the new ruler and British officials were now on the same page, largely drafted by the latter.<sup>10</sup> Britain continued to exercise jurisdiction over foreigners, while the ruler theoretically exercised sovereignty over locals, with the advisor

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<sup>8</sup> File 951/1912 Pt 2 'Bahrein Order in Council', Qatar Digital Library and British Library: India Office Records and Private Papers [Henceforth QDL], IOR/L/PS/10/249, <[http://www.qdl.qa/archive/81055/vdc\\_100035092757.0x000029](http://www.qdl.qa/archive/81055/vdc_100035092757.0x000029)>.

<sup>9</sup> For more on indirect rule:

Mahmood Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism* (Princeton: Princeton University Press, 1996).

<sup>10</sup> For more on divided rule as a concept, see:

Mary Dewhurst Lewis, *Divided Rule: Sovereignty and Empire in French Tunisia, 1881–1938*. (California: University of California Press, 2013).

running affairs in the background. However, proclamations, laws, and courts tended to be harmonized over time between the two jurisdictions.

This was further strengthened by the fact that by the 1940s, nationalities and passports had become a common feature in the Global South. With the advent of the oil industry from the 1930s onwards, most of the "foreigners" arriving in Bahrain, whom increasingly came from the Indian subcontinent, had now clearly defined passports and nationalities. Consequently, there was not the same level of heightened contestation and fuzziness regarding who was a "foreigner" vs. "local" that occurred in the early phases of divided rule, a period where no such modern political categorizations existed, and where the vast majority of subjects came from areas immediately surrounding the Gulf.

### **III. Regulating pearl diving and the advent of the sponsorship system**

The Order in Council used to regulate jurisdiction over foreigners in Bahrain was nothing new in the Gulf, with Muscat's Order in Council issued as early as 1867.<sup>11</sup> However, the previous orders in council applied to a maximum of a handful of "British subjects", usually Indian traders that barely exceeded a few dozens. In Bahrain, the new interpretation suddenly caused the number of "foreigners" under British jurisdiction to increase to the tens of thousands.

As Britain began exercising jurisdiction over so many "foreigners", the issue of how to control their movement took on increasing importance. The British institutional presence in the Gulf was very threadbare, and rarely exceeded a couple of white British officers at each political agency, with a few dozen supporting staff of various nationalities. Thus, how was this small bureaucracy to control seventy thousand "foreigners" in Bahrain alone?

This issue was heightened as the issuance of passports, cross border movements, and their documentation became an increasingly recognized practice across the Gulf and the Arabian Peninsula in the 1920s. The Kingdom of Nejd<sup>12</sup>, Iran and Iraq, and the rulers of the Gulf

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<sup>11</sup> 'File 18/54 I (A 89) Muscat Order in Council: new regulations', QDL, IOR/R/15/1/297, <[http://www.qdl.qa/archive/81055/vdc\\_100023834010.0x000012](http://www.qdl.qa/archive/81055/vdc_100023834010.0x000012)>.

<sup>12</sup> 'File 61/9 (D 109) Nejd passports', QDL, IOR/R/15/1/562, <[http://www.qdl.qa/archive/81055/vdc\\_100024100267.0x000050](http://www.qdl.qa/archive/81055/vdc_100024100267.0x000050)>.

began issuing their own passports and travel documents. Furthermore, borders began to be formed, starting with the official drawing of the boundaries between Iraq, Nejd and Kuwait in 1922, and thus the question of movement across these borders gained importance. Entry and Exit Visas became a common occurrence in Iran<sup>13</sup>, Iraq, Jeddah<sup>14</sup>, as well as in Bahrain and the other parts of the Gulf where British officials were stationed. Nationality laws also began to be promulgated in this period, with both the Iraqi and Hijazi nationality laws issued in 1926.<sup>15</sup>

British officials handled the responsibility of issuing visas in Bahrain.<sup>16</sup> Entrance of foreigners required passports to be endorsed by British authorities, in addition to obtaining a regular visa.<sup>17</sup> Passport control was first introduced in 1929, and the State began to issue its own passports in 1930<sup>18</sup>. Subjects of the other Gulf rulers under British protection and Saudi Arabia were allowed to enter Bahrain without visas, provided they were in possession of valid travel documents.

It was inevitable that problems appeared almost immediately with this newly emerging system, since it involved a plethora of governments and authorities each issuing its own documents. Ports in the Gulf where British presence was minimal became a hub for obtaining visas and passports with relative ease, and cases of "illegal" migration and forgeries became a vexing issue for the British authorities across the waters of the Gulf.<sup>19</sup> This was the case particularly with Dubai, since there was no British consular office there, posing a problem on how to coordinate visa and pass issuance.<sup>20</sup>

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<sup>13</sup> 'Administration Reports 1925-1930',

*QDL*, IOR/R/15/1/714, <[http://www.qdl.qa/archive/81055/vdc\\_100023399364.0x00009f](http://www.qdl.qa/archive/81055/vdc_100023399364.0x00009f)>.

<sup>14</sup> 'File 61/11 IV (D 77) Hejaz-Nejd, Miscellaneous',

*QDL*, IOR/R/15/1/567, <[http://www.qdl.qa/archive/81055/vdc\\_100023554072.0x000076](http://www.qdl.qa/archive/81055/vdc_100023554072.0x000076)>.

<sup>15</sup> 'File 15/15 Rules & Regulations Nationality Laws of Iraq & Saudi Arabia',

*QDL*, IOR/R/15/2/1457, <[http://www.qdl.qa/archive/81055/vdc\\_100023554854.0x000082](http://www.qdl.qa/archive/81055/vdc_100023554854.0x000082)>.

<sup>16</sup> 'File 13/8 PASSPORT REGULATIONS GOVERNING PERSIANS AND BAHRAINIS',

*QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846468.0x000022](http://www.qdl.qa/archive/81055/vdc_100023846468.0x000022)>.

<sup>17</sup> 'File 13/8 PASSPORT REGULATIONS GOVERNING PERSIANS AND BAHRAINIS',

*QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846467.0x0000ba](http://www.qdl.qa/archive/81055/vdc_100023846467.0x0000ba)>.

<sup>18</sup> A Bahrain Nationality Law was published by the Ruler in May 1937. For more see:

'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x000049](http://www.qdl.qa/archive/81055/vdc_100023415995.0x000049)>.

<sup>19</sup> 'File 13/8 PASSPORT REGULATIONS GOVERNING PERSIANS AND BAHRAINIS',

*QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846468.0x00003e](http://www.qdl.qa/archive/81055/vdc_100023846468.0x00003e)>.

<sup>20</sup> 'File 13/8 PASSPORT REGULATIONS GOVERNING PERSIANS AND BAHRAINIS', *QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846467.0x000038](http://www.qdl.qa/archive/81055/vdc_100023846467.0x000038)>.

A particular source of headache for the British authorities was the pearl diving industry, which was the driving engine of the economy in the Gulf. A hugely labour intensive practice that provided the main form of sustenance for the majority of workers in the Gulf, it also formed the main exports of Bahrain to the rest of the world. At the beginning of each pearling season, thousands of workers would flow into Bahrain to seek employment from nearby areas in eastern Saudi Arabia, Qatar, or the Iranian side of the Gulf. In 1926, for example, by which time the pearling industry was already in decline, there were more than twenty thousand workers employed in 500 boats.<sup>21</sup>

The extremely repressive labour practices faced by pearl divers have been copiously documented, leading some to draw a parallel between their conditions and those of migrants under the Kafala system<sup>22</sup>. The vast majority of pearl divers were ingrained in a pervasive culture of debt bondage, which effectively tied each diver for life to a particular ship captain, the *Nokhetha*. It would be fundamentally erroneous, however, to equate this system of debt peonage to the system of sponsorship in the Kafala system, as the mechanisms in the latter are not based on debt<sup>23</sup>, but on the requirement of having a sponsor in order to be allowed to work in a particular geographic area regardless of any debt obligations.

