Developing an interdisciplinary approach to the health and safety of migrant workers

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1. The link between law and health.

The paper focuses on migrant workers' health and the relation between health and the law through interdisciplinary dialogue, involving in particular the fields of health studies, medicine and law. For this purpose, it is worth clarifying that the Preamble to the 1946 Constitution of the World Health Organization offered an authoritative conceptualisation of health as 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'.

Medicine and public health adopt two different approaches that grapple with human health. The first has traditionally employed a 'bio-medical' approach to health and is focused on investigating the mechanisms of causation of disease and its treatment, while the second grapples with health as a social phenomenon and incorporates considerations on how social conditions affect health outcomes. This second approach, based on health promotion, is commonly known as the 'social determinants of health' approach (SDH approach). The idea underlying the 'social determinants of health' approach is that the bio-medical perspective on health is inadequate for improving the health status of the population at a national and global level, and in particular to the benefit of impoverished and socially excluded people.

In 2005, the World Health Organisation launched the Commission on the Social Determinants of Health (CSDH) that produced in 2008 a final Report which collected evidence on the social determinants of health and made recommendations on how to target health equity by addressing social inequalities. According to the CSDH, health outcomes can be explained through reference to intermediary and structural determinants (see Figure 1). The intermediary determinants include: living and working conditions (factors such as housing and neighbourhood quality, the financial means to buy items such as healthy food and warm clothing and the physical work environment), social and community networks (factors such as psychological stressors, stressful living circumstances and relationships, social support and coping styles or the lack thereof), individual and lifestyle factors (including nutrition, physical activity, tobacco consumption and alcohol), and biological factors (age, sex and other 'constitutional' factors). Such determinants are in turn shaped by structural determinants that encompass the social, economic and political conditions whereby populations are stratified according to income, gender, education, occupation, race, ethnicity, and other factors.

Research exploring the mechanisms through which such determinants operate explains differential health outcomes through reference to the concept of 'relative inequality' along the social hierarchy. Rather than the absolute level of resources, what people living in poverty in different contexts around the world share is their state of disempowerment.

In literature disempowerment is associated with the inability to meet three fundamental conditions (that are included among the social determinants of health): material (the ability to access tangible goods in order to satisfy fundamental requirements); psychological and social (the ability to control one's own life) and political (the ability to make oneself heard and to exercise one's own rights).

All the above considered, it is worth asking what the potential of an interdisciplinary dialogue between law and health studies (social epidemiology and social medicine) is. Such potential has been particularly explored with regard to human rights and health studies.

On the one hand, the social determinants of health approach would surely benefit from better incorporation of human rights into their discourse. Human rights have been observed as providing an instrument for turning diffuse social demands into focused legal and political claims, as well as a set of criteria by which to evaluate the performance of political authorities in promoting people's wellbeing.

On the other hand, the human rights approach should give greater attention to the social determinants of health. Research findings in social medicine suggest that societies aiming to improve the health status of their population and reduce significant health inequalities should not limit their action to improving the availability of health services. While indeed necessary and significant determinants of health, better health services cannot counterbalance the way the other 'social' determinants of health affect health outcomes. Therefore, social and economic policies addressing social and health inequalities constitute a more promising health policy approach: 'If the goal of the right to health is to improve health status in a society, particularly of vulnerable groups, then it is vitally important for those working on rights-based approaches to health to pay far greater attention to the conditions in which people "grow, live, work, and age" and to better understand how such conditions shape health and well-being'.

Such considerations show that there is room for deeper interdisciplinary dialogue. Besides providing standards and frameworks to assess the efficacy of health policies, law and legal research may actively redress health inequalities. In other words, the SDH approach provides a framework for assessing the way law, might contribute to health inequalities and the extent to which changes in law might address such inequalities. According to such approach, attempts to improve the health status of migrant workers should investigate whether the law contributes to their condition of disempowerment and how to legally redress the same, that is to say their ability to access tangible goods, services and resources to satisfy fundamental needs, control their life, make themselves heard and exercise their rights.

Gaining a better knowledge on how law affects health outcomes raises a number of research questions. Addressing the health-related standards of migrant workers requires us to question the role of immigration law, on the one hand, and to reflect on the potential of a labour-rights approach, on the other. Indeed, work has always been regarded as a prerequisite for enjoying fundamental existential conditions (of a material, social and psychological and political nature), while labour law, as a discipline, has been traditionally informed by, among other values, the normative commitment to counter inequalities of power and enhance worker's autonomy.

Employment and working conditions have been highlighted as having powerful effects on health. 'When these conditions are good, they can provide financial security, social status, personal development, social relations and self-esteem, and protection from physical and psychosocial hazards'.

This choice of method requires a transformation of legal research in response to the fact that regulatory systems, rather than being descriptive of socio-economic and medical conditions, play in fact a constitutive role in shaping those very conditions.

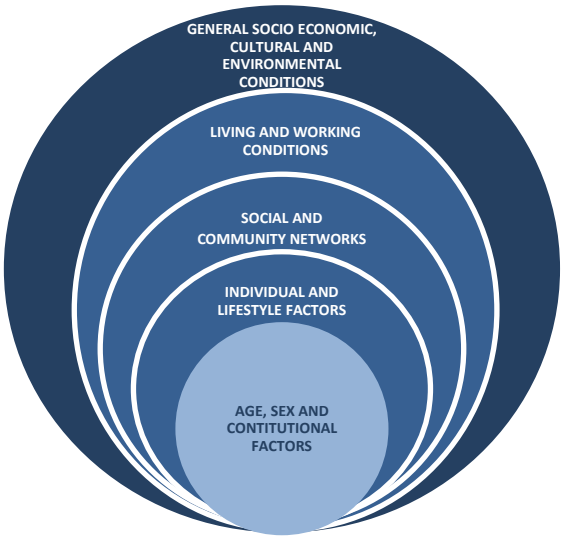

Fig. 1 The social determinants of health (WHO, 2008)

2. The disempowering effect of immigration law.

In order to explore how law affects migrant workers' health, this section will focus on the way immigration law, by creating a continuum of immigration statutes that go from undocumented to permanent status, shapes precarious work that is characterized by uncertainty, low income, limited social benefits and protections.

The metaphor of the continuum has been used by scholars to describe both how immigration law creates precarious immigration statuses, and how these statuses affect employment relations by creating an additional layer of dependence of migrant workers on their employers.

Research exploring this relationship highlights the inherent contradictions of the recent developments in immigration rhetoric and policy. While restrictive immigration policies are increasingly presented to the general public, in Europe and beyond, as a means for prioritising the national workforce and a way for protecting migrant workers from trafficking and exploitation by criminal networks, they do neither.

There is evidence that migrants are more likely than nationals to work in sectors that are characterised by low labour protections and work under lower conditions even when compared to national workers in the same sector. These findings have been, in part, described as a result of the perception of temporariness of certain jobs, associated, during the early stages of the migratory project, to the belief that the worker is going to move to something better soon or to the limited time frame of the migratory project itself. Discrimination, lack of recognition of qualifications and low language proficiency play an important role as well, but these provide a rather incomplete picture of the dynamics that push migrant workers into precarious work. The likelihood of migrant workers to end up in these kinds of working arrangements has been convincingly explained as a consequence of precarious migration status. Immigration controls

operate both as 'a tap regulating the flow of labour' and as 'a mould shaping certain forms of labour.' In other words, immigration controls, besides defining who has the right to come in, determine also the conditions under which the migrant is going to work.

As Anderson puts it, 'through the creation of categories of entrant, the imposition of employment relations and the construction of institutionalised uncertainty, immigration controls work to form types of labour with particular relations to employers and to labour markets. They combine with less formalised migratory processes to help produce "precarious workers" that cluster in particular jobs and segments of the labour market'.

The process is realised through mechanisms that reinforce the dependence of the worker on the employer. To illustrate how these mechanisms affect the condition of a migrant worker with a temporary right to work and stay, it is helpful to consider how immigration law, by tying the renewal of the right to residence to employment, adds to the already known vulnerabilities related to fix-term employment a further layer of dependence of the worker on the employer.

Where an employer is dissatisfied with a worker's performance or even in case of a personal conflict with the worker, not only is the employee's job at stake but also their right of residence. In certain sectors, such as domestic work and agriculture, housing might become an issue as well. It is not surprising that in such contexts migrant workers feel unable to negotiate terms and conditions of employment and challenge the employer, also in cases in which such terms and conditions are systematically violated.

Immigration law shapes a category of workers that is much more likely to accept to work under conditions that are unacceptable for national workers (longer hours, less safe, lower pay, lower protections). Ironically, 'temporary status thus creates permanent demand' for migrant workers, ultimately undercutting labour protections in specific sectors that become as a consequence almost segregated.

Precarious immigration status and precarious employment result in a vicious circle that perpetuates disadvantage undermining the chances for migrant workers, also in cases where there are no legal limitations, to access a more stable or permanent residence status.

The consideration of the constitutive role of immigration law into the creation of precarious work provides the opportunity to question the belief that poor working conditions as well as exploitation of migrant workers should be considered as anomalies of the labour market and a consequence of undocumented status.

First, it is important to note that the dividing line between documented and undocumented status is, in practice, much more blurred compared to how it is presented, with workers moving from documented to undocumented status over time. Second, it is crucial, in this regard, also to highlight the fact that undocumented status is, just like other migratory statuses, a product of immigration laws and policies and in part their inevitable consequence. The higher the level of complexity and the more restrictive nature of such policies, the higher the risks for states to lose control of the system, thus 'producing' great numbers of people working illegally.

Such perspective, therefore, allows to clearly highlight the role of the state in creating the conditions that favour the exploitation of migrant workers and the limits of criminal law as a legal framework to protect migrant workers. Ignoring the role of immigration law and the state

promises no real achievements in terms of protecting migrant workers, irrespective of how strongly institutions commit themselves in this regard.

Precarious work is not the simple result of the behaviour of individual employers, but structurally produced by the interaction of immigration and employment legislation. Rather than the individual employer, it is the institutionalised uncertainty and the risk of deportation, again enforced by the state, that more commonly shape migrant workers' everyday experiences.

By pushing migrants into almost segregated sectors, precarious migration status also amplifies the dangers of social exclusion limiting the possibility for migrant workers to acquire proper knowledge on their rights and to access mechanisms of redress, such as collective representation, legal advice or other forms of assistance for claiming their rights. Likewise, precarious migration status further contributes to social exclusion in a number of other ways that include limited access to social benefits and possibility for family reunification.

From the point of view of the SDH approach, since immigration law contributes to reinforcing migrant workers' condition of disempowerment, it also strongly affects their health status. Such impact appears with immediate evidence when it comes to occupational health (see Figure 2).

On the one hand, migrant workers end up in sectors that are characterized by low protections, very demanding working conditions, high occupational health risks and basic violations of health and safety, as in the case of agriculture. On the other hand, additional dependence on the employer and social exclusion prevent such workers from challenging their employers in this regard, limiting right enforcement where it is needed the most.

Finally, precarious migration status is also likely to affect the individual behaviour of migrant workers in relation to their risk perception, making them more likely to engage in dangerous practices. While language proficiency and cultural factors play an important role, the need of migrants to maximise earnings during the limited time for which they are allowed to work in the country or the idea that they have no other choice can be reasonably expected to influence their assessment of costs and benefits.

The impact of immigration status on migrant workers' occupational health has already been considered within the 'layers of vulnerability' framework that explains differential occupational health outcomes of migrant workers compared to national workers by taking into consideration three different layers of vulnerability. The first includes 'migration factors' such as the existence of legal status in the receiving country, whether the status is tied to the contract of employment and its duration, the conditions of the right to remain and the role of recruitment agencies. The second layer includes 'migrant worker factors' such as socio-economic conditions in the home country, education and skills level and language abilities. The third refers to 'receiving country factors' and includes among others, the socio-economic conditions in the receiving country, the sector in which the migrant is employed, access to collective representation and regulatory protection and the degree of social inclusion and exclusion of migrants. The main limit of such model, from the perspective of the SDH approach is that it considers 'migration factors' and 'receiving country factors' as distinct variables that contribute to explain differential outcomes without exploring the extent to which the former affects the latter, failing therefore to highlight how migration status pushes migrant workers into specific sectors of the economy that are characterised by high risks, low enforcement of health and safety regulation, and limited access to mechanisms of redress.

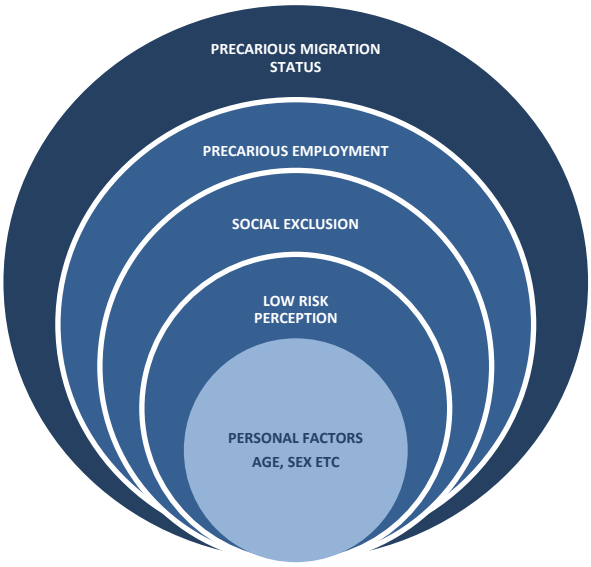

Fig. 2. The disempowering effect of migration status

3. A labour rights-based approach: the case of seasonal work in agriculture.

The above considerations on precarious immigration status are possibly even more challenging when it comes to migrant workers in agriculture, in particular in relation to the seasonal nature of work in this sector.

This section will illustrate how labour protections can contribute to counterbalance the disempowering effects of immigration law in determining health inequalities. For this purpose, we will focus in particular on analysing the EU legal framework on seasonal migrant workers. As known the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers are regulated at the EU level by Directive 2014/36/EU ('the Directive').

Besides its importance for work in agriculture, the Directive provides a very interesting case study, since it combines rules on the entry and stay of migrant workers with labour protections, exemplifying the tensions that characterise this interaction.

The Directive applies to all activities that are dependent on the passing of the seasons, specifically mentioning agriculture, horticulture and tourism, as typical seasonal activities. It was adopted with the objective to fulfil the need of Member States for low skilled workers willing to be employed in jobs that, because of their precarious nature, have become increasingly unattractive for nationals while also protect migrant workers from exploitation.

This considered, the Directive harmonises the rules for the recruitment of seasonal migrant workers, though it leaves the crucial decision as to the actual number of third country nationals (TCNs) that can be admitted to Member States of the European Union ('Member States').

It applies only to TCNs that reside outside of Member States and therefore excludes the possibility for undocumented migrants that are already in the territory of a Member State to access regular

status through an authorisation for seasonal work. It is more flexible with regard to migrant workers that have not complied with obligations arising from a previous decision on admission as a seasonal worker, to the extent to which it provides that the violation of such obligations represents a case in which Member States may, and therefore are not required to, reject an application for authorisation.

It articulates an employer driven entry system for temporary employment requiring, for the purposes of admission, a valid work contract or a binding job offer and allows Member States to establish a maximum period of stay for seasonal workers which shall be not less than five months and not more than nine months in any 12-month period.

After the expiry of this period, the TCN is required to leave the territory of the Member State, though the Directive leaves open the possibility for the TCN to remain in cases where the Member State concerned has issued a residence permit under national or European Union law for purposes other than seasonal work.

As to the length of stay, the Directive includes some elements of flexibility. Member States are required to permit one extension with the same employer within the maximum period and they have the discretion to allow more than one extension with the same employer. Member States are also required to allow seasonal workers to extend the stay when changing employers, and such applications can be submitted from within the Member State in question.

As previously highlighted, the level of dependence of the worker on the employer in relation to the right of residence plays a crucial role in limiting the ability of the migrant worker to challenge the employer in case of violations of their rights. It has been noted, in this regard, that there is nothing in the Directive that prevents a Member State from tying a migrant worker's legal status to an ongoing employment relationship with the sponsoring employer, though the above-mentioned possibility to allow one extension within the maximum period in case the migrant changes employer should to a certain extent mitigate the possibility of abuse.

While the initial proposal of the European Commission aimed to create a circular migration scheme, the final version of the Directive is limited to requiring Member States to facilitate the re-entry of third-country nationals who were admitted to that Member State as seasonal workers at least once within the previous five years, and who fully respected the conditions applicable to seasonal workers under the Directive during each of their stays, but the mechanisms through which 'facilitation' is to be pursued are left to Member States' full discretion.

In addition to regulating the entry and stay of seasonal migrant workers in the territory of a Member State, the Directive also provides a number of measures that aim to protect this category of workers from exploitation.

To begin with, Article 5 of the Directive requires that a contract or a binding job offer, in order to be valid for the purposes of admission, should provide information about the essential terms and conditions of employment, more specifically, the place and type of the work, the duration of employment, the remuneration, the working hours per week or month, the amount of any paid leave. Such conditions are required to conform to applicable laws and collective agreements and/or practice.

With regard to cases in which accommodation is provided by the employer, the Directive includes a number of safeguards such as requiring the rent not be excessive, that it cannot be automatically

deducted from remuneration, that a rental contract shall be provided, and that the accommodation shall meet general health and safety standards.

The fulfilment of the obligations that employers are subject to under the Directive is backed by a double mechanism: firstly, incompliance might give rise to a decision of rejection or withdrawal of the authorisation for seasonal work and secondly, sanctions may be held against the employer. With regard to the first mechanism, the Directive establishes a number of criteria that can be classified according to the level of discretion that is left to Member States for the purposes of the decision to reject or withdraw authorisation. Member States enjoy no discretion in cases in which admission criteria are not complied with or the relevant documents have been falsified or fraudulently acquired. By contrast, Member States are required to reject or withdraw an authorisation only if considered appropriate in cases in which the employer has been subject to sanctions for undeclared work or illegal employment or for failing to fulfil the obligations arising from the Directive. Finally, Member States enjoy a much wider margin of discretion where the employer has failed to meet legal obligations regarding social security, taxation, labour rights, working conditions, or terms of employment, as provided for in applicable law and/or collective agreement.

With regard to the second mechanism, Member States are required to provide for sanctions against employers who have not fulfilled their obligations under the Directive, specifically mentioning the exclusion from employing seasonal workers of employers who are in serious breach of such obligations.

The Directive goes beyond sanctioning the employer to protect migrant workers from the consequences of withdrawal of the authorisation to work, in situations in which the employer's work authorisation is withdrawn for reasons that range from insolvency and employing undocumented workers to violating legal obligations regarding social security, taxation, labour rights, working conditions, or terms of employment as provided for in applicable law and/or collective agreement. Such provision holds particular importance since it protects migrant workers' legitimate expectations in those Member States that link the withdrawal of work authorisations to violations of labour law and working conditions without having to choose between claiming their rights and the realisation of such expectations. Additionally, the Directive provides that, in situations in which the main contractor and any intermediate subcontractor have not undertaken any due diligence with regard to a subcontractor's infringements of the Directive, the Member State may sanction the main or intermediate contractor or make them liable for compensation or back pay owed by the subcontractor.

The core protection of migrant workers under the Directive is represented by the provision on equal treatment with nationals, as regards terms and conditions of employment and a number of social security benefits. The Directive explicitly mentions that the principle of equality applies to the terms of employment, including the minimum working age, and working conditions, including pay and dismissal, working hours, leave, and holidays, as well as with regard to health and safety requirements in the workplace. Equality of treatment also covers the right to strike and the freedom of association.

The Directive further specifies that seasonal migrant workers are entitled to those branches of social security defined in Article 3 of Regulation no. 883/2004, which include sickness benefits, maternity, invalidity benefits, unemployment benefits, and family benefits; access to public goods

and services, advice services on seasonal work offered by employment offices, education and vocational training, recognition of professional qualifications, and tax benefits.

It is worth noting that Member States have the discretion to limit equal treatment of migrant workers with regard to family and unemployment benefits and access to education and vocational training may be restricted to those which are directly linked to the specific employment activity. Tax benefits can be also limited to cases where the registered place of residence of the family members of the seasonal worker for whom they claim benefits lies in the territory of the Member State concerned. Finally, the principle of equality covers back payments to be made by the employers regarding outstanding remuneration to the third-country national.

The enforcement of the rights of seasonal migrant workers under the Directive is supported through a multiple enforcement approach.

The Directive requires Member States to put in place effective tools through which seasonal workers can file complaints against their employers, either directly or via third parties (actors who have, in accordance with the criteria laid down by national law, a legitimate interest in ensuring compliance with the Directive or through a competent authority of the Member State when provided for by national law).

Member States shall also ensure that seasonal workers have the same access as other workers, in a similar position, to measures protecting against dismissal or other adverse treatment by the employer, as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the Directive.

Individual enforcement should be supported by institutional monitoring. Member States shall ensure that services in charge of inspection of labour or competent authorities, and where provided for under national law for national workers also organisations representing workers' interests, have access to the workplace and, with the agreement of the worker, to the accommodation. However, the Directive does not in any way articulate a clear obligation to actually monitor the implementation of the Directive through inspection services.

While the Directive provides a number of labour protections that are likely, despite their limits, to contain, to some extent, the impact of the precarious status of seasonal migrant workers, their relevance for the lives of these workers will ultimately depend on the terms and conditions available to national workers in the same sector. The equal treatment principle is likely to have limited scope in situations in which all workers are equally poorly treated, unless is it argued that such conditions have a disparate impact on migrant workers provided that they are overrepresented in these sectