
**Temporary Workers or Permanent Migrants?
The Kafala System and Contestations over Residency
in the Arab Gulf States**

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Contents

INTRODUCTION.....	3
GUEST WORKERS VS. PERMANENT MIGRANTS: HOW TEMPORARY IS ‘TEMPORARY CONTRACTUAL LABOR’?.....	7
FORMAL INSTITUTIONS OF THE KAFALA: BUILDING AND ENFORCING TEMPORARY RESIDENCY	11
The Ministry of Interior and Centralized Administration	13
Citizen-Sponsors and Dispersed Enforcement	15
INFORMAL INSTITUTIONS: SUBVERTING TEMPORARY RESIDENCY	18
<i>Duration of Residency and Settlement</i>	<i>19</i>
<i>Family reunification: Spouses and Children</i>	<i>24</i>
<i>Hierarchies of Non-Citizen Residency.....</i>	<i>27</i>
<i>Citizen-Sponsors and Extending Residency</i>	<i>29</i>
CONCLUDING REMARKS	31
REFERENCES.....	32

Introduction

'The first impression of most foreign visitors to the region is, "where are the locals?!" That is a question that many of us have heard time and again... And probably have even asked ourselves. Whether it is at one of the GCC states' international airports, shopping malls, restaurants, or even at traffic signals, native citizens are a rare sight to behold.'

- Dhahi Khalfan,
Dubai Police Chief (*The Peninsula* 2010)

The Arab Gulf is the third largest receiving region for global migrants (after North America and the European Union). The six states of the Gulf Cooperation Council (GCC)¹ are the richest Arab economies, boast some of the highest GDP per capita rankings in the world, and all depend upon guest workers in virtually every economic sector. Guest workers have played an integral role in the Gulf since the 1970s, supplying the skills and manpower needed to implement ambitious development plans. The demographic changes incurred by these labor flows occurred at an extraordinarily rapid pace. The region's aggregate population has increased more than tenfold in a little over half a century (from four million in 1950 to 40 million in 2005), making it the highest growth rate of anywhere in the world during that period (Kapiszewski 2006). Non-citizens now outnumber citizens in four of the six GCC states² (*see figure 1*). Non-citizen workers represent between 49.5 percent (Saudi Arabia) to 95.8 percent (United Arab Emirates) of the domestic labor forces and over 60 percent of the region's aggregate workforce (Forstenlechner and Rutledge 2010).

1 Bahrain, Kuwait, Oman, Saudi Arabia, the United Arab Emirates, and Qatar.

2 Non-citizens outnumber citizens in the UAE, Qatar, Kuwait and (to a lesser extent) Bahrain.

**Fig. 1: GCC Citizens and Non-Citizens
in Absolute numbers and Percentages (2010) ³**

	Citizens	%	Non-Citizens	%	Total Population
Bahrain	568,399	46%	666,172	54%	1,234,571
Kuwait	1,056,900	39%	1,616,026	61%	2,672,926
Oman	1,957,336	71%	816,143	29%	2,773,479
Saudi Arabia	20,941,242	73%	7,745,391	27%	27,136,977
Qatar*	174,279	11%	1,357,563	89%	1,531,842
United Arab Emirates	947,997	11%	7,316,073	89%	8,264,070

Officially, the non-citizens residing in the Gulf are not migrants but temporary contractual laborers with little to no recourse for permanent settlement or citizenship. They enter the country as guest workers under fixed-term employment contracts and are obliged to leave upon the termination of their work. Their stay is regulated through the *Kafala* or sponsorship system, which makes an individual national citizen or company sponsor (known as the *Kafeel*) legally and economically responsible for the foreign worker for the duration of the contract period. While the structure of the *Kafala* enables Gulf governments to maintain some formal/legal control over how long individual workers can reside in the country, the guest worker program as a whole is far from the temporary measure it was envisioned to be. Rather, following the trend of most other guest worker schemes, the *Kafala* has produced a structural dependence on foreign labor that is not subsiding despite growing public discontent and rising unemployment rates among Gulf citizens. Since

3 Sources: (1) Bahrain, Kingdom of Bahrain, Central Informatics Organisation: '2010 Census'

http://www.cio.gov.bh/CIO_ARA/English/Publications/Census/2011%2009%2018%20Final%20English%20Census%202010%20Summary%20%20Results%20-%20Review%201.pdf;

(2) Kuwait: Kuwait Central Statistical Office (CSO); 'Statistical Abstract 2010' <http://mopweb4.mop.gov.kw/>

(3) Oman: National Center for Statistics and Information, '2010 Population Census' (http://www.mone.gov.om/documents/Census_2010.pdf);

(4) Saudi Arabia: Central Department of Statistics and Information 'Vital Statistics' <http://www.cdsi.gov.sa/english/index.php>

(5) Qatar: Qatar Statistics Authority (QSA), 'Census of Population, Housing and Establishment':

http://www.qix.gov.qa/portal/page/portal/QIXPOC/Documents/QIX%20Knowledge%20Base/Publication/Population%20Statistics/Census%20Publications/Source_QSA/Population_Households_Establishment_QSA_Census_AE_2010_1.pdf (*Figures for Qatar are based on the population 10 years of age or older)

(6) United Arab Emirates: National Bureau of Statistics 'Population Estimates 2006-2010' and 'UAE in figures 2011' <http://www.uaestatistics.gov.ae>

the 1990s, Gulf governments have attempted to alleviate their dependence on migrant labor through campaigns aimed at training and indigenizing their domestic labor forces. The general approach has been through job training programs and quotas on the number of nationals private business must employ.⁴ However, these policies have been largely unsuccessful and the presence of non-citizens has continued to grow in both absolute and relative terms—a disparity that is only projected to increase over the next twenty years.⁵

In no other region of the world do citizens comprise such a small proportion of the population. While this ‘demographic imbalance’ (as the growing disparity between the number of non-citizens and citizens has been called)⁶ makes the Gulf unique, large-scale migrant labor flows are certainly not exceptional to the GCC. Other receiving regions like North America, Europe, and Oceania have all expanded through permanent migrations. What differentiates the Gulf is not its economic and demographic expansion through migration but rather the *degree* to which the region’s governments have been able to exclude foreign workers from being integrated into the national citizenry. It is thus less an anomalous level of immigration, but rather ‘the exceptional closure of local societies that makes the Gulf states unique’ (Fargues 2011: 274). As Fargues also points out, the exclusion or non-inclusion of foreign workers is not the result of an essential characteristic of Gulf societies, but rather that of a conscious policy. The social closure of non-citizens had to be erected and continually enforced through specific policies and institutions that differentially impact on a wide variety of non-citizens and the local citizenry.

This paper examines the formal and informal institutions that support the inward flows of large numbers of foreign laborers while excluding non-citizens from full integration into Gulf societies.⁷ The first section provides a general overview of guest worker programs to contextualize what is particular about Gulf institutions. The second

4 For an overview of workforce nationalization campaigns in the GCC states see Shah (2008), for an overview on labor market governance see Dito (2008).

5 The Economist Intelligence Unit estimates that the Gulf’s population will continue to increase by a third over the next decade, reaching 53.5 million by 2020. These figures reflect an assumption that the current growth rate will decrease slightly after 2015 with the expected completion of major construction projects. However, based on the patterns of 2010 census reports, the Emirates Identity Authority estimates that this figure is likely to be closer to 60 million (Economist Intelligence Unit and Kinninmont 2009; Al-Khouri 2010).

6 This is a term that is used by both government officials and the English news media (see The National newspaper (UAE) and The Peninsula (Qatar)) and is most frequently applied to the UAE and Qatar. In 2010 the UAE even established a federal body (the Federal Demographic Council) in Abu Dhabi to restore the ‘demographic balance’ of the population. See also Shah (2008).