By the 1920s, the regulation of the labour flow of pearl divers into Bahrain had become an urgent matter for the British authorities, particularly since they considered nearly half of labour on the island to be “foreigners” under their jurisdiction. This was compounded by the fact that Bahrain had deteriorating political relations with the rulers of Iran and Qatar, and a huge part of the incoming divers during the pearling season came from these two regions. Hence, finding a fix had become an urgent matter.<sup>24</sup>

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<sup>21</sup> M. Rumaihi, *Bahrain: Social and political change since the First World War* (Durham 1976).

<sup>22</sup> Longva, *Walls Built on Sand*, 103 -107. She is also careful to point out, however, some of the differences between the two systems.

<sup>23</sup> Debt bondage has been, however, a common practice in some areas that do send migrant labour to the GCC states, particularly in the Indian subcontinent.

<sup>24</sup> Regarding issues with Iran, see:

'File 9/11 Grant of Passports and Permits by the Bahrain Government', *QDL*, IOR/R/15/2/138, <[http://www.qdl.qa/archive/81055/vdc\\_100023045639.0x000012](http://www.qdl.qa/archive/81055/vdc_100023045639.0x000012)>.

See also:

'File 13/8 'Passport Regulations Governing Persians and Bahrainis'', *QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846467.0x00000a](http://www.qdl.qa/archive/81055/vdc_100023846467.0x00000a)>.

The scheme that British officials devised was to use a sponsorship system. Beginning in December 1928, a proclamation was announced by the British Advisor<sup>25</sup> that was followed by passport regulations in January 1929,<sup>26</sup> stipulating the following: each ship captain, *the Nokhetha*, was legally responsible for people on his boat, where he had to report to the customs officials their number, names, and their valid travel permits. Only genuine divers in possession of divers' books issued by the government of Bahrain will be allowed to land, and if any divers who were found to abscond and not board the ship when it left the ports, the ship captain would be held liable for them and would have his boats confiscated.

This system, whose “main object is to check arrivals and departures and to prevent undesirables from entering Bahrain”, had all the hallmarks that were to become emblematic legal requirements of the modern Kafala system: sponsors (in this case the ship captains) bearing responsibility for “foreign” divers on their ships; a repatriation deposit to be paid by the ship captains; an entry visa; a valid work permit (in this case a “divers’ permits”); and an exit visa were all needed to work for ship captains in Bahrain.<sup>27</sup> Most importantly, it tied the issue of sponsorship of labour, in this case “foreign” pearl divers, within the geographic jurisdiction of Bahrain to the hands of the sponsor, in this case the *Nokhetha*. Thus, the ship captain had to act as surety over the pearl divers in his ship, in which he took responsibility for ensuring their eventual departure from Bahrain without any misbehaviour.

No Objection Certificates (NOCs) were also introduced at a similar time as a requirement for families of the few dozens employees of the British empire in the Gulf, particularly those from the Indian subcontinent working in the nascent Bahrain state bureaucracy and the political agency. Thus, NOCs had to be issued from the British Political Agent for Indians working in the local police force who wanted to bring their families, in addition to requiring passports endorsed by British authorities for every member of the family.<sup>28</sup>

The use of surety by British officials as a way to control behaviour was nothing new, as they were employed regularly across the empire to delegate policing responsibilities to other

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<sup>25</sup> ‘File 13/8 ‘Passport Regulations Governing Persians and Bahrainis’, *QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846467.0x000052](http://www.qdl.qa/archive/81055/vdc_100023846467.0x000052)>.

<sup>26</sup> ‘File 13/8 ‘Passport Regulations Governing Persians and Bahrainis’, *QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846467.0x00005a](http://www.qdl.qa/archive/81055/vdc_100023846467.0x00005a)>.

<sup>27</sup> ‘File 29/7 I Consular: Passport and Visa Regulations (governing Bahrain, Muscat, Kuwait and other Shaikhdoms)’, *QDL*, IOR/R/15/2/1748, <[http://www.qdl.qa/archive/81055/vdc\\_100027973389.0x0000ab](http://www.qdl.qa/archive/81055/vdc_100027973389.0x0000ab)>.

<sup>28</sup> ‘File 13/8 Passport regulations governing Persians and Bahraini’, *QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846468.0x000036](http://www.qdl.qa/archive/81055/vdc_100023846468.0x000036)>.

parties. The British even used surety to ensure good conduct of whole tribes, with the practice becoming particularly prevalent in the mid nineteenth century in India. Thus, in 1852, British authorities signed an agreement with the Turis tribes in the North Western Frontier Province (NWFP), which stipulated that certain individuals had to be provided as sureties for the "good behaviour" of the whole tribe, whose selves and properties could be held as hostage with the British.<sup>29</sup> Indeed, a flurry of such treaties were signed with the different tribes of the restive NWFP during the 1850s-1870s, which were particularly used to pacify the Indian rebellion of 1857.<sup>30</sup>

The issuance of sureties was also used to control of the flow of people throughout the Arabian Sea and the Gulf. The pilgrim ship act of 1895, which applied to ships landing in Aden while carrying pilgrims to Mecca, enforced sureties onto captains of the ships as a guarantee to ensure that pilgrims were checked for cholera.<sup>31</sup>

British officials used similar sponsorship systems in order to control the movement of westerners, particularly from other rival imperial countries, throughout the Gulf. Gulf rulers had to obtain "no objection certificates" from the British political resident in the Gulf if any Westerner intended to visit their lands, under which they promised to sponsor them and guarantee their safety. Thus, Shaikh Butti bin Suheil of Dubai asked French merchants in 1911 to obtain a certificate from the Political Resident that he had "no objection" to him visiting Dubai their travel. The political resident duly provided one, in which the ruler of Dubai promised to "receive and protect" the visitors.<sup>32</sup> Similarly, sureties were suggested in 1926 as a way to ensure the good behaviour of Baluchis in Bahrain after an assassination attempt on the life of the British political agent by one of their members, as an alternative to having to deport them all.<sup>33</sup>

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<sup>29</sup> 'A collection of treaties, engagements and sanads relating to India and neighbouring countries', *QDL*, IOR/L/PS/20/G3/12, <[http://www.qdl.qa/archive/81055/vdc\\_100023462216.0x0000b7](http://www.qdl.qa/archive/81055/vdc_100023462216.0x0000b7)>

<sup>30</sup> This was the case, for example, with the Ali Shirazis of the Orakzai tribes, who also had to offer individuals and their holdings as sureties to the British both in 1858 and 1870. The practice continued well into the 20<sup>th</sup> century. For this and many other examples, see:

'A collection of treaties, engagements and sanads relating to India and neighbouring countries', *QDL*, IOR/L/PS/20/G3/12, <[http://www.qdl.qa/archive/81055/vdc\\_100023462216.0x0000a3](http://www.qdl.qa/archive/81055/vdc_100023462216.0x0000a3)>.

<sup>31</sup> File 951/1912 Pt 1 'Bahrein Order in Council',

*QDL*, IOR/L/PS/10/248, <[http://www.qdl.qa/archive/81055/vdc\\_100032479433.0x0000bf](http://www.qdl.qa/archive/81055/vdc_100032479433.0x0000bf)>.

