



State categories and labour protest: migrant workers and the fight for legal status in France

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Abstract

Through a historic wave of strikes, France's *sans-papiers* (immigrants without papers) became known as 'sans-papier workers' and renewed their fight for legal status. The state instituted employment-based regularization and unions embraced migrant workers' access to legal status as a labour issue. Following Bourdieu and Boltanski, this article traces the institutional genesis and political trajectory of the 'sans-papier worker' as symbolic category and objective group, highlighting its agonistic coproduction by state policy and union strategy. The study relies on a three-year collective ethnography including participant observation, archive collection and over a hundred interviews with migrant workers, union activists, employers and civil servants. Whereas the new framing initially uncovered the reality of undocumented migrants at work, it gradually became an exclusive category that sorted 'workers' from the others. Ultimately, the fight for 'sans-papier workers' confronted labour organizations and the state with the question of when one starts and stops being a worker.

Keywords

France, migrant workers, regularization, state categories, trade unions

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Introduction

Between 2008 and 2010, thousands of France's undocumented migrant workers conducted strikes and occupied their workplaces, demanding that their employers sponsor their regularization applications (Adler et al., 2014; Barron et al., 2011, 2014). The strikes were supported by a coalition of labour and human rights groups, under the leadership of the *Confédération Générale du Travail* (CGT), the country's oldest and second largest union. Unheard of in French migration and labour histories, the mobilization was prompted by a recent change in legislation that allowed employers to solicit the regularization of a migrant through the provision of a formal job offer. While France's undocumented migrants had previously conducted street demonstrations and hunger strikes (Blin, 2005; Nicholls, 2011; Siméant, 1998), this was the first time that labour strikes were deployed as a pathway towards legal status (Kahmann, 2015; Tourette et al., 2008).

Previously known as *sans-papiers* (immigrants without papers), they now rallied under the banner of 'sans-papier workers'. It is estimated that there are 300,000 to 400,000 undocumented immigrants in France. Since the 1970s, *sans-papier* collectives have fought to obtain legal status in a process referred to as 'regularization'. Once regularized, immigrants no longer face deportation or the fear of being dismissed from their jobs due to their status and can move freely in and out of the country.

Following a Bourdieusian approach to the relationship between symbolic categories and objective groups (Bourdieu, 1987; Wacquant, 2013), this article analyses the development of the 'sans-papier worker', highlighting its agonistic coproduction by state policy and labour union counter-strategy. Emulating important studies by Boltanski (1984) on France and Vinel (2013) on the United States, it traces 'the *social effort of definition and delimitation* which accompanied the group's formation and which, by objectifying it, helped it to achieve existence as something taken for granted' (Boltanski, 1984: 472, emphasis in original). The genesis of the 'sans-papier worker' offers a critical case to understand the role of the state in classification struggles over the boundaries of employment rights and the identity of vulnerable workers, by showing that state categories are simultaneously stakes, weapons and targets of these struggles.

France's *sans-papiers* had been employed before and prior movements could already be described as labour mobilizations (Galano et al., 2002), since 'the migration status of these workers has a substantial impact on their working conditions' (Alberti et al., 2013: 4143). Tapia and Turner (2013: 602) thus analyse the latest French campaign as another "countermovement" against the expansion of increasingly unregulated labour markets'. However, France differs from other national contexts (Adler et al., 2014; Milkman, 2011) in that, since the 1980s, its undocumented migrants were not primarily framed as workers. Even when shifts in employment law played a role in triggering protest, such as Iskander (2007) illuminates with the case of the Sentier garment district in the 1990s, the rhetorics used were dominated by the 'vulnerability' frame (Chauvin and Garcés-Mascareñas, 2014). The latter emphasized humanitarian representations of migrants (Ticktin, 2011) and formulated their demands in general human rights terms (Siméant, 1998).

In this regard, the 2008–10 movement is a transformative case. For the first time, it placed work at the centre of the fight for regularization, whether in discourse, modes of action or types of demands. Indeed, the *sans-papier* strikes highlighted inclusion rather than dispossession, departing from the humanitarian trope of vulnerability. In so doing, they provided a key ideational condition for labour unions to embrace undocumented migrants as workers who are worth organizing and legalization as a labour fight. Moreover, they coupled this frame shift with the deployment of undocumented migrants' effective labour-market power as strategic leverage, partially overcoming the limits of merely symbolic politics (Chun, 2009; Jenkins, 2002).

Centring on an extensive ethnography of the movement, this article follows the trajectory of the '*sans-papier* worker' both as an objective group and a cognitive category. It begins with its institutional genesis through the policies that affected migrant employment in the 2000s and analyses its development in migrant and labour politics at the end of the decade. The rest of the article proceeds as follows: the next section offers a theoretical discussion on state categories, movement frames and the genesis of groups. In the third section, the strategy for data collection is introduced. Next, successive shifts in how the '*sans-papier* worker' was deployed are described, based on selected findings from the research. Finally, theoretical implications are drawn about the role of state categories in union protest and the dilemmas faced by labour movements in classification struggles over vulnerable workers.

State categories, labour movements and intersectional frames

The modern state plays a key role in defining categories and statuses that affect people's material and symbolic resources (Bourdieu, 1999), for example through shaping industrial relations institutions (Howell, 2015), insuring workers' labour market security (Castel, 2009 [1995]; Supiot, 1994), guaranteeing or limiting their legal ability to organize (Vinel, 2013) or providing unequal rights for various groups of residents (Paul, 2015). Although many state categories help protect workers from economic uncertainty, others define precarious statuses, whether through temporary and highly contingent residency permits or through punitive categories such as unauthorized migrant or deportable alien. These statuses often create more insecurity for the workers, weakening their negotiation power in and out of the workplace (Anderson, 2010; De Genova, 2002; Standing, 2012). Meanwhile, state-generated vulnerability of migrants renders them preferable to certain types of low-end employers as long as their status remains precarious (MacKenzie and Forde, 2009; Potter and Hamilton, 2014).

Individual migrants have some leeway to navigate those constraints. Bloch (2013) describes how they may work within or without a co-ethnic enclave, while Ruhs and Anderson (2010: 197) note that legal status 'may also change because of the migrant's and/or their employer's actions or inactions' and not just out of top-down state decision. This article shows that legally precarious employees may also collectively contest the state-related categorization processes that lead to their vulnerability by challenging the boundaries on which they rest.

Trade unions that assist in this task must decide how to incorporate migrants (Marino et al., 2015). Alberti et al. (2013) distinguish between ‘universalistic’ approaches that consider migrants ‘as workers’ and ‘particularistic’ approaches that take account of their specificities as ‘migrant workers’. Applying insights from intersectionality theory to industrial relations, they examine how intersectional frames such as ‘migrant workers’ may allow unions to transcend the ‘the false dichotomy between work and migration issues’ (Alberti et al., 2013: 4142). However, the consequences of intersectional framings remain uncertain. First, the latter do not always translate into intersectional strategies that would take overlapping oppressions into account on the ground. Second, they may unwittingly reproduce the initial dichotomy both at the level of framing (by presenting migrant issues in terms of ‘human rights’ while leaving the definition of ‘worker rights’ untouched) and at the organizational level (by maintaining the segregation between people with ‘specific problems’ and the broader union that deals with ‘generic workers’). Third, by combining identities, intersectional framings may equally broaden or restrict the boundaries of the frame, potentially excluding those who cannot qualify (Nicholls, 2011: 623). This article describes how these challenges have played out in the case of the *sans-papier* workers movement.

To do so, it deploys an approach to categories informed by Boltanski (1984), Bourdieu (1987) and Vinel (2013). The notion of category is used by Bourdieu to investigate the relation between symbolic frames (categories of perception), institutionalized statuses (state categories) and social groups (objective categories). Although sharing similar material conditions creates ‘the probability of a real class’ (Bourdieu, 1987: 7), social labour is required to turn a ‘population’ into a ‘collective’ (Wacquant, 2013: 276) and classification struggles lie at the heart of class struggles.

Emphasizing cultural factors, Parsons (2013) recently pointed to France’s ‘permissive ideational environment’ with regard to collective protest to explain why ‘bossnappings’ – the illegal practice of locking up an employer or a manager – are perceived with indulgence. Yet, purely ‘culturalist-cognitive’ approaches to labour movements (Gahan and Pekarek, 2013: 758) are insufficient to fully grasp the interplay between material, institutional and symbolic dimensions of group-making processes. Boltanski’s (1984) study of the genesis of ‘*cadres*’ as a professional category is a case in point. In interwar France, engineers and managers, whose numbers had been rising with capitalist modernization, sought to ‘stand up to the labour movement’ (1984: 475) by acquiring a separate voice in the new labour-bargaining system instituted by the *Accords Matignon* of 1936. Their purpose was to ‘thwart the working-class organizations on their own ground while enjoying the advantages they managed to win from the employers’ (1984: 480). They had to distinguish themselves as ‘a group claiming membership in two previously separate categories’ (employers *and* workers), bracket vast internal differences in wealth and employment status, create their own organizations and designate representatives (1984: 481). State recognition was key to the ‘taxonomic rearrangement’ (1984: 477) by which the group ‘objectified itself’ (1984: 469).

Inspired by Boltanski’s study, Vinel’s (2013) account of the category of the ‘employee’ in American legal and labour history is another inspiration for this research. As a ‘political construction’ the ‘employee’ was conceived by its original promoters to symbolically erase class antagonism, expressing ‘the idea of harmony between labor and capital that

attended the rise of economic liberalism in the United States' (2013: 22–3). However, the Wagner Act of 1935 transformed its meaning by instituting a broad system of protection for 'employees', including the right to organize and bargain collectively. It even continued to call people who had stopped working 'employees', thus bringing the category closer to the definition of a class rather than a mere individual status. In the following decades, employers and state elites fought hard to exclude more and more categories of workers from the status of 'employee' – in particular, by naming them 'supervisors' or 'independent contractors' – effectively denying them the right to unionize. The discussion section will contrast the fates of '*cadres*', 'employees' and '*sans-papier* workers' to provide explanations for the successes and limitations of the French migrant strike.

