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Nationality & Migrations Control in the Gulf countries Claire Beaugrand¹

With hundreds of thousands of illegal migrants taking the streets of Los Angeles, San Francisco and other large American cities, the United States suddenly woke up to the phenomenon of illegal migration. Suddenly, this population of the shadow came under the spotlight of the media. Suddenly, the one-day strikes and the shutting down of many shops in sign of protest –and solidarity- rendered visible the significance of the illegal workforce's contribution to the national economy. The issue of the integration, or not, of these disenfranchised people to the US citizenry was raised again.

What, in the aftermath of the event, appeared clearly is that though economically interdependent, the international system of territorial states and boundaries presents decreasingly porous borders. The best illustration was given by President Bush's decision to reinforce the number of mobile control patrols operating along the border with Mexico.

Since differentials in wealth are one of the givens of the international system based on sovereign states, migrations are a structural feature of the world order. Parallel to this phenomenon, ways and means to regulate people's movements have been developed. Systems of identification aimed at distinguishing citizens from non-citizens along with techniques to monitor cross-border movements have been elaborated and made, over time, more and more sophisticated. For nation-states are not only territorial but also membership organisations. In the course of the past centuries, states have established the exclusive right to authorize and regulate the movement of people or to put it like John Torpey,

"states have successfully usurped from rival claimants such as churches and private enterprises the 'monopoly of the legitimate means of movement'- that is their development as states has depended on effectively distinguishing between citizens/subjects and possible interlopers, and regulating movements of each"¹.

In the light of this theoretical statement, the case of the Gulf countries is both peculiar and enlightening. In this article, it will be argued that in this region of the world, the necessity to control significant tides of migrations preceded the official establishment of definitive borders and state structures. This very sequencing, compounded with the

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issue of oil revenues' distribution, affected the forms of movement control that were opted for, as well as the types of nationality issues that derived from it. These questions would be addressed by referring, mostly but not exclusively, to the situations in Kuwait and Bahrain.

Movement control in the wake of oil revenues in the pre-independence period

In the first half of the twentieth century, windfalls coming from oil discovery started to accrue to the ruling sheikhs of the little political entities that the British had chosen earlier as interlocutors. The Gulf region found itself in an economically privileged position compared to the Persian, Indian and Levantine neighbouring areas, they used to trade with. In the face of the scarcity and lack of qualification of local labour force, hitherto composed mainly of seamen, craftsmen and semi-Bedouins, the oil companies hired foreigners. Migrants started to flock first to Bahrain where oil export began as early as in 1934, then Saudi Arabia, Kuwait, and to what would become the United Arab Emirates where oil was not discovered before the late 1960's.

At first, the British Foreign Office was in charge of the foreign policy of the coastal sheikhdoms Britain signed protectorate treaties with. It was especially responsible for defining the migration policy and delivering the entry visas. As such the Foreign Office could easily monitor and regulate the stay in Kuwait of British and European travellersⁱⁱ. Yet, in a context of inexistent border posts on the ground and traditional seasonal migrations (due to whether pastoral or pearl diving activities), this control was rather minimal and boiled down to a selective, if not in certain cases discriminatory, employment in the oil industry. In Bahrain, for instance, as early as the first half of the 1930s the local sheikhs requested the British Political Agent on the island to discourage the oil companies from hiring qualified Iranian labour, for fear of the Iranian claims over the island. As a matter of fact, Bahrain had been included within former Iranian empires and the ruling family, Al-Khalifa, originally from the heart of the Arabian Peninsula, have always viewed the ambitions of their large neighbour with outmost suspicion. If the British were pleased to replace Iranian workers by Indians from their further south colonies, the implementation of such rules as the interdiction for Iranian to stay in Bahrain after the end of their work contract proved to be difficult in a society lacking administrative structures and documentary records.

Moreover, in most of the Gulf countries, border posts, if not land borders themselves, were inexistent. Even when some kind of boundaries was established under the aegis of the British –who showed a rather scant attention for the inland desert territories-, they remained completely open due to the age-old nomadic traditions of the Bedouin tribes. The first attempts by the nascent states to control border crossings took the shape of hindering the freedom of tribal movements. After the Uqayr treaty (1921) that delineated the borders between Iraq, Saudi Arabia and Kuwait, the rise and dominance of Saudi and Iraqi state power over the desert and steppes they controlled led to the constant harassment, attacks and pillages of the nomadic tribesⁱⁱⁱ. The Saudi blockade of overland trade with Kuwait (1921) and Iraq's aggressive "anti-smuggling" measures (1932), that were employed to express political domination in the desert of Kuwait and beyond in the guise of trade control, altered, curtailed and criminalised as 'smuggling' the age-old patterns of trade between the settled and the

nomadic populations. As a result, innocent Bedouins were the victims of the nascent states' rivalry. Seasonal migrations were discouraged and trade control instituted at the entrance of main market cities. Hence the first border post in Kuwait was located in Jahra in the outskirts of the city-port but miles away from what Uqayr treaty defined as national territorial boundaries.

Nationality Laws and Migrations policy

At the time when the British carved up state entities on the Persian Gulf coast along the lines of the sheikhdoms they used to deal with before, and, subsequently, granted the small Gulf countries^{iv} their independence, the issue of mass migration was already a prominent one. Confronted with significant cross-border movement before institutions that characterise territorial states were even set up, these new countries came up, when they started to develop their own administrative structures, with their own and original solutions with regard to the centralised authorisation-regulation of people's movement.

The question of the delineation between citizens and non-citizens has been crucial: the criteria to obtain nationality were very stringent and all the more so as entries into what would become national territories were unhindered. Among others, tough nationality laws played the role of a retroactive control over movements of aliens. The Kuwaiti example is interesting as two different nationality laws were adopted within ten years, the second nullifying the first one. The first nationality law was adopted under the British protectorate in 1948, at a time when nationality was not yet an issue and people were still using the age-old custom of classifying self and others according to their birthplaces and not to the formal allegiance to a state. In 1948, the decrees on citizenship stated: "Kuwaiti subjects were ruling family members, those permanently residing in Kuwait since 1899, children of Kuwaiti men and, at that time, children of Arab or Muslim fathers also born in Kuwait. Naturalization was possible after ten years in Kuwait with work and Arabic proficiency and by special order for valuable services"^v. The Law No 15 of December 14, 1959 –two years before independence and - reverted the 1948 inclusion as Kuwaitis of those entitled *jure soli* and changed the benchmark date used to distinguish the 'original Kuwaitis' as opposed to naturalised ones, to 1920. It also made naturalisation, limited to fifty persons a year, more difficult, and many amendments further toughened naturalisation requirements. If the reasons behind the change are not clear, the trend is obvious: confronted with a *de facto* large presence of migrants, the nascent state appropriates itself the means of monitoring the population within the reach of its territorial control by distinguishing *in situ* between nationals and aliens.

In most of the Gulf countries, the same pattern of nationality law applies, with the determining of a symbolic benchmark date since when inhabitants of the city-states had to prove their residence, as a sign of their loyalty to the sheikhdom. The absence of documentary records, the fears of letting opportunists and tricksters in, and in the case of Kuwait and Bahrain, the threat represented by sovereignty claims respectively from Iraq (1961) and Iran (1970) resulted in a certain wariness with regard to nationality granting. This wariness turned into a real reluctance to naturalise, as the development of the welfare state system linked the status as a 'national' with significant material benefits. Naturalisation process was obstructed in practice, if not in the legal texts themselves, as decisions in the matter of citizenship were and still

are regarded as discretionary. This quasi-absence of naturalisation, together with a structural need for labour import, led to the widely acknowledged fact that citizens of certain Gulf countries are a minority in their own country. Nowadays expatriate workers make up more than 50% of the total population in Kuwait, Qatar, the UAE and more than 25% of the population of Bahrain, Saudi Arabia and Oman. The control of the presence and movement of the overwhelming foreigners' majority lies on two main foundations: the preference for non-Arab, short-term workers and the sponsorship system. The issue of migrants' integration into society is rather posed in terms of segregation between nationals and aliens within the country.

Historic Overview of the Politics of migrant Labour

First, most of the Gulf States have implemented policies of labour import that aimed at preventing migrants from staying on their territories and especially from asking for more rights, including that of being naturalised, nationality representing the 'right to have rights'^{vi}. In Kuwait, the evolution of the politics of migrant labour illustrates this double goal.

In the pre-independence period, the first tide of migration was made mostly of Arabs from Egypt, Palestine, Syria and Lebanon, whose qualifications and fluency in Arabic offset the lack of education of the local population. The second wave of migration consisted in the bringing in Kuwait of the families of the hitherto single male Arab migrants from the first tide. The commercial elite associated with the rulers was pleased with this option as it significantly enlarged the size of the consumers' market (real estate, goods consumption) upon which their wealth depended and still does. Yet the presence of this migrant population, in the process of getting permanently settled, posed a threat to the fragile equilibrium of the Kuwait society in the eyes of the Kuwaiti government. In addition to the growing imbalance between citizen and non citizen, these populations, spread new ideologies, such as nasserism or baathism, which the conservative regime did not see favourably.

As a consequence, the government opted for a new labour policy: people, with no knowledge of Arabic, were hired from Asia to work on the then mushrooming development projects (infrastructure, building). Like for the other migrants, their residency permit and thus their stay in Kuwait was linked to their work contract but the latter was deliberately meant to be limited in time as projects were temporary. This policy of Asian labour import that prevents the formation of any deep-rooted relations between nationals and expatriates and discourages any hope or even desire on the part of the migrants to permanently settle still prevails today across the Gulf countries. Although work contract can be renewed and the stay in the host countries prolonged for years, any migrant, however long his employment, will eventually have to leave the Gulf upon expiry of his work contract.

The Sponsorship or (Kafala) System

The other key of the entry monitoring, daily administration and control of the vast migrant population is the sponsorship system, in Arabic *Kafala*^{vii}, which consists in a partial privatisation of the control over foreigners. In the Western states' model of migration control the state has gradually expropriated from individuals and private entities the legitimate 'means of movement' across and inside boundaries. In the Gulf States, though the state remains the ultimate authority for issuing entry visas and residency permits, it has delegated some of its control functions to its own citizens.

Apart from the tourist visas granted to nationals of some Western countries and lasting from a fortnight (Kuwait, Bahrain) to one (Oman) to three months (Dubai)^{viii}, any foreigner permanently living in the Gulf countries has to be under the responsibility of a GCC national or institution, called sponsor or *kafeel*. This sponsor is also the expatriate's employer, who will get the entry visa and residency permit done. He is legally and economically responsible for his employee, has to provide him/her with a flight ticket back upon termination of the contract and must inform the government authorities of any change occurring in the work contract (renewal, cancellation, expiry). No job change is allowed without prior consent of the sponsor. Moreover, though not required by the law, the practice of confiscating the foreigner's passport upon his/her arrival is widespread in the Gulf countries. This practice, according to Longva is regarded as an 'effective crime-prevention measure, since those who have committed an infraction will not be able to leave the country and escape prosecution'^{ix}. It is seen particularly favourably by GCC nationals as foreign labourers do work in the intimacy of their homes, as cook, nanny etc.

As a result, the sponsorship renders the presence of the worker in the host country entirely dependant on the sponsor's will and satisfaction with his/her employee -even though, the power of the sponsor varies across countries, being tremendous in Kuwait, Qatar and the UAE where the demographic imbalances between natives and expatriates is more pronounced, and lesser in Bahrain and Oman where the participation of indigenous worker to the economy is higher. In the case of a labour conflict, though, the worker has only two options: either the sponsor accepts to terminate the contract and the worker would shorten his/her stay and pay for his/her return, or the worker runs away usually seeking shelter in his/her own embassy. The embassy will then try to negotiate the terms of the contract termination and facilitate the return trip.

A few runaways may not wish to come back to their home countries. They then remain as illegal aliens. Like anywhere else in the world, and as exemplified by the US case, low-paid jobs are always available, despite the firm interdiction to hire illegal migrants, for disposable workers who enjoy no actual rights in the country. This people will stay in the country as long as they are not caught by the police, the probability of which is rather low, and until they benefit from a general amnesty declared by interior ministries of the GCC countries, every four or five years. According to the terms of these amnesty decrees, illegal workers can freely report to their embassies in order to obtain travel documents and a lawful exit visa.

The combination of the three factors, obstruction of the naturalization process, import of preferably short to medium-term Asian labour and the sponsorship system, added to the closure of borders reduces significantly the issue of illegal migration particularly acute in the cases of massive labour-importing countries. Efficient though as the system of non-integration, structural dependence upon the *kafeel* and circumscribed freedom may seem, whole categories of socially accepted illegality remain nevertheless in all the GCC countries.

Illegal Fringes

More than properly illegal, these populations found and for some of them still find themselves in a legal no-man's-land. This legal void takes the shape of statelessness

and results from the establishment of nation-states and the centralisation in their hands of the monopoly of legitimate means of movement.

When the Gulf States became independent, the regime of free movements, comings and goings across the Persian Gulf or the North-Arabian desert, had been replaced by a system of regulated migrations where modern states use legal tools of control, such as nationality, visas and residency permits. All these means of migration's control are sovereign attributes of the modern state, as a creator of the national identity as much as a major actor in the national economy. As a consequence, the population that found themselves in an in-between situation have been victims of their having no territorial anchor. This concerns two types of stateless people.

The first one is the Bedouin category; they represent the indigenous part of the stateless people. They are the ones whose tribal traditional territory stretched over different states (Shammar, Murrah) and found themselves on the wrong side of the border at the crucial time of nationality granting. As a result, they were suspected not to be loyal enough to the ruling sheikhs. For instance, the young state of Kuwait initially played a significant part in generating this kind of situations: it first permitted and facilitated the survival of the nomadic tradition by leaving its borders open to their seasonal migrations. The provisions of the 1959 Aliens' Residence Law did not apply to "tribal members entering Kuwait by land from places where they used to do so for the purpose of performing their ordinary business"^x. When the tide of sedentarisation affected the desert tribes in the 1960s, the Kuwaiti state allowed them to settle on its territory but did not formally grant them the status of citizens. In return, they provided the rank and file of the Kuwaiti police and army, under the supervision of officers who were Kuwaiti nationals.

The second, sometimes overlapping, category is made of individuals with Iraqi (in Kuwait) or Iranian (rest of the Gulf) connections. Because of Iraq's territorial claim on its small neighbour, Kuwaitis have always feared that Iraqi workers may outnumber them and request to be annexed to Iraq. The Iranian immigration to the Gulf dates back in the late nineteenth-early twentieth century, when rich merchants from Khuzistan, Arabistan settled in Dubai, Qatar, Bahrain. If those long-settled Persian migrants have usually been naturalised, such has not been the case of all descendants from immigrants who came to the Gulf later on in the twentieth century. Because of the Shah's ambitions to stretch his power over to the Gulf, temporary workers from Iran, especially those hoping they will eventually be back to their home country^{xi}, rendered themselves suspicious of keeping links with the larger neighbours regarded as a threat and did not obtain citizenship upon the Gulf States' independence. Until now, most of them, who have lost any tie with Iran including Persian's speaking, are in a rather undefined legal situation. This 'semi-legality'^{xii} is economically advantageous for states that condone it: it keeps this disenfranchised people working for lesser often daily-paid salaries with precarious job contracts and provides a useful economic buffer, as they can be sacked at any time, in extremely segmented and rigid Gulf labour markets.

This leads to a last category of people, who enjoy no actual rights in the Gulf countries where they live, and -most probably- no more rights in the countries they originally come from due to the type of employment they got. These are the foreign workers from the Indian subcontinent, most of them Balouchis, who served for two,

three, sometimes four generations in the police forces and army of the Gulf States, developing modern states structures.

In the Gulf countries like in any modern territorial state, the nascent states have, upon independence, centralised the means of movement control, and had the system of border monitoring and the principle of settled population prevail over the tribal nomadic traditions and the economic-driven seasonal migration across the Gulf. National identification came to replace the existing form of traditional identification that is membership of a tribe, place of origin or professional activity.

In a context of mass migration due to the discovery of oil, three tools have been jointly used to keep migrant workers needed by the booming oil and consumption economy away from the citizenship and the citizenry. First very stringent naturalisation criteria, preventing indigenous population from being outnumbered by recent migrants, contributed to strengthen the national sovereignty on territories claimed by neighbours or ideologies (pan Arabism). From the practice of highly selective naturalisation derives the fact that GCC nationals, with low levels of working efficiency, are or tend to structurally be a minority within their own territories. To 'keep migrant workers in check'^{xiii}, migration policies favouring temporary Asian labour have been set up along with the involvement of nationals into the migrants' control (the *Kafala* system). This extremely tight control over aliens, whose pervasive presence makes nationals feel they are 'under siege', has reduced to a great extent illegal migration but it has not eradicated the shadowy areas where the laws do not reach.

Two processes have been at work: on the one hand, people, who came at a time when there were no borders, have been left without national identification because their origin, tribal, Iraqi or Iranian, made their loyalty suspicious. On the other hand, foreign people have been brought in to perform for generations the -low-levels-security tasks (police, army) that fall upon any independent territorial state. In Bahrain, where the government embarked on a policy of naturalisation of both the stateless of Iranian descent and of the security forces, the opposition denounced a political manoeuvre to revert the sectarian balance hitherto in favour of the Shia. Without entering into the details of the debate, a point is worth noting: in spite of the claim made by the Bahraini Shiite opposition that the government speeded up the import of Sunni security personnel, the number of people enjoying no clear status and therefore no actual rights is not insignificant. If they were to be in the limelight, as illegal migrants suddenly were in the US, it might prove to be so in most of the GCC countries.

ⁱ Torpey, John (2000) *The Invention of the Passport*, Cambridge University Press, Cambridge.

ⁱⁱ Lienhardt, Peter (1993) *Disorientations. A Society in Flux: Kuwait in the 1950s*, Reading, Ithaca Press.

ⁱⁱⁱ Toth, Anthony B. (2005) "Tribes and Tribulations: Bedouin Losses in the Saudi and Iraqi Struggles over Kuwait's Frontiers, 1921-1943" in *British Journal of Middle Eastern Studies*, Volume 32, Number 2, November 2005.

^{iv} 'Small Gulf states' refers here to Kuwait, Qatar, Bahrain and the United Emirates.

^v Crystal, Jill (1990) *Oil and politics in the Gulf: rulers and merchants in Kuwait and Qatar* Cambridge: Cambridge University Press.

^{vi} Arendt, Hannah (1968) *The Origins of Totalitarianism*, New York, Harcourt Publishers Inc.

^{vii} Longva, Anh Nga (1999) "Keeping Migrant Workers in Check: the Kafala System in the Gulf" in *Middle East Report* No 211, Trafficking and Transiting: New Perspective on Labor Migration, Summer 1999, p. 20-22.

viii It is worth noting here, that although Dubai allows longer stays for tourists and has build an image of an 'open-door' emirate, the *Kafala* system prevails for labour workers as in any other GCC countries (Kuwait, Qatar, Bahrain, Saudi Arabia, United Arab Emirates and Oman).

ix Ibidem.

x Article 25, official translation quoted in Longva (1997), *Walls built on Sand: Migration, Exclusion, and Society in Kuwait*, Boulder, Colo. WestviewPress.

xi Interviews in Bahrain (December 2005 -January 2006).

xii This term refers to the situation of people who are not properly illegal migrants but have a formal nationality but have lost its actual benefits for lack of connections with the concerned countries.

xiii See note 7.