

## Transnational migrants in Europe: stigmatization, juridicization and trade union activism

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## Transnational migrants in Europe: Stigmatization, juridicization and trade union activism

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## Abstract

Methodological nationalism restricts the focus on transnational migrants in Europe, in particular in the Upper-Rhine border area (France-Germany-Switzerland). Three main limitations can be underlined: to start with, the ignorance of nationalism in contemporary social science research, including in migration and border studies; moreover, the naturalization of the nation-state that contributes to shape numerous social science biases; finally, territorial limitations that constrain research topics (Wimmer and Glick Schiller 2002).

To overcome those issues, this research combines three methodological perspectives: first, a socio-historical analysis of transnational migrants in the Rhineland area, in order to comprehend past and contemporary dynamics; second, a socio-political approach that stresses the migrants' "ways of being" (Glick Schiller 2005), including their activism and rhetoric, e.g. direct observations and interviews in multiple sites; third, a pluri-scalar approach that implies several levels of analysis, e.g. local, regional, cross-border, transnational and supra-national.

The analysis of transnational migrants' public action in the Rhineland Valley suggests a triple hypothesis: those transnational migrants' activists elaborate a public discourse against a specific political and social stigmatization (Becker [1963] 1997); they also institutionalize and reinforce social movements with highly trained lawyers that defend their interests at the highest European jurisdictional level; they create empirically an original form of transnational quasi-trade unions.

## Introduction

Over the past forty years, an original social movement of transnational migrants has emerged in the southern part of Alsace (France), the Comité de Défense des Travailleurs Frontaliers du Haut-Rhin (CDTF), i.e. the Southern Alsace Cross-border Workers Defense Committee. The CDTF supports a majority of French transnational migrants who work in Switzerland; in 2009, 32,600 transnational migrants reside in Alsace and work in Switzerland (INSEE 2009). This paper seeks to understand how it has been forged, including its rhetoric, as well as its practices and instruments of collective action. Qualitative research methods will be stressed, including concerns that have been met during and after the research.

According to Luin Goldring and Sailaja Krishnamurti, two main approaches tend to structure the literature related to transnational migrants (2007, 10-11). On one hand, a pluridisciplinary approach analyzes transnational social fields, social spaces and flows (Basch, Glick Schiller and Szanton Blanc 1994; Faist 2000; Levitt and Glick Schiller 2004), which includes research methods borrowed from ethnography and sociology. On the other, the attention has been focused at the individual level, in order to analyze specific categories and levels of transnationalism (Portes, Haller and Guarnizo 2002; Itzigsohn and Giorguli Saucedo 2002). Both schools have contributed to define transnational activity and practices either broadly or narrowly, characterized by three main features, i.e. prevalence, frequency and intensity (Goldring and Krishnamurti 2007, 11).

I focus here on a specific category of transnational migrants, namely daily migrant workers or cross-border workers/commuters. Daily migrant workers can be defined as workers who reside in the area of a given state and work in the contiguous area of a neighbouring country. They refer to a narrow definition of transnational activity, since they are involved in a regular, frequent and intense activity: they cross the border and commute on a daily basis. For instance, French and German workers commute every day in order to work to Basel and the broader South-western region of Switzerland.

A debate related to the pertinence of defining cross-border workers as transnational migrants should be stressed. Transnational migrants or transmigrants are “immigrants whose daily lives depend on multiple and constant interconnections across international borders and whose public identities are configured in relationship to more than one nation-state” (Glick Schiller, Basch and Szanton Blanc 1995, 48). Although cross-border workers fall into this definition of transmigrants, this feature is discussed in social sciences: some authors argue

that cross-border workers cannot be assimilated to migrant workers as they are cross-border commuters (Varia 1996; OECD 2003b; Hamman 2006), whereas others consider that cross-border workers fall into a broader category of migrant workers (Denis 1988; Favell and Hansen 2002). This controversy may be related to the statistical and fiscal definitions of cross-border workers as non-migrants in several European countries (OECD 2003a, 6). Yet, cross-border workers will be considered as transnational migrants in this research – which was not the perspective adopted in a previous research (Dupeyron 2008).

Now, in immigration and border studies, methodological nationalism restricts the focus on transnational migrants in Europe, in particular in the Upper-Rhine border area (France-Germany-Switzerland). Andreas Wimmer and Nina Glick Schiller underline three major limitations: first, the ignorance of nationalism in contemporary social science research; second, the naturalization of the nation-state that contributes to shape numerous social science biases; third, territorial limitations that constrain research topics (Wimmer and Glick Schiller 2002).

In order to overcome these issues, this ongoing research combines three methodological perspectives: a socio-historical analysis of transnational migrants in the Rhineland area, in order to understand past and contemporary dynamics; also, a socio-political approach that stresses the migrants' "ways of being" (Glick Schiller 2005), including their activism and rhetoric, e.g. direct observations and interviews in multiple sites (so far, only one site has been scrutinized); finally, a pluri-scalar approach that implies several levels of analysis, e.g. local, regional, cross-border, transnational and supra-national.

In this paper, we will examine first how this social movement has emerged and how a specific discourse has been forged (I). Secondly, we will see how the CDTF leadership has acquired in its repertoire of collective action a noteworthy expertise in labour law, and specifically in European labour law (II). Finally, we will analyze how trade union activism has been used pragmatically (III).

## I. From stigmas to mobilization: local objectives of a transnational discourse

The legal statute of the CDTF is an association, as opposed to other French organizations with similar objectives that are organized in ‘specific union sections’, e.g. in Monaco (Union des Syndicats de Monaco) or in Luxemburg (OGB-L). Cross-border organizations emerge in France in the 1950s and 1960s, but grow substantially in the 1970s. This increase of daily French migrants to Switzerland and Germany in the 1970s follows waves of German migrant workers to Alsace during the past decades (Denis 1990, 122). In this context, the porosity of the border is not unilateral, but works two-ways.

The CDTF is created in 1956, but becomes influential among French transnational migrants in the 1970s for four basic reasons: first, a growing number of Alsatians find jobs in Germany and Switzerland during the oil crisis; second, currency exchange rates and superior wages become an asset for these transnational migrants; third, the high spatial density of migrants allows to mobilize easily; finally, one of the strategies of collective action supported by the CDTF consists of increasing its members through targeted actions against French regulatory measures.

However, these migrant workers are perceived negatively by Alsatians ones who do not work in Switzerland. How to explain this negative perception or stigmas of Alsatians who reside in Alsace by fellow Alsatians? At least three justifications can be suggested: first, the superior purchasing power of these transnational migrants who live in Alsace is not cheerfully accepted by Alsatians who may suffer from the consequences of the economic crisis; moreover, the overwhelming conflicts between the CDTF and French trade unions show the difficulty that French trade unions have in getting to know how to solve problems related to Swiss (or German) labour law, and more generally how to communicate with other European unions; finally historical stigmas and traumas are reinterpreted in the context of the post-Second World War, e.g. “travailleur-engagé volontaire” vs. “travailleur Malgré-Nous” (Goffman 1975).

This negative rhetoric is reinforced by another one, more recent, related to the cross-border role that the CDTF may play in the Upper Rhine and that we will analyze in details in the second section of this paper. The French, German and Swiss politicians and officials who work in the cross-border field and who have been interviewed have adopted two strategies during the interview process, with regards to existing associations and social movements:



either they have not mentioned the existence of these transnational migrants, despite the fact that the CDTF represents the most important and active association in the border area; or (when the researcher mentioned explicitly the acronym “CDTF”), they have referred to it with a contemptuous tone, insinuating that the CDTF leadership was not acting responsibly, and asking me if I had already interviewed people from the CDTF. This shows the competition that exists in this cross-border field between heavily sponsored public organizations (InfoBest) that are supposed to provide Rhineland transnational migrants with labour law advice, and the CDTF which has a better expertise and relies primarily on volunteers’ work.

Also, this reveals a series of methodological issues and concerns. On one hand, the respondent was trying to dominate the power relation and to appropriate negatively snow-ball sampling research design, in order to influence me in my choice of interviewees. On the other, the confidentiality of interviewees was put at risk, which was increased by the lack of formal and mandatory ethics approval process in social sciences in France.

This discourse has been constructed using two features that contribute to define CDTF members through professional mobility and residence in Southern Alsace. These aspects have been used since the 1970s to build a discourse on three basic pillars:

- the first one is related to the significant CDTF membership rate. If this membership rate (more than 50%) is compared to the average of the French trade unions one (circa 10%), it can be easily used within and also outside the CDTF. Within the association, it is used as a legitimating tool that reinforces the collective identity of these transnational migrants, e.g. during regular annual meetings. Outside, it increases the visibility of the association towards the community: “We are not asking any forms of gratitude, merely the acknowledgement that our work is profitable to many.” However, this rhetoric related to the membership rate is not necessarily received positively by all levels of governments, e.g. French regional level and cross-border organizations;
- the second pillar of the CDTF discourse is based on its cohesion, on the volunteer commitment of its members, and in particular its leadership: this strategy is useful for unity purposes and for claiming budget autonomy from local, regional and national levels of government;
- the third pillar refers to the renewed mandate of the CDTF leaders who deliver and maintain this discourse, e.g. Simon Kessler in the 1970s, and currently Jean-Luc Johaneck.

In addition, four specific claims are repeated on a regular basis, especially to the media and political fields, but may also be used by the CDTF members:

- the wage difference is not significant and is even decreasing;
- specific categories of transmigrants are in a state of precariousness, e.g. unemployment or health issues;
- working in Switzerland is not a personal choice, but a necessity and contributes to limit the Alsatian unemployment rate to a relatively exemplary level;
- the CDTF is not an association that defends corporatist interests, but rather protects on a daily basis transmigrants / European workers.

One of the limitations of the semi-structured interviews and textual analysis that have been used to dissect the CDTF discourse is the sampling focusing almost exclusively on leadership. This difficulty might be corrected using three complementary research strategies: interviews with CDTF members, i.e. non-leaders, the exploration of biographic narratives, and the extension of this research to German organizations of transmigrants.

## II. Expertise in labour law: practices of a European legal repertoire of collective

The basic legal problems that transmigrants in the Rhineland Valley face is related to conflicts of national laws (French, German and Swiss), or conflicts between national and European laws. These conflicts of law impact these workers, since they generate discriminatory consequences that are not dealt with by the corresponding domestic administrations, e.g. fiscal, social insurance or pension issues.

In the 1970s, the relevance of labour law, as well as other specific branches of public law, is acknowledged by Simon Kessler, former CDTF leader. In spite of his accurate intuition, Kessler has no basic training in law: he is general practitioner in medicine. Besides, he ignores what the key Community institutions are: he assumes, probably due to the geographic proximity, that the Council of Europe is a central European organization. This misunderstanding about the European institutions will cease once Jean-Luc Johaneck, new CDTF leader in the 1990s, will be elected. Johaneck works as a legal advisor for a Swiss trade union. Although his legal specialization does not allow him to analyze specific cases,

he knows who should be contacted to examine them. The current welcoming message of the CDTF president, on the CDTF website<sup>1</sup>, stresses this legal caution. In addition, his command of the German language allows him to understand the subtleties that may exist in the Swiss legislation. Therefore, the CDTF carries an expertise in French, Swiss and Community labour law.

This legal repertoire of collective action is used at the individual level, with CDTF members who need specific legal counselling, and also at the collective level through lawsuits. But it is first and foremost the consequence of scarce results after seeking results from more traditional means of collective action, especially the negative or timorous response from politicians: at the local and regional levels, political representatives remain in general mute and passive towards transmigrants, unless they are a majority or strong minority in the electoral territory; the national level may acknowledge intermittently transmigrants' problems, but since it is not a hot topic on the national agenda, it is slow to act and to modify the legislation that may involve, to complicate the matter, international agreements; cross-border organizations reflect local, regional and national interests, and therefore refuse the CDTF company unceasingly, e.g. TriRegio, Upper Rhine Conference.

In this context, law and justice remain one of the few remaining resources that are available. Moreover, CDTF leaders understand the implications of the "boomerang model": Margaret Keck and Barbara Sikkink (1998) consider that local players who are unable to overcome domestic barriers will find allies abroad in order to support change at home.

Nevertheless, this legal strategy is risky and expensive for an association: legal tools represent an expensive resource, due to their extreme technicality; in addition, using the justice system may correspond to a very slow process with uncertain results.

### III. Trade union activism: choosing pragmatism

We know that the CDTF is not a trade union, despite its objectives and activity that are very similar to the ones pursued by an ordinary trade union. How is it possible to explain this paradox? The history of trade unionism in post-Second-World-War-Europe may offer a first

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<sup>1</sup> [http://www.assurance-sante-frontaliers.com/index.php?option=com\\_content&view=article&id=1&Itemid=17](http://www.assurance-sante-frontaliers.com/index.php?option=com_content&view=article&id=1&Itemid=17)

series of clarifications. Before the Second World War, most European states are countries of emigration, although it is possible to notice intra-European flows of migrations, usually due to a very specific economic or political crisis. After the war, the need for labour changes the nature of European countries with regards to migrations: abundant labour is required in the growing industrial sector. This change is not assimilated by trade unions that remain exclusively focused on national issues, and tend to ignore broader European issues, as well as flows of migrants.

Additional factors should be taken into account to understand this gap between trade union and transmigrants, and how this gap will be filled by organizations such as the CDTF:

- national trade unions have diverse ideological roots, which leads to fragment this field;
- in France, trade unions have a low and stable representativeness in the public and private sector;
- the growth of the tertiary sector of the economy has destabilized trade unions that used to be supported by workers in the industry;
- the contacts among European trade unions have been weak and marginal;
- transmigrants have not been allowed to join French trade unions, since they were not paying social taxes insurance in France.

Regardless of this divorce with French trade unions, transmigrants have adopted a pragmatic activism. This activism might be derived from the close ties that existed between leaders and Swiss trade unions. These links are reinforced through two types of incentives:

- at the individual level, trade union membership is encouraged on the working place (as opposed to the place of residence), i.e. in Swiss for French transmigrants;
- at the collective level, relations with Swiss trade unions represent a symbol and a guarantee of independence for the CDTF. In other words, the CDTF is able to have its own agenda. There is no need to ask permission from the central level. Thus, the CDTF can set a local, regional, national or Community agenda, and get the support needed from Swiss trade unions.

## Discussion

This ongoing research needs to be strengthened in many ways: additional ethnographic research is required, e.g. exploratory and semi-structured interviews with a broader and more heterogeneous sample, direct observations. Identity issues may also be explored, since transmigrants struggle, in their place of residence, to establish themselves as belonging to the community (Massey et al. 1987), although their activity is located in a transnational space (Faist 1998; Pries 1997). More primary sources should be collected from the CDTF and Swiss trade unions. Comparative analysis with similar organizations in Europe should be examined. Tri-national statistics and additional statistical data are required.

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