Method and data

This article is based on a collective study of the '*sans-papier* worker' campaign, conducted by a team of four sociologists and one journalist. Research included three years of extensive participant observation at public and private union meetings, picket lines, union branches where applications for regularization were prepared, and migration offices where these applications were filed. More than a hundred in-depth interviews were also conducted with migrant workers (38), union and human rights association staff and activists (36), employers in the restaurant, cleaning, temporary staffing and construction industries (17), national and local government officials at the Ministries of Immigration and Labour, *préfectures* (local administrative branches of the Interior Ministry), banking authorities, national retirement and health insurance agencies (13). Interviews lasted from one to six hours. Finally, a vast archive of the movement was collected, which included flyers and political documents intended for broad distribution, confidential items such as strikers' regularization applications or end-of-strike labour agreements and internal government documents such as telegrams and other ministerial instructions.

Our intent to write a history of the strike, along with our willingness to volunteer in an array of tasks ranging from checking regularization applications to data entry to guarding pickets, facilitated our access to union offices and movement meetings.¹ Occasionally, the research led to the publication of op-eds in the national and international press, presenting the various implications of the movement. Movement members were usually interviewed after they were encountered in the course of participant observation.

The primary methodology was thus collective historical ethnography: multi-sited fieldwork was used to collect and construct on-the-spot archives as events occurred in order to capture the inherent details of a political process in the making. Carefully drafted field notes were shared with the whole team following each event and were subsequently treated as ethnographic data, allowing for post-data collection 'team dialogue' (Houston et al., 2010). Initially, the purpose was to write a general history of the movement, focusing on the implications of union involvement and the deployment of strikes as a new repertoire of contention for migrants' social and legal identity as *sans-papier* workers (Barron et al., 2011). The sources collected were critically scrutinized like historians approaching artefacts, taking them both as traces of the movement and situated commentary on events as they unravelled.

How *sans-papiers* became workers: a transformative case

How did the '*sans-papier* worker' come to take centre stage in both state discourse and union strategy towards irregular migrants? What roles did policy shifts and movement choices play in generating this new category? How was the frame deployed, and how did it relate to the objective employment conditions of France's migrants?

The 'immigrant worker' was a familiar figure of France's 1970s protest movements. However, the waves of pro-regularization campaigns that installed *sans-papier* as a household term in the 1980s and 1990s did not emphasize employment. Even when the chronology and anatomy of their protests could be traced to a particular employment sector, this dimension was downplayed (Iskander, 2007). Residence papers delivered by the state gradually disconnected the right to stay from a person's employment (Lochak, 1985). The figure of the 'immigrant worker' slowly faded from the advocacy agenda. At the time, most political and labour organizations favoured restricting immigration, so *sans-papier* mobilizations primarily rested on a humanitarian register, 'based on sympathy for persons who can only argue of their quality as human being' (Siméant, 1998: 260). They commonly referred to the need to help the powerless and to 'common humanity' rather than to migrants' economic inclusion and their possible use of the latter as leverage.

It was not until 2007–08 that the category '*sans-papier* worker' appeared and achieved widespread use, suggesting that at that point, it rested on sufficiently solid ground and would not encounter indifference. Indeed, the rise of '*sans-papier* workers' was not elicited by a mere change in 'culture' or a series of frame shifts at the cognitive level but resulted from intense social and institutional activity with very material implications, from migratory flows to policy shifts, from labour-market dynamics to collective protest. Together, these processes and actors gave purchase and empirical resonance to labour's attempt at describing and transforming social reality with the '*sans-papier* worker' category.

How the French state shone the spotlight on undocumented migrants in employment

Even as work was slowly disassociated from the public image of *sans-papiers*, undocumented migrants continued to hold jobs. Many of these jobs were in the formal economy, obtained thanks to constructed papers in their names or genuine papers that they borrowed or rented. Employed workers could declare their earnings to the Fiscal authority and, when their income required, pay taxes. Some workers had bank accounts in their own names, rental contracts and even mortgages. In the 2000s, new control measures challenged precisely those situations of subordinate integration based on 'camouflage' (Chauvin and Garcés-Masareñas, 2014) in the formal institutions of society, including the formal labour market.

Police raids aiming to check immigration status explicitly targeted demonstrations and building occupations, rendering the *sans-papiers*' traditional modes of action perilous. New juridical tools were developed to allow police forces to request to see anyone's documents in a given area for a set duration. Partly as a result, deportations nearly tripled between 2001 (9227) and 2008 (29,726).² The police were increasingly assisted by labour inspectors and social security investigators. Only the latter were allowed to enter businesses at will without a court order. The police would wait outside and follow up

once an immigration infraction was found. Added together, arrests on worksites represented one out of every eight apprehensions for immigration violations in 2008.

Successive governments were also at pains to exclude irregular migrants from employee rights. Even though hiring them is an infraction, employed undocumented migrants theoretically benefit from the protection of most of the French labour code. For example, courts long ruled that they were not to be excluded from common regulations against dismissals, particularly when the employer could be shown to have known of their migratory status. However, the second half of the 2000s saw individual court decisions limiting those rights (Baudet-Caille, 2009).

Responsibility for migration control gradually shifted to employers. From 1 July 2007, they became legally bound to send the local *préfecture* a copy of the papers of any applicant who was a non-EU foreigner. Some employers used this as an excuse to check their entire workforce, conveniently cutting staff in a period of slowdown without going through lengthy legal procedures. These regulatory developments led to a period of mass layoffs and more difficult recruitment for undocumented migrants, while creating threats for those still employed.

The tightening of controls impacted different groups of undocumented migrants unequally. Those whose lives were the most clandestine, who worked informally, were paid in cash and did not have any contacts with social security thus ‘only’ suffered from the intensification of police activity. In contrast, those who had been camouflaged at the heart of the formal economy saw the various arrangements that had sheltered them become more fragile. Interestingly, therefore, heightened controls had more consequences for those who were the most solidly integrated and had thus accumulated more resources to fight back. It also disproportionately impacted West African male migrants – more specifically from Mali and the Senegal River Valley – who were more likely to be in formal employment and work for a non-African employer (Jounin, 2014). These migrants would be at the core of the union campaign for regularization.

Even as employment became an increasingly salient site of control for undocumented migrants, the French government made it a potential basis for regularization. A new policy discourse developed that sought to prioritize labour migration (presented as ‘chosen’) over family unification (framed as ‘imposed’). In 2006, a law created new residence cards linked to work. These cards were to be delivered to some migrants, depending on skills and sectorial needs. In 2007, another law authorized ‘exceptional’ regularizations for undocumented migrants that were sponsored by an employer, thanks to an employment contract that would take effect once the regularization was validated. This law was voted on after the right-wing parliamentary majority was discretely pressured by employers, who were either losing too many employees or facing early protests by workers, as a result of the tightened controls.

While the new law gave companies the power to obtain legal status for some of their workers, workers were confronted with a new form of dependency: their regularization was contingent on the good will of their bosses. Power and dependency were double-edged swords, however. By constituting employment as a source of regularization, state elites thought that they would only have to deal with one actor, the employer. In reality, they had invited the inherent contentiousness of the *employment relationship* into the politics of regularization. This generated a new way of fighting for papers, aside from

hunger strikes and street demonstrations: the labour strike, by which workers would use their legally protected labour-market leverage to pressure their employers to petition for their regularization.

‘Sans-papier workers’: how a synonym for *sans-papier* became an exclusive category

Strikes pioneering the *sans-papier* workers’ movement illustrated the contradictory policy context just described. In 2006, the new owner of Modeluxe, an industrial laundry service in Chilly-Mazarin, near Paris, refused to continue to employ undocumented workers following his takeover of the company. After he sent them a notice of termination, workers went on strike with the support of the CGT union of nearby Massy. Its secretary, Raymond Chauveau, a white retired mechanic who had been a union representative for Paris’s suburban train system, had previously been involved in local *sans-papier* collectives. His combined experiences as a union official and as a supporter of *sans-papier* movements made him sensitive to the employment-related plight of migrant workers. He easily approached the Chilly-Mazarin strike as a labour mobilization since the latter chiefly protested dismissals without initially including demands for regularization. In fact, the legal tools and movement repertoires connecting employment and access to legal status had not yet been formalized.

Just before their employment was to be terminated, Modeluxe workers used the strike to *suspend* their contracts. If ending an employment relationship is an employer’s right – in this case, even an obligation – the relationship must be ongoing for this right to be exercised. It was suspended by the strike, however, and therefore the strike needed to end in order for the contracts to be terminated. In Chilly-Mazarin, the strike also involved the occupation of the laundry company. In contrast to the occupation of a church, a university or any other site with which occupiers have no affiliation, worksite occupations in France are protected by a juridical mechanism. In order to intervene, the police must receive a formal request by the owner, which is only valid if the owner can prove that occupiers are not employees of the company. In the case of the Modeluxe laundry, the police did not enter the premises, which, incidentally, were protected by 50 unionists standing outside.³

The strategy of choice was summarized by a Human Resource consultant called in by a distraught employer during one of the early strikes:

The company is taken hostage; the employer wants to take back his company; to take it back, workers need to be regularized; hence the employer must exert pressure on the State by using his relations [...] Here is the scheme conceived by the CGT, it is remarkable.⁴

Here, the hard mechanics of labour law proved more important than ideational factors. In fact, the latter lagged behind, as the public still struggled to recognize the protest as a genuine strike and interpreted it as another migrant camp. ‘In the past years, the area’s *sans-papiers* had already occupied the Cathedral of Evry, a church in Sainte-Geneviève-des-Bois, another one in Massy’, explained *Le Parisien* newspaper on 3 October 2006. ‘But never before had workers gone so far as to install their camp inside a company.’

A second major strike took place at a Buffalo Grill restaurant in June 2007, in a nearby area covered by the same CGT branch. There too, it resulted from the threat of termination due to employees' migration status. The *préfecture* agreed to legalize the 20 out of 63 strikers that Buffalo Grill had accepted to sponsor. On 13 February 2008, shortly after the issuance of directives implementing the 2007 immigration law and opening the possibility of employment-based regularization, a third strike was organized at *La Grande Armée* restaurant near the Champs-Élysées, with the support of several CGT branches. This time, the nine cooks did not fear for their jobs, as their employer had not officially discovered their real immigration status. Instead, the cooks were seeking to use their employment to obtain legal status with immigration authorities. Yet, by coming out, undocumented migrants endangered their jobs, foreclosing any return. The employer would no longer be able to claim ignorance of his workers' status, and thus, if the strike ended without regularization, he would be forced to fire them.

These pioneering strikers had had no connections with labour unions before. They had not contacted the CGT hospitality federation or the Paris branch. Instead, they contacted the suburban Massy branch and Raymond Chauveau, who they knew from the media and their community networks, especially migrant hostels, following the first two strikes. Aware of its limited resources, the Massy branch involved the comparatively better staffed Paris branch in its efforts for the first time.

Seven cooks were regularized after a week and the remaining two a few months later. In addition to the owner's commitment to continue employing them, salary slips were required to prove past employment and complete regularization applications. Salary slips had long represented equivocal items: one could not be sure if they would function to the advantage or disadvantage of the applicant, as they could only be obtained through fraud. From the *Grande Armée* strike onwards, the salary slip lost its status as evidence of falsification and became a proof of belonging to the category of the 'employee' and thus an essential item in successful regularization applications.

Encouraged by this widely publicized victory, hundreds of migrant workers contacted unions in the Paris region in the winter and spring of 2008. The CGT branches of Massy and Paris sought the support of the national Confederation in this new fight and succeeded in involving the secretary for immigration issues, Francine Blanche. On 15 April 2008, 300 undocumented employees of 16 Paris-region companies simultaneously began strikes involving the occupation of their worksites. Two weeks later, strikers held a prominent place in Mayday demonstrations, where they were cheered on for their actions. The expression '*sans-papier* worker' started to appear abundantly in the media. At that particular moment, it was brandished as a synonym for *sans-papier*. 'In this battle, the "*sans-papiers*" demonstrated with courage and determination that they were first and foremost brave workers', wrote Raymond Chauveau (2009: 77). A logic of identity prevailed ('*the sans-papiers* are workers') rather than a logic of differentiation ('among the *sans-papiers* there are workers').

Sans-papier workers against sans-papiers?

The multi-site movement opened by the 15 April occupations was followed by negotiations between the CGT and the government over regularization criteria. The government initially rejected the most precarious employment situations as unfit for regularization

(Barron et al., 2009). These included: workers employed off the books, whose recognition as employees was problematic; workers in part-time jobs who did not earn the requisite amount above the monthly minimum wage that was necessary for their jobs to be declared 'decent'; workers employed by temporary staffing agencies, which were not considered true employers; and, workers with contracts of less than a year, which were not considered stable.

Anticipating these restrictions, unions focused their initial campaign on employment situations that lay at the heart of the juridical recognition of work. Hence, the first strikers could provide official salary slips; they were declared and thus had paid payroll taxes; they had permanent full-time contracts and were direct employees of the company they worked for; there were enough of them employed in their company, so when they stopped working it could not be perceived as an individual resignation (workers were instructed to recruit at least four other colleagues).

The first strikers were selected by unions to serve as the incontestable core of a more diffuse category. They were a synecdoche for a group that encompassed them and were to function as 'a pole of attraction' (Boltanski, 1984: 487). As with the *cadres*, the success of the category '*sans-papier* workers' led more and more migrants to claim the identity it carried without sharing the employment features of the initial group. The French government sought to limit the group to its core, while unions fought for its expansion, raising the question: when does one start and stop being a (regularizable) worker?

From a definitional battle between unions and authorities, this question soon came to divide *sans-papier* movements from the inside, creating a rift between classic collectives in the 1990s tradition and the new union-organized movement. Heirs to a longer history of struggles for residence – most notably marked by the occupation of the St Bernard church in 1996 (Blin, 2005) – *sans-papier* collectives had not been used to considering their members as workers, whether by their modes of action or by pathways to regularization available until then. No internal list provided information about their occupations, their companies or their work conditions, making it impossible to plan for an action that used employment as leverage. On 2 May 2008, members of the 'Coordination 75' of *sans-papier* collectives (CSP 75) occupied the *Bourse du Travail*, a communal labour building housing the Paris branch of the CGT, which by then was the most active labour union section in the strikes. In their first communiqué, occupiers hailed the role of the CGT in publicizing 'the problems of undocumented workers and the necessity for them to be regularized' but criticized what they believed to be the union's new role as an unavoidable intermediary of regularization.

While denouncing the CGT, the occupiers of the *Bourse du Travail* spoke of themselves as 'workers' and 'strikers', suggesting that in a few weeks, the strike had become the frame of reference even for people who were not really occupying their worksite. The CSP 75 spokesmen demanded that the CGT include applications from its members regardless of their employment situation. The CGT refused: 'We said "for the moment, we cannot send isolated workers on strike"', explained Olivier Villeret, the coordinator for CGT-Paris. 'Our job is not to file applications based on family life or medical condition, etc. We are a labour union.'⁵

At the end of the first wave of strikes, in the autumn of 2008, unions began to engage in the routine preparation and filing of applications according to the employment-based

criteria they thought they had secured. Doing so, they gradually got caught in an activity that involved selecting applicants. In practice, this resulted in their endorsement of restrictions that the Immigration Ministry had imposed by refusing workers who did not belong to the most formal and integrated layers of the labour force. For a time, unions accepted that restrictive logic because they hoped *préfectures* would respect clear criteria and procedures, allowing them to anticipate the outcomes of applications. However, the fading of strikes from mid-2008 onwards gradually gave *préfectures* more self-assurance and allowed them to multiply petty humiliations, modify procedures and periodically revise criteria. 'In each *préfecture*, we meet obstacles', complained Diakité, a delegate of one of the remaining pickets at the time:

The five people who were rejected in Val-De-Marne [a department near Paris] and the three who were regularized in the 91 [Essonne department, also near Paris], it is the same employer, it is the same [application], it is the same position.⁶

On 24 June 2009, after facing 14 months of occupation at the Bourse du Travail, the CGT proceeded to forcibly evacuate its premises, with the assistance of anti-riot police outside the building. The evacuation ratified an exclusive use of the intersectional frame '*sans-papier* worker'. It had gone from being a synonym for *sans-papier* to become the emblem of a cleavage, dividing migrants who could claim the identity of worker from those who could not. The heterogeneity of the *sans-papier* population hence seemed to have translated into conflicting mobilizations and demands.

People expelled from the Bourse du Travail were joined by other *sans-papier* collectives to seize a new building in northern Paris, which they baptized 'Minister of the regularization of all *sans-papiers*'. Through this denomination, collectives confirmed their divergence: a new 'all' replaced 'workers', which was now perceived as restrictive. The cleavage was also reasserted by the CGT, when, during preparations for a meeting in 2009, Raymond Chauveau, who had become national coordinator of migrant strikes for the union, declared:

You must finish the job of regularizing undocumented migrant workers. It is our strategy, and we will not accept [...] being carried away to a demand which is general, which is generous but which, tactically, leads nowhere: that of the regularization of all undocumented migrants.⁷

On 12 October 2009, with a broadened coalition of unions and human rights associations, the CGT launched a new wave of strikes, eventually involving over 6000 workers. Aware of the contradictions revealed by the CSP 75's occupation of the CGT premises, the coalition demanded a government directive that would ensure nationwide consistency in the treatment of regularization applications. The idea was also to expand the movement to include temporary workers, informal and domestic workers and workers who were isolated in their companies (Barron et al., 2011; Chuang, 2014; Tapia and Turner, 2013).

The new movement included protests that were unheard of even in broader French labour history. It was the first massive and coordinated strike by employees of small businesses, staffing agencies or informal workers in the country. By extending union

activity to previously hard-to-reach economic sectors, it opened a new frontier by enabling more workers to embrace the right to strike. Previously, many of these workers had remained on the margins of juridical recognition, even if they were employed in core economic activities. Many new pickets were installed in locations that were emblematic of particular sectors (for example employer organizations, branch training institutes and staffing agencies) rather than on company premises or on production sites. ‘Strikers’ included people who stopped work to join the strike, people who had been fired beforehand and temporary workers who were between assignments.

As peripheral workers, the new strikers were in unfavourable situations on both practical and juridical levels. Practically, the occupation of an employer federation (as opposed to a company) resulted in the organization itself being penalized but not the sector it represented. Juridically, such occupation offered no protection from the courts, as there was no direct link between the occupiers and the organization they occupied. In practice, it was hard for temporary workers to block the ‘production’ of a staffing agency. Juridically, they were not allowed to occupy the construction site on which they worked (while employed by an agency). Courts also repeatedly denied them the right to occupy their agencies, arguing that they were not employees on strike but temporary workers between two jobs, and thus unemployed (Barron et al., 2010).

Due to these difficulties, the movement was driven towards symbolic forms of action that were often remote from businesses proper – such as seeking the support of celebrities – and in fact reconnected with more traditional ways of fighting for papers. Thus, for three weeks in June 2010, workers spent day and night occupying part of Place de la Bastille; in the following autumn, they occupied the *Cité Nationale de l’Histoire de l’Immigration*, a new institution settled in the former Museum of Colonies.

At that moment, the category of the ‘*sans-papier* worker’ diverged most from its original definition. First, the precarious profile of strikers who self-identified with the term made it easy for *préfectures*, courts and employers to contest their status as ‘workers’. Second, the mode of action they chose ceased to have work as its effective leverage. The ‘strike’ itself could only be maintained as a master frame by headlong denials such as that which led CGT leaders to call the main camp at Bastille – not a strike, not in a company – the ‘picket of the pickets’.

The strike: from leverage to identity

By early 2010, the basis of strikers’ qualification as ‘*sans-papier* workers’ was no longer their relation to employment. Instead this categorization was primarily tied to their inclusion in a new database maintained by the union. The database materialized in the form of ‘striker cards’ that were instruments for internally monitoring the strikers. Reminiscent of previous *sans-papier* movements (Iskander, 2007: 330; Siméant, 1998: 149–52), each picket would take attendance, using the cards that workers left in the morning and got back at the end of the day. Picket leaders kept a list of who was present and absent to prevent free riders – people who would obtain a striker card and then return to work while they awaited the outcome of the conflict. The likelihood of free riding was high as the large number of workers represented by each picket prevented all strikers from permanently occupying the premises, and atypical employment situations involving multiple work sites made workers’ effective work stoppage difficult to monitor.

The terrible elongation of the conflict throughout 2010 eventually transformed an originally welcoming database of 'strikers' into a limiting list. Many workers gradually realized the movement's diminishing prospects and prepared to abandon the demand for general regularization criteria and exchange them for their own legal status. Thus, it became essential for each striker to prove his or her belonging to the circle of the 'regularizable' and to exclude those who had not taken part in the movement. While the database was conceived as a general means of access to the union-certified identity of 'striker' (and hence, worker), it transformed into a podium for participants' rescue from a long battle.

In June 2010, the Immigration Ministry finally published a first set of national guidelines for *préfectures*. It also promised that 'strikers' (but 'strikers' only) would immediately obtain a three-month residence permit that allowed them to stay and work in France even before their applications were filed. The Ministry wrote an official letter to the CGT, defining strikers as 'those who, according to your indications, went on strike in the last months'. Ironically, movement cards had become certificates jointly approved by unions and the government as setting the new boundaries of the (qualifying) *sans-papier* worker.

Discussion and conclusions

The '*sans-papier* worker' has not merely been a discursive articulation emerging from the imagination of trade union officials; it was first and foremost the product of state processes, economic transformations and social practices. Although the study of framing processes adds an important layer to the industrial relations literature on union mobilization in favour of immigrant rights, this article argues that analyses of symbolic forms cannot remain at a 'culturalist-cognitive' level (Gahan and Pekarek, 2013: 758). Emulating Boltanski's (1984) and Vinel's (2013) approaches, it mobilized a Bourdieusian sociology of categories to grasp the interrelations between state institutions, symbolic framings and the genesis of social groups.

In order to trace the brief trajectory of the '*sans-papier* worker' category, the article first highlighted the recent transformations within the state machinery that contributed to the construction of undocumented migrant workers as a problematic group. Tightened controls in the 2000s targeted the threads connecting *sans-papiers* to the formal labour market. With the support of trade unions, strikers endeavoured to make use of these threads (through salary slips and worksite occupations, employer sponsorship and striker cards) to claim rights at the very moment they were threatened by government policy. Although a 'permissive ideational environment' (Parsons, 2013) that was more tolerant of radical action assuredly contributed to the legitimacy of the protest, unions first mobilized the harder mechanics of labour law and the movement had to constitute the symbolic conditions of its own public reception.

The new frame enabled unions to embrace legalization as a labour issue and not just a peripheral humanitarian cause, thus abandoning the 'vulnerability frame' for one that emphasized economic performance (Chauvin and Garcés-Mascareñas, 2014). The shift was inseparably cognitive and practical: it simultaneously offered a change in the representation of *sans-papiers* and a new way for them to fight for legal status. On both levels, the new strategy proved efficiently dialectic by pointing to the reality of labour-market incorporation and by using real labour-market leverage as its central weapon rather than calling for external compassion towards the powerless (Jenkins, 2002).

In adopting this strategy, the CGT interrogated the dichotomy between labour organizing 'as workers' versus 'as migrant workers' (Alberti et al., 2013). On the one hand, the union explicitly welcomed undocumented migrants *because they were workers*, seeming to embrace a universalistic, class-based approach. In so doing, it departed from its previous approach of supporting *sans-papier* regularization from the outside, as an external, 'societal' cause. Yet, embracing regularization as a labour issue meant organizing migrant workers in a way that included their status as migrants as well as the challenges they met while undocumented, incorporating elements of the 'specific' strategy.

The research suggests, however, that intersectional frames may not automatically lead to more inclusion. Organizing 'as migrant workers' may leave the initial dichotomy untouched by validating the idea that 'generic workers' are not migrants. It may reinforce asymmetrical constructions of complexity by equating being male and white with being 'just workers' (having no race or any 'specific' identity) and confusing the focus on the concerns of white male workers with a focus on 'class' (Chauvin and Jaunait, 2015). More, intersectional frames may result in exclusion when they multiply the conditions for qualifying for the frame (Nicholls, 2011). As the movement's predicament illustrated, there were costs associated with invoking the category of the '*sans-papier* worker'. Indeed, the strategy of mobilizing real power rather than resorting to symbolic solidarity requires effectively having real power to weigh in.

Discussing the US case, Gleeson (2015: 400) notes that 'an economic framing of immigrant rights [...] often relies on a narrow definition of economic worth, and could have negative consequences for coalition building'. In France, unions approached undocumented migrant workers as migrants *and* as workers, mobilizing them according to specific criteria that disqualified some. The CGT only considered regularizations officially based on work. The French government fought hard to restrict the surface covered by the concept of '*sans-papier* workers' to those in the most legitimate forms of employment. By adopting the strike as its central weapon, the movement limited itself to those for whom a strike was materially and juridically feasible.

The historical relevance of the '*sans-papier* worker' in France has not been a matter of truth or falsehood but of performative success: it has rested on the capacity of labour organizations to use it in the development of a group-for-itself that was sufficiently mobilized and sufficiently adjusted to the forms of domination it confronted. By contrast with the development of '*cadres*' half a century earlier (Boltanski, 1984), the development of the '*sans-papier* worker' in the 2000s involved a much more adversarial process in which the interests of labour unions, the French state, employers and *sans-papier* collectives rarely coincided. Although framing disputes over the boundaries of the '*sans-papier* worker' in a sense contributed to its symbolic existence, they also made it a fragile and unstable group, all the more so as, in contrast to '*cadres*', the '*sans-papier* worker' is an inherently transitory category that its members mobilize in order to leave it. The vagaries of the '*sans-papier* worker' also present analogies with those of the 'employee' in US labour history. Vinel illustrates that resources can be denied not by removing the rights associated with a category but by excluding as many people as possible from the category. In the case of the 'employee', foremen and supervisors were 'too privileged' to be allowed to organize. In the case of the '*sans-papier* worker', many migrants were simply considered too precarious for legality.

The symbolic category '*sans-papier* worker' played different functions at different times, as its relation to the groups it designated evolved. Initially, the category of the

'*sans-papier* worker' effectively allowed many migrants to 'come out' as the workers they were and, for many, to obtain legal status. It then turned into an all-encompassing 'closet' inside of which diverse undocumented migrants sought protection. Eventually, it became the emblem of a club identity based on state-sanctioned membership in a movement. When, during the first wave of strikes, '*sans-papier* worker' was used as a reframed synonym for '*sans-papier*', migrant strikers (most of them on full-time contracts) were hardly representative of the heterogeneity of the broader population they stood for. In the expanded 2009–10 mobilization, strikers covered a larger spectrum of employment situations, many of them distant from the new heroic image of the integrated '*sans-papier* worker'. Highlighting this larger spectrum proved fruitful in the ensuing years when, in November 2012, the newly elected socialist government issued another circular that formalized and centralized further what up to now had been fairly decentralized administrative practices, turning them into a more solid regularization mechanism. Among other dispositions, it let migrants who had been working for more than seven years in France get a temporary permit even without a job offer, and officially allowed applicants to combine multiple part-time employment contracts to qualify (Chauvin et al., 2013).

In the short run, however, the concept crystallized as the emblem of a political cleavage: '*sans-papier* workers' against the others. The shift chiefly resulted from the realization that the declining mobilization would only result in a limited number of regularizations based on lists and databases, returning to the prevailing logic of traditional *sans-papier* movements. Yet, by symbolically presenting undocumented migrants as workers whatever their real connection to employment, the new labour fight for '*sans-papier* workers' carried the potential for a more ambitious coming-out, one that emphasized undocumented migrants' collective belonging to the country's working class.

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Notes

1. This initial project resulted in a monograph providing a much richer account of the movement's history than is possible in the present article (Barron et al., 2011).
2. These and the following data are from Comité interministériel de contrôle de l'immigration (CICI) (2009) and direct communication with the Interior Ministry.
3. Their migration status was regularized through a discretionary decision by local authorities, although their employment termination was eventually validated (Barron et al., 2014).
4. Interview, 3 September 2008.
5. Interview, 15 January 2009.
6. Fieldnotes, July 2008. In agreement with our respondents, the last names of workers who are not union officials and are thus vulnerable to employer retaliation were omitted.
7. Fieldnotes, October 2009.

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