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Transborder Citizenship: an Outcome of Legal Pluralism within Transnational Social Fields

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Transborder citizenship:**an outcome of legal pluralism within transnational social fields**

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In this paper I will discuss the implications of migrants' transnational connections and networks for the concept of citizenship and propose the concept of the transborder citizen. Transborder citizens are people who live their lives across the borders of two or more nation-states, participating in the normative regime, legal and institutional system and political practices of these various states. As all other citizens, they claim rights and privileges from government but transborder citizens claim and act on a relationship to more than one government. The fact that within the past decade an impressive number of states have adopted some form of dual citizenship or dual nationality is an important foundation of the development of transborder citizenship. But an understanding of the development of transborder citizenship takes us beyond legal definitions of citizenship into the subject of social and cultural citizenship and the multiple experiences of living within plural systems of laws, customs and values. The political ideas, practices and claims-making of transborder citizens confront us with the task of assessing an important and unexplored outcome of legal pluralism within a transnational social field. By living their lives across borders, transborder citizens can become a social force in reshaping the workings of legal domains in more than one state. This does not make transborder citizens a single political force. Because the same transnational social field may contain individuals with differing interests and agendas, the degree of unity and

purpose of a transborder citizenry must be assessed empirically, as with the study of any citizenry.

The paper begins with an exploration of the intersection of concepts of citizenship and legal pluralism. I next delineate three different contexts in which transborder citizenship is experienced and exercised. The contexts include:

1. transnational social fields that migrants establish to connect their homeland and the new land
2. transborder networks of social relationship and communications that connect migrants to multiple states
3. local citizenship and its transborder ramifications.

To illustrate these contexts, I draw examples from my own research in the United States and Germany and from the work of other researchers on transnational migration. Underlying this review of transborder citizenship is the argument the practices and discourse of transborder citizens complicates our discussion of legal pluralism.

The paradigm of legal pluralism calls on social analysts to recognize the operation of more than one system of norms, values and customs within a single polity. When we begin to look at mobile people we note the complexities introduced to the study of pluralism when the actors are migrants. First of all, if migrants remain citizens of their homeland they may be governed by the rights and restrictions of that homeland in regard to a variety of practices such as marriage, divorce, child custody and the inheritance of property. Secondly, incoming populations bring within them different

modes of family, social welfare, gender relations and means of organizing claims and rights. Whether or not they maintain citizenship in their homeland or obtain citizenship in the new land, they may live in the new land within a system of customary law.

The concept of transnational migration and transnational social field introduces an additional level of complexity (Faist, 2000). Transnational migration is a form of mobility in which migrants and their descendants choose to live their lives across borders, simultaneously becoming incorporated into a nation-state of settlement while maintaining social relations that embed them in other nation-states. These individuals, whom I have called 'transmigrants', live their lives across borders making daily decisions in relationship to actors and institutions that are not only within the new nation-state but are also within other states (Basch, Glick Schiller and Blanc-Szanton, 1994, p. 7).¹ Legally, migrants may arrive as immigrants, refugees, asylum seekers, students, or undocumented migrants. Having arrived they begin to take social actions make decisions, and develop subjectivities and identities ensconced in networks of relationships that connect them to locations in which they live and across borders. Transmigrants build fields of social relations that engage others who do not have direct personal transborder networks into indirect transborder connections.

The realization that migrants both past and present have maintained home ties or transborder ties has led to a new paradigm with which to study migration, one that focused attention on transnational social fields. (Glick Schiller, Basch and Blanc-Szanton, 1992, 1995; Morokvasic, 1992; Rouse, 1991). Building on work by the Manchester school of British social anthropology, I have defined 'social field' as an unbounded terrain of multiple interlocking egocentric networks (Glick Schiller, 1999, 2003; Epstein, 1967; Mitchell, 1969). 'Social field' is a more encompassing term than

‘network’, which is best applied to chains of social relationships that are egocentric and are mapped as stretching out from a single individual. The concept of social field directs attention to the simultaneity of transmigrant connections to two or more states. It provides the conceptual space to investigate the ways in which transmigrants become part of the fabric of daily life in their home state, including its political processes, while simultaneously becoming part of the workforce, contributing to neighborhood activities, serving as members of local and neighborhood organizations, and entering into politics in their new locality. Transnational social fields are not metaphoric references to altered experiences of space but rather are composed of observable social relationships and transactions. Multiple actors with very different kinds of power and locations of power interact across borders to create and sustain these fields of relationships

In the 1990s migrant sending countries began to respond to the increased significance of transmigrants and their remittances by extending forms of dual citizenship or nationality to the sector of their population settled abroad. Today a broad range of states that currently send large numbers of emigrants, or have done so in the past, including Greece, Ireland, Portugal, Spain, Jamaica, Brazil, the Dominican Republic, the Philippines and Colombia allow dual citizenship.² The United States and many other migrant receiving countries including France, Canada, Israel and England also allow dual citizenship either by law or practice.³ States such as Mexico find a legal middle ground by passing laws that recognize those who have emigrated and their descendants as ‘nationals’ of their homeland. Nationals are members of the nation in terms of some of its rights to own property but do not have full citizenship rights such as voting. Governments such as Haiti have found ways to recognize persons abroad as nationals without changing any of their laws.

Whether legal rights in homeland, new land or the other lands into which their networks may extend, people who live within transnational social fields live in a legally plural world. This legally plural world contains not just customary law but also the constraints, possibilities, rights and restrictions of more than one set of official law, institutions and governmental regulations, organizations and practices (Foblets, 2002). People who live within this transnational social field may react to this experience by becoming what I have called transborder citizens (Glick Schiller and Fouron, 2001). Transborder citizens build on their social connections to multiple systems of values, laws and familial practices to generate concepts and ways of relating to other people and to the state that differ from those operative in any one of the states to which they are linked. Because of their generative practices of citizenship, transborder citizens have the potential to play an important role in reshaping the workings of several systems of law and governance.⁴

The fact that within the past decade an impressive number of states have adopted some form of dual citizenship or dual nationality is an important foundation for the development of a transborder form of citizenship. But an understanding of the development of transborder citizenship must take us beyond legal citizenship into the subject of cultural and social citizenship and its transnational extensions.

The question of citizenship

All of us relate to states, the political units into which the world is divided, by means of both law and emotion. The government of each state creates laws that define who is or may become a citizen of that state and the rights and responsibilities that citizenship

entails. The word citizen is now generally understood as a person who is fully a member of a modern state and as such has all possible legal rights, including the right to vote, hold political office and claim public benefits. Citizens of states also have certain responsibilities that vary from country to country (Bauböck, 1994; Shafir, 1998). But this clear-cut textbook-style definition gets very muddy in practice, and in different states people conceive of citizenship somewhat differently... .

As scholars of citizenship have noted, not all people who are legal citizens receive the same treatment from the state or are able to claim the same rights. There are often categories of people who are legal citizens according to the laws of a state, yet who face various forms of exclusions and denials of civil rights because they are not considered to be truly part of the nation. These categories include members of lower social classes and persons who are racialized or gendered in ways that put them outside the body politic (Hamilton and Hamilton, 1997; Haney Lopez, 1998; Lister, 1997; Marshall, 1964; Yuval-Davis, 1997). These kinds of exclusions operate both within systems of law and within civil society. States such as Morocco, while regarding both men and women as citizens, accord women fewer legal rights in terms of marriage, divorce and child custody (Salih, 2003). In France, despite the fact that black immigrants from former colonies have been able to become citizens of France, they face barriers in entering either professions or politics; and black children are routed into vocations rather than university tracks (Tagliabue, John 2002). On the other hand, though legal citizens are often denied full civil rights, many states grant a range of rights to migrants and their descendants who reside legally in a state but do not have legal citizenship and may even be ineligible to become citizens.

The concept of citizenship has been expanded in recent years through discussions of cultural and social citizenships. The concept of cultural citizenship was advocated by Latino scholars and activists in the United States in the 1980s struggling for a vision of the US as a multicultural state.⁵ As defined by Renato Rosaldo and Juan Flores (1997, p. 57), cultural citizenship refers to ‘the right to be different with respect to the norms of the dominant national community, without compromising one’s right to belong’. This definition, critical of the assimilationist or integrationist agendas of nation-states, is linked to legal struggles for the right to be different. The struggles to wear a headscarf, which France forbade in its public schools in 2004 or to get a state license for a Muslim butcher in Germany would be classified as struggles for cultural citizenship. States are asked to respect the right of people living within its territory to maintain diverse values, practices and institutions based on their sense of ‘cultural belonging’ whether or not the claimants are legal citizens (Silvestrini, 1997, p. 44). The concept of cultural citizenship can be seen as a demand that modern states acknowledge that they are in effect legally plural, containing within them institutions, norms and codes of conduct that mandate and shape different and sometimes conflicting sets of behavior. As it was originally defined the concept of cultural citizenship did not speak to three other aspects of citizenship addressed in this paper through the concept of transborder citizenship:

1. the frequent lack of fit between legal citizenship and the allocation of rights and benefits in the state
2. the growth of dual or multiple citizenships

3. the complexities of the concept of citizenship when people live their lives across borders or live within transnational social fields.

The lack of mesh between formal citizenship and the allocation of rights, benefits and privileges has led scholars to distinguish social citizenship from legal citizenship. Social citizenship is inclusive of but broader than the concept of cultural citizenship as it is used within the United States. When people make claims to belong to a state through collectively organizing to protect themselves against discrimination, or receive rights and benefits from a state or make contributions to the development of a state and the life of people within it, they are said to be social citizens. Social citizens claim rights to citizenship substantively through social practice rather than law. Increasingly, citizenship is coming to be understood not as 'a bundle of formal rights, but the entire mode of incorporation of a particular individual or group into a society' (Shafir, 1998, p. 23). This approach to citizenship alerts us to what Shafir (1998, pp. 23-24) argues is a 'major feature of modern society: a simultaneous and interconnected struggle for membership or identity or both with the intention of accessing rights that are disbursed by the state' on the basis of social presence rather than formal law. The discussion of legal pluralism, whether within a single state or in a transnational social field, can not be confined to those who hold legal citizenship within a state because many people claim rights in a state and act within its institutional and governmental processes without formal citizenship.

Transborder citizenship⁶

The concept of transborder citizenship builds on the idea of social and cultural citizenship and expands the examination of citizenship practices and claims transnationally. Scholars, political leaders and the media most frequently discuss the politics of transborder citizens who may vote, lobby or finance campaigns in more than one system.⁷ But transborder citizenship has implications that extend beyond the domain of direct political action and the distinction between legal citizens and non-citizens. Whether or not transmigrants have legal rights in more than one country through dual citizenship or nationality, they may claim social or cultural citizenship in more than one country, although the success of their claims is mediated by their legal status. They may also follow customs, norms and values that regulate marriage, interpersonal relations, inheritance, diet, dress, childrearing, modification of the body that differ from prevailing legal or cultural norms in one or more of the states to which they are connected. And they may follow these alternative ways of being within a transnational social field that exists beyond the territorial borders and regulation of any one government.

Public policy makers, as well as scholars, often interpret the continuation of alternative ways of being and the establishment of a migrant *habitus* within a new land of settlement as a failure to incorporate. Ethnographic research shows that migrant incorporation is much more dynamic and interactive with migrants making claims to more than one state, using concepts of rights, culture and citizen they experience and shape within an unbounded transnational social field. In this way, migrants become incorporated into more than one state at the same time constructing forms of legal

pluralism that differ from the predominant legal system in all locations are shaped by the constraints and possibilities of each governmental system into which their transnational social field extends.

To study transnational processes is to enter a domain in which crucial elements of social, economic, cultural and political life take place across borders but in which nation-states and their borders influence and shape such movements. Many scholars of globalization emphasize that although social, cultural and economic processes may cross borders, states are players in transnational processes, maintaining and surveilling borders, defining access to rights and benefits, and shaping or limiting the movements of people (Sassen, 1998; Brenner, 1998). They stress that while states have been altered by the recent high degree of global and regional economic interconnections, the nation-state persists and borders are increasingly difficult to cross for large categories of people who do not hold citizenship rights in core capitalist states.

Increasingly researchers are examining the institutionalized legal pluralism that accompanies the continued role of states within globalization as they interact with transnational organizations. Soysal (1998, p. 206), for example argues that there is now an 'institutionalized duality between the two principles of the global system: national sovereignty and universal human rights'. However, her focus has been on the legal pluralism that exists within the borders of a single state as a result of its penetration by global institutions and discourses of human rights. The argument here is that transmigrants are another important set of actors who establish a form of legal pluralism within the transnational social fields in which they live. Scholars of legal pluralism such as Benda-Beckmann (2001) are increasingly noting the transnational dimensions of legal pluralism including the ways in which religious law as transnational law is

invoked by various local actors to counter local law and values. This new discussion can help highlight the ways in which transmigrants affect the broader social field both within a country of settlement and across its borders. Governments and officials of institutions that regulate the actions of persons within the borders of the state also are actors within these social fields. And the actors within these fields respond to specific national forms of 'governmentality' that shape the daily experience, the 'everyday forms of state formation', cultural subtexts and identity markers that constitute nation-state building.⁸ Explorations of the significance of transborder citizenries must take into account the continuing role of states. This recognition was missing in some of the first writing on transnational migration which argued that transnational networks produced liberated social space (Kearney, 1991).⁹

Three different contexts of transborder citizenship

1. The practice of citizenship between homeland and the nation-state of settlement:

Homeland politics usually constitutes the most visible transnational involvement of migrants and their descendants so scholars and policy makers have paid increasing attention to this form of cross border connection. Current concerns, heightened after 2000, center on dual loyalties, the formation of political lobbies in a country of migrant settlement in the interests of a homeland, and the right of migrants and their descendant to shape the political agendas of an ancestral homeland. What is most striking to the observer is the long distance nationalism of some migrants. Long distance nationalism is an ideology and set of practices in which persons declare that they not only identify with an ancestral land but also organize their daily activities in behalf of that land

(Anderson, 1993; Fuglerud, 1999; Glick Schiller and Fouron, 2001; Glick Schiller, 2005; Skrbiš, 1999)

However, in the study of legal pluralism raises a somewhat different set of questions. It examines the extensions of transnational social fields, exploring the ideas and practices of a broader set of people than those people who actively participate in politics on behalf of a homeland. Through the lens of legal pluralism, we can see that transborder citizens are individuals whose ideas about rights, the relationship between citizens and government, and actions as social citizens are shaped by their living in a transnational social field that spans more than one legal and normative system. They make demands, in relationship to alternative sets of rights, norms and expectations about governance, as legal or social citizens in more than one state.

The experience of Haitians settled in the United States provides a case study of the development of a transborder citizenry. I have been conducting field work with this citizenry for more than thirty years. Haitians began coming to the US in large numbers beginning in the 1960s. They fled from the political repression and economic upheaval that accompanied the coming to power of Francois Duvalier in 1957.¹⁰ Among the migrants were members of the political opposition to the Duvalier regime. However, until the growth of a transnational grassroots political movement in the 1980s, most Haitian migrants tried to distance themselves publicly from the Haitian political opposition but continued to maintain kin and friendship connections to Haiti. That is to say, people experienced more than one system of governance within a transnational social field but there was initially no strong public discourse of long distance nationalism.

Haitians brought to the United States certain expectations about the relationship between citizens and the state and continued to experience this through the personal networks that connected them to Haiti. Two hundred years of Haitian history shaped ideas about governance communicated within this social field. Since the founding of the Haitian state in 1804, as a result of the success of the Haitian revolution against the French colonization and slavery, Haitian governments have sought to legitimate their regimes through constitutions that promise positive rights. In an ironic twist of history, this view that the government has responsibility towards the people was strengthened in the twentieth century during the US occupation of Haiti in 1915-34. The US began public services to major towns. These services, including latrine inspections, sewer cleaning, health clinics and food supplements for the poor were continued into the 1970s by successive Haitian governments, including the Duvalier regime.

Together with political repression the Duvaliers' continued through the promulgation of constitutional law and daily rhetoric the long established promises that the state would protect and provide for the people. The fact that very few of these promises were ever fulfilled did not take away from the potency of the vision. When the Haitian government began to abandon even the semblance of social services and price supports in response to pressures to implement the US neo-liberal agenda of the 1980s, non-government organizations, funded by private foundations, churches and foreign governments including that of the United States increasingly began to provide health, education and development programmes in Haiti.¹¹ As a result, many Haitians felt confirmed in their belief that the state should be responsible to the people and that other governments did provide the programmes and services needed by the population. As discourses about human rights and women's rights came into Haiti through the non-

government organizations and these organizations set up programmes to implement these values, Haitian peasants fused the new articulation of norms with their own understanding of democracy that equated it a retributive economy in which the poor had access to the wealth of the nation (Smith, 2001). They directed their anger at their own government's failure to live up to its responsibilities and began in the 1980s to build a grass roots movement to uproot the old system and implement basic social and economic change. Haitians of all class backgrounds, whom Georges Fouron and I interviewed in Haiti in the 1990s, spoke readily and eloquently about the 'responsibilities of the state' to the people as a basic aspect of democracy (Glick Schiller and Fouron, 2001).

The first waves of Haitian migrants to the United States in the 1960s arrived expecting a state which, unlike the Haitian state, would be responsible for its people. Instead they found limited programmes for the poor, wretched unsafe inner city housing, low paid service or factory work, inadequate education and racism. While glad to earn larger sums than were possible in Haiti, Haitians began to view the United States with critical eyes. They joined the struggles for civil, political, social and economic rights developed by African Americans and other people of color. Haitians brought to struggles for justice their frustration with the treatment they received from the US government. Despite the fact that they faced a repressive regime at home, relatively few Haitians were given refugee status by the United States, while Cubans were welcomed, celebrated and given special benefits. While many Haitian migrants managed to eventually obtain permanent residence with eligibility for citizenship, tens of thousands of others lived as undocumented workers. When in the 1970s Haitians began to risk their lives fleeing to the US in small wooden sailboats, they were imprisoned if they

were fortunate enough to survive the journey. Haitians were almost uniformly defined as unwelcome economic migrants, and stigmatized as poor, illiterate and carriers of disease.

In the United States, by the 1980s, Haitians began to take to the streets by the tens of thousands united as 'the Haitian community' to protest mistreatment in the US and political repression in Haiti. Undocumented workers, who in previous decades had feared even reporting dangerous building conditions or injuries in traffic accidents, joined other Haitians in street protests. After 1986 when the Duvalier regime was overthrown by the transnational mass movement, transnational communication became more open and diverse and protests became frequent in both New York and Port-au-Prince. The New York Haitian newspapers began to be printed in Haiti. Radio broadcasts became transnational; Haitians in the US bought special receivers that gave them access to Haitian radio frequencies and shows accepted calls from both Haiti and the US. In both locations, protests were marked by demands on the state for freedoms of expression and democratic procedures experienced in the United State and for rights to education and health care promised in Haitian constitutions. In April 1990, most of lower Manhattan was brought to a stand still when an estimated 80 000 Haitians demonstrated against the incorrect labeling of Haitians as carriers of AIDS by the US Center for Disease Control. A simultaneous demonstration was held in Port-au-Prince, the capital city of Haiti. The sense of social citizenship expressed through these demonstrations was reinforced through Haitian radio programmes in New York and Miami and Haitian newspapers produced in New York and distributed in a number of cities in the US where Haitians settled. Newly made citizens, second generation youth born in the US and consequently US citizens, permanent residents and the

undocumented all actively participated in the demonstrations. The sensibilities expressed resonated with the grass roots movement developing in Haiti, as information about actions, concepts of democratic actions and ideas about rights and entitlements were communicated within various kinds of networks.

By the 1990s, both men and women, and Haitians of poor and middle class backgrounds living in Haiti and in many cities of the United States shared this sense of citizenship through direct engagement. They shared a political culture that differed from the US mainstream. The Haitian understanding and practice of citizenship built on both movements for empowerment of poor people in the United States and developments in Haiti that included both Haitian and transnational actors. Haitians learned from the US historical experience of the past and continuing labor movement, the US civil rights movement, the black activism of the 1960s, the US anti-imperialist movement and the immigrants rights movement of the 1970s; at the same time, Haitians drew from Haitian revolutionary history, liberation theology, the international women's movement, the proliferation of non-government organizations in Haiti, UN discourses on rights, and the anti-Duvalierists grass roots movement that developed in Haiti in the 1980s.

The movement that emerged in Haiti was a nationalist movement that demanded political empowerment for the poor, social justice, solidarity with oppressed peoples around the world and the liberation of women. It certainly built within Haitians settled in the United States a sense of long distance nationalism. But the ideologies contained within this nationalism and the forms of political practice contained within it are a product of the pluralism that was constructed and experienced transnationally. People engaged in this movement brought political lessons about citizens rights and social action learned in the US and Haitian notions of the state together in a potent mix as they

constituted themselves as a consciously transborder citizenry. After the movement led to the electoral victory of Jean Bertrand Aristide in 1990, Aristide recognized this fact and tried to harness it by creating a Ministry of Haitians Abroad and labeling those settled abroad as the 'Tenth Department of Haiti', an addition to Haiti's nine territorial departments. In so doing he projected Haitian emigrants as a continuing part of Haiti, envisioning the Haitian state as existing wherever Haitians settle, regardless of geography or differing legal systems. He recognized their social citizenship and the particular voice that the Haitian transborder citizens had created. When the state still did not deliver on its promises of rights and benefits, a transborder citizenry helped topple the Aristide government in 2004.

It is very important to note that, although in particular instances it is possible to speak of a Haitian transborder citizenry, there is very often more than one voice that emerges within transnational social fields. Moreover, while the US-Haitian connection was the focus of this case study, the pluralism of the field is generated from bases in multiple nation states because Haitians also have settled in Canada, France, Mexico, the Dominican Republic and a host of other states. In addition the Haitian transnational social space contains multiple political actors and understandings, the differentiated experiences of gender, a rural-urban divide and sharp class divisions.

2. Transborder citizenry shaped by the particularities of a specific city of settlement:

Some forms of transborder citizenry are shaped by the particularities of a locality in which migrants settle. Again, the perspective of legal pluralism allows us to explore different facets of migrant incorporation in localities as disparate as New York, Berlin and Halle. It illuminates the plural world of many migrants whose experiences and

outlook are structured by transnational networks and the particular institutional structure of the city in which they have settled (Caglar, 2003; Mitchell, 1997; Yalçın-Heckmann, 1997). Studies of incorporation of migrants into specific localities highlight the role of the local in instituting an incorporative pluralism within which migrants enter into transnational social fields and articulate their social and cultural citizenship. The daily experience of both natives and migrants and their descendants, national discourses and policies including those on migrant incorporation are experienced through local priorities and agendas. Particular localities and their forms of governmentality shape concepts of government and political behavior that then become embedded within the practices of transnational networks.

In Berlin, Germany, Turks who still are legally foreigners but were born in or are long time residents of Berlin claim a form of social citizenship that connects them to the city and to others in it (Mandel, 1990; Caglar, 2003). Young Turks, for example, actively participate in local cultural institutions where they contribute to new cultural forms. Yet many also live within transnational social fields and their cultural production is shaped by this plurality. In New York second generation Indian youth from prosperous families develop a form of hip-hop club culture that draws on the local expressions of blackness, institutionalize new expressions of Indianess within a New York City environment, and transmit their configurations of identity, aesthetics, values and culture within a transnational social space (Sunaina, 2002).

Young Kurds I have interviewed in Halle may be legally foreigners and citizens of Turkey, Syria and Iraq but many identify with their new locality, if not with Germany. At the same time, some of these same people express a pan-Kurdish identity that is created or reinforced through their experiences in Halle. When Kurds migrate

their identity as Kurds reflects their location with their transnational social fields that extends back into a particular country. They arrive in Halle with their own particular history and political agenda. They may end up in Halle either because they join family or because they are placed there by German asylum authorities. In Halle they find that a particular Kurdish niche that has been allocated them as Kurds by local officials and institutions. This niche is a product of the advocacy of a pan-Kurdish long distance nationalism and local Hallensian politics and its form of multi-culturalism. Consequently, it is in Halle that Kurdish migrants, who may have arrived without a strong pan-Kurdish identity, come in contact with advocates of Kurdish long distance nationalism that connects them with Kurds settled in many locations around the world but committed to constructing the new nation-state of Kurdistan.¹² But the specific experience of this long distance nationalism is local. The overarching Kurdish experience and identity some of these migrants come to share are being produced by the local public culture of Halle.

Halle has only a small population of foreigners compared to many western German cities such as Hamburg or to Berlin. In 2000, 3.11 per cent of the population was classified as foreigners and these foreigners included asylum seekers, refugees, students, EU citizens and non-citizens with residence permits.¹³ Most of the foreigners in Halle arrived after the unification of Germany in 1990, although some are remnants of foreign worker or student populations from Vietnam, Mozambique, Angola and Ethiopia who came during the socialist period. Halle has only recently adopted a Foreigners Council, *Ausländerbeirat*, a body to represent foreigners within city government, a form of symbolic representation that has been established in other German cities for over a decade. Only in 2003 did Halle finally have a strong

Ausländerbeauftragter, a position developed in many cities as an Ombudsman for foreigners. That is to say, institutionally Halle is different from many German cities and its underdeveloped institutional structure shapes the forms of transborder citizenship adopted by migrants in Halle. Symbolic representation of multiculturalism, rather than political representation, and the allotment of certain forums and rights have marked the reception of foreigners in Halle. Halle has developed a public multicultural niche in the form of a Week of Foreigners, an African Week and various other occasions in which the city tries to represent its foreigners publicly. The City has provided funding to Global Umbrella,¹⁴ a social service agency that provides translation services, counseling, cultural orientations for foreigners and presentations on immigrant culture for Germans. Through an arrangement with a Catholic social service agency and with Global Umbrella the city has also provided some funding for the teaching of German to asylum seekers, who unlike refugees have no legal rights to German classes.

It is in these contexts that a pan-Kurdish identity is recognized. Here a Kurd is a Kurd, and persons known to speak Kurdish are asked to present their Kurdish culture, discuss their Kurdish food, and describe their Kurdish homeland. That the organization invited to present Kurdish culture during the week of the foreigner is a Turkish Kurdish organization publicly supportive of Abdullah Ocalan, the leader of the PKK, becomes irrelevant in this context. In their Halle offices, the proceedings of the Turkish organization are watched over by a stern portrait of Ocalan but in the rest of the city it is the Kurdishness of this organization that is noted. In other German cities, where the specifics of Kurdish politics have been more of an issue, or – where there is a sizeable non-Kurdish – Turkish population, the situation is different (Ostergaard-Nielsen, 2002).

The particular pressures on the Turkish Kurds in Halle to take on this role of public representation of all Kurds have shaped their performance of social and cultural citizenship in Halle. They continue to have transnational connections, receiving literature and news from their organizational networks and carrying on publicity campaigns to defend Abdullah Ocalan and publicize various genocidal campaigns that Turkish Kurds have endured. However, the manner in which members of this organization wage these campaigns, engage other residents of the city, and the city leadership is shaped by their experiences as public foreigners within Halle. While many of the leadership are asylum seekers without long term legal rights in the city, they and their organization have entered into the life of the city as social citizens.

Their assumption of a foreign-at-homeness is shaped by the particularities and history of Halle. Considering locality highlights the ways in which Halle is trying to position itself within the national and local economy as a cosmopolitan center of learning and technology. In pursuing this goal, the city leadership must overcome the stereotypes of a decaying provincial industrial city inhabited by neo-Nazi youth who are dangerous to foreigners. The understandings of citizenship learned by public foreigners in Halle such as the Kurds responds to the contradictions faced by the city. Their daily insertion into the legal regime of the city includes the highlighting of cultural difference, while finding ways of performing this difference that are positively sanctioned within the context of Halle.

In some context Turkish Kurdish migrants seem to be adopting forms of political participation that they share with others engaged in contestatory political activity in Germany. Despite the fact that most are asylum seekers who should not be engaged in homeland political activity, they act as social citizens and claim the German

constitutional rights to petition and peacefully demonstrate. They set up table in the central market plaza to solicit petitions to denounce the abridgment of the rights of Kurds in Turkey or march with picket signs. In doing this they employ a format of citizenship practices that is shared by other political organizations in Germany and is common in Halle. On other occasions, they play the specific role of public foreigners, for example, during the Week of the Foreigners, a yearly occasion celebrated in many Germany cities including Halle, the same individuals, organized by their Turkish Kurdish association, publicly represent all Kurds in Halle, setting up oriental carpets, performing tea ceremonies and entertaining with dances performed by colorfully costumed youth. The political mission of the organization became invisible on this occasion.

However, there are occasions when new and transborder citizenship practices emerge, building on the public foreigner role. For example, in the summer of 2003 Turkish Kurds in Halle brought the youth to dance in the public square, as they usually do in September, during the Week of Foreigners. Adopting this public foreigner role to gain legitimacy and acceptance from other citizens of Halle, they used the occasion to publicize and gain public sympathy for the struggles of Turkish Kurds specifically within Turkey, as part of transnational efforts to publicize the Turkish Kurdish cause in the wake of the US war in Iraq.

3. Transborder networks that stretch between migrants in multiple states to create global forms of identity and practices rooted in diverse legal systems and states and justifying entry into all:¹⁵

An entirely different form of social movement, based on global religious missions, is also fueled by transnational migration. In this form of migrant incorporation, people build religious organizations and identities that allow them to become actors within their new state, while simultaneously building transnational networks and social fields that extend into many states. Rather than organize themselves in terms of an ethnic identity or as long distance nationalist, migrants highlight a religious identity, their responsibility to proselytize within their new state of settlement, and their connections to co-believers world wide. To illustrate this process I draw on research I am conducting in Halle/Salle Germany with Evangelos Karagiannis and Ayse Caglar.¹⁶ Halle is a city of 230 000 in Sachsen-Anhalt, one of the eastern German *Länder*. Official data from Halle lists 3.7 per cent foreigners, a statistic that does not count the considerable number of *Aussiedler* who have arrived from states of the former Soviet Union. We have been attending two churches in Halle composed almost entirely of African migrants, most of whom are asylum seekers. Both churches preach a version of ‘born-again’ Christianity, identified by the members of these congregations as Pentecostal. One church is primarily Nigerian with services conducted in English. This congregation has grown to more than 150, encompassing most of the Nigerians living in Halle. The second congregation is primarily Congolese who worship together with some Lingalla speaking Angolans. The language of prayer is French. Both congregations are attended by a few German women. ~~Those~~ Some of the women who attend the French speaking church have relationships with African members. In the English speaking

church, a few women also participate without such relationships. However both churches do not identify by nationality or language. They see themselves as Christians bringing God's word to a Godless land. When asked the Congolese pastor whether he regards his congregation as a Congolese one, he answered:

No, no. It isn't a Congolese Church. This is not the origin of the Word of God. I have told you about my origin. I have come from Congo where I met my Lord, where I worked for the Lord. And now I am here, in Germany, where I had the feeling that the inhabitants were in need of the same message. So I've clearly said that this church is not a Congolese Church. I've clearly said it is a church of Jesus.

The role of these churches in Halle has to be understood in relationship to German migration policy, particularly the policy towards asylum seekers that set the frame of the living conditions of the majority of the congregants. This is a policy of deterrence. Since 1980, when it was first introduced in the state Baden-Württemberg, German policy is organized to make asylum seekers feel unwelcome in Germany; and to complicate their lives as much as possible. They are often housed in camps or asylum 'homes' that are bleak, isolated, over-crowded and dehumanizing. The federal government provides no opportunities for them to learn German; they are not allowed to work, to move, and they have considerably less money than the social welfare payments allocated to permanent residents and citizens (i.e. less than the bare minimum needed to maintain a decent life). In short: they are not allowed to become incorporated. As an immigrant from Sudan said 'We are only allowed to eat and to sleep.'

The churches challenge this policy, offering activities that allow migrants to see themselves as part of Germany, to become connected through the churches to other institutions in Germany, and to thereby maintain their sense of self respect and continue

the struggle to obtain a secure foothold in Germany. Both Pastors in Halle help congregants meet the contingencies and pressures of daily life created to a high extent by the German policy towards them. The churches represent the primary network of social support for their congregants. A member of the French speaking congregation such as Francois without flat or money found both through the church. He also used connections of the pastor to the German Protestant Church and got further social benefits. One church organizes various offerings to support specific congregants in difficult situations; the other uses its collections to provide financial support for members in need. At the same time, through regular and special events, the churches organize everyday life. They fill their members' day challenging the irrationality of German asylum policy, i.e. the policy of 'eating and sleeping'. They create sociability and provide the congregants with the opportunity of enjoying normality, which secures them self-esteem and dignity. In short: they establish exactly what the German state policy intends to circumvent consciously.

In countering German policies the churches find ways to connect the congregants to social fields that stretch into Germany and beyond. Both pastors call upon the congregants to learn German and attach great importance to the translation of the services into German, even if there is only one monolingual German among the worshippers. They meet with German pastors in other cities and invite them to give the sermon. The congregations are legally registered in Germany. Both have worked with a white German Pentecostal Church in Magdeburg to become formal members of a German Pentecostal organization (*Bund Freikirchlicher Pfingstkirchen*). They desire this level of official incorporation, even though it means changing some of their internal organizational procedures.

Both churches are also transnationally connected. Among the visiting preachers of the English-speaking Church was an Indian pastor, based in western Germany but linked to a global Pentecostal network of pastors. This Indian pastor has visited more than once and has convinced the church to support his missionizing work in India by sending funds on a regular basis. Through another global Christian ministry, this one located in the United States, the church sends funds to Christianize Israel. Members of both churches attend pan-European Pentecostal conferences such as the one held in Berlin in June 2003 that sought to form a European-wide Pentecostal organization. Core members of the English-speaking church returned from the Berlin conference saying that the presence of people from all over the world at the conference was for her evidence of the power of God and the rightness of her beliefs.

In constructing their belief system and their religious practices members of both congregations draw on elements of a Pentecostal Christianity as it is practiced in Africa, Germany, and to the global religious networks to which they are connected through Christian organizations and networks. In a time of increasing restrictions on immigration to Europe, they forge an ideology of entitlement that legitimates their claims to rights in Germany as part of their relationship to Jesus.

Both churches preach that they represent God's agenda for the local city, for Germany and for Europe and that they speak in the interests of both asylum seekers and native Germans. Whatever German and European politicians claim, in the view of the pastors of both these churches, the message of the Bible is clear: 'Every place whereon the soles of your feet shall tread shall be yours' (Deuteronomy, chapter 11, 24). It is about a promise of God to the true believers: 'For ye shall pass over Jordan to go in to possess the land which the LORD your God giveth you, and ye shall possess it, and

dwell therein' (ibid., 31). The Bible provides evidence of the difficulties immigrants meet in a strange world as well as the God-given right to claim the land for the Lord. Daniel, congregants are told was 'in a strange land like you and me and never gave up. He only paid attention to what God said. He practiced effective prayer.' Then you 'will speak and it will come to pass'. 'Nothing will be impossible. You can climb to any height.' This message is linked to the need of the parishioners for German passports, legal residence papers and marriages to Germans. Increasingly, the miracles promised include jobs, but in all cases Germany is envisioned as part of a terrain in which God, not the German state has dominion. In the name of Jesus, according to the pastors, believers will obtain what they desire.

The individual members of these churches, including both pastors live within transnational social fields composed of family members, friends and persons connected through shared religious beliefs. The organizations these migrants increasingly also have institutional transnational connections. The persons connected transnationally live within states with different legal systems and cultural and social practices. The transnational Christian networks impart to their participants an alternative set of values, practices and beliefs. They provide a vision of a different set of rights to membership in nation-states and a different agenda for the practices of these states. The two migrant churches in Halle that we described do not critique the economic system they find in Germany and the high valuation of wealth, commodities and secular education. Members pray for prosperity and the achievement of prosperity is seen as a manifestation of the will of God. However, they do critique other sets of values they find around them. In some instances they preach against the growing pluralism of family forms and sexual preference in Germany, denouncing homosexuality and gay

marriage. In other instances, they advocate a more tolerant society, targeting racism and the oppressive restrictions on asylum seekers. In their advocacy and in their claims to permanent residence in Germany, members of these churches build a form of transborder citizenship, differing in its content and rhetoric from the Haitians case, but equally built within a transnational terrain that spans borders and makes claims on states.

Summation and analysis

Trans-border citizens are people who not only live their lives across the borders of two or more nation-states, participating in the daily life of various states, but also bring to bear a citizenship in these states, whether on the basis of legal rights or being substantively members of those states (Glick Schiller and Fouron, 2001). As with all other citizens, they claim rights and privileges from governments, but transborder citizens claim a relationship to more than one government. As transmigrants within a transnational social field they experience legal pluralism; that is to say their lives are shaped by more than one set of laws, social norms and values as they are embedded within the relationship between people and institutions.

Transborder citizens are more than the object of plural systems. They are actors within them. As they participate in the political processes and political cultures of more than one state, they draw on concepts of the state and the ideas of civil and political rights of more than one polity. This kind of citizenship practice may arise within different kinds of transnational contexts and identities. In this paper, for purposes of analysis, I have highlighted three different contextual situations that shape trans-border

citizenship. While I have illustrated these situations with examples of three different sets of migrant actors, the situation is of course more complex. Migrants can be shaped by a transnational politics that stretch between one homeland, by transnational religious networks in which they are embedded, and by the particularities of citizenship practices in their city of settlement at the same time. Haitians in the United States were shaped by global Catholic or Pentecostal Christian networks and the particular way in which their city of settlement shaped foreignness in their exercise of transborder citizenry. African Christians in Halle were influenced by transnational homeland politics and the pressures to become public foreigners in Halle. Kurds in Halle not only were linked by transnational networks throughout Europe and the Middle East to the movement to win independence for Kurdistan but also to transnational religious networks in those locations and through political and family networks back to their specific homeland

Into their own performance of transborder citizenship, each migrant player brings notions of state, citizenship and cultural performance developed within their own transnational social fields. Similarly, the particularities and history of each city also enters into their understanding and performance of transborder citizenship. The examination of different contexts of transborder citizenship are offered here to strengthen the argument that when we examine citizenship through a transborder lens and within transnational social fields, scholars and policy makers can identify dynamics of change that are invisible if they look only at the ways in which social fields connect people within different states.

To conceptualize a transborder citizenry is to begin the analysis of a significant and generally unmarked type of social being. This is a citizenry whose relationships to legal regimes are shaped by multiple memberships and interconnections within and

across nation-states. Transborder citizens form different conceptions of legal institutions because they live in a social field that is legally plural. They come to see the nature and role of various institutional and organizational frameworks, including social welfare offices, local and national governmental bodies and non-governmental organizations whether it is a church, a charity or a scouting association, with a gaze that differs from persons embedded in any one state. The various legal regimes in which transborder citizens are incorporated remain distinct; they do not merge into something else. But transborder citizens respond to their multiple positioning by approaching the institutions, laws and social policies of each state and local society in which they live in novel ways. The changes wrought by transborder citizens are not necessarily ones that I would consider progressive, that is, contributing to social and economic justice. In the Haitian experience some transborder citizens serve as a voice for privatization of public services in Haiti, a policy which makes services like electricity and water less accessible to the poor. Various forms of fundamentalism are shaping citizenries in many states. On the other hand, as the Haitian grassroots movement or the international women's movement has demonstrated, transborder citizens can contribute to new everyday forms of state formation from below that incorporate agendas for social justice (Antrobus and Peacocke, 2001).

Transborder citizens extend our understanding of governmentality. Building on work in anthropology and cultural studies that extended and interrogated the study of the disciplining of the social subject initiated by Michel Foucault, governmentality has been understood to include the multiple practices through which we all live our lives. In quotidian activities, individuals learn who they are and what social life looks and feels like as they interact with a range of state institutions and national symbols, and as they

participate in various forms of political discourse about state, society and self. This understanding of the embeddedness of governing processes, however, should not turn our attention from the ways in which subjects become active agents within political processes that contest and reformulate structures of power. As Paul Willis (1977, p. 175) reminds us, social agents 'are not passive bearers of ideology, but active appropriators who reproduce existing structures only through struggle'.

Transborder citizens affect the public culture of the various states to which they are connected. Their presence is therefore important to acknowledge and their influence is important to assess. The implication of the development of transborder citizens is that new concepts of political life and responsibility and new forms of political action develop in locales around the world not by the actions of public policymakers in one locality, but with diverse sets of actors. These include transmigrants responding to very diverse sets of circumstances and public policies in disparate locations around the world.

If concepts of citizenship are being constructed across borders, then we have all entered a new and challenging political arena. In this political arena, states remain significant and some states such as the US increasingly penetrate into the transactions of all others. However, people who live in transnational social fields raise new questions about the purpose and uses of government, pose new political agendas and contribute to new struggles against oppressive conditions. Recently, the British and US governments have taken steps to revoke naturalized citizenship, in an atmosphere in which the loyalties of immigrants are suspecting (New York Times, 2003). Rather than question migrant loyalties, I suggest we examine whose conceptualizations of the rights and responsibilities of citizenship, whether based within one state or constructed across

borders, best protects human well being. The search for the meaning of nationality and citizenship in an epoch of globalization is an inquiry that confronts and beckons us all.

- ¹ This concept of transmigrant is must be distinguished from the use of the term in Indonesia where it is applied to migrants moved by government programmes to less densely populated areas in the country.
- ² Through a series of court precedents, rather than by legislation US citizens may possess some form of membership in other states, even if they are US citizens by birth or naturalization. This right is now acknowledged on US passports, but not within the naturalization ceremony during which new citizens are asked to swear that they hold an allegiance to no other sovereign (Harrington, 1982, pp. 104-109).
- ³ Germany does accept dual citizenship when the person accepted for German citizenship comes from a country such as Eritrea, Morocco, and Greece that forbids its members to renounce their citizenship or nationality (Facts on Foreigners, 2000).
- ⁴ Ong (1998) proposes the concept of ‘flexible citizenship’ to describe the utilitarian attitude that wealthy Chinese who hold multiple passports may have towards citizenship in any one country. However, whatever their professed view of citizenship, many people who actually live their lives across borders are influenced by multiple citizenship regimes.
- ⁵ Kymlicka (1998, pp. 170-171) calls this ‘multicultural citizenship’ and speaks of polyethnic ‘rights’
- ⁶ The concept of transborder citizenship I am deploying here builds on Laguerre’s (1998) concept of diasporic citizens; and Bauböck’s (1994) discussion of transnational citizens. Georges Fouron and I developed this concept together in our book *Georges Woke up Laughing* (2001) and sections of this paper are drawn from that book. We chose the term ‘transborder citizens’ rather than transnational citizens to encompass long distant nationalists whom we found tend to identify with one nation but act as members of more than one state. We didn’t use ‘diasporic citizen’ because we included people within an emigrant sending country who make claims on the states in which their emigrants have settled.
- ⁷ In 1999 the front page of the New York Times highlighted the implications of transnational citizenship by reporting about the plans of Israelis settled in the US to return to Israel to vote in the Israeli elections (Nagourney, 1999)
- ⁸ The phrase ‘everyday forms of state formation’ comes from Joseph and Nugent (1994).
- ⁹ But see also Kearney (2000).
- ¹⁰ As citizens of an independent country in the Americas, US immigration laws allowed 20 000 Haitians to legally enter the US each year. But many more Haitians came as visitors and later obtained legal status. In 2000, the US Statistical Year Book reported that 283 100 Haitians came as immigrants to the US between 1980 and 1998, but the size of the population is much larger if the 1960-79 migrants, the second generation, and the undocumented are counted.
- ¹¹ The US neoliberal agenda considers a government role in the provision of service detrimental to economic development. Health and education are seen as the province of non-governmental

organizations, charities, and ‘faith-based organizations’, even if these organizations supported by government fundings.

¹² See Leggewie (1996).

¹³ In comparison 13 per cent of Berlin, 29.2 per cent of Frankfurt, 24 per cent of Stuttgart and 22.9 per cent of Munich were classified as foreigners.

¹⁴ Organizational names in this paper are pseudonyms.

¹⁵ This section of the paper is drawn from Evangelos Karagiannis and Nina Glick Schiller “‘the land which the LORD your God giveth you’: Two ‘African’ Churches in Halle/Saale’.

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