

Cross-border Migration and Governance at the Borders

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Abstract

Following the interest in governance and borders, this article contributes to understanding how the cross-border migrants face and challenge a hostile environment against them in contemporary global politics. This analysis follows the research question: How are borders being governed in the face of cross-border migrants? The article's central argument establishes that cross-border requires the participation of cross-border migrants in the definition of policies to improve the management of the borders. This article develops an interdisciplinary dialogue between sociology, geography, and history focused on human mobility to develop this argument. Also, this analysis provides a basis for understanding how borders are been governed.

This article uses a qualitative case study methodology to analyze the cases selected. The paper uses a multi-case study with no comparative intentions. The empirical cases selected allow for evidence of the complexity that emerged in the frontiers. Also, this analysis studies the securitization

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and criminalization narratives defining the government's positions again the people in motion on the borders. For it, this article relates experiences from three frontiers (France and Spain, Mexico and the United States, and Poland and Belarus) highlights three different border contexts in Europe and the Americas and shows how diverse stakeholders manage the governance of these borders.

Keyword: Cross-border migration, Governance, Borders, Stakeholders, Migration management

Introduction

Human mobility dynamics 'do not just happen; they are produced.' (Gonzales & Sigona, 2019, p.4) Contemporary global politics and human mobilities challenge nation-states through diverse dynamics, levels, and consequences. Historically, since the formation of nation-states, borders and territories have represented the limits of belonging or not to those territories. In this sense, the nation-states represent a territory delimited by boundaries corresponding to a national community, constituted by the population, whose criteria are codified and controlled by the government (Kahn, 2014). Thus, the sense of inclusion and exclusion more or less facilitates crossing-border depending on the place of birth and laws in place.

In the context mentioned above, the cross-border mobilities then become a political and scientific interest in the identification of migration profiles and different trajectories through the analysis of the causes and consequences on the countries of origin, destination, and transit.

Following the emergence of the interest in the governance of borders, this article aims to contribute to understanding how cross-border migrants face a hostile environment against people in motion. The research question that oriented this analysis states how the borders are being governed in the face of cross-border migrants? The article's central argument establishes that cross-border governance requires the participation of cross-border migrants in the definition of policies to improve the management of the borders.

This article applies an interdisciplinary approach between sociology, geography, and history focused on human mobility to develop this argument. Also, this approach provides a basis for understanding how borders are being governed. We adopted a qualitative case study methodology to analyze the case selected. The article uses a multi-case study with no comparative intentions. The empirical cases selected seek to evidence the complexity that emerged in the borders and the securitization and criminalization narratives defining governments' positions against the people in motion. For it, this article relates experiences from three frontiers, highlights three different border contexts in Europe and America, and shows how diverse stakeholders manage the governance of these borders.

Finally, the article evidences the consequences for cross-border migrants. We selected three cases that let us evidence the complexity mentioned above. The frontiers analyzed are France and Spain, Mexico and the United States, and Poland and Belarus. To develop our analysis, we applied the process-tracing approach to expose the everyday lives of cross-border migrants on the frontiers. We understand process tracing as an 'analytical tool for drawing descriptive and causal inferences from diagnostic pieces

of evidence often understood as part of a temporal sequence of events or phenomena' (Collier, 2011, p. 824). We pulled from primary content and secondary sources for this qualitative research, including documents, policy framework documents, NGO reports, and journal reports.

We structured this article with the following sections. In the first section, We present the theoretical framework for Cross-border migration, governance, and stakeholders. Subsequently, according to the methodology and analytical strategy, we offer the empirical section where we analyze the experiences of cross-border migration and governance in Europe and the United States. We dedicated the third section to discussing the stakeholders' role in migration governance and the cross-border migrant agency recognition.

Theoretical Framework: Cross-border migration, governance, and stakeholders

People in motion with regular or irregular legal status face a nativist environment in the global North that translates into policies on borders and immigration that are defined by a logic of "securitization" over the rights of people in motion. Thus, these policies, with different scopes and fields of implementation (landing platforms, outsourcing and closing of borders, increased deportations, limitations on legal residence options), are based on a tacit agreement that the security of developed societies is achieved by avoiding the presence of agents with unwanted and incompatible values and attitudes.

International mobilities are defined as a permanent or semi-permanent change of residence by Everett Lee. This mobility is characterised by a de-

parture point, an arrival place, and obstacles (these obstacles can be crossing a border) to be overcome in between (Lee, 2013).

Previously carried out by the national police, this border control has been increasingly outsourced to private companies since the late 1990s (externalisation of borders control). Indeed, for cross-border cooperation, the European Union has signed contracts with Frontex and bilateral agreements with countries of origin, while the United States Department of Homeland Security has partnered with Boeing in the Secure Border Initiative Network (SBINET) (Mazzella, 2016).

In the face of this context, We understand governance as a polysemic term defined as mechanisms with which the migration phenomenon is governed (Pécoud, 2018). The concept of governance helps describe decision-making processes in which public authorities are simultaneously involved at different jurisdictional levels, as well as non-governmental organizations (NGOs) or social movements.

The concept put into forwarding a collective responsibility by “diluting state responsibility” regarding actions of an embracing wide range of actors. It means governments work in parallel or with other actors’ contributions at various levels (local, national, macro-regional, and global). Governance also refers to the process of cooperation that deals with this phenomenon. International migration issues have been a challenge and a policy concern since the 1990s in destination countries (Pécoud, 2018).

States have been looking for new instruments and strategies in border survey and legal management. Migrations became an issue in public and po-

litical opinion and entered international forums and discussions (Pécoud, 2018). Migration controls are contested at the micro level by migrants by circumventing or subverting (Çetta Mainwaring, 2016) and by NGOs who denounce the abuses and breaches of the law on the part of controllers. Moreover, all the means within the migration governance framework involve different stakeholders. They are considered all actors involved in the migration frame at different geographical scales and for various matters. In the first instance, the United Nations agencies, specifically the International Organization of Migration, play a central coordination function and production of expertise (research/training). They relate to the various national and local institutions and non-governmental organizations working with migrants and refugees. Trade unions, universities, and research centers are stakeholders and the private sector. Recently, it has been highlighted that migrants and refugees must be involved in discussions around migration management. This principle of ‘governance from below’ is becoming more widespread (Rother & Steinhilper, 2019).

To illustrate how this multilevel governance operates in the face of migration and borders dynamics, We see that cross-border migration is defined by the European Economic Commission “as the continuous and temporary movement of people within a territorial boundary between countries which involves crossing a border.”¹ From the destination countries’ perspectives, migration governance primarily manages and controls these international mobilities and immigration (Pécoud, 2018).

On the international scale, since 2007, the Global Forum on Migration and

1 European Commission for Europe, Conference of European Statisticians, June 2020: Informal document 19/Add.1

Development (GFMD) has been organized by the Civil Society network as an informal instrument of deliberations (Schierup, Likić-Brborić, Wise & Toksöz, 2018). Nowadays, it seems the only global mechanism to talk about migration and development with all stakeholders reunited². Regional consultative processes exist, for instance, with the European Union being multiplied during the 1990s³. Other macro-regional migration governances are observed to be linked to existent economic communities as the Migration Dialogue for West Africa (MIDWA), the Migration Dialogue for Southern Africa (MIDSA), and discussions between countries of the Mercado Comun del Sur (MERCOSUR) in Southamerica, mechanisms ad hoc under the Cartagena Declaration for Latin America and dialogue in the Asia-Pacific Economic Cooperation (Mazzella, 2016). In addition, bilateral legal agreements are implemented between countries and or decentralised institutions (cities, departments, regions) that share borders and between countries of origin and destination. These law policies are binding and are accompanied by diplomatic negotiations².

Nevertheless, this mechanism has no more constraints than the others and remains a body for political and scientific exchange without any obligation for its actors. International legal regimes around the migration framework are mainly focused on Human rights, Children's rights, and Refugee rights⁴. Despite joint efforts, including the multiplication of its dialogue processes, there is no 'international constraints migration regime' to date (Mazzella, 2016).

2 <https://www.madenetwork.org/fr/fmmd>

3 *Dialogue 5+5* for the Euro-Mediterranean area

4 The Universal Declaration of Human Rights of 1948; The Convention on the Rights of the Child in 1989; The Refugee Convention in 1951 and its 1967 Protocol.

Empirical Evidence: Governance and Cross-border Migration in Europe and the United States.

The construction of insecurity imaginary by the presence of cross-border migrants and the discourse of “fight” against illegal migration on the territory leads to an intensification of border controls under national or regional laws in the case of the Schengen Area and the frontier between Mexico and the United States. We present three cases to understand how this phenomenon occurs between the global North and the global South.

Case 1: Crossing the Franco-Spanish border against the odds

The study of the Franco-Spanish border is a significant case to observe the governance of a cross-border migrants dynamics. The natural 656,3 km frontier between those two European Union countries is becoming a “main crossing point for migrants trying to reach France or continue their journey to other countries” (“Migrantes atrapados en un ciclo incesante de rechazo”, 2019). Therefore, it should be noted that Spain is often a transit country and not just an immigration country in this case of border crossing. These crossing points are witnesses of a historical and cultural inter-valley and trans-border bond for the local population (Harguindéguy, 2004).

Delimited since 1659⁵, the border that has changed the least is defined by the crest line of the Pyrenean massif. Its topography makes it not very permeable. Nevertheless, we can observe two predominant crossing points used by migrants: one in the East, between Catalonia and the Pyrénées-Orientales, and the second in the West between Euskadi and the French Basque

5 Treaty of the Pyrenees which put an end to the war between France and Spain (1635-1659)

Regarding trajectories and origins, many migrants journeyed via the Canary Islands (Canary route) or crossed Spain from the South before arriving at the Pyrenees border (“Cientos de migrantes llegados desde Canarias”, 2021). For instance, in the Autonomous community of Euskadi, most of those who are intercepted at the border are immigrants who arrived in Spain by sea and of Sub-Saharan and Maghrebi origins as Moroccan, Algerian, and Malian (“Francia se resiste a reabrir todos los pasos de frontera”, 2021).

An example of the complex governance within the frontier between Spain and France, there are also cross-border migrant populations between France and Spain that move back and forth across the Eastern Pyrenees. Indeed, the Catalan Gypsies are mobilised across both countries, notably through their economic practices. Although we imagine that these people are not sedentary, their mobility is sometimes less regular, even cyclical, which permits them to go to school and, for some of them, to have properties⁶ (Carnet, Alioua, Qacha and al., 2012).

French and Spanish customs and police highly monitor these entry points to France in cooperation as part of the European policy to “combat irregular immigration”. Before the decentralisation process (1970-1980’s), cross-border cooperation was administrated only by both State governments. In 1995 (February 4th), a law allowed French local authorities (*collectivités territoriales*) to join bodies under foreign rule. Finally, a cross-border operational mission was set up in 1997 to provide logistical assistance to French and

⁶ From one end of the Catalan area to the other, from one place to the next, the Catalan Gypsies settled in the south of France and the north of Spain, of French or Spanish nationality, move around a lot, even if some of them own their homes (in the city centre of Perpignan) [transl].

foreign local authorities involved in cooperation projects, including Spain (Harguindéguy, 2004). Effectively, this was given concrete form in a Franco-Spanish law in July 1998, which established Police and Customs Co-operation Centres (CCPD) close to the border, to be staffed by officers from both sides⁷.

These Centres are also effective instruments in border and migration management. As an example of measures taken, the French police have a bilateral agreement with Spain (2002) that allows them to return migrants across the border within four hours of crossing (“Francia devolió a España casi 16.000 migrantes”, 2021). Associations and NGOs denounce their practices of immediate expulsion and refusal of entry at land borders because they are considered legally questionable. Indeed, this migration policy does not allow people the possibility to apply for asylum in France, and minors are regularly returned to Spain without being protected by the French authorities as required by law (“Frontière Franco-espagnole”, 2019).

Case 2. Cross border migrants and the securitization of the frontier between Mexico and the United States.

The securitization perspective on the US-Mexico border is seen in three framework policies: Proposition 187 in California, the Arizona Law SB1070, and the Remain in Mexico in 2018. (Durand, 2017; Marreno, 2012; Alarcón, 2019) These policies have affected migrants from Mexico, cross-border migrants from other parts of the Americas, and even from

7 Article 5: “The CCPDs shall be at the disposal of all services responsible for police and customs missions with a view to promoting the smooth running of cross-border cooperation in police and customs matters, and in particular to combating illegal immigration, border crime, the prevention of threats to public order and illicit trafficking.

different parts of the world who seek to reach the United States through Mexico. These actions have been aimed at inhibiting and limiting the entry of immigrants into the United States.

Proposition 187 in California was a legislative proposal introduced in 1994; With it, social and health services and access to education were denied to immigrants in irregular situations. The initiative carried the slogan “Save our State.” The police had the prerogative to “suspect” if someone was breaking the immigration law; he/she could be detained and his/her situation reviewed and, where appropriate, deported (Marreno, 2012). During the campaign to promote Proposition 187, Governor Pete Wilson expressed nativist components by using images showing people illegally crossing the Tijuana-San Diego border. The message said: “They keep coming, two million illegal immigrants in California. The Federal Government will not stop them at the borders, so it will take billions of dollars to take care of them.” (Behdad, 2005: 113).

On the other hand, in 2010, the Support Our Law Enforcement and Safe Neighborhoods Act was approved in Arizona (better known as Arizona Law SB1070). This law facilitated an open confrontation against Hispanic immigrants and promoted a narrative of securitization of the United States’ southern border. Concerning securitization, this law highlighted the criminalization of the migrant for their physical appearance. Thus, the legislation encouraged “discrimination based on racial profiling.” (Marreno, 2012) An example of this was how Joe Arpaio, Maricopa’s sheriff, applied the law SB1070. He accused the Barack Obama Administration of encouraging illegal immigration. He said: “President Obama and his group of friends could

put a message in neon lights on the border between Arizona and Mexico that says: *Illegals, welcome to the United States. Our home is your home.*” (Pereda, 2011).

The Remain in Mexico program implemented by President Donald Trump has generated new dynamics on the Mexico-United States border based on cross-border migration. Specifically, there are people from Central America and some with other nationalities (Golash-Boza 2015), and recently, those characterized as transcontinental (coming from countries in Africa or Asia). Currently, these cross-border migrants have to wait on the side of the Mexican border to be able to enter the United States. The passage through Mexico by various groups to reach the United States is longstanding. However, these groups crossing Mexico in caravans are more recent (Varela and McLean 2019, 175). This way of crossing responds to a violent environment that impacts cross-border migrants journeys. For Varela and McLean (2019), the Central American exodus of 2018 through caravans shows concrete novelties compared to previous moments. What distinguished them was: 1. The place from which the caravans departed; before they did it from entities in the southeast of Mexico; for 2018, they were organized from Central American countries, specifically Honduras. 2. The volume that makes them up; is estimated that 12,000 people formed the caravan in October 2018. 3. The profile of those who made up the caravans: families. In 2018, it was evident that mothers with minors and unaccompanied minors stood out among the caravan groups (Varela and McLean 2019, 173). The experiences of migrants in Mexican cities are diverse (Marchand and Ortega, 2019). For example, as a border city, Tijuana experiences a specific process in the

face of human mobility that crosses it intensely with diverse trajectories (Marchand and Ortega 2019, 10).

Case 3. Migrants stranded at the Polish-Belarusian border

The context at the border between Belarus and Poland challenges both states and their migration policies. The frontier results from the Yalta Conference, which fixed the border between Poland and the USSR in 1945. With the independence of Belarus, the border came into force and has remained unchanged since 1991. Furthermore, the border had some different nature first between two countries out of the European Union it changed when Poland came into the EU and Schengen Area in 2004 and 2007 (<http://www.es-paces-transfrontaliers.org>). Therefore, it is a diplomatic matter of migration management due to the composition of the bordering countries. The frontier between these two countries counts more than 400km and has 13 customs crossings (seven roads, five rails, and one river). Many of it is covered by forests or swamps, making it difficult to access and survey.

Cross-border cooperation was implanted between Poland, Belarus, and Ukraine in the last 17 years in European Neighbourhood a Partnership Instrument (ENPI) financed program (202,9 million EUR (including 186,2 million EUR of the EU co-financing) at the initiative of the European Commission. The program, which started in 2008, had two cycles of project, the first until 2013, which had the goal to “develop the cooperation between the European Union and the partner countries by ensuring the integrated and sustainable regional development” regarding three priorities (increasing competitiveness of the border area, improving the quality of life and net-

working people-to-people cooperation). The second cycle started in 2014 and ended in 2020, changed those priorities (to heritage, to accessibility, to security) and added a fourth one about the ‘promotion of border management and border security, mobility and migration management (to borders), which represented around 18% of the total budget of 175,8mln euro.

Poland is a transit ground for migrants. Indeed, many want to settle in Germany, Austria, France, or the Netherlands, where they may have an individual or community network (family, friends, or acquaintances). Migrants who try to cross the border daily are fleeing conflicts in their home countries in the Middle East (Iraq, Libya, Afghanistan, Yemen) and Africa (Congo, Ethiopia). Our current context at the Polish-Belarusian border is particularly tense in geopolitics and migration management. Indeed, in August 2020, Loukachenko was re-elected President of the Belarusian Republic, but there were many accusations of vote rigging. The international community launched sanctions that Loukachenko did not like, and he threatened to “drown Europe with migrants and drugs”. Politicians and scientists agree that this context cannot be called a migration crisis. The situation depends on diplomatic negotiations around cross-border migration where cross-migrants become an “arsenal” (“Belarus: EU broadens the scope for sanctions”, 2021). EU countries are now organizing themselves with this threat, especially the Polish government, with a state of emergency declared in September 2021 in two border provinces. In January 2022, they made their project a reality and started building a new fence at the border with Belarus to prevent illegal migrants from entering European soil (“Migrants: la Pologne entame la construction d’un mur”, 2022).

NGOs such as Human Right Watch (HRW) denounce the Polish-Belarusian border as “a desperate limbo”. Migrants are stranded for days without being able to stay in Belarus or apply for asylum in the EU. Moreover, humanitarian services do not have easy access to the place, and migrants are left without accommodation and food, leading to tragedies and, consequently, to a real humanitarian crisis (death, hypothermia, diseases, injuries, and others) HRW reports explain. At the same time, International Amnesia denounces the “violation of the right to asylum and [the] illegal forced expulsions” based on the principle of non-refoulement (Górczyńska & al., 2021) and the “passivity of the European Commission in the face of rights violations”(“Enquête Pologne-Bélarus: l’horreur aux frontières”, 2021).

Discussion: Cross-border governance, stakeholders, and migrants.

With the experiences of cross-border migrants and frontiers shown in the empirical section, we understand that the dynamics of human mobility exposed reflect multiple challenges of governance for the daily life of families but that they meet and cross in different ways and with varying intensities at each border.

Concerning contemporary human mobility in the world, which is generating various challenges to the borders between countries of the global North and South, the cross-border migrants coming from Central America and crossing Mexico to reach the United States show a politicization of human mobility.

Although the cases of Belarus/Poland and Spain/France demonstrate effective activism on the part of NGOs and cooperation agencies to support refu-

gees established at the borders, the actions of the Central American caravans show cross-border migrants' capacity for the agency (Varela and McLean, 2019: 180). They are directly incorporated into the fight against the criminalization of migrant rights defenders (Frank-Vitale, Vogt, and Balaguera, 2019). However, one cannot ignore the readings that indicate that these mobilizations respond to political calculations to legitimize the positions of the United States Government (Guillen, 2019:40).

According to governance and transmigration challenges, this article shows the importance that has the recognition of the cross-border migrants' agency to try to modify the environment that is adverse for the majority of people in human mobility.

To discuss this empirical evidence and according to our objectives and theoretical framework, we develop two interrelated axes. The various stakeholders in managing migration play an individual and collective role that will have consequences on social dynamics at the local and national levels. Each actor is also involved in the mobility phenomena at the border (Zapata-Barrero and Pinyol, 2008). In the context of cross-border migration, two main activities concern stakeholders: on the one hand is the management of migration flows and borders, and on the other hand, is the assistance provided to migrants on the spot.

In Europe and the United States, management and administration are mainly controlled by the government and macro-regional policies. The semantics used in the border policy project is primarily the 'border control' and the 'fight against illegal migration.' Which regularly leads to expulsions without

the possibility of seeking asylum for migrants.

Nevertheless, legally, the possibility of seeking asylum is a right that any country should not deny. These current mechanisms jeopardize human rights for cross-border migrants. At the same time, assistance to migrants by state social services is difficult to access and subject to eligibility depending on the category to which the migrant is labeled (asylum seeker, international protection, unaccompanied minor...).

Moreover, State liberalisation leads to the privatization of services, and specific activities such as border control or humanitarian aid are entrusted to private companies and local associations. This phenomenon is accompanied by a lack of investment in public services and cannot “ensure full access for all, free from fear of discrimination” (Lethbridge, 2017). Again, this context undermines migrants’ rights, particularly to food, education, and health. Finally, this assumption of responsibility for aid by the associations seems like a symbol of the disengagement of the State (Retiere and Le Crom, 2018).

Although the different multi-stakeholders are necessary to advance the protection of the rights of people in human mobility and those at the borders, it is convenient that the migrants themselves have a voice to defend their rights. With this in mind, the empirical evidence offered contributes to understanding that the migrant activism should obtain abilities and skills that help them maintain their lives with dignity as communities in motion. In this sense, they build opportunities to restart their lives as people from here and there. We highlighted that the migrant mobilizations studied did not bet on resistance but sought to improve their community’s ability to adapt to their

new situation as people in motion in Europe, North America, or elsewhere.

Conclusions

This article focused on the emergence of the interest in the governance of borders and looked to contribute to understanding how cross-border migrants faced a hostile environment. The research question that guided this article was: How have borders been governed in the face of cross-border migrants? The article's central argument established that cross-border requires the participation of cross-border migrants in the definition of policies to improve the management of the borders.

Therefore, we chose to illustrate this argument through three examples of cross-border contexts that vary in their dynamics. Indeed, the geography of each border is different in their topography (mountains, forests, rivers) and political administration (European Union, Europe, the Americas). Moreover, cross-border migration phenomena differ in nature, causes, and consequences.

The article offered experiences from three frontiers France and Spain, Mexico and the United States, and Poland and Belarus. The empirical cases selected helped to observe the complexity that emerged in the governance of borders. Also, we evidenced how securitization and criminalization narratives have defined the positions of governments against cross-border migrants.

Following our theoretical approach and research questions, we close this article by referring to three interrelated key ideas to reflect on how to rethink

the borders, governance, stakeholders, and the rights of migrants in contemporary global politics: 1. The notion of ‘desperate limbo’ highlights the difficulties encountered by migrants in their migratory journeys. 2. The restrictions on the border have increased in recent years, and migrants are making more extensive efforts to cross the border, legally or otherwise, regardless of the cost. The border closure and migratory policies by the authorities regularly lead to accidents and do not adequately supervise the crossing as the law claims. Whatever the restrictions and risks, cross-migrants try to continue their journey. Indeed, there are frequent accidents when crossing by sea or by land, and 3. Some states are implementing policies to target specific migrant populations, making it difficult for them to cross the border based on their ethnicity. Therefore, many cross-border migrants confront hostility and intense securitization rhetoric against them.

Following our discussion, we affirm that cross-border migrants and frontiers dynamics expose multiple challenges for migrant and their families; they meet and cross in different ways and with varying intensities at each border. Then, current human mobility in the world generates governance challenges to the boundaries between global North and South countries. We hope our study can be used to research these and other cross-border migration contexts.

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