<sup>32</sup> File 9/50 (B 16) The Debai Incident',

*QDL*, IOR/R/15/1/235, <[http://www.qdl.qa/archive/81055/vdc\\_100023517482.0x00005f](http://www.qdl.qa/archive/81055/vdc_100023517482.0x00005f)>.

<sup>33</sup> File 19/172 I (C 23) Bahrain Levy Corps',

*QDL*, IOR/R/15/1/347, <[http://www.qdl.qa/archive/81055/vdc\\_100023558138.0x00004b](http://www.qdl.qa/archive/81055/vdc_100023558138.0x00004b)>.

The resort to such diverse methods of delegating responsibility in the conduct of imperial administration were integral to Britain's running of "empire on the cheap". At the most general level, such delegation manifested in Britain's extensive resort to "indirect rule" across the empire as a method of governance, whereby "native" rulers mediated British rule over locals, instead of direct rule by the metropole.<sup>34</sup> Prior to the application of "indirect rule" in Bahrain and the Gulf in the early twentieth century, empire resorted to another form of delegation to conduct its matters. The British Raj relied on a network of "native agents" composed of local merchants, to which it outsourced administration of its political and commercial interests in the region.<sup>35</sup>

Thus, sureties were part of the ensemble of relatively inexpensive and bureaucracy-light methods through which the British could exercise imperial control, by delegating responsibility over the conduct of individuals to other parties. Their application was aided by the fact that Kafala as a concept was widely understood and practiced in the region for matters of bail in criminal cases and as surety for debt.<sup>36</sup> The innovation that British officials introduced in the late 1920s was to apply such sureties to labour, particularly pearl divers, and to bureaucratize this practice in the state. Such use of sureties was extended to regulate the movement of any "foreigners" entering Bahrain.<sup>37</sup>

#### IV. The era of oil

Oil was discovered in Bahrain in 1932, and the flow of migrant labour from areas beyond the gulf increased dramatically, particularly from the Indian subcontinent. The system set up to control the flow of pearl divers was modified and subsequently used to control the increasing

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<sup>34</sup> Mamdani, *Citizen and subject*.

<sup>35</sup> James Onley, *The Arabian frontier of the British raj: merchants, rulers, and the British in the nineteenth-century gulf* (Oxford: Oxford University Press, 2007),

<sup>36</sup> See for example the use of Kafala as bail in the infamous 1923 "Persian-Najdi" incident in Bahrain: 'File 5/4 Abdul Aziz Qosaibi and Abdullah Qosaibi', *QDL*, IOR/R/15/2/101, <[http://www.qdl.qa/archive/81055/vdc\\_100022841868.0x00000a](http://www.qdl.qa/archive/81055/vdc_100022841868.0x00000a)>.

<sup>37</sup> For example Persians wanting to land on the islands in 1929 for treatment had to provide surety by another individual that would guarantee their departure afterwards. See: 'File 13/8 Passport regulations governing Persians and Bahrainis', *QDL*, IOR/R/15/2/1405, <[http://www.qdl.qa/archive/81055/vdc\\_100023846468.0x000082](http://www.qdl.qa/archive/81055/vdc_100023846468.0x000082)>.

flow of workers in the oil industry, with sureties, exit visas, and NOC's becoming a standard of migration bureaucratic practice in Bahrain.

NOCs and sureties were explicitly fused together in the mid-1930s. The British authorities were worried about jobless migrants, particularly from India, arriving in Bahrain on travel visas in order to look for work<sup>38</sup>, in a situation very reminiscent of the cases of "undocumented workers" prevalent in the GCC countries in the 21<sup>st</sup> century. In response, the British authorities stipulated that every foreign employee that came to work in Bahrain, whether in the oil company or otherwise, had to first obtain an NOC from the British Political Agent in Bahrain, before being able to apply to a visa to come to the islands. A surety repatriation deposit of 60 rupees was required by the employer/sponsor to obtain this NOC.<sup>39</sup> This practice of NOCs and the accompanying surety deposits became the norm for admittance into Bahrain, whether for Italians<sup>40</sup>, Americans<sup>41</sup>, Englishmen<sup>42</sup>, Indians, foreign workers in foreign-owned firms<sup>43</sup>, foreign workers in local-owned firms<sup>44</sup>, workers in oil companies<sup>45</sup>, or even individuals who wanted family members to simply visit<sup>46</sup>. Indeed, it applied to every person under British jurisdiction who wanted to work, reside, or visit Bahrain. By the Second World War, and in order to ensure extra policing of the flow of people during the war, the British authorities also made exit visas a requirement for all individuals travelling to and from Bahrain.<sup>47</sup>

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<sup>38</sup> 'File 28/14 Labour employed by the Bahrain Petroleum Company Limited, Bahrain', *QDL*, IOR/R/15/2/1717, <[http://www.qdl.qa/archive/81055/vdc\\_100023597268.0x000073](http://www.qdl.qa/archive/81055/vdc_100023597268.0x000073)>.

<sup>39</sup> File 29/7 II Passport and Visa Regulations, IOR/R/15/2/1749, <[http://www.qdl.qa/archive/81055/vdc\\_100026405052.0x0000c7](http://www.qdl.qa/archive/81055/vdc_100026405052.0x0000c7)>.

<sup>40</sup> 'File 14/9 Employment of Italians in Bahrain', *QDL*, IOR/R/15/2/542, <[http://www.qdl.qa/archive/81055/vdc\\_100025657175.0x000020](http://www.qdl.qa/archive/81055/vdc_100025657175.0x000020)>.

<sup>41</sup> 'File 38/3 I, P. C. L. Qatar Concession', *QDL*, IOR/R/15/2/864, <[http://www.qdl.qa/archive/81055/vdc\\_100025664363.0x00003d](http://www.qdl.qa/archive/81055/vdc_100025664363.0x00003d)>.

<sup>42</sup> 'File 9/2 Pearling', *QDL*, IOR/R/15/2/343, <[http://www.qdl.qa/archive/81055/vdc\\_100025648641.0x000026](http://www.qdl.qa/archive/81055/vdc_100025648641.0x000026)>.

<sup>43</sup> 'File 13/14 I General repatriation deposits – re', *QDL*, IOR/R/15/2/1396, <[http://www.qdl.qa/archive/81055/vdc\\_100024192655.0x000034](http://www.qdl.qa/archive/81055/vdc_100024192655.0x000034)>.

<sup>44</sup> 'File 14/9 Employment of Italians in Bahrain', *QDL*, IOR/R/15/2/542, <[http://www.qdl.qa/archive/81055/vdc\\_100025657175.0x000022](http://www.qdl.qa/archive/81055/vdc_100025657175.0x000022)>.

<sup>45</sup> 'File 13/4 II General Repatriation Deposits. Correspondence – Re.', *QDL*, IOR/R/15/2/1397, <[http://www.qdl.qa/archive/81055/vdc\\_100024052002.0x000028](http://www.qdl.qa/archive/81055/vdc_100024052002.0x000028)>.

<sup>46</sup> 'File 13/4 II General Repatriation Deposits. Correspondence – Re.', *QDL*, IOR/R/15/2/1397, <[http://www.qdl.qa/archive/81055/vdc\\_100024052000.0x0000c2](http://www.qdl.qa/archive/81055/vdc_100024052000.0x0000c2)>.

<sup>47</sup> For two examples for the oil company and a British import-export firm see:

'File 28/57 II Volunteers for national service', *QDL*, IOR/R/15/2/749, <[http://www.qdl.qa/archive/81055/vdc\\_100026187822.0x000060](http://www.qdl.qa/archive/81055/vdc_100026187822.0x000060)>.

'Miscellaneous 16/4 Correspondence with – the Mespers, Bahrain, etc.', *QDL*, IOR/R/15/2/1497, <[http://www.qdl.qa/archive/81055/vdc\\_100027069999.0x0000c6](http://www.qdl.qa/archive/81055/vdc_100027069999.0x0000c6)>.

A notable development during this period was the increasing use of migrant domestic workers, with the practice becoming particularly prevalent between the expatriate white-collar workers of Bapco, especially those from Britain and India. Locals in Bahrain were seen as inadequate to work as servants, and so requests by expatriates for NOCs for domestic servants from India increased considerably.<sup>48</sup> Just like the case with other workers, a repatriation surety was deposited by the sponsor of the domestic servant to issue the NOCs, and upon repatriation the deposit was returned to the sponsor.

Indeed, the practice of recruiting migrant domestic labour was in many ways championed by British political officers themselves. Thus, in March 1934, the Bahrain Political Agent wrote to the incoming Assistant Political Agent with the following advice: "No servants of the better class are available and it would be well to get your own (if you have any in India) to come down... I will send them no objection certificates to enable them to travel without difficulty."<sup>49</sup>

The burgeoning migrant flow to Bahrain began to cause alarm for the local ruler, particularly given that the politics of employment had become an issue of contention locally, with several protests, strikes and uprisings erupting demanding better employment opportunities and conditions for locals. The number of Indians had reached 1421 by 1941, increasing threefold to 3043 by 1950. The majority were either white-collar employees in the oil companies or traders in town, with very few low-skilled workers at this point. Beginning in 1949, the British Political Agent agreed with the ruler that the latter would be consulted before any further NOCs were issued for individuals from Pakistan and India.<sup>50</sup>

## V. The case of the Bachelors

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<sup>48</sup> 'File 13/4 II General Repatriation Deposits. Correspondence – Re.', *QDL*, IOR/R/15/2/1397, <[http://www.qdl.qa/archive/81055/vdc\\_100024052004.0x000048](http://www.qdl.qa/archive/81055/vdc_100024052004.0x000048)>.

The above file and the following are filled with many documented examples of the practice: 'File 13/14 I General repatriation deposits – re',

*QDL*, IOR/R/15/2/1396, <[http://www.qdl.qa/archive/81055/vdc\\_100024192655.0x000070](http://www.qdl.qa/archive/81055/vdc_100024192655.0x000070)>.

<sup>49</sup> 'File 1/24 I Assistant Political Agent, Bahrain',

*QDL*, IOR/R/15/2/1009, <[http://www.qdl.qa/archive/81055/vdc\\_100023547084.0x000004](http://www.qdl.qa/archive/81055/vdc_100023547084.0x000004)>

This is a recurrent feature, as the correspondence between political and assistant agents regarding domestic servants show in 1936:

'File 1/24 II Assistant Political Agent, Bahrain',

*QDL*, IOR/R/15/2/1010, <[http://www.qdl.qa/archive/81055/vdc\\_100023558466.0x0000a0](http://www.qdl.qa/archive/81055/vdc_100023558466.0x0000a0)>.

<sup>50</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x00003c](http://www.qdl.qa/archive/81055/vdc_100023415995.0x00003c)>.

Thus, by the end of the Second World War, oil had been produced for 13 years in Bahrain, and the British colonial administrators had long established legal-bureaucratic categories and procedures to control the flow of migrant labour. One such category that gained increasing salience within the sponsorship system and the overall management of the population was that of "bachelor" workers.

"Bachelor" migrant workers have become an integral and (in)famous part of the labour markets in the GCC states. As a term, "Bachelors" is used throughout the GCC to refer to migrant male workers of lower socioeconomic status who do not have their families residing with them in the Gulf.<sup>51</sup> This is regardless of whether in fact they are married or not, as many actually have families that are based back in their countries of origin. In this sense, "bachelor" is a complex of legal and institutional codes that has material repercussions for those defined as such, including the ability to bring one's family with him to the destination country.

"Bachelor" as an institutional and legal label was a long established category within the colonial bureaucracy in India that predated the oil era in the Gulf, constituting a major determinant of pay and benefits for employees within the India Civil Service.<sup>52</sup> Indeed, the classification of "bachelor" also determined the accommodation quarters and "lifestyle" an employee was entitled to, particularly in posts "abroad".<sup>53</sup>

An employee could still be categorized as a bachelor even if he was actually married and with a family. Thus, when a member of the ruling family of Bahrain wanted to join a police training school in Poona in 1937, he was advised that the schools were run along

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<sup>51</sup> See for example:

M. Buckley, 'Construction Work, 'Bachelor' Builders and the Intersectional Politics of Urbanisation in Dubai,' in: *Transit States: Labour, Migration and Citizenship in the Gulf* (London 2015), 132-50.

<sup>52</sup> See the following example from the India Civil Service fund from November 1921:

'File 15/6 Rules & Regulations (1) I.C.S. Family Pension Rules',  
*QDL*, IOR/R/15/2/1441, <[http://www.qdl.qa/archive/81055/vdc\\_100024144276.0x000050](http://www.qdl.qa/archive/81055/vdc_100024144276.0x000050)>.

Another example from 1931 for an employee of the India civil servant in Qandahar can be found in:  
'File 1/9 I Indian Assistant for Bahrain',

*QDL*, IOR/R/15/2/993, <[http://www.qdl.qa/archive/81055/vdc\\_100023707963.0x000072](http://www.qdl.qa/archive/81055/vdc_100023707963.0x000072)>.

Rules and regulations for the Indian Civil Service can be found in:

'File 15/12 Rules & Regulations. Statutory Rules & orders, & Premature Retirement',  
*QDL*, IOR/R/15/2/1454, <[http://www.qdl.qa/archive/81055/vdc\\_100023627498.0x000021](http://www.qdl.qa/archive/81055/vdc_100023627498.0x000021)>

<sup>53</sup> This was the case, for example with the ongoing debates on the construction of the proposed new consulate building in Ahwaz in 1923, and whether it was fit for families or only for bachelors:

'File 1/30 Clerical Staff: Examinations, Syllabuses, Applications and Results',  
*QDL*, IOR/R/15/2/1022, <[http://www.qdl.qa/archive/81055/vdc\\_100023636155.0x000018](http://www.qdl.qa/archive/81055/vdc_100023636155.0x000018)>.

"bachelor lines". Subsequently, he was required to live with other students within schools' quarters, as it was not permissible for him to hire a private house to live in with his family.<sup>54</sup>

This category of "bachelor" was imported into the Gulf as the British colonial administration was established in the region. This was the case, for example, in the hiring process of a director of education for the British council in Bahrain.<sup>55</sup> Similarly, bachelors had different legal standings and pay rates in the hiring process for the Muscat Levy corps in the 1930s.<sup>56</sup> Indeed, hiring bachelors was often preferred to those with "families", since it entailed less costs and smaller accommodation premises.

"Bachelor" as a category came to be used extensively in the oil companies, starting with Bapco in Bahrain. Its use became most widespread in determining the pay and accommodation of "low-skilled" workers. Here, bachelorhood intersected with nationality, class and skill to determine payment and accommodation privileges, revealing an almost manic obsession within British officials for classifying and segmenting workers into such categories with minute details. Thus, an exchange between the political agent and the Bapco company representative in 1938 stated:

"Your reference to Asiatics - assume means Class II-A and Class II-B personnel. We expect to have at the time of construction work some 250 British Indians of all kinds... The better class Indians will live in Manama and be transported back and forth. The others will be housed temporarily in barastis pending building of permanent quarters for them, which cannot be started until completion of the building program for the Europeans and Americans... There are 40 rooms for bachelors in the present Staff Houses, and we are building 52 additional rooms, which makes a total of 72. Temporarily there will be two men in a room, so that these houses will accommodate 144 men. In addition to these we are building 96 rooms in temporary buildings... These rooms will be 12\* x 17\*. The buildings will be arranged in groups

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<sup>54</sup> 'File 4/7 Bahrain State - Education of younger members of the Al Khalifah', *QDL*, IOR/R/15/2/200, <[http://www.qdl.qa/archive/81055/vdc\\_100025598068.0x0000bd](http://www.qdl.qa/archive/81055/vdc_100025598068.0x0000bd)>.

<sup>55</sup> 'File 34/2 I Director of Education at Bahrain', *QDL*, IOR/R/15/2/839, <[http://www.qdl.qa/archive/81055/vdc\\_100023643494.0x000019](http://www.qdl.qa/archive/81055/vdc_100023643494.0x000019)>

<sup>56</sup> 'Muscat. Commandant Muscat Levy Corps. Appointment, leave, pay, etc. of.', *QDL*, IOR/R/15/1/456, <[http://www.qdl.qa/archive/81055/vdc\\_100023558278.0x00007b](http://www.qdl.qa/archive/81055/vdc_100023558278.0x00007b)>

of four with a central bathhouse in each group. These quarters will later accommodate permanent bachelors."<sup>57</sup>

Such reports were regular occurrences, which documented in excruciating details the specifications and categorizations associated with accommodation constructed for "labourers" from the early days of the oil company in the 1930s.<sup>58</sup> Indeed, even within the category of "bachelors" there were further sub-classifications that determined the type and size of accommodation. Thus, a 1948 report from Bapco to the Political Agency stated:

"The new housing completed totalled 133 family units and 95 bachelor accommodations. The bachelor accommodations completed in 1948 include 15 senior bachelor apartments, 14 intermediate bachelor accommodations, 48 junior bachelor accommodations, and a dormitory 25 feet by 210 feet, containing an office and 18 bachelor accommodations."<sup>59</sup>

Already by 1938, these different classifications and categorizations were causing agitation within the workers of the oil company. In the same year, Bahraini workers at the company struck, demanding better working conditions, particularly when compared to what "Indians" and "Europeans" received, as locals during this period were at the bottom of the payment and benefit scale when compared to migrant workers. In response, the British Political Officers and Bapco officials began paying significant attention to the minute details of the accommodation of the different groups of workers. Thus, the British Political Agent in Bahrain had the following to say to the Gulf Political Resident in December 1938 regarding the comparative pay of foreigners and Bahrainis, "The plain fact here is that the Bahrainis are

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<sup>57</sup> 'File 28/14 Labour employed by the Bahrain Petroleum Company Limited, Bahrain', *QDL*, IOR/R/15/2/1717, <[http://www.qdl.qa/archive/81055/vdc\\_100023597267.0x000079](http://www.qdl.qa/archive/81055/vdc_100023597267.0x000079)>

<sup>58</sup> See for example address by N. L. Hamilton to the Oil Industries Club on 7 November, 1935:

'File 10/1 XIII Bahrain Oil Concession',

*QDL*, IOR/R/15/2/400, <[http://www.qdl.qa/archive/81055/vdc\\_100024103758.0x000059](http://www.qdl.qa/archive/81055/vdc_100024103758.0x000059)>.

The Annual Bapco Report for 1946 is also illuminating:

'File 8/8 V Annual Report for the Year 1946',

*QDL*, IOR/R/15/2/302, <[http://www.qdl.qa/archive/81055/vdc\\_100025547471.0x000008](http://www.qdl.qa/archive/81055/vdc_100025547471.0x000008)>.

A collection of annual reports from different years can be found in the same file.

<sup>59</sup> 'File 8/8 VII Annual Administration Report for the Year 1948',

*QDL*, IOR/R/15/2/304, <[http://www.qdl.qa/archive/81055/vdc\\_100025547769.0x000076](http://www.qdl.qa/archive/81055/vdc_100025547769.0x000076)>.

on the whole not worth even one half of the pay drawn by Indians." Concerning accommodation, he added the following:<sup>60</sup>

"There are two difficulties here. First that married Bahraini employees of all classes are reluctant to take their families to the Oil Camp..., since they lose the pleasures of the town. The Company could not therefore undertake a large scheme of building married quarters which would probably remain vacant. On the other hand, it is important from the operational point of view that a number of Bahraini employees should live close to the refinery... and although most people of this type have lived for generations in barastis, they now demand pucca houses. The Company have schemes on hand for meeting this demand on a bachelor basis."

By the 1940s, the different categories delineated by citizen vs. foreigners, nationalities, class and bachelorhood had become a regular component of the demographic policing and governance methods used by British colonial authorities, and criticism of the system inevitably grew. A highly charged letter appeared in the Free Press Journal in July 9<sup>th</sup> 1948, penned by an Indian named Raghu, which was entitled "oil kings treating Indians like chattel".<sup>61</sup> It began:

"In 'BAPCO there are no smuts and Malans<sup>62</sup>, yet it is a South Africa in its own small way to the thousand and odd Indian emigrants who are recruited in the Company's service by their agents in Bombay... There is a sordid story, a story of racial hatred, unlimited humiliation and wilful discrimination... Bahrain is in a way even worse than South Africa where the Indian can at least stay on & fight but in Bahrain they are booked by the first available ship."

Mr. Raghu then turns his attention to accommodation provided by Bapco:

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<sup>60</sup> File 19/169 II (C 76) Agitation in Bahrain', *QDL*, IOR/R/15/1/343, <[http://www.qdl.qa/archive/81055/vdc\\_100023832501.0x0000c7](http://www.qdl.qa/archive/81055/vdc_100023832501.0x0000c7)>.

<sup>61</sup> File 10/3 BAPCO labour', *QDL*, IOR/R/15/2/419, <[http://www.qdl.qa/archive/81055/vdc\\_100024096157.0x000018](http://www.qdl.qa/archive/81055/vdc_100024096157.0x000018)>.

<sup>62</sup> This is in reference to Jan Smuts, who served as Prime minister of south Africa from 1939 to 1948, and Daniel Malan, who served from 1948 to 1959, becoming infamous as administrators of the apartheid regime.

"The bachelor artisans are provided with free quarters situated in a barren wasteland away from the oil refinery. The overwhelming number of the married contract "monthlys" are condemned to enforced bachelorhood by regulations which place an embargo on their families."

Thus, the migrant labour sponsorship system was already well entrenched by the 1940s in Bahrain, with the politics of citizen vs. migrant labour, deportations, bachelor workers, and the administrative institutional complex devised to police and regulate such issues already an integral part of the political landscape.

## **VI. The spread of the sponsorship system to the rest of the Gulf: the case of Kuwait**

The sponsorship system established to control the migrant labour population in Bahrain was then applied elsewhere in parts of the Gulf under British protection. Thus, Britain overtook jurisdiction over foreigners in Oman through the 1915 Muscat Order in Council, itself based on Bahrain's BOIC.<sup>63</sup> The 1925 Kuwait Order in Council followed suit, which was based on that of Muscat.<sup>64</sup> Qatar's Order in Council was issued in 1938, and the first Trucial States Order in Council came later in 1946.<sup>65</sup>

Although all these Orders in Councils followed in the footsteps of Bahrain's BOIC, in which Britain claimed jurisdiction over "foreigners" in these territories, there was one fundamental difference. Unlike in Bahrain, where the ruler had jurisdiction only over "locals", the jurisdiction of the ruler in the rest of the territories was defined to cover all Muslims, with the exception of subjects from India and Pakistan. In return, British jurisdiction was limited to non-Muslim subjects. This meant that the pool of people to which the Orders in Council applied to in the pre-oil era was miniscule in comparison to Bahrain, where nearly half of the population fell under British jurisdiction. Thus, at the time of issuance of Kuwait's 1925

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<sup>63</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415996.0x00000f](http://www.qdl.qa/archive/81055/vdc_100023415996.0x00000f)>.

<sup>64</sup> 'File 18/68 I (D 114) Kuwait Order in Council', *QDL*, IOR/R/15/1/303, <[http://www.qdl.qa/archive/81055/vdc\\_100023510892.0x000019](http://www.qdl.qa/archive/81055/vdc_100023510892.0x000019)>.

<sup>65</sup> Qatar Order in Council, 1938, IOR/R/15/1/743, <[http://www.qdl.qa/archive/81055/vdc\\_100000000193.0x0002cf](http://www.qdl.qa/archive/81055/vdc_100000000193.0x0002cf)>, and: 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x0000b4](http://www.qdl.qa/archive/81055/vdc_100023415995.0x0000b4)>.

Order in Council, which arguably back then was the second most important port in the Gulf after Bahrain, the order only applied to three Indian "petty traders".<sup>66</sup>

As the oil era began in Kuwait, these numbers increased dramatically. In 1945, when oil was already discovered but yet to be exported, the number of individuals under the Order in Council stood at 225 subjects. As oil exports flowed the following year, the number shot up to 528, and in 1947 increased to 1651, continuing to rise exponentially.<sup>67</sup> In contrast, Muscat, which had a much stronger historical connection with the Indian subcontinent but where oil was not discovered until the 1960s, there were only about 500 Indian residents who were covered by the Order in Council until well into the 1950s.<sup>68</sup>

Events in Kuwait in the period between the beginnings of its oil era up until independence in 1961 proved especially important in developing the migrant sponsorship system from its roots that were laid in Bahrain. Two factors particularly pivotal: Although oil was exported earlier in Bahrain, Kuwait was the first territory on the Gulf to receive super extraordinary amounts of oil rents, leading the state's income to multiply more than 50 times within a couple of years. Furthermore, and in contrast to Bahrain, the British were never able to fully establish their control over local affairs, facing a much more independent and contested system of local rule.

As oil began to be exported in 1946, the numbers of migrant labour under British jurisdiction increased dramatically. Thus, by 1953 there were about 3,000 Indians and 2,000 Pakistanis resident in Kuwait, who were mainly employed by the Kuwait Oil Company (KOC) and on works in Kuwait town. The management of this labour flow under their jurisdiction increasingly became a worry for the British authorities. Already by 1948, the KOC had faced a very serious strike by Indian and Pakistani workers, which was followed by another strike by employees from the same nationalities in 1953.<sup>69</sup>

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<sup>66</sup> 'File 18/110 (B Series 18/12) Annual Report on the Working of the Kuwait Order in Council', *QDL*, IOR/R/15/1/308, <[http://www.qdl.qa/archive/81055/vdc\\_100022744559.0x000008](http://www.qdl.qa/archive/81055/vdc_100022744559.0x000008)>.

<sup>67</sup> 'File 18/68 I (D 114) Kuwait Order in Council', *QDL*, IOR/R/15/1/303, <[http://www.qdl.qa/archive/81055/vdc\\_100023510892.0x000019](http://www.qdl.qa/archive/81055/vdc_100023510892.0x000019)>.

<sup>68</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415996.0x00000d](http://www.qdl.qa/archive/81055/vdc_100023415996.0x00000d)>.

<sup>69</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x00007a](http://www.qdl.qa/archive/81055/vdc_100023415995.0x00007a)>.

Thus in 1947, and beginning with the "Kuwait Passport regulation", a flurry of laws aimed at controlling migration were initiated, which resembled those that were used to regulate "foreigners" in Bahrain.<sup>70</sup> The British political agency issued visas on behalf of the state of Kuwait to those coming from abroad. The first Kuwaiti nationality law was issued in 1948, and the head of the passport department issued notification the following year obliging all foreigners to register with the department.<sup>71</sup> Residence permits regulation were issued in 1952, requiring persons subject to the Order in Council to obtain permits for residence from the British Political Agent.<sup>72</sup>

Just as in Bahrain, and in order to control the migrant labour population with a relatively threadbare administration, the British introduced a sponsorship system for foreigners. Thus, when Peter Leinhardt, the noted Oxford Anthropologist, came to visit Kuwait in 1953<sup>73</sup>, he needed to find a sponsor before his arrival, as the foreign office made it a condition of any visitor to Kuwait, even if the visit was for a short period. Similar to the situation in Bahrain, domestic workers became in high demand, particularly for white-collar expatriate workers at the KOC, and their import required a sponsor throughout the 1950s, in which the sponsor had to promise to repatriate the worker in the case of termination of his services.<sup>74</sup>

The situation differed for migrant workers under the ruler's jurisdiction, however, who faced a different set of rules and procedures, which during the 1950s were relatively much more lenient than those for migrants under British jurisdiction. Thus, and to the chagrin of the British authorities who were not consulted on the matter, there was a mutual abolition of visa requirements in 1952 for Lebanese and Syrians. Indeed, for long periods throughout the 1950s, nationals of other gulf states (except for Muscat) and those of Iraq, Saudi Arabia, Lebanon, Syria, Egypt, and stateless Palestinians did not even require visas, let alone a sponsor, to enter Kuwait.<sup>75</sup>

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<sup>70</sup> 'File 18/174 Kuwait Passport Regulations', *QDL*, IOR/R/15/1/311, <[http://www.qdl.qa/archive/81055/vdc\\_100022822680.0x000009](http://www.qdl.qa/archive/81055/vdc_100022822680.0x000009)>.

<sup>71</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(2), <[http://www.qdl.qa/archive/81055/vdc\\_100023807432.0x000046](http://www.qdl.qa/archive/81055/vdc_100023807432.0x000046)>.

<sup>72</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x000089](http://www.qdl.qa/archive/81055/vdc_100023415995.0x000089)>.

<sup>73</sup> P. Lienhardt, *Disorientations: a society in flux: Kuwait in the 1950s*, (Ithaca 1993), p.30. Quoted in Longva, *Walls Built on Sand*, p.109, note 2.

<sup>74</sup> See: Letter from foreign office to Gulf political resident inquiring regarding availability of jobs in Gulf for domestic workers from Seychelles, August 22, 1958. FO 371/132892, The National Archives [hereafter TNA].

<sup>75</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x000088](http://www.qdl.qa/archive/81055/vdc_100023415995.0x000088)>.

Similar practices to those implemented in Bahrain's oil company were also witnessed at the KOC, whose upper administration were in close coordination with the British Agency. Thus, the obsession with categorization and documentation, particularly based on nationality, race, class and marital status continued, with lengthy and periodic reports on the matter from both the KOC and the British authorities. As in Bahrain, these reports and categorizations reached heightened levels in the aftermath of strikes and "troubles" by workers, after which minute and detailed standards of room sizes and types were applied according to the above classifications, in which "comparisons with conditions of other oil firms in the Middle East", particularly the oil company in Bahrain, was an explicit goal.<sup>76</sup>

Thus, after the strike by Indian and Pakistani workers in August 1948, a labour specialist was sent by the Foreign office to Kuwait in February 1949 to investigate the conditions of workers at the KOC.<sup>77</sup> His report indicated that while in January 1947 the KOC had a total of 1900 workers, this number had reached over 18,000 workers by January 1949. The number of Indians working at the company had risen from 236 to over 4000 within the same period. In a manner similar to the Bapco reports, he then spends considerable time classifying the workers according to the nationality/racial categories of: British, American, Indian/Pakistani, Arabs, and locals. Specific focus was applied to the conditions of the Indian and Pakistani workers, as they were sub-classified by religion, job skill categories, as well as bachelorhood/marital status. The accommodation of the different groups and sub-divisions received special attention, with each of the different categories allocated their own accommodation quarters. The "village" that was built for the Arabs particularly struck the labour specialist as "horrible".

The same labour specialist was sent once again to Kuwait in April 1953, after another strike by Pakistani and Indian workers in the same year, in order to look at the living conditions of "labourers" in particular, a code word for workers of low socio-economic status.<sup>78</sup> Similar modes of classification were utilized. After dividing the skills of "labourers" into six sub-classifications, they were further sub-divided by nationalities: Indians/Pakistanis (1125),

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<sup>76</sup> See for example the correspondences between the oil company and political agency following the 1953 strikes by Indian and Pakistani workers in: LAB 13/483, TNA.

<sup>77</sup> M.T. Audsley, Report on Labour Conditions in KOC, February 1949, LAB 13/483, TNA.

<sup>78</sup> M.T. Audsley, Report on Labour Conditions in KOC, April 1949, LAB 13/483, TNA.

Kuwaitis (2302), other Arabs (1396), for a total of 4823 labourers. This racial/nationality choice of categories was not arbitrary. It reflected the biggest groups of "labourer workers" according to whether they fell under the British (Indians/Pakistanis) or the ruler's (Kuwaitis/Other Arabs) jurisdiction. When it came to their accommodation, these groups were then further subdivided according to whether they were married or "bachelors" (including married men unaccompanied with families).<sup>79</sup> Priority in accommodation was given to Europeans/Americans, followed by Indians/Pakistanis, with locals generally living in huts outside the compound.<sup>80</sup>

The issue of employing Kuwaitis and Arabs vs. Pakistanis and Indians had now become a contentious issue between the local ruler and British officials. This seems like a natural development, not only because of rising Arab Nationalism, but also because the workers fell under their own jurisdictions. Thus, the ruler applied pressure to KOC to employ Arabs,<sup>81</sup> while British officials were reluctant, seeing them as "dangerous". They were intent on keeping the increases in their numbers "carefully controlled" in order to both appease the ruler while also ensuring the numbers stayed relatively low.<sup>82</sup> Hence, labour politics and classifications based on nationalities had become by now an integral of local political affairs.

Another feature of the labour market that took hold during this period were overseas recruitment agencies as well as "manpower" companies, which would grow to become an integral part of the Gulf's labour landscape. The first were agencies tasked with finding workers abroad to be brought to work in the gulf. The practice was popularized by oil companies, which appointed agents in countries of regular labour recruitment. The KOC, for example, appointed a dedicated agent in Bombay.<sup>83</sup>

'Manpower agencies', on the other hand, were agencies that provided short term labour to other companies, in which the company desiring workers paid the agency for providing such "manpower", while the latter was responsible for paying these employees after taking a

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<sup>79</sup> Letter from sir Rupert hay the political resident, 9<sup>th</sup> may 1952, LAB 13/483, TNA.

<sup>80</sup> 22<sup>nd</sup> February Report by C.M. Rose on visit to oil company's installations at Magwa, 20<sup>th</sup> February, LAB 13/483, TNA.

<sup>81</sup> Letter from British embassy in Beirut, 18 June 1957, LAB 13/1187, TNA.

<sup>82</sup> Letter from political agency in Kuwait, 25 June 1957. LAB 13/1187, TNA.

<sup>83</sup> Letter from British Residency in Bahrain dated October 18, 1958 in reply to letter form Seychelles, FO 371/132892, TNA.

commission. Such agencies had existed in Bahrain<sup>84</sup>, but their use became particularly prevalent in Kuwait and Saudi Arabia.<sup>85</sup> Their usage was pioneered by the oil companies, with the KOC resorting since 1949 to recruiting workers through local contractors and agents due to labour shortages.<sup>86</sup>

## VII. Retrocession and the restriction of the sponsorship system to citizens

During this period, the ruler of Kuwait had a much more contested and independent relationship with British officials in comparison to his Bahraini counterpart. A competitive co-working relationship formed between the oil company, the British Political agency, and the newly formed local governmental institutions headed by the ruler, in which each side tried to manoeuvre with and against the other. Over time, the local ruler tended to take over more ruling jurisdictions and to act independently of the British authorities and the oil company, culminating with the country's independence in 1961.

In 1954, the Kuwaiti government set up a labour committee to supervise the issuance of work permits in the country, and the committee's membership included both Kuwaitis and British advisers, with both sides working in tandem.<sup>87</sup> Its functions were to "design the policy regarding the conditions governing the entry of foreigners into Kuwait for employment (including presumably the issue of visas in foreign countries, the issue of "stay permits", and possibly the issue of work permits".<sup>88</sup>

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<sup>84</sup> See for example the case of Mohammed Al Sharif Labour contracting company in 1946:

File 7/12 Miscellaneous Correspondence re Customs Matters',

QDL, IOR/R/15/2/1325, <[http://www.qdl.qa/archive/81055/vdc\\_100023550947.0x00007a](http://www.qdl.qa/archive/81055/vdc_100023550947.0x00007a)>.

<sup>85</sup> This practice of manpower agencies became widespread in Saudi Arabia in the early 1950s, particularly in providing labour to the oil company Aramco, as was the case with the agency of ba-Hussain, bin-Lahej, & al-Tamimi (BLT). According to an interview with A.A., a Bahraini who worked in the Eastern Province through this agency in 1952-1953, many Bahrainis contracted by such manpower agencies were some of the first people to work in the Eastern province of Saudi Arabia.

<sup>86</sup> These included "AlGhanem Skilled Labour Divisions", which brought in many skilled Iraqi workers; Kuwait Contracting Company, which mainly brought in local men; and Contracting and Construction Company, who also supplied local men. In addition, there were nine agents who supplied daily labour. See: Report by M.T. Audsley on visit to Kuwait between 3 February 1949 and 10 February 1949, p.26, LAB 13/483, TNA.

<sup>87</sup> Letter from political agency, 25 May 1954, LAB 13/483, TNA.

<sup>88</sup> This was followed in December 1955 by the issuance of the first standards of conditions of employment in the Kuwaiti government for both salaried officials and manual workers, which was based largely on the labour standards of the oil company KOC. See: Letter from Political agency in Kuwait, 28 November 1955, LAB 13 / 483, TNA.

A rift developed between the British and Kuwaiti authorities in 1959 regarding jurisdiction, as the latter moved towards issuing a new labour law. The proposed law was drafted by an Egyptian expert and followed closely the text of the Bahraini law of 1957, itself based on Egyptian law. The initial drafting was done without British consultation, causing consternation to the latter on the pretext that unless the two sets of laws were harmonized, this would create two different legal codes that would apply to the 25,000 workers under British jurisdiction.<sup>89</sup> In addition to avoiding such legal conflict, British officials also wanted to avoid the embarrassment of their laws not appearing as progressive as the local equivalents.<sup>90</sup>

More importantly, the British authorities felt that many of the matters previously under British jurisdiction were being taken over by the Kuwaiti state. Thus, all workers, including those of the KOC, were required under the proposed new law to obtain a work permit from the social development department. Indeed, the issue of double jurisdiction had become by now a politicized matter locally, and was increasingly seen by many Kuwaitis as an assault on "Arab sovereignty".<sup>91</sup>

As the 1950s came to a close, the exercise of dual jurisdiction had grown to become an anachronism in the era of independent states, and even British officials came to view the practice as administratively burdensome. The nascent Kuwaiti government increasingly displayed independence in its actions, and the issue of British jurisdiction was becoming an embarrassment for the ruler. Thus, the process of retrocession of jurisdiction became an active policy desired and followed by both the Kuwaitis and the British.<sup>92</sup> Previously, cases under British jurisdiction were tried by a specially convened British court, whose cases rose from four in 1953 to 200 in 1955. Beginning in February 1960, retrocession and transfer of jurisdiction to the Kuwaiti state was initiated and completed when full independence was achieved in February 1961. Thus, jurisdiction over all residents, whether Muslims or "foreigners", was now under the Kuwaiti government, which would signal the next step in the emergence of the modern sponsorship system.