7 This emphasis on formal and informal institutions is in line with the policy-centric approach advocated by Fargues and Brouwer (2011) who argue that the demographic imbalance of the Gulf is a result of a mix of policy successes and failures.

section introduces the reader to the policies and regulations of the *Kafala* system. It describes the formal restrictions this guest worker scheme places on permanent settlement and highlights the mechanisms that the state uses to enforce temporary residency from the top-down. It points to the key roles played by the Ministries of Interiors and citizen-sponsors in regulating and enforcing the *Kafala* system. This section argues that while the Ministries of Interior have effectively foreclosed non-citizen access to citizenship, they have not successfully prevented ‘temporary workers’ from increasingly becoming permanent residents. The third section then focuses on the informal institutions of the *Kafala* system. Specifically this section demonstrates how firms, citizens, and non-citizens have adopted strategies that either complement and facilitate their navigation of the legal framework or alternatively provide a means for subverting the formal rules of the *Kafala* system without openly breaking them. These complementary and accommodating informal institutions have enabled non-citizens to systematically settle in the Gulf by tempering and modifying the formal restrictions on their settlement. Because of the sponsorship structure of the *Kafala* system, citizen-sponsors simultaneously play a critical role in both of these opposing dynamics—at once aiding in the enforcement *and* subversion of restrictions on the residency and settlement of non-citizens.

Guest Workers vs. Permanent Migrants: How Temporary is 'Temporary Contractual Labor'?

The following statement epitomizes the official stance of Gulf governments towards non-citizens residing in the region:

First of all, workers hosted by the UAE and other GCC countries cannot be considered migrant workers, as they work on a temporary basis and according to fixed-term employment contracts. Upon expiration of these contracts, they return to their home countries. Therefore, the immigration laws applicable in Western countries cannot be applied to these workers... the internationally accepted concept of migration does not apply to them (Ghaemi 2006:70-71).

This statement was made by Nasser Al-Shamsi, the Permanent Representative of the United Arab Emirates to the United Nations, in a letter sent to Human Rights Watch on 29 September 2006. In this letter Al-Shamsi argues that there is a clear legal distinction between temporary contractual laborers and migrants—one that the non-citizens in the Gulf are themselves aware of prior to accepting employment in the region. He also notes that this formal distinction is recognized and protected by several international agreements between sending and receiving countries. He cites the findings of the Third Asian Ministerial Consultation Conference (2005) held by the International Organization for Migration (IOM) in Bali to argue that the temporary residency of expatriate workers has 'become one of the agreed upon concepts of International Migration Organization concerning foreign labor working in the GCC' [sic](Ghaemi 2006: 70).

What distinguishes a temporary contractual laborer from a permanent migrant? Contrary to what is suggested by the terms 'temporary' and 'permanent,' the difference has less to do with the duration of stay and more to do with the formal and legal restrictions that structure the nature of a non-citizen's stay. Guest worker programs are designed to increase the supply of a labor force without increasing the number of permanent residents to a population. They are supposed to produce only a temporary surge in the demographic make-up of a receiving country for a specific developmental purpose when the domestic labor force cannot meet the demand (such as postwar reconstruction). Guest workers generally do not have free

access to the labor market, and the restrictions on their visas tend to prohibit them from being able to legally apply for permanent residence, naturalization, or to bring their families with them. In contrast, open or permanent migration schemes result in the incorporation of immigrants and their families and impact on the receiving country demographically, culturally, socially, and politically. These ideal-type models rarely maintain coherence in reality. Indeed, as a general trend, migration that begins as temporary quickly takes on a more permanent quality as governments struggle to control settlement once workers have entered the country. As one migration scholar neatly put it, ‘there is nothing more permanent than temporary foreign workers’ (Martin 2011:1).

Guest worker programs become permanent for two reasons: distortion and dependence (*ibid.*). Distortion occurs when the initial demand for workers grows and adapts with the promise of an almost unbridled labor supply.⁸ In the cases of the US-Mexico Bracero programs and the German and other European guest worker schemes of the 1960s and 1970s, the employers’ ‘need’ for guest workers lasted longer and proved to be larger than originally expected.⁹ This dynamic is operating in the GCC across all economic sectors. The most illustrative examples are found in the construction industry, where foreign workers have permitted governments to implement ambitious building projects—such as the tallest building in the world—without having the indigenous manpower to meet these goals. Distortion also occurs when the dependence upon foreign labor discourages innovation and the application of new and more efficient technologies in specific sectors. Relatedly, dependence occurs because employers in the receiving country come to rely on foreign workers, and those workers in turn form attachments to the receiving country, as do their families who now depend on the remittances sent home. Summing up the German experience, Max Frisch said: ‘We asked for workers, and we got people’ (cited in Martin 2011:3).

8 To explain distortion Martin uses the farming example of ‘if foreign workers are readily available, employers can plant apple and orange trees in remote areas and assume that migrant workers will be available when needed for harvesting’ (Martin 2011:1).

9 The US government implemented the Mexico-US Bracero program to supply farmers to US farms between 1917-1921 and again between 1946-1967. For a comparison of the German and US cases see Martin (2011). The term ‘guest worker’ is a literal translation of the German ‘Gastarbeiter’ and Germany’s guest worker program of the 1960s and 1970s is often cited as one of the illustrative cases of how governments struggle to prevent the permanent settlement of temporary workers. The United Kingdom, Switzerland, and France also developed guest worker schemes in the second half of the Twentieth century, ultimately leading to a European recruitment ban in 1973-1974 (see Martin and Miller 1980; Castles 1986). For an analysis of the European Commission’s current policy plan to revive temporary migrant worker programs see Castles (2006). Castles points out that the current debates are about introducing skilled foreign workers (as opposed to the unskilled workers of previous European guest-worker schemes).

This is no less true of the people who work in the Gulf. The governments of the GCC may not officially recognize non-citizens as migrants, but *de facto* settlement is occurring across the region. However, while temporary guest workers in the United States and Europe managed to leverage the long duration of their stay to gradually gain legal access to permanent residency, family reunification, and citizenship, this transition is not happening in the Gulf. The discrepancy in these two outcomes is not due to the more 'welcoming' nature of the liberal governments of the United States and Western Europe. On the contrary, these rights were often extended in spite of government efforts to circumscribe residency and deport workers. Rather, temporary workers were able to legalize their status by pitting one state institution against another. The intervention of domestic courts played (and continues to play)¹⁰ an integral role in preventing deportations and inhibiting migration enforcement. In Europe, national decisions and policies on migration enforcement were directly challenged by European courts, European norms on family reunification, and the general convergence of a common immigration and asylum policy with the implementation of the Schengen agreement. The European Court of Justice continues to play an important role in checking national migration enforcement, often aligning with domestic courts.¹¹ These court decisions, combined with the efforts of labor unions and civil rights groups, produced new citizens out of former foreign guest workers in Europe and the United States. Such avenues for legal permanent settlement and integration are largely foreclosed for migrants in the Gulf—

10 Continuing this trend, Supreme Court judges in the United Kingdom have recently dealt a 'hammer blow' to Home Office attempts to reduce the number of migrant workers entering the UK. In a case against Hussain Zulfiquar Alvi (a man of Pakistani origin who was refused a renewal of his work permit in 2010) the judges ruled that ministers could not ban non-European workers from the country unless the regulations used to reject their claim had first been shown to parliament. This seminal decision means that applicants whose visa claims were denied as far back as 2008 (when the points-based system was introduced) can now appeal against their decisions. See Warrell (2012).

11 For example, the first chamber of the European Court of Justice recently issued a decision that Italy cannot criminally punish a third-country national for illegally staying in the national territory in violation of an order to leave within a given period. The court ruled that EU Directive 2008/115 (which was supposed to be implemented by December 2010) precluded the ability of any member state to imprison a third-party national on the sole basis of having stayed in the country after being issued a deportation order. The Italian law in question was enacted as part of a 'security package' ('pachetto sicurezza') of immigration laws that punishes migrants who violate the terms of their residency with one to four years in prison. The court's ruling in the case of Hassen El Dridi alias Soufi Karim (Case C-61/11 PPU, 28 April 2011) has repercussions for migration enforcement in Italy and across the union. Italy's Interior Minister Roberto Maroni criticized the decision for making expulsions 'difficult or impossible' but the ECJ decision is consistent with Italian court rulings, including the Constitutional court and the Supreme Court. See Overview (Migrants at Sea 2011), court decision (<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-61/11>), and EU Directive (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>).

including those migrants who have worked and lived in the region since the very formation of these states. The difference in these outcomes is due to key differences in the state structures that shape the enforcement and implementation of migration policies.

