

Right(s) at Borders : Legal mobilisation at the borders of Europe. Presentation of the special issue

Par Daniela Trucco
e-legal, Volume 9

Pour citer l'article :

Daniela Trucco, « Right(s) at Borders : Legal mobilisation at the borders of Europe. Presentation of the special issue », in *e-legal, Revue de droit et de criminologie de l'ULB*, Volume 9, avril 2025.

Adresse de l'article :

<https://e-legal.ulb.be/volume-9/droit-s-aux-frontieres/right-s-at-borders-legal-mobilisation-at-the-borders-of-europe-presentation-of-the-special-issue>

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“The tendency among some organized civil society groups to mobilize legal instruments and reasoning appears to be on the rise.” This observation, made by Marie-Laurence Hébert-Dolbec, Julien Pieret, Julie Ringelheim, Barbara Truffin and Laura Van den Eynde in their introduction to the thematic dossier “The mobilisation of law by social movements and civil society” published in volume 5 of *E-legal* in November 2021¹, has been repeatedly confirmed since then. Several authors have spoken of a veritable boom in legal mobilisation around the world².

Legal mobilisation - understood here as any use of legal tools, mechanisms, terms and principles by civil society actors in the practice of defining and defending their cause - has therefore become a central focus, both within social movements themselves and for researchers in the field of “law and social movements”. This field, drawing on approaches and methods from lawyers, sociologists, political scientists, historians and anthropologists, is broadly concerned with the relationship between law and social movements. Beyond a certain methodological pluralism, which fortunately continues and which this thematic dossier deliberately embraces, this field has now reached a level of autonomy and maturity that has greatly blurred the disciplinary distinctions within it³. Studies on legal mobilisation seek primarily to determine who, how and under what conditions the weapon of law mobilizes for the purpose of social and political change. Then, these studies raise the question of the impact of this use. Most empirical studies concern the strictly legal effects, in terms of case law and positive law, or administrative implementation⁴. Nevertheless, case studies are increasingly broadening their focus to observe not only what civil society actors do to the law, but also what mobilizing the law does, in return, to social movements: for instance, to the way their cause is constructed⁵ and de/politicized⁶, or to the various positionings within movements, distinguishing for example between supposedly “moderate” and “radical” actors, or to the composition of collectives and relationships within them between legal specialists and lay people⁷, or to individual militant. These are all questions that broaden and complicate the fundamental problem underlying studies on legal mobilisation, namely: what is the potential for social change offered by the weaponization of law?

This thematic dossier intends to continue the discussion initiated by *E-Legal* in 2021, focusing on a specific area of social and legal action: migration control at Europe’s borders. Since at least 2015, this theme has sparked various forms of mobilisation and fuelled a certain scientific enthusiasm, resulting in a fairly extensive body of literature, particularly on “solidarity” mobilisations in support of exiled people and, to a lesser extent, on those that are “hostile” to them⁸. This literature has focused in particular on the reasons for and trajectories of engagement. It has also highlighted the specificities of recurring modes of action, halfway between humanitarian and protest, public and private, such as solidarity

accommodation or self-managed camps⁹. Only more recently, and still in an embryonic way, has research taken a closer look at the legal issues involved in these actions - also in relation to the risks associated with the criminalisation of assisting the entry and stay of foreigners in so-called irregular situations¹⁰ - as well as the mobilisation of the law as a specific mode of solidarity action¹¹.

Indeed, the narrowing of legal channels for entry, residence and asylum in Europe and the increasingly violent effects of border controls¹² are pushing civil society organisations to turn to the weapon of law¹³. As a result, litigation in the field of migration is on the rise, often initiated by associations, which sometimes use it “strategically” to promote widespread change in standards or practices¹⁴. More broadly, the law is increasingly permeating the knowledge, discourse and demands of these actors, profoundly changing the modes of collective action and sometimes even the trajectories of the people involved. This rise of the law might seem unlikely or paradoxical, given the asymmetry between the parties involved: irregularized foreigners¹⁵ on the one hand, and the state on the other. Mobilizing the law is never a straightforward matter. In addition to the obstacles to any mobilisation of the law in the field of migration, there are a number of difficulties specific to border areas: the juxtaposition of different jurisdictions, the sometimes contradictory overlapping of different branches of law, the existence of several derogations due to the practical and symbolic centrality of the “border area” for the security and sovereignty of the state, etc. In this regulatory fog, which sometimes resembles a state of emergency and sometimes a certain legal pluralism, foreigners’ access to legal proceedings and the accountability of the concerned institutions are far from guaranteed¹⁶.

This dossier brings together contributions¹⁷ from European law experts, sociologists, political scientists and philosophers, drawing on methods as diverse as legal analysis, field observation, interviews and media coverage of court cases. Nevertheless, they all share a solid empirical foundation and a sociological perspective that allows us to observe law “in action” and “in practice”, as it is applied and deployed in society and in the interaction between actors¹⁸. They can be read in a complementary manner: the blind spots of some are highlighted by others. They can also be read as a gradual shift from the inside to the outside of the legal object, from strictly legal and judicial issues to the representations and discourses of the actors who wield the legal tool¹⁹. There are many questions at the heart of this issue. On the one hand, what borders do to the law? How do borders challenge the notions of accountability, sovereignty, access to justice and the rule of law? What obstacles do they pose to the hegemony and effectiveness of the law? On the other hand, what the law does to with regard to the security interests of states²⁰ or rather of an instrumental use of the law by the state for the purposes of migration control or even social and political control²¹?

The first article, written by Caroline Leclercq, provides a socio-legal analysis of the European policy of externalizing migration controls. In particular, it focuses on the content and legal nature of the agreements that the European Union establishes with third countries, committing them to control and prevent people on the move before they reach European territory. These agreements raise fundamental issues of respect for human rights, starting from their compatibility with the principle of non-refoulement. What are the margins and levers to challenge them? What accountability is there for the violations of fundamental rights that result from the implementation of these agreements? The article seeks to answer these questions firstly by analysing the legal nature of outsourcing agreements and then by focusing on two instruments in particular: appeals for annulment and preliminary rulings. Following on directly from this first text and shining a spotlight on another tool for externalizing borders, the second article in this dossier provides a socio-legal analysis of the concept of safety*. * Taking the Italian case as a starting point, more specifically the migratory deal between Italy and Albania and the legal battles it has given rise to, Chiara Denaro highlights how the concept of safety is gradually losing its protective value and becoming yet another tool to weaken the right to asylum. The article discusses the legal action and litigation initiated by civil society actors, without making it the focus of the analysis. This will be the subject of the next two articles in this dossier.

Kris van der Pas' contribution focuses on a particular use of the law, that is strategic litigation in asylum matters. She proposes to re-examine a series of European empirical cases already reported in the literature in the light of an original question: to what extent does strategic litigation enable access to justice? Thus, she brings together the issue of obstacles to the right to asylum with the issue of inequalities in justice and respect for the procedural human right to obtain redress before a court. The text identifies five main challenges in accessing justice for migrants at borders: access to European territory, access to asylum procedures, the length and complexity of the asylum procedure, legal aid and access to a fair and durable solution. Then, it assesses the extent to which the strategic litigation cases studied have been able to overcome them. The following article**, ** written by Filippo Alagna, provides a detailed snapshot of the legal actions initiated by non-governmental search and rescue organisations in the Mediterranean Sea. It analyses 35 cases identified between 2014 and 2024. The article shows the salience of the Central Mediterranean as an arena for socio-legal struggles around issues related to migration control and points at a diachronic evolution of the tools of mobilisation and the objectives pursued. The author distinguishes three successive phases of legal mobilisation: an initial defensive phase in response to the judicialisation of assistance provided at sea; a second and more reactive phase, still involved with maritime law and criminal courts, but in which prosecutions are also used to turn the law against its opponents, to challenge restrictions on search and rescue activities, and highlight public responsibilities; a third and broader phase, in which legal mobilisation on several

fronts, including administrative and civil law, becomes one of multiple tools to challenge asylum and migration control policies as a whole.

Finally, the last two contributions in the dossier move away from courtroom scenes and legal proceedings to focus more on the profiles, practices and discourses of social actors who mobilize the law in border contexts: immigration lawyers in the article by Annalisa Lendaro, and “solidarity” activists and other helpers in the article by Sophie Djigo. Here, the focus is less on social and collective actions through the law, and more on how the actors concerned relate to the law, as captured by their actions and justifications. Based on a corpus of in-depth interviews with lawyers defending the rights of foreign nationals at the French borders, Annalisa Lendaro analyses how these actors define and defend their professional practice in a context where it seems to be threatened and challenged on several fronts. First of all, migration policies are creating a legal landscape fraught with pitfalls, due in particular to frenetic and contradictory legislation. Then, financial constraints narrow even further the room for a quality take up of cases. In addition to this, lawyers deal with a constantly threatened reputation, recently brought by “anti-migrant” campaigns which, against a backdrop of anti-wokism²² and anti-intellectualism, do not hesitate to attack lawyers specializing in immigration law. From interviews to ethnography, the last article in this dossier adopts a field philosophy approach. Here, Sophie Djigo raises the question of law as it emerges from the practices of “solidarity” actors at the French-British border in Calais and the justifications these actors give for their use of the law. Rereading her field data, the author wonders whether a distinction should be made between less politicized actors who are more involved in humanitarian action and more inclined to engage in legal and judicial proceedings, and activists who are closer to anarchism and refuse any compromise with the state administration of “justice”. The question is all the more relevant given that, in various border areas, recourse to the law has gradually spread among helpers, and that the meanings or registers of justification associated with this use also circulate. The author explores especially the possible link between the use of law and the anarchist theoretical framework, and suggests ways of overcoming contradictions that, at first glance appear insoluble.

Taken together, these various studies contribute to deepen our understanding of both migration and border policies and legal mobilisation.

What recourse to and relation to the law tell us about borders

What are the specific characteristics of legal mobilisation in border areas? What are the conditions for its emergence and the ambivalences it raises? What are its chances of bringing about concrete changes in migration control policies or their implementation? To answer these questions – as this dossier attempts to – we must first agree on what constitutes a border area.

How do we define a border area when the law itself is unclear on this subject? Whether it be the definition of “search and rescue zones” at sea or, in the case of land borders, the definition of authorized crossing points (*points de passage autorisés*) or of the “border strip” to be considered as a control zone, legal sources refer to many border areas that do not have the same definition nor a unique one and are also contested in law²³. Beyond legal definitions, for more than 20 years now, studies on migration control have told us that the border is not (or not solely) the line of demarcation between states, since its function of sorting mobility is actually exercised elsewhere. That could be upstream of the border, in countries of departure and transit, through the implementation of visa systems and the delegation of controls to other countries and private actors, including transport providers (airlines, etc.). That could also be downstream of the border, within the space that it is supposed to delimit, through widespread police, administrative and biometric controls, which are dematerialized in biometric databases such as Eurodac, in administrative detention centres, in order to leave the territory, in the condition of daily deportability²⁴ in which foreign nationals are kept even once they have managed to cross the border. All these elements prove that the border is less linear than it is reticular, pixelated, diffuse, mobile, portable – to mention just a few of the adjectives proposed by researchers in border studies²⁵. The border is becoming deterritorialized: its functions are increasingly disconnected from its spatial location²⁶. Yet, an opposite movement is just as visible, reinvesting in these specific territories through the widespread deployment of increasingly sophisticated and pervasive police and even military control measures, often rematerializing the linear border with barriers and walls²⁷. As pointed out by Paolo Cuttitta through the case of Lampedusa, the fact that a certain territory at a certain place in its history functions and is considered as a border is always the result of specific acts: a place can thus be bordered²⁸, among other things, through legal acts.

This dossier considers areas as diverse as Calais and the Central Mediterranean, while also examining the spatial configurations that are created or contested when European courts are called upon to rule on issues such as refoulement procedures or partnerships that delegate EU migration control to third countries. In the first two articles of the dossier, Caroline Leclercq and Chiara Denaro show how the law and its mobilisation can contribute to these border shifts. Through a socio-legal lens, the authors open up a dialogue with a rich socio-political literature on the externalisation of European borders. How far can the European external border be shifted? What are the limits of this externalisation and who is competent to define them? Who is accountable for migration control practices when they take place outside European territory? The areas where European and national authorities are accountable, those where migration controls are deployed and, finally, those where the people concerned can have access to justice, do not overlap perfectly. Far from being a single unambiguous line, the border reveals here its tangled nature²⁹: when one thread is moved, the others do not automatically follow.

Federico Alagna's article on the legal mobilisation of non-governmental organisations working in the Mediterranean reverses the perspective and shows how legal mobilisation can also be an indicator of borderity: the concentration of cases where legal tools have been used by non-governmental organisations, in comparison for example with the Eastern (Greece) and Western (Spain) routes, confirms the salience of the Central Mediterranean as an area where migration controls and the socio-legal struggles they raise are deployed. Legal mobilisation contributes to the borderisation of this space while attempting to modify or redefine its contours.

Numerous studies have already identified the Calais region as one of the most emblematic areas of the tightening of border controls in Europe. The focus of social science research on this area is both a reflection and a driver of this borderisation. Sophie Djigo's article shows that the law can be seen as a further indicator of this extreme borderity, right down to the discourse on the law that is produced there: at borders, migration controls must be able to override the right to asylum and the rights of foreign nationals more generally. In 2024, Natacha Bouchart, the mayor of Calais, publicly called for the city to be made a "legislative experimentation zone" in order to establish a "zero-tolerance border zone for migrants". Thus, despite the diffuse and largely dematerialized reality of migration controls, the border as a territory would still require special treatment, a separate legal regime, allowing the authorities to exercise full control over who is (not) authorized to be on their territory. Following this logic, should we call borders those places where reasons of state take precedence, or seek to take precedence, over the rule of law?

Finally, all of the contributions - especially those made by Kris van der Pas and Annalisa Lendaro - encourage us to see another dimension of the spatial and temporal diffusion of the border. In particular, regarding the places and moments where acts and practices of migration control (decisions on detention, removals, refusals of entry, orders to leave the territory, denial of asylum, etc.) are discussed, validated or invalidated; are they part of this vast pixelated web that the border now seems to be? Are courts, or even law firms specializing in immigration law and strategic litigation in migration and asylum matters, border points? These spaces, with their own organisational characteristics, are involved in the processes of sorting migrants, deciding who is admissible and who is not, and constructing the principles and justifications that legitimize, or not, human mobility.

What border areas teach us about law and legal mobilisation

In turn, based on the specificities of border objects and areas, the contributions gathered here also help us to reflect more broadly on the contours of law and its uses.

Firstly, they fuel debates surrounding the very definition of legal mobilisation. Indeed, although studies on the mobilisation of law are multiplying and engaging in dialogue with one another, they do not always agree, or are not always explicit, on how they define and delimit it³⁰. In a narrower sense, legal mobilisation is synonymous with strategic litigation: a very specific practice that consists of selecting and bringing a particular case before a court with the aim of creating, through the judge's decision, a more general change³¹. Other definitions have been proposed, which broaden this minimal core and can include all forms of judicialisation and therefore confrontation in court, including those that were not openly sought, especially in the context of repression, where the trials of activists can become a stage for mobilisation³²; sometimes to non-contentious, administrative or quasi-judicial legal actions (complaints, reports, hierarchical appeals, etc.), provided that such recourse is made consciously³³. The definitions can also include legal intermediation actions, supporting access to rights, when this legal-administrative advice is provided by associations or activists – a repertoire of actions that is spreading, particularly among movements of the “have-nots” (the homeless, undocumented migrants, the unemployed, etc.)³⁴. Finally, this notion can extend to include the mobilisation of legal concepts, terms and reasoning, particularly in communication, when there is a “transcription of political demands into the language of law and human rights”³⁵ that is particularly useful in confronting the state with its own contradictions.

The articles in this dossier also offer a variety of perspectives, ranging from proceedings brought by civil society actors before the courts (Leclercq, Denaro, van der Pas) or, more broadly, before public authorities (Alagna), to legal advice and the use of legal registers to justify one's actions and legitimize one's cause (Djigo), via “cause lawyering”³⁶ (Lendaro).

Secondly, the contributions gathered here help us identify and understand better the main elements that, in legal mobilisation, “pose a problem”: the tensions, ambivalences and dilemmas that the use of the law reveals. Although these have also been identified in other areas of social and legal action, they are particularly well illustrated by legal mobilisation in the field of migration, and even more so in border areas.

Firstly, invoking the law can contribute to the emergence of separate and exceptional laws for foreigners and widen the legal gap between citizens and non-citizens. The cause of foreigners is one that is defined from the outset by the law. Indeed, it is positive law that first distinguishes between nationals and foreigners³⁷ and reserves a number of prerogatives for the former, before multiplying the categories, statuses and specific cases applicable to non-nationals. The (over)production of legislation in the field of migration law is one of the factors that undermine the rights of foreign nationals and their effective enjoyment of those rights, including when this involves going to court³⁸. Engaging in the field of

law inevitably leads to participation in this paradoxical process³⁹, if only by pushing for legislation. This aspect is well represented in the articles written by Chiara Denaro and Annalisa Lendaro: the rapid evolution of national frameworks gives rise to legal mobilisation and judicial battles, while undermining their lasting contributions.

Secondly, mobilizing the law can also help with the administrative implementation and therefore the effectiveness of these same migration policies, which are nevertheless contested by community actors because they infringe on the rights of foreign nationals. This is particularly the case at community service desks, but also in the informal legal advice provided by helpers, often lay people, in border areas⁴⁰. The more restricted and contested the channels of access to the law are, the more essential it becomes to help those concerned to access them: helping to ensure that foreigners “look good on paper” becomes a means of providing concrete support to the people in distress that these helpers encounter in border areas, which often goes hand in hand with – rather than replacing – a radical critique of migration policies. This is demonstrated by ethnographies of spaces of solidarity at borders, including the one reported by Sophie Djigo in the last contribution in this dossier: ideas and tools for struggle circulate, becoming less of a marker of distinction between supposedly “humanitarian” and other “political” actors, and more of a shared toolbox to be drawn on according to context and objectives. The danger of this widespread use of the law in solidarity practices is that it reinforces, routinizes and, in a way, legitimizes legal categories that are often rejected by activist groups: the distinction between refugees and economic migrants, the notion of vulnerability, etc.

Finally, the mobilisation of the law raises the question of migrants’ autonomy, their political subjectivity, the possibility (or more often the impossibility) of them directly accessing their rights and, more broadly, freely deciding on the steps they wish to take and the rights they wish to access. This question can also be understood as one of the manifestations of the complex relationship, within a cause or social movement, between those directly affected and their allies⁴¹. By mobilizing the law from a position of privilege – as national citizens with the “right papers” and the necessary technical knowledge – can activists and helpers serve both “the person and the cause”? Would serving the cause through the law not amount to reinforcing the hold that the law has over foreign nationals, who would instead be entitled to a certain degree of opacity in order to resist it⁴²? Kris van der Pas’ article reminds us that the potential of strategic litigation should not be overestimated: the legal frameworks for human rights and asylum provide a solid basis that civil society organisations must exploit to advance migrants’ access to their rights and to justice. Furthermore, repeated legal actions can have positive repercussions on the lives of many people. Nevertheless, strategic litigation does not allow for a true generalisation of its results, which remain limited both to a small proportion of the people concerned and in terms of time. The author also

suggests some critical avenues for reflection for those involved in strategic litigation, such as “movement lawyering”⁴³, which involves greater integration of legal action with other modes of action and mobilisation⁴⁴, as well as greater participation by the groups concerned in the development of strategic litigation.

These tensions, which run through all the contributions collected here, raise a crucial question: how can the law be mobilized in a conscious or even strategic manner when it is the primary instrument used by the state to delimit and restrict foreigners’ rights? This is the question these articles help to unravel. In particular, Sophie Djigo tackles this head-on, based on the following observation from the field: “abolitionist activists, critical of the political form of the state and the national framework, no longer hesitate to participate in actions mobilizing positive law, setting aside their militant purity”. The worsening conditions of those most affected and the more general shrinking of spaces for protest, which has significantly increased the costs of more confrontational means of action, are pushing abolitionists to rethink their horizons, taking a less short-term view and using the rule of law to fight against the failings of the state and its most violent actions.

This dossier thus confirms the value of studying these particular spaces that are borders in order to better our understanding of legal mobilisation and, more broadly, the place of law in the government of our societies. To this extent, they are heuristic and revealing fields. They can also become laboratories for law, both for the state and for civil society organisations. The former tests the possibility of establishing and extending states of exception that challenge the limits and the very existence of the rule of law; the latter experiment with new forms of overcoming reductive oppositions – for example, by combining abolitionist aims and formal law, struggles in the courts and civil disobedience, resistance to the law and resistance through the law.

At the time of publication, the Mediterranean is crossed not only by migration routes, violent controls, civil society rescue operations and the legal battles they give rise to, but also by waves of solidarity with the people of Gaza. The experience of successive “flotillas”, initiated by several civil society organisations, has reignited debates both on the “lines” supposed to demarcate state jurisdictions at sea, and more broadly on the effectiveness of international law and the place of citizens in its enforcement⁴⁵.

1. Hébert-Dolbec M-L., Pieret J., Ringelheim J., Truffin B. and Van den Eynde L., “La mobilisation du droit par les mouvements sociaux et la société civile. Présentation du dossier”, in *E-legal*, 5, 2021. ↵

2. Buckel S., Pichl M. and Vestena C., "Legal Struggles: A Social Theory Perspective on Strategic Litigation and Legal Mobilisation", in *Social & Legal Studies*, 2024, 33(1), pp. 21-41. ←
3. Hébert-Dolbec M-L. *et alii*, "La mobilisation du droit par les mouvements sociaux et la société civile", *Op. cit.*; Israël L., *L'arme du droit*, Paris, Presses de Sciences Po, 2009. ←
4. This is the idea behind the concept of "impact litigation" and the objective of many so-called impact studies. See McCann M., "Law, Litigation, and the Politics of Social Movements", in *E-legal*, 5, 2021.* ←
5. Paternotte D., "La juridification ou le droit comme matrice de l'action collective : la revendication du droit au mariage entre personnes du même sexe", in *Politique et Sociétés*, 31(2), pp. 93-112. ←
6. Agrikolianski E., "Usages choisis du droit : le service juridique de la ligue des droits de l'homme (1970-1990). Entre politique et raison humanitaire", in *Sociétés Contemporaines*, 52(4), 2003; Buckel S., Pichl M. and Vestena C., "Legal Struggles...", in *Op. cit.*, pp. 21-41. ←
7. See Cummings S. L., "Rethinking the Foundational Critiques of Lawyers in Social Movements", in *Fordham Law Review*, 85, 1987 (2017); Fofana H., "Vérité et justice pour Norbert Zongo : une mobilisation conjointe du droit et de la rue au Burkina Faso", in *E-Legal*, 5, 2021. ←
8. Rea A., Martiniello M., Mazzola A. and Meuleman B. *The Refugee Reception Crisis in Europe: Polarized Opinions and Mobilisations*, Bruxelles: Éditions de l'Université de Bruxelles, 2019. ←
9. For a critical summary of the literature on "solidarity" at borders, see Trucco D., "L'aide aux migrants : une solidarité qui (dé/re)politise les inégalités globales ?", in Chedly B., Mouloud I. and Ekobena E. (dir.), *(Dé)passer le régime international des frontières. L'hospitalité en actes*, Montréal, Vivre ensemble, 2023, pp. 84-93. ←
10. Lendaro A., "Désobéir en faveur des migrants. Répertoires d'action à la frontière franco-italienne", in *Journal des anthropologues*, 152-153(1), 2018, pp. 171-92; Vergnano C., "Why Take Such a Risk? Beyond Profit: Motivations of Border-Crossing Facilitators Between France and Italy", in *Social Anthropology Anthropologie Sociale*, 28/3, 2020, pp. 743-58; Trucco D., "The Criminalization of Border Solidarity and the Law as a Double-Edged Weapon", in *Partecipazione e Conflitto*, 16(3), 2023, pp. 470-89; Trucco D., "À la frontière du droit pénal : l'imbrication entre contrôle des migrations et des mouvements sociaux dans un cas d'étude à la frontière franco-italienne", in *Archives de politique criminelle*, 2024/1 n°46, 2024, pp. 119-33. ←
11. Trucco D., Lamarche K. and Philippe O., "À la frontière du droit : répertoire juridique et défense des exilé-es en territoire frontalier", in *Law and Society*, 113(1), 2023, pp. 181-202; Trucco D. and Philippe O., "Résister par le droit. Le répertoire juridique à la frontière franco-italienne" in Lendaro A. (ed.), *Gouverner les exilés aux frontières. Pouvoir discrétionnaire et résistances*, Vulaines-sur-Seine, Éditions du Croquant, 2023, pp. 203-25; Lamarche K. and Lendaro A., "L'arme du droit et ses coûts. Réflexions autour de l'expertise juridique à Calais", in Lendaro A. (ed.) *Gouverner les exilés aux frontières*, *Op. cit.*, pp. 179-201; Lendaro, A., "Justice in the Jungle: Litigation and Judicial Violence in Calais Refugee Camps at the French-UK Border", in *American Behavioural Scientist*, 2023. ←
12. By creating a category of people at high risk of losing their lives through these measures, European migration policy has been aptly described as necropolitical according to the definition proposed in Mbembe A., "Néropolitique", in *Raisons politiques*, n°21(1), 2006, pp. 29-60. Numerous works have been devoted to the subject of deaths at and across borders. For a focus on the legal and administrative processes of identification and the mobilisations surrounding them, see in particular Kobelinsky C., Furri F., *Relier les rives Sur les traces des morts en Méditerranée*, Paris, La Découverte 2024. ←
13. Pichl M., *Rechtskämpfe. Eine Analyse der Rechtsverfahren nach dem Sommer der Migration*, Frankfurt am Main/New York, Campus, 2021. ←
14. Passalacqua V., "Who Mobilizes the Court? Migrant Rights Defenders Before the Court of Justice of the EU", in *Law and Development Review*, 15(2), June 2022, pp. 381-405; Pijnenburg A., van der Pas K., "Strategic Litigation against European Migration Control Policies: The Legal Battleground of the Central Mediterranean Migration Route", in *European Journal of Migration and Law*, 24, 2022, pp. 401-29. ←
15. This notion is used in critical border studies to emphasize that irregularity is the product of migration policies, which increase barriers to access legal status related to residence and asylum and also increase the conditions leading to the loss of acquired status. See, Papadopoulos D. and Tsianos V., "After citizenship: Autonomy of Migration, Organisational Ontology, and Mobile Commons", in *Citizenship Studies*, 17(2), 2013, pp. 178-96. ←

16. Costello C., Mann I., "Border Justice: Migration and Accountability for Human Rights Violations", in *German Law Journal*, 2020, 21, pp. 311-34. ←
17. Some of these contributions were discussed at the seminar "Mobilisation of migration law at Europe's borders" held on 9 December 2024 at the Université Libre de Bruxelles (see the programme at <https://droit-public-et-social.ulb.be/wp-content/uploads/2024/11/Mobilisation-du-droit-en-matiere-migratoire-aux-frontieres-de-l-Europe-Programme2.pdf>). All the articles collected here have undergone a double-blind peer review process. In this regard, I would like to thank the anonymous reviewers: 12 internationally recognized researchers in the fields of immigration law, legal mobilisation and social movements, from universities and research centres in five different European countries. Their comments have significantly contributed to the scientific quality of the articles collected here. ←
18. In this sense, all the works collected here take a relational approach to law, in which "it is not so much the texts that the researcher is invited to examine, but rather the multiple activities through which law is shaped and understood" (Herlin-Giret C. and Lejeune A., *Droit et inégalités. Approches sociologiques*, Louvain-la-Neuve, de Boeck, 2022, p. 32). ←
19. We do not wish to reproduce here what we consider to be a hollow distinction between legal research by lawyers and those made by non-lawyers. Here, we prefer to distinguish between them by placing them on a continuum: a research approach that opens up the legal object to socio-legal investigation, *i.e.* the behind-the-scenes and black boxes of formal legal texts and tools, and a perspective that leaves these texts and tools aside to focus less on the formal and technical specificities of law and more on what actors think, say and do about law. In this regard, see Israël L., "Question(s) de méthodes. Se saisir du droit en sociologie", in *Droit et société*, 2/69-70, 2008, pp. 381-95; Herlin-Giret C. and Lejeune A., "*Droit et inégalités*", *Op. cit.*, p. 30 *et seq.*; Corten O., "Introduction", in *Sociologies du droit*, Paris, Dalloz 2023. ←
20. The "control gap" theory*, * according to which courts prevent governments from implementing migration policies that are as restrictive as they would like, has fuelled a vast body of literature questioning the influence of case law on policy makers. In this regard*, * see Bonjour S., "The Power and Morals of Policy Makers: Reassessing the Control Gap Debate", in *International Migration Review*, 45(1), 2011, pp. 89-122; Bonjour S., "Speaking of Rights: The Influence of Law and Courts on the Making of Family Migration Policies in Germany", in *Law & Policy*, 38, 2016, pp. 328-48. ←
21. Trucco D., "À la frontière du droit pénal", *Op. cit.* ←
22. Deleixhe M. and Paternotte D., "Qu'est-ce que l'antiwokisme ?", in *La Revue Nouvelle*, 4, 2024, pp. 36-43. ←
23. Charaudeau Santomauro B., "Entre la norme et l'exception : retour sur le long fleuve agité du contrôle des frontières intérieures de la France", in *Mondes & Migrations*, 3(1350), 2025, pp. 59-66; Meier D., *Les frontières au-delà des cartes. Sécurité, migration, mondialisation*, Paris, Le Cavalier Bleu, 2020. ←
24. De Genova N. P., "Migrant 'Illegality' and Deportability in Everyday Life", in *Annual Review of Anthropology*, 31, 2002, pp. 419-47. ←
25. There is a wealth of literature on this subject. We refer here to Meier D. and Amilhat Szary A.-L., *Qu'est-ce qu'une frontière aujourd'hui ?*, Paris, PUF, 2015. ←
26. Mezzadra S. and Neilson B., *Border as Method, or, the Multiplication of Labour*, Duke University Press, 2013. ←
27. Brown W., *Walled States, Waning Sovereignty*, Princeton, Princeton University Press, 2010. ←
28. Cuttitta P., "Borderizing' the Island Setting and Narratives of the Lampedusa Border Play", in *ACME: An International Journal for Critical Geographies*, 13(2), 2014, pp. 196-219. ←
29. Bargel L., *Dans l'écheveau de la frontière. Alignements et réalignements politiques dans la vallée de la Roya (XIXe-XXIe siècles)*, Paris, Karthala, 2023. ←
30. Lehoucq E. and Taylor W., "Conceptualizing Legal Mobilisation: How Should We Understand the Deployment of Legal Strategies?", in *Law & Social Inquiry*, 45(1), 2020, pp. 166-93. ←
31. Van der Pas K., "Conceptualizing strategic litigation", in *Oñati Socio-Legal Series*, 11(6(S)), 2021, S116-S145. ←

32. Here we find the distinction proposed by Richard Abel between offensive, defensive and reversed uses of the law. Abel R., "Speaking Law to Power. Occasions for Cause Lawyering" in Sarat A. and Scheingold S. (eds), *Cause Lawyering: Political Commitments and Professional Responsibilities*, Oxford, Oxford University Press, 1998. ←
33. This corresponds to the definition proposed by Emilio Lehoucq and Withney Taylor in their attempt at conceptualisation: "instances of explicit, self-conscious invocations of institutional mechanisms [...]. The invocation of a formal institutional mechanism refers to the use of a venue within the state to file a claim against another actor. This can be done through administrative procedures, quasi-judicial procedures, and litigation." (Lehoucq E. and Taylor W., "Conceptualizing Legal Mobilisation", *Op. cit.*, pp. 78-179). ←
34. There are now several studies on legal advice and assistance. For a recent collection, see Avanza M., Miaz J., Péchu C. and Voutat B. (eds.), *Militantisme de guichet. Perspectives ethnographiques*, Lausanne, Antipodes, 2023. ←
35. Lochak D., "Les usages militants du droit", in *La Revue des droits de l'homme*, 10, 2016. Online: <http://journals.openedition.org/revdh/2178>. ←
36. The academic distinction between "lawyers" and "activist lawyers" may be disputed, and this label is not always accepted or used by the actors themselves. However, this term (which was introduced in Sarat A. and Scheingold S., *Cause Lawyering*, *Op. cit.*) remains relevant from a sociological point of view, as it allows us to focus on lawyers, and more generally legal professionals, when they use their skills and resources to defend a cause in conjunction with, or beyond, the individual and short-term interests of their clients. See Israël L., "Cause lawyering", in Fillieule O., Mathieu L. and Péchu C., *Dictionnaire des mouvements sociaux*, Paris, Presses de Sciences Po, 2020, pp 98-104; Lendaro A. "Defending 'solidarity offenders'. What are the limits of lawyers' commitment to the cause of foreigners?", in *Law and Society*, 1, 2021, pp. 67-82. ←
37. Parrot K., *Carte blanche. The State Against Foreigners*, Paris, La fabrique, 2019. ←
38. Gkegka M., *Foreign Nationals From Third Countries. Research on the Construction of Legal Categories*, PhD thesis in Law, defended on 30 November 2023 in Nanterre, Paris Nanterre University. ←
39. Israël L., "Faire émerger le droit des étrangers en le contestant, ou l'histoire paradoxale des premières années du GISTI", in *Politix*, 16(62), 2003, pp. 115-43. ←
40. Trucco D. *et alii*, "À la frontière du droit ...", *op. cit.* ←
41. On this issue which has been widely debated in queer studies and its implications in the field of migration, see, for example: Gourdeau C., "Sans-papiers, militants, soutiens : expériences croisées de la lutte", *Plein droit*, 139(4), 2023, pp. 27-30; as well as the work of Youri Vertongen on the Belgian Undocumented Migrants' Coordination (Coordination des sans-papiers de Belgique) in Vertongen Y., *Papiers pour Tous. Quarante ans de mobilisations en faveur de la régularisation des sans-papiers en Belgique (1974-2014)*, Paris, L'Harmattan, 2024. ←
42. Following the work of the philosopher Édouard Glissant, anthropologists and sociologists have proposed the right to opacity for subordinates as a form of resistance from a decolonial perspective: whether by the authorities or by scientific research, not everything must necessarily be seen, observed, understood, explained and documented. See Khosravi S., "Doing migration studies with an accent", in *Journal of Ethnic and Migration Studies*, 50(9), 2024, pp. 2346-58. ←
43. Cummings S. L., "Movement Lawyering", in *Indiana Journal of Global Legal Studies*, 27(1), 2020, pp. 87-130. ←
44. On this topic, see also the article published in the « Debates » section of this same volume of *E-legal*. Fierens J., Klimis S., Tatti D., Trucco D., « Saisir la cour, mobiliser les savoirs, mouvoir les citoyens. Regards croisés sur la quête de vérité et de justice pour Mawda. », in *E-legal*, 9, 2025. ←
45. See Montella T. and Rigo E., "In mare rinasce il diritto internazionale" in *Jacobin Italia*, 10 September 2025. Online: <https://jacobinitalia.it/in-mare-rinasce-il-diritto-internazionale/> ←