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<sup>89</sup> See file LAB 13/1187, TNA. E.g. letter from political agency in Kuwait dated 2 June 1959 and previous and subsequent correspondence.

<sup>90</sup> Letter from British embassy in Beirut, 28 March 1959, LAB 13/1187, TNA.

<sup>91</sup> Letter from political agency Kuwait. Dated 2 April 1959, LAB 13/1187, TNA.

<sup>92</sup> S. C. Smith, *Kuwait, 1950-1965: Britain, the al-Sabah, and oil*, (Oxford 1999), 100-105

As independence loomed for Kuwait, the newly emergent state moved to consolidate its authority, and like elsewhere in the global south, it increasingly granted more benefits and rights to its citizenry. In the particular context of Kuwait and the Gulf, which uniquely by this point had become dependent on a majority of migrant labour, this entailed increasing restrictions and distinctions between citizens and foreigners.<sup>93</sup> Already by 1958, there were calls by some Kuwaitis to include certain nationalities previously under the ruler's jurisdiction and not requiring visas, such as Palestinians, within the "Kafala" sponsorship system practiced on foreigners under British jurisdiction.<sup>94</sup> In 1960 a new 1960 nationality law was issued largely based on the principle of *jus sanguinis*,<sup>95</sup> making it all but impossible for naturalization. This was in contrast to the 1948 nationality law, which was much closer to the principles of *jus soli*.<sup>96</sup>

A steady stream of legislation followed, including decrees that only a Kuwaiti can practice law (law no. 21/1960), receive a state pension (law no. 3/1960), open a pharmacy (Law no. 25/1960), and drive a taxi or obtain a government overseas scholarship.<sup>97</sup> KOC was pressured to hire more Kuwaitis and offer them better pensions, and a joint advisory committee with the government was set up.<sup>98</sup> In 1964, the private sector labour law limited contracts to five years and required workers to register with the state, with job priorities going to Kuwaitis and then other Arabs.<sup>99</sup> Sponsorship of migrants was eventually limited to Kuwaiti citizens and firms, and by 1969 the universal visa requirement was an established rule, with all migrant workers having to be vouched for by their Kuwaiti employers. This was formally codified in the 1975 amendment to the aliens' residence law, with the role of the Kafil sponsor explicitly identified as that of the employer.<sup>100</sup>

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<sup>93</sup> Dispatch from the political agent, 14 August 1960, FO 371/148911, TNA.

<sup>94</sup> Letter by H.A.M., *Al-Fajr* magazine, Issue 48 (Kuwait, 14 October 1958), p.10. This constitutes the earliest documented explicit usage of the Arabic term "Kafala" in relation to the labour migration sponsorship system that I have come across. I would like to thank Talal al-Rashoud for providing me with the document.

<sup>95</sup> Letter from Political agency, 11 September 1960, FO 371/148911, TNA.

<sup>96</sup> 'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(1), <[http://www.qdl.qa/archive/81055/vdc\\_100023415995.0x000088](http://www.qdl.qa/archive/81055/vdc_100023415995.0x000088)>.

For the text of the Nationality law see:

'Historical Summary of Events in the Persian Gulf Shaikhdoms and the Sultanate of Muscat and Oman, 1928-1953', *QDL*, IOR/R/15/1/731(2), <[http://www.qdl.qa/archive/81055/vdc\\_100023807432.0x000044](http://www.qdl.qa/archive/81055/vdc_100023807432.0x000044)>.

<sup>97</sup> Letter by Richmond, FO 371/148911, TNA.

<sup>98</sup> FO 371/148912, TNA.

<sup>99</sup> A more extensive list of the privileges given to citizens is discussed in:

J. Crystal, *Oil and politics in the Gulf: Rulers and merchants in Kuwait and Qatar* (Cambridge 1995), 79-80.

<sup>100</sup> Longva, *Walls Built on Sand*, 78-79.

As we have seen, this practice of migrant labour sponsorship was not a novel process, as it was extensively applied by the British authorities in the Gulf since the early decades of the twentieth century. What the Kuwaiti government introduced however, was the restriction of migrant labour sponsorship to citizens. Under the British authorities, non-locals could also sponsor individuals to come and work in Kuwait. The situation was tightened as Kuwait achieved independence, and the result are the unique features that define the Kafala system in the GCC states today: unrestricted labour migration versus restricted citizenship, with the migration flow governed by requiring that citizens personally sponsor migrants.

The precedent set in Kuwait was followed by the rest of the British-protected Gulf countries throughout the 1960s up until their independence in 1971. Thus, retrocession of British jurisdiction over foreigners to the nascent states developed gradually during this period, until the dual juridical system completely ended with independence. Ironically in Bahrain, it was British officials who pushed for retrocession while the local ruler was against it, since he did not want to "deal with foreigners".<sup>101</sup> British officials continued to push for retrocession on civil, labour, criminal, and immigration issues, and over time he reluctantly came to agree.

By February 1961, local authorities had taken over the process of issuing No Objection Certificates, and by 1964 jurisdiction over all matters related to immigration and foreign residencies were handed over to the government of Bahrain. British officials closely supervised the formulation and execution of the new local legislation on migration, which were fashioned mainly based on their previous practice.<sup>102</sup> The Bahrain legislation of 1964 that regulated immigration and residency stipulated that any foreign worker had to receive a residency permit from the immigration department (Article 15), while Article 18 stated that no immigration permits would be issued unless the department of labour had granted the employer a permit to hire foreign employees. The employer was required to place a deposit of 1000 rupees with the immigration department, with a legal obligation to cover any expatriation costs (Article 8a). Articles 24 and 25 gave the authorities the right to deport any foreign persons who violated these codes.

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<sup>101</sup> Letter from British Political Agency in Bahrain, 26 February 1966, FO 371/185350, TNA.

<sup>102</sup> British officials commented approvingly on the smoothness of the transition, as local authorities were proving to be good disciples in the regulation of foreigners and their nationality composition. See: TNA, FO 371/156717, Bahrain Monthly Report by the Political Agency for February 1961.

By 1971, all GCC countries had achieved formal independence, with jurisdiction over all residents transferred to them.<sup>103</sup> Thus foreigners, previously under British jurisdiction, were now under the laws and courts of the local state. In a manner similar to that in Kuwait, the local states began passing laws that limited many benefits to citizens only. As state-building and nationalism began taking root, legislation was passed that required majority-ownership of businesses by citizens, and sponsorship of migrants was restricted to citizens. Thus, the state, which previously depended on the British authorities to deal with "foreigners", once again now delegated dealing with foreigners to the sponsorship of citizens. By this point, Kafala had established deep roots as a legal-bureaucratic complex regulating migrant labour, not as an age-old practice in the Arabian Peninsula from time immemorial, but a very modern product of British colonial practices to control labour and police empire across the Gulf and the Indian Ocean.

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<sup>103</sup> For more on British retrocession in the Gulf, see the following files in TNA: FCO 8/107, FO 371/185360, FCO 8/1649 and FCO 8/1015.