Formal Institutions of the *Kafala*: Building and Enforcing Temporary Residency

What distinguishes the *Kafala* system from other guest worker schemes? How do Gulf governments organize, regulate, and enforce the temporary residency of their guest workers? In an effort to highlight what is distinct about the structure and enforcement of migration in the Gulf, this paper emphasizes the important structural similarities between these resource-rich, labor-importing countries, and discusses them as a regional bloc. This is not to suggest that there are not important differences between these cases. Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates are all independent and distinct states that vary economically, socially, and politically. They differ in when and how each state was formed,¹² the relative strength and structure of different domestic political and religious institutions,¹³ and in when (and how much) oil was discovered in each case.¹⁴ Moreover, the Gulf Cooperation Council that unites these six states has not institutionalized a common

12 Saudi Arabia was united by the conquest of Al Saud in 1932; Kuwait was a British protectorate that gained independence in 1961; the remaining four states—Bahrain, Oman, Qatar, and the United Arab Emirates all gained independence from Britain in 1971.

13 Although all six states are monarchies, the domestic political landscapes diverge dramatically. To name a few notable differences: Kuwait has had the most powerful independent merchant class and now the strongest parliament in the region. In Saudi Arabia the religious establishments holds more control than in the remaining states. And the states also differ in structure—the UAE is a federation while the rest are unitary.

14 Collectively, the six states have approximately 45 percent of the world's proven oil reserves. Oil was discovered in Bahrain in 1932, Kuwait and Saudi Arabia in 1938, Qatar in 1940, the UAE in 1958, and Oman in 1967. According to 2011 estimates, Saudi Arabia is the world's largest (net) oil exporter with one-fifth of the world's oil reserves. The UAE possesses nearly 10 percent of the world's total oil reserves, and is the 7th largest oil producer. Within the UAE, the emirate of Abu Dhabi controls more than 85 percent of the oil output capacity and more than 90 percent of its reserves. Kuwait has the world's sixth largest oil reserves and ranks as the 10th largest oil producer globally. Qatar is 18th in the global ranking of oil production, but it holds the world's third largest natural gas reserves and is the single largest supplier of liquefied natural gas. Oman ranks 24th in global oil production. Finally, Bahrain, as the first to discover oil and the smallest territory, ranks 64th in global oil production, and it exports much of its oil in the form of refined petroleum products. Source: The US Energy Information Administration <http://www.eia.gov/countries/>.

immigration and asylum policy in the way the Schengen agreement (and its subsequent modifications) has for the European community.¹⁵ Despite these important differences, the Gulf states share some significant common features. First, as already stated, they all overwhelmingly depend upon foreign labor. As a result they all have segmented labor markets, with a low participation of citizens in the private sector, and rising unemployment rates. A large portion of the regional workforce is employed in construction, utilities, government institutions, and other service sectors—only 1 percent of the workforce is employed in the oil and gas sector which produces 47 percent of the GCC's aggregate GDP (Al-Khoury 2010: 4). These labor market similarities arise out of the central structural similarities in the way the GCC states have implemented and enforced the guest worker program.

Across the region, the formal institution of the *Kafala* has two key defining structural features. First, the *Kafala* is centrally administered and regulated through the Ministries of Interior of each of the Gulf states. This means that the same institution that decides to permit or revoke residency can also enforce those decisions without any outside intervention by the courts or other institutions. Second, the *Kafala* regulates foreign labor through citizen sponsorships.¹⁶ This arrangement functions as a built-in enforcement mechanism for temporary residency by holding citizens directly responsible for the residency violations of non-citizens. Effectively, the combination of these two formal aspects of the *Kafala* means that the mechanisms for enforcing temporary residency are widely dispersed while authority over residency decisions remains highly concentrated.

15 The GCC is a common customs union, and it has made some provisions for facilitating the movement of people (in addition to goods) within the union. The states recognize residency visas carried by foreign nationals in other member states, and this often expedites the ability of non-citizens to travel within the union. However, the free movement of individuals is limited to Gulf nationals. Provision 27 of the union calls for each member state to specify 'special lanes for GCC nationals bearing the expression "GCC Nationals" across border offices of Member States.' For an overview of the purview of the common customs union see 'Process of the Customs Union of the Cooperation Council for the Arab States of the Gulf: 2002-2010' (Staff, GCC 2010).

16 In 2006, Bahrain officially abolished the *Kafala* system and established a government agency, the Labor Market Regulation Authority, to manage the guest worker program. However, this reform has not substantively eradicated the sponsorship relationship, since non-citizens still require national sponsors. This reform has nonetheless lessened some of the barriers against switching national employers. See 'Act No. 19 (2006) With Regard to the Regulation of the Labour Market' (<http://portal.lmra.bh/english/page/show/5>).

The Ministry of Interior and Centralized Administration

At the precise moment when European states were moving away from guest worker schemes (early 1970s), the Gulf states formalized, expanded, and entrenched their guest worker system. As each of the six GCC states began managing increasing numbers of guest workers, there was a gradual convergence around the transfer of authority and regulation of residency decisions from the Ministries of Labor to the Ministries of Interior. This move signaled the beginning of a trend towards the domestic centralization of authority over residency and naturalization decisions. Guest workers, who were already present in the oil industry since the 1930s, were now brought in to assist in virtually every aspect of state-building, providing skilled and unskilled labor for infrastructural development, education, healthcare, and transportation. Prior to the 1970s oil boom, more than 80 percent of the migrant workers in the Gulf region were Arabs, mainly from Egypt, Syria, Yemen and Palestine. Migration to the Gulf surged after the 1973 oil price hike, with higher numbers of migrants from poorer Arab nations like Egypt and Yemen rising especially. About 1.3 million migrants were estimated to be in the region in 1975 (Rahman 2010). A second price hike in 1979 and the subsequent rise in government revenue led the Gulf States to implement more developmental initiatives and increase the importation of foreign labor. The percentage of Arab migrant workers began declining, primarily due to the inflow of Indians, Pakistanis, Sri Lankans, and other Asian workers. This replacement of Arab expatriates with Asians continued as a dominant demographic trend in the 1990s.

The preference for Southeast Asian workers over Arab workers became especially apparent following the Gulf War, due to a perception that certain Arab migrants had sided with Iraq in the Gulf War, and therefore posed a security threat. Virtually overnight, naturalized Palestinians in Kuwait, Egyptian migrants in Iraq, and Yemenis in Saudi Arabia all became 'enemies of the state' for being from the nationality of the opposite camp. Over three million legal Arab immigrants were forced to leave the Gulf, regardless of their actual stance on the conflict. This included a mass 'return' of Palestinians from the Gulf to Jordan because of the Palestinian Liberation Organization's position on Iraq (Van Hear 1993; Van Hear 1995). The Gulf War had massive ramifications for not only the migrants in the Gulf but also the way that Gulf governments began perceiving their dependence upon labor migrants. As Fargues explains, 'political lessons were drawn by states that possess the most strategic resources, but with neither the demography nor the social systems to defend themselves. The war was an occasion for them to reassess their vision of labor and to adopt nationalization policies of their workforce' (Fargues, 2011: 279). The Gulf War helped

solidify and spread the idea that depending upon migrant labor was a national security threat and that made Gulf societies vulnerable. In its aftermath, stringent naturalization policies gained popular support as naturalized citizens in the Gulf were depicted as being motivated by the economic benefits of citizenship and not sufficiently allegiant or loyal. Moreover, the economic crisis that followed the Gulf War only served to heighten the growing resentment against migrants. Reconstruction had to be paid for with cheap oil and, for the first time, migrants came to be viewed by citizens as economic competitors. The political developments of the 1990s thus only served to entrench the barriers against migrant incorporation, with the Ministries of Interior taking active roles in instituting new security initiatives in response to regional conflict and changing demographics.¹⁷

Concretely, the centralization of the *Kafala* under the purview of the Ministry of Interior works in the following way: national citizens and companies in the Gulf apply for labor permits through the Ministries of Labor, but the approval for the residency permit must come from the Ministries of Interior which issue individualized security clearances and permits. It is thus the Ministry of Interior—not the Ministry of Labor, or the Ministry of Justice—that wields the ultimate authority over how long an individual worker can stay in the country under a labor contract. Since the Ministry of Interior also controls the domestic security forces, this means that the same institution that administers residency decisions also has the necessary resources at its disposal for enforcing those decisions. Once a residency permit has been denied or revoked, the Ministry of Interior does not have to coordinate with a separate government entity to find, remove, and deport the guest worker (now deemed an ‘illegal’ or an ‘infiltrator’). More importantly, in addition to being able to unilaterally make and enforce deportation decisions, it is this same institution, the Ministry of Interior, that also wields the authority to decide upon and enforce naturalization decisions.¹⁸ All of the avenues for legal residency are centralized and controlled by the state security apparatus. This highly centralized control over the citizen/non-citizen boundary has meant that the Gulf states have increased their labor forces without expanding their citizenries. ‘Decades of intense, but temporary, migration have resulted in citizens and non-nationals growing as two separate entities without a new, mixed, population emerging from their co-existence’ (Fargues 2011: 280). In other words, the region’s current challenge of a ‘demographic imbalance’ is an unintended

17 For a more detailed discussion of the institutional developments of the Ministry of Interior in the 1990s in the UAE, see Lori (2011).

18 For a more detailed explanation of how naturalization policy is highly securitized by the Ministry of Interior in the case of the UAE, see Lori (2011). For a case by case explanation of the naturalization laws in each of the GCC states, see Parolin (2009) or Fargues and Brouwer (2011) for a summary. In general, naturalizations were more inclusive between the 1950s-1970s. After the 1970s, in response to massive numbers of guest workers, the legislation on nationality regulations across the GCC became more restrictive.

consequence of its successes in enforcing migration policy and preventing migrant incorporation.

Citizen-Sponsors and Dispersed Enforcement

By now the *Kafala* is an extensive and institutionalized Inter-Asian guest worker scheme that moves millions of people and generates billions of dollars for sending and receiving countries annually. At the base of this extensive structure are individual-level linkages between Gulf citizens (or national firms) and non-citizen workers. This is an integral structural feature of the guest worker system in the Gulf.¹⁹ Indeed, the words *Kafala* (sponsorship) and *Kafeel* (the sponsor) come from the Arabic root *k-f-l*, meaning to be a guardian, vouch for, or otherwise take responsibility for someone. Several sources suggest that the *Kafala* emerges out of the Bedouin customs of temporarily granting strangers shelter, food, protection, and even tribal affiliation for specific purposes (A. N. Longva 1997 cited in Heeg 2010: 6). Individual-level linkages between the citizens and their 'guests' thus build upon tribal narratives of hospitality, and fit well with the official state nationalisms of the Arab Gulf states. More importantly, however, citizen sponsorships provide Gulf governments with a widely dispersed mechanism for enforcing the temporary residency of non-citizens.

In the *Kafala* system, the residency of a foreign worker is merged with and tied to his or her labor contract. This is not an open system that allows foreign workers to have residency visas to legally enter the country and then compete in the labor market for jobs. Rather, each non-citizen worker enters the country already tied to a particular job that is sponsored by a national citizen or company (*Kafeel*). Whether through direct recruitment or through recruitment agencies, this sponsor-employer identifies the non-citizen worker he/she would like to hire and then applies for a visa on behalf of that specific worker. In so doing, the *Kafeel* agrees to assume the legal and economic responsibility for the worker for the duration of their

19 Citizen sponsorships have been used to enforce migration elsewhere. Notably, Italy experimented with a similar sponsorship system as part of a package of legal reforms in 1998 that were aimed at managing the country's shift from being a primarily migrant-sending country to becoming a migrant-receiving one. Law No. 186/98 was the first attempt at implementing a coherent immigration policy for integrating migrants, establishing quotas, and more successfully restricting undocumented immigration. The Italian sponsorship system was less rigid than the *Kafala*, but the principle was the same: a citizen, an institution, a NGO 'invites' a migrant to work, and is financially responsible for his or her salary, accommodation, and general wellbeing. This system was reformed in 2002 (Law No. 189/2002), abolishing the direct sponsorship relationship and replacing it with the concept of a 'stay permit for employment purposes' that allows foreigners to enter and stay in Italy as long as they have a job. See Bertozzi (2002) and Levinson (2005).

stay in the country and inform the Ministry of Interior of any change in the labor contract (expiry, renewal, or cancellation), or in the worker's domicile or civil status. The *Kafeel* is financially responsible for repatriating the worker as soon as his or her contract is fulfilled or terminated. This process of 'vouching' for someone is not unlike the enforcement mechanism that is used by banks or bail-bonds when they require a third-party to co-sign on a loan or bond with the borrower and be held responsible in the case of defection. This sponsorship arrangement effectively privatizes some of the costs of migration enforcement by directly holding individual citizens financially and legally accountable for each and every non-citizen. Citizen-sponsors are thus a very important appendage of the state in the enforcement of temporary residency; 'through the *Kafala*, states delegate to private citizens the surveillance of migration' (Shah and Fargues 2011: 268).

The *Kafala* has been criticized by the international community for constricting the mobility of labor and placing foreign employees in a structural position of vulnerability (A. Longva 1999; Human Rights Watch (Organization) and Varia 2008; Rahman 2010; Turner, Varia, and Human Rights Watch (Organization) 2007). Dependence on sponsors can breed human rights violations by systematically subjecting workers to abuse and exploitation. While the cost of a visa (also known as a visa bond) is supposed to be paid by the sponsor, there is little protection against externalizing these costs to the migrants themselves. Moreover, even if the sponsor does not externalize these costs to the migrants, recruitment agencies and sub-recruiters in the sending countries often charge migrants for seeking employment in the Gulf. The costs of paying for visas to enter the Gulf can be so high that some guest workers incur large debts to gain employment and are effectively forced to stay in unfavorable work environments until their debts are paid off. And since their labor rights are tied to their residency, workers have little recourse to contest unpaid wages or the retention of their passports. There are labor laws that protect foreign workers and enable them to sue their employers, but since the employer and sponsor are the same person, it means that, while the trial is pending, the plaintiff is unemployed and forbidden to work for anyone else. And 'a sponsor may resort to pre-emptive measures, such as accusing the worker of some morally reprehensible behavior that could lead to his or her deportation' (A. Longva 1999: 22). Even if a foreign worker successfully wins a court case against an employer, the outcome of the conflict will mean the termination of their employment and hence their residency visa. The worker will thus have to return to his or her country of origin and repeat the costly recruitment process once again.

Since the sponsorship system holds individual citizens responsible for repatriating guest workers, Gulf governments are formally able to discourage visa overstaying and evade one of the

most notoriously difficult aspects of migration enforcement.²⁰ However, this mechanism completely depends upon citizens to comply with the terms of sponsorship, and thus the very structural feature that is used to enforce the restrictions on residency can also be used to subvert those restrictions. The subsequent section explains how citizen/non-citizen linkages are also a key mechanism for *extending* the residency of non-citizens. The *Kafala* relationship, since it was institutionalized legally, has always been accompanied by systematic informal practices that allow the private sector to counter the restrictions the state has placed on the residency and family reunification of guest workers.

20 Nearly half of the estimated twelve million undocumented aliens in the US are visa overstays (Brown 2010: 88).

Informal Institutions: Subverting Temporary Residency

If the formal institutions of the *Kafala* sufficiently explained migration outcomes in the Gulf, we would expect the official stance of Gulf governments to hold—that is, all non-citizens are temporary workers who leave after a fixed period of time and do not turn into permanent migrants. Instead, ‘the Gulf countries are experiencing that many guest-workers gradually transform into immigrants, but governments do not yet formally acknowledge this fact’ (Fargues and Brouwer 2011: 240). Over the course of the past 30 years, there has been a continuous rise in the number of non-citizens residing in the region, and increasingly, they are joined by their spouses, giving birth to a second (and even third) generation of immigrants, and finding formal and informal ways of staying past retirement. While data on the indicators of permanent migration is sporadic and scarce, the official figures and studies that do exist suggest that non-citizens are informally, yet systematically, turning into permanent migrants. The first part of this section briefly highlights the findings from recent publications that aim to measure the degree to which temporary labor migrants are turning into permanent immigrants. Two new studies in particular comprehensively assess the available national census data from all six states to argue that *de facto* permanent residency is occurring across the GCC (Baldwin-Edwards 2011; Fargues and Brouwer 2011).²¹ There are two indicators for measuring the extent to which temporary contractual workers are gradually turning into permanent migrants:

- 1) Long duration of residency, measured as
 - over ten years of residence
 - past the retirement age of 65

21 The proxy measures for permanent migration used in this section are taken from these studies. However, the estimates diverge because where possible I have updated the data to reflect the most recent census data that has been made available (particularly for Bahrain and Oman).

- 2) Family reunification, measured through
 - migration of non-national spouses
 - birth or migration of non-citizen children, especially outside the labor force and/or under the age of fifteen.

Duration of Residency and Settlement

Official data on the duration of residency for non-citizens is not widely available. Several recent ethnographic studies suggest that foreign communities in the Gulf are developing sustained ties to the host country and stay well beyond the usual estimate of ten years of residency. Andrew Gardner's work on the Indian diaspora in Bahrain, as well as Sharon Nagy's study of Bahrain, both suggest that foreign communities in Bahrain are well-entrenched and have been for decades (Gardner 2008; Nagy 2010). Only one of the Gulf States, the United Arab Emirates, published data on the duration of residency in its 2005 Census.²² *Figure 2* presents the non-citizen population by length of duration in the UAE and age group. This data does not reflect irregular migration or the status of stateless populations (*bidoon*).

Figure 2 reveals three points about the patterns of non-citizen residency in the UAE. The first observation is that about a third (28 percent) of the total non-citizen population has lived in the UAE for over ten years, indicating that non-citizens are not as 'transitory' as official accounts suggest. Second, the modal duration of residence is one to four years, with 44 percent of the population residing in the UAE for that brief a period. However, approximately 15 percent of the individuals in the one-to-four year group are actually under the age of fifteen, and are thus more likely to be children of migrants than temporary contractual workers. Indeed, about a fifth of the total population is under nineteen years old, and over half of that group (53 percent) have resided in the country for between fifteen and nineteen years, which suggests that they were likely born in the country. A final observation concerns the aging non-citizen population. In absolute numbers, 30,524 people (8 percent) are over 60 years old. About a third of this group (29 percent or 8,986 people) have resided in the UAE for over 30 years and an additional 35 percent (10,696) have spent anywhere between ten and 29 years of their lives in the UAE.²³

22 The National Bureau of Statistics has not included more recent data on duration of residency in its subsequent publications.

23 While the naturalization laws (Federal Law no. 17 of 1972) of the UAE designate 30 years as the duration of residency that makes non-Arab expatriates eligible for Emirati citizenship, few non-citizens are naturalized even if they have lived in the

This suggests that there is an aging population of non-citizens who have spent most of their working lives in the UAE and are approaching the age where they will either have to find a new place to relocate or find a way (informally or formally) to stay past retirement. 40 percent of them are already over the official retirement age of 65.²⁴

country for over that time period. In the UAE, as in elsewhere in the Gulf, naturalization decisions are channeled through the Ministry of Interior and are calculated on a case-by-case basis.

²⁴ There are a variety of restrictions placed on the renewal of labor contracts and residency visas for non-citizens after they have reached the retirement age of 65 (and in some cases upon reaching the age of 60). The specific restrictions vary across country-cases, economic sectors, and professions. In Kuwait, for example, more than 400 expatriate teachers were recently unable to renew their contracts upon reaching retirement age. Special concessions were made for employees who had children in the 12th grade in a public school, and some education consultants. Otherwise, officials from the Ministry of Education explained that once expatriate employees reach the age of 60, they are only able to renew their labor contracts for a two-year period, after which they must retire and leave the country (Staff, Al Jarida 2012).

Figure 2: Duration of Residency (UAE)

Age	Duration (years)									Total	%
	<1	1—4	5—9	10—14	15—19	20—24	25—29	>30	n.d.		
0-4	21,492	153,217	0	0	0	0	0	0	0	174,709	5
5-9	2,854	39,302	125,121	0	0	0	0	0	0	167,277	5
10-14	1,850	25,218	28,872	88,750	0	0	0	0	0	144,690	4
15-19	3,723	24,665	16,432	13,792	65,503	0	0	0	0	124,115	4
20-24	31,481	216,606	27,348	7,938	6,832	39,916	0	0	0	330,121	10
25-29	34,636	378,511	119,954	16,360	5,127	5,120	21,546	0	8	581,262	18
30-34	10,869	284,934	194,932	57,277	10,936	4,716	3,404	9,216	23	576,307	18
35-39	14,191	157,644	151,994	83,996	31,919	9,310	3,338	6,453	18	458,863	14
40-44	7,632	77,438	77,056	67,141	41,517	25,043	8,550	5,873	12	310,262	9
45-49	3,881	36,534	38,850	35,746	29,275	26,750	19,276	9,164	4	199,480	6
50-54	1,616	16,613	16,500	16,154	14,455	17,877	20,553	14,913	4	118,685	4
55-59	746	6,584	5,848	5,544	5,422	6,832	10,313	11,538	1	52,828	2
60-64	288	2,392	1,770	1,409	1,350	1,681	2,482	5,250	0	16,622	1
65-69	154	1,058	642	438	386	457	740	1,964	0	5,839	0
70-74	132	655	365	229	195	219	246	1,007	0	3,048	0

Duration (years)											
Age	<1	1—4	5—9	10—14	15—19	20—24	25—29	>30	n.d.	Total	%
75-79	40	450	196	90	78	114	92	370	0	1,430	0
80-84	18	212	114	85	55	77	60	235	0	856	0
>85	23	137	96	53	45	64	51	159	0	628	0
n.d.	2	0	0	0	0	0	0	1	2,098	2,101	0
Total	135,628	1,422,170	806,090	395,002	213,095	138,176	90,651	66,143	2,168	3,269,123	100
%	4%	44%	25%	12%	7%	4%	3%	2%	0%	100%	

Source: Table 11, UAE Census 2005; Partially reprinted in Baldwin-Edwards (2011)

To assess the degree to which settlement past retirement is occurring across the GCC, *Figure 3* presents the most recent census data on the over 65 age group by nationality in each state (with the exception of Qatar since it has not made these estimates publicly available). The age composition of the total population is generally skewed towards the working ages (15-65). Among citizens, the aging population is already small (between 4 percent in Bahrain and 2 percent in Kuwait and the UAE), and this proportion shrinks even more in the case of non-citizens. Non-citizens over the age of 65 years old make up only 1 percent (at most) of the total non-citizen population in each country. However, among the 65 and older age group, there is a sizable non-citizen presence in at least two cases. Non-citizens make up approximately a third of the over 65 population in the UAE (35 percent) and Kuwait (32 percent). In the remaining three cases for which estimates are available, non-citizens make up approximately 10 percent of the over 65 population. These findings suggest that foreign communities are most settled in the UAE and Kuwait, an observation that differs from Fargues and Brouwer's assessment that Saudi Arabia is experiencing the highest levels of settlement past working ages.²⁵

25 There is a large discrepancy in the estimates used by Fargues and Brouwer and myself for the age and nationality distribution in Saudi Arabia in 2007. In figure 5 (the population of citizens and non-citizens under the age of fifteen), the estimates I use are identical to those used by Fargues and Brouwer. In figure 3 (the population of citizens and non-citizens over the age of 65), the figures diverge greatly even though both tables are from the same data source (table 2.2 of the 2007 census). The estimates I employ from the 2007 census suggest that the elderly population in Saudi Arabia is significantly smaller than estimated by Fargues and Brouwer (675,915 instead of over 24 million). The figures used by Fargues and Brouwer on Saudi Arabia are: nationals over 65: 18,102,937; non-citizens over 65: 6,553,812; total population over 65: 24,656,749; and non-nationals make up 27 percent of the over 65 age group. These numbers are very high and do not align with other characterizations of Saudi Arabia as having a demographically young population. 60 percent of Saudi Arabia's population is under the age of 29. There is also a slight discrepancy (less than 1 percent) between my figures for Kuwait (2005) and those used by Fargues and Brouwer though they are for the same year. The figures published here were taken from Kuwait's 2010 statistical abstract edition 47.

Figure 3: Population over 65 years of age by nationality

Country	Nationals over 65	Non-citizens over 65	Total population over 65	Percentage of non-citizens in over 65 population	National population over 65 as proportion of total national population	Non-citizens over 65 as proportion of total Non-citizen population
Bahrain (2010)	23,577	2,657	26,234	10%	4%	<1% (0.3%)
Kuwait (2005)	24,916	11,903	36,819	32%	2%	<1% (0.8%)
Oman (2010)	68,681	5,132	73,813	7%	3%	<1% (0.6%)
Saudi Arabia (2007)	609,573	66,342	675,915	10%	3%	1%
United Arab Emirates (2005)	21,728	11,801	33,529	35%	2%	<1% (0.3%)

Family reunification: Spouses and Children

The second way to measure the extent to which non-citizens in the Gulf are becoming permanent migrants is family reunification through the immigration of non-citizen spouses and the birth or migration of non-citizen children. There is no data that directly links individual guest workers with their dependent spouses. The possibility of family reunification is generally more available to high-skilled workers in the private sector and is not permitted for all categories of temporary workers, especially domestic workers and construction workers. Aggregating the official data (2008) on non-citizen women and children outside the labor force (which is only available for Bahrain, Oman, and the UAE), Baldwin-Edwards calculates the *figure 4* as a proxy for family presence:

Figure 4: Non-citizen population not working (all ages) and foreign children <15 in the GCC, 2008 (000s)

	Saudi Arabia	Kuwait	Bahrain	Oman	Qatar	UAE
Foreign population not in labor force	2,410.0	624.0	111.0	91.0	284.0	1,285.0
Of which aged, 0-14	-----	----	53.1	106.6	----	486.7

Source: (Baldwin-Edwards 2011: 30)

In Bahrain and the UAE, the data suggest that roughly half of the non-working non-citizens are under the age of fifteen. The remaining are either spouses (this data is based on the assumption that these spouses are female) or older children who are outside of the labor market. As Baldwin-Edwards points out, in the case of Oman the data do not make sense as there are more children than the total population of non-citizens outside of the labor force, even though the calculations use the same official source for both figures. The omissions of Saudi Arabia, Qatar, and Kuwait make it difficult to draw a firm conclusion based on this data. However, citing qualitative studies done on these cases alongside the figure above, Baldwin-Edwards argues that ‘although the majority of GCC “expatriates” are temporary single migrants, there is a very large minority (of unknown proportion) that is settled and probably with family’ (Baldwin-Edwards 2011:35).

Another proxy for family reunification is the proportion of non-citizens under the age of fifteen, illustrated in *figure 5* below. The presence of non-citizen children suggests that there is a growing second generation of immigrants, and the available data likely underestimate the size of this second generation as they do not reveal the presence of those born in the region who are now well over the age of fifteen and part of the population of ‘guest workers’ in the labor force. The majority of the non-citizen population is found in the working age group of 15-65, but the table below reveals several points about non-citizen children in particular.

Figure 5: Children under 15 years of age by nationality

Country	Nationals Under 15	Non-citizens Under 15	Total population under 15	Percentage of non-citizens in under 15 population	National population under 15 as proportion of total national population	Non-citizens under 15 as proportion of total Non-citizen population
Bahrain (2010)	180,934	66,668	247,603	27%	31.8%	10%
Kuwait (2005)	341,651	205,417	547,068	37%	62%	13%
Oman (2010)	690,701	81,136	771,837	10%	35%	10%
Saudi Arabia (2007)	6,512,096	1,270,900	7,782,996	16%	37%	20%
United Arab Emirates (2005)	313,872	486,706	800,578	61%	38%	15%

First, non-citizen children are a proportionally smaller group than their national counterparts, with non-citizens under fifteen accounting for 10 to 20 percent of the total non-citizen population as opposed to nationals under the age of fifteen who make up 30 to 60 percent of the national population. However, non-citizens under the age of fifteen comprise a sizeable block of the total youth population. As Fargues and Brouwer point out, non-citizen children account for approximately two million of the ten million children under the age of fifteen in the region (excluding Qatar), or 20 percent of the region's youth. In Oman and Saudi Arabia, the only two states in which citizens outnumber noncitizens, non-citizen children are still a minority of the youth population (12 percent and 16 percent). However, in Kuwait they make up close to 40 percent of the population under fifteen years old, and in the UAE they already comprise the majority (61 percent) of the country's youth. Given the fact that, especially in recent years, Qatar is increasingly matching the UAE in its ratio of citizens to non-citizens, it is likely that non-citizens also make up the majority of Qatar's youth population. This cannot be validated without nationality data on the population less than fifteen years of age. The official data reveal aggregate numbers of the population under fifteen, and specifies between citizens and non-citizens over the age of ten. In absolute figures the population aged under fifteen years is 232,584, approximately 13 percent of the total population.

Considering that this citizen and non-citizen youth population is larger than the *total* number of citizens over the age of ten (there are only 174,279 Qataris or 11 percent of the population) there is reason to surmise that non-citizens make up a sizeable portion of the country's youth as well. This census data, as well as the studies of Baldwin-Edwards and Fargues and Brouwer, all indicate that there is a growing population of young non-citizens for whom 'return' migration is meaningless because they have spent most—if not all—of their lives in the UAE. This assessment can only be fully confirmed when the governments of the GCC collect data on family reunification and make it publicly available. However, since the official data lumps all non-citizens into one group, what it does not and cannot show is that this transition from temporary worker to permanent migrant is not occurring uniformly for all non-citizens.

The extent to which non-citizens are able to reside in the Gulf for long periods of time with their families is highly differentiated across the labor force. I argue that two informal institutions critically shape non-citizen access to permanent residency and family reunification. This argument builds on studies in comparative politics that show how the analysis of formal rules is often insufficient for explaining political outcomes. The institution of the *Kafala* defines the formal rules that actors have to abide by, but actors also systematically develop informal rules that complement or subvert formal restrictions. Helmke and Levitsky define informal institutions as 'socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels' (Helmke and Levitsky 2003: 9). Informal institutions are distinct from weak institutions, informal behavioral regularities, culture, or informal organizations. They interact with formal institutions in four ways. When formal institutions are effective, informal institutions can be complementary (compatible goals) or accommodating (incompatible goals). When formal institutions are ineffective, informal institutions can substitute (compatible goals) or compete (conflicting goals) with formal institutions. This section identifies and explains two informal institutions that accompany the *Kafala* system—one complements the *Kafala's* formal institutions, the other is accommodating of them.

Hierarchies of Non-Citizen Residency

The first of these institutions is the informal hierarchy of the labor force, determined by the national origin, ethnicity, class, education, and/or skill level of non-citizens. This hierarchy sets the unwritten rules for how both state bureaucracies and private firms respond to non-citizens and citizens alike. This informal institution explains why the *Kafala* systematically produces patterns of institutional discrimination or exclusion against citizens themselves (such as the preference for and higher wages paid to 'white-collared' European

and American non-citizens over citizens in the private sector). In order to make sense of and differentiate between members of an extremely heterogeneous labor force, state and non-state actors systematically utilize shared understandings about the 'reservation wage' or 'value' of labor, determined by national origin and skill level. The foreign populations in the Gulf are far from monolithic; they are 'fragmented first by nationality and then further divided by ethnicity, education, employment, and economics. In some instances, economics — earning power — and education connect people from disparate ethnic and national origins, while in others, ethnicity and employment are so inextricably connected that education is immaterial' (Bristol Rhys 2010: 25). This hierarchy melds with pre-existing ideologies about genealogy, nationhood, and citizenship that state-building initiatives have successfully instantiated in the public sphere and civic culture of the Gulf. But racial hierarchies also travel with migrants themselves. Bristol Rhys notes how some foreign communities (citing Indians, Egyptians, and Pakistanis in the UAE) have reproduced in the Gulf the socio-economic hierarchies that structure and stratify society in their home countries. She argues that 'the labor policies and practices of the UAE appear to have reinforced class divisions within migrant communities rather than, as one might anticipate, the development of transcendent transnational identities, a new ethos of commonality predicated on the shared experience of migration' (2010: 25). In other words, ethnic and socio-economic hierarchies of non-citizens complement the formal rules that structure migrant exclusion in receiving countries.

As a complementary informal institution, this hierarchy "fill(s) in the gaps" left by formal institutions—addressing problems or contingencies that are not explicitly dealt with in the formal rules—without violating the overarching formal rules' (Helmke and Levitsky 2003:12). Although these hierarchies are not codified in the formal laws of the Gulf, they provide bureaucracies with an unwritten script for how to deal with diverse populations. State actors openly acknowledge that different procedures and restrictions apply to different groups of non-citizens. As UAE permanent representative to the UN Al-Shamsi explains, 'due to differences in the nature, cultures and nationalities of expatriate workers, systems and regulations applied in the GCC countries for the recruitment of these workers are not uniform' (Ghaemi 2006: 74). Critically, a non-citizen's national origin, ethnicity, socio-economic status, and education fundamentally structure his or her interactions with the state. These factors impact everything from what kind of health screening he/she must undergo, how often he may renew his residency permit, how susceptible he is to deportation and arrest, how easily he can gain access to state resources, whether he can be accompanied by his family members, even what spheres of consumption he has access to.

Citizen-Sponsors and Extending Residency

Non-citizen access to permanent residency is also structured by the degree to which a particular non-citizen has access to citizen support. The literature on the *Kafala* tends to emphasize the antagonistic dimensions of interpersonal relations between citizens and non-citizens because the sponsorship system makes particular groups of non-citizens highly vulnerable to abuse. However, this literature focuses almost exclusively on the relations between nationals and lower-income non-citizens in specific sectors—especially domestic²⁶ and construction work.²⁷ It is extremely important to document the very real and systematic abuses these workers face and this growing literature has done much to illuminate the structural violence of the *Kafala* as it impacts on lower-income workers. However, focusing solely on the abuses occurring in those sectors or treating them as being representative of the entire system glosses over the complexity of the multi-dimensional power relations between citizens and non-citizens that the *Kafala* produces. The dominant narrative paints the citizen and non-citizen populations as having grown independently of one another, and low intermarriage and naturalization rates mean that formally these two populations are not inter-mixing. However, this picture starkly draws a boundary that is transgressed daily. Citizens interact and build relationships with non-citizens in every aspect of their lives: in the domestic sphere, in the workplace, in the service industry, in restaurants, in malls, in mosques, on the streets—everywhere. Particular economic sectors (like farming or construction) that employ temporary guest workers become permanent immigration channels because employers in the receiving country come to rely on foreign workers, and those workers build attachments to the host country. In the Gulf this interdependence takes on much larger dimensions—entire economies have been built on citizen/non-citizen attachments. Thus, while the formal institutions of the *Kafala* are designed to uproot migrants, citizens and non-citizens also simultaneously and continuously form linkages that work against these restrictions. Once the analytical lens is broadened and the focus is shifted from interpersonal relations to the interaction of the formal and informal institutions of the *Kafala*, it becomes possible to observe how citizens' goals align with those of non-citizens to facilitate permanent migration—even as competition and hierarchical relations between these groups are reproduced.

Profit seeking and trust networks can transform the *Kafeel* from an enforcer of restricted residency into a conduit for extending

26 See Chin (1998); Ehrenreich and Hochschild (2003); Esim and Smith (2004).

27 See Degorge (2006); Ghaemi (2006); Keane and McGeehan (2008); Heeg (2010).

non-citizen residency. Firms and citizens work alongside non-citizens to subvert the formal rules of the *Kafala* without openly breaking them. These accommodating informal institutions have enabled non-citizens to systematically settle in the Gulf by tempering and modifying the formal restrictions on their settlement from the bottom up. As Helmke and Levitsky explain, 'accommodating informal institutions can be viewed as a "second best" strategy for actors who dislike outcomes generated by the formal rules but are unable to change or openly break those rules. They violate the spirit, but not the letter, of the formal rules' (Helmke and Levitsky 2003:13). This accommodating informal institution of citizen vouching can occur in the form of individualized support for a particular non-citizen to continue working and living in the country (sometimes even after the non-citizen has unofficially retired). Employers prefer to limit the turnover of guest workers for several reasons; some of these are 'economic' (they aim to minimize the costs of training new employees), but also because sustainable economic ties are often built upon important social ties of trust and partnership. Ties between citizens and non-citizens can also enable family reunification to occur as citizens depend upon the non-citizens that work for or with them to vet and choose new employees from the same sending country. For example, Neha Vora's analysis of the elite Indian diaspora in Dubai argues that foreign business owners are not only well-entrenched, they are a crucial facet of governing lower-income migrants and act in some ways as unofficial citizens of the city-state (Vora 2010). Moreover, citizens do not only align with non-citizen elites, the networks they build can enable categories of non-citizens who would otherwise not have access to family reunification—particularly domestic workers—to bring their families with them to work in the same or related households. A second way that citizens can subvert the restrictions of the *Kafala* system is by using their citizenship to earn profits off of residency permits. While visa costs are supposed to be paid for by the sponsoring citizen or firm, sponsors can take advantage of the system by charging migrants monthly fees to have a 'free visa.' 'Free visas' enable non-citizens to reside in the country and look for employment by a third party. Because the *Kafala* relationship can be used to subvert migration enforcement in a variety of ways, I argue that it increases the sustainability (but not efficiency) of the formal guest worker program by diluting the pressures for change.

Concluding Remarks

The interaction of formal and informal institutions explains how, despite strongly enforced formal restrictions on residency, some groups of non-citizens are gradually settling in the Gulf. Non-citizens are able to permanently reside with their families in the region, but this is occurring in a highly differentiated way across the labor force. There are two structural features of the *Kafala* that make it an effective formal institution: the first is its centralized administration through the Ministries of Interior, and the second is its diffused enforcement through citizen-sponsors. Even though these structural features make it so that the rules of the *Kafala* are routinely enforced and complied with, the very mechanisms that lead to migration enforcement can be used to subvert these restrictions. The effectiveness of temporary residency policies is shaped and tempered by two informal institutions. The first of these, the hierarchy of labor value, is a complementary informal institution driven by both state and non-state actors to differentiate in the treatment of an extremely diverse labor force. These unwritten rules critically shape which groups of non-citizens have access to more permanent forms of residency and family reunification and which ones experience the full force of stringent citizenship and settlement policies. A second informal institution competes with and subverts restrictive settlement policies; citizens use their roles as sponsors to extend the temporary residency of non-citizens when it suits their interests.

References

Al-Khouri, A. (2010). "The Challenge of Identity in a Changing World: The Case of GCC Countries." In *2010 Exeter Gulf Studies Conference*. University of Exeter, Exeter, UK.

Baldwin-Edwards, M. (2011). "Labour Immigration and Labour Markets in the GCC Countries: National Patterns and Trends." *Kuwait Programme on Development, Governance and Globalisation in the Gulf States*.

Bertozzi, A. (2002). "Italy's Recent Change from an Emigration Country to an Immigration Country and Its Impact on Italy's Refugee and Migration Policy" presented at the Ministry of Foreign Affairs, Rome; Directorate General for Migration Policies, November 15, Rome.
<http://www.cicerofoundation.org/lectures/bertozzi_nov02.html>.

Bristol Rhys, J. (2010). *A Lexicon of Migrants in the United Arab Emirates*. Migration and the Gulf. Washington, D.C.: Middle East Institute.

Brown, E. M. L. (2010). What the US Can Learn from the Gulf States About Immigration: Visa Bonds and a Novel Proposal for Financing Them. Viewpoints: Migration and the Gulf. Washington, D.C.: The Middle East Institute.

Castles, S. (1986). "The Guest-Worker in Western Europe: An Obituary." *International Migration Review* 20, 4: 761–778.

———. 2006. "Guestworkers in Europe: A Resurrection?" *International Migration Review* 40, 4: 741–766.

Chin, C. B. N. (1998). In Service and Servitude: Foreign Female Domestic Workers and the Malaysian 'Modernity' Project. New York: Columbia University Press.

Degorge, B. (2006). "Modern Day Slavery in the United Arab Emirates." *The European Legacy* 11, 6: 657–666.

Dito, M. (2008). *GCC Labour Migration Governance*. United Nations Expert Group meeting on International Migration and Development in Asia and the Pacific. Bangkok, Thailand: United Nations Population Division.

Economist Intelligence Unit, and J. Kinninmont. (2009). *The GCC in 2020: The Gulf and Its People*. Doha: Economist Intelligence Unit, The Economist.
<<http://graphics.eiu.com/upload/eb/Gulf2020part2.pdf>>.

Ehrenreich, B. and A. R. Hochschild. (2003). *Global Woman: Nannies, Maids, and Sex Workers in the New Economy*. New York: Metropolitan Books.

Esim, S. and M. Smith. (2004). *Gender and Migration in Arab States: the Case of Domestic Workers*. Beirut: International Labour Organization.

Fargues, P. (2011). "Immigration Without Inclusion: Non-Nationals in Nation-Building in the Gulf States." *Asian and Pacific Migration Journal* 20, 3-4: 273–289.

Fargues, P. and I. Brouwer. (2011). "GCC Demography and Immigration: Challenges and Policies." In *Market, Unemployment and Migration in the GCC*, by Steffen Hertog, 239–271. Gulf Research Centre.

Forstenlechner, I. and E. J. Rutledge. (2010). "The GCC's 'Demographic Imbalance': Perceptions, Realities and Policy Options." *Middle East Policy Council* Winter. <<http://www.mepc.org/journal/middle-east-policy-archives/gccs-demographic-imbalance-perceptions-realities-and-policy-options?print>>.

Gardner, A. M. (2008). "Strategic transnationalism: the Indian diasporic elite in contemporary Bahrain." *City & Society* 20, 1: 54–78.

Ghaemi, H. (2006). *United Arab Emirates : Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates*. New York, NY: Human Rights Watch.

Van Hear, N. (1993). "Mass Flight in the Middle East: Involuntary Migration and the Gulf Conflict, 1990-1991." In *Geography and Refugees: Patterns and Processes of Change*, ed. R Black and V Robinson. London: Belhaven.

———. (1995). "The Impact of Involuntary Mass 'Return' to Jordan in the Wake of the Gulf Crisis." *International Migration Review* 29, 2: 352–374.

Heeg, J. (2010). "Gender, International Trafficking Norms and Gulf Migration." <http://citation.allacademic.com/meta/p_mla_apa_research_citation/5/0/2/9/0/pages502906/p502906-1.php>.

Helmke, G. and S. Levitsky. (2003). "Informal Institutions and Comparative Politics: A Research Agenda." *Kellogg Institute for International Studies Working Papers* Working Paper 307 (September). <<http://kellogg.nd.edu/publications/workingpapers/WPS/307.pdf>>.

Human Rights Watch (Organization) and N. Varia. (2008). *'As if I am not Human': Abuses against Asian Domestic Workers in Saudi Arabia*. New York: Human Rights Watch.

Kapiszewski, A. (2006). *Arab Versus Asian Migrant Workers in the GCC Countries*. United Nations Expert Group Meeting on

International Migration and Development in the Arab Region. Beirut: United Nations, Population Division, Department of Economic and Social Affairs.

Keane, D. and N. McGeehan. (2008). "Enforcing Migrant Workers' Rights in the United Arab Emirates." *International Journal on Minority and Group Rights* 15, 1: 81–115.

Levinson, A. (2005). *Regularisation Programmes in Italy*. The Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies. Oxford: Centre on Migration, Policy and Society, University of Oxford.

Longva, A. (1999). "Keeping Migrant Workers in Check: The Kafala System in the Gulf." *Middle East Report* 211 (Summer): 20–22.

Longva, A. N. (1997). *Walls Built on Sand: Migration, Exclusion, and Society in Kuwait*. Boulder, Colo.: Westview Press.

Lori, N. (2011). "National Security and the Management of Migrant Labor: A Case Study of the United Arab Emirates." *Asian and Pacific Migration Journal* 20, 3-4: 315–337.

Martin, P. L. (2011). *There is Nothing More Permanent than Temporary Foreign Workers*. Backgrounder. Center for Immigration Studies. <<http://www.cis.org/articles/2001/back501.html>>.

Martin, P. and M. Miller. (1980). "Guestworkers: Lessons from Western Europe." *Industrial and Labor Relations Review* 33, 3: 315–330.

Migrants at Sea. (2011). "ECJ Rules Italy May Not Criminally Punish Illegally Staying Migrants Who Fail to Depart." *Migrants at Sea*. <<http://migrantsatsea.wordpress.com/2011/04/29/ecj-rules-italy-may-not-criminally-punish-illegally-staying-migrants-who-fail-to-depart/>>.

Nagy, S. (2010). *Families and Bachelors: Visa Status, Family Lives, and Community Structure Among Bahrain's Foreign Residents*. Migration and the Gulf. Washington, D.C.: Middle East Institute.

Parolin, G. (2009). *Citizenship in the Arab World: Kin, Religion and the Nation State*. Amsterdam: Amsterdam University Press.

Rahman, A. (2010). "Migration and Human Rights in the Gulf." In *Migration and the Gulf*. Middle East Institute Viewpoints Special Edition. Washington, DC: Middle East Institute.

Shah, N. (2008). "Recent Labor Immigration Policies in the Oil-Rich Gulf: How Effective Are They Likely To Be?" *International Publications* (January 1). <<http://digitalcommons.ilr.cornell.edu/intl/52>>.

Shah, N. and P. Fargues. (2011). "Introduction." *Asian and Pacific Migration Journal* 20. 3/4: 267–272.

Staff, Al Jarida. (2012). "404 Teachers Terminated on Reaching Retirement Age." *Kuwait Times*, June 20. <<http://news.kuwaittimes.net/2012/06/30/404-teachers-terminated-on-reaching-retirement-age/>>.

Staff, GCC. (2010). Process of the Customs Union of The Cooperation Council for the Arab States of the Gulf: 2002-2010. Gulf Cooperation Council. <sites.gcc-sg.org/DLibrary/download.php?B=386>.

The Peninsula. (2010). "Laqum Al Qarar: Expatriates Are the Future Threat of the Entire Gulf: HE Dhahi Khalfan Tamim." *The Peninsula*, December 29.

Turner, J., N. Varia, and Human Rights Watch (Organization). (2007). *Exported and exposed: abuses against Sri Lankan domestic workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates*. New York: Human Rights Watch.

Vora, N. (2010). *Business Elites, Unofficial Citizenship, and Privatized Governance in Dubai*. Migration and the Gulf. Washington, D.C: Middle East Institute.

Warrell, H. (2012). "Court's 'Hammer Blow' to Migration Cut." *Financial Times*, July 12. <<http://www.ft.com/intl/cms/s/0/6d03a618-d103-11e1-8a3c-00144feabdc0.html#axzz219YHFyhv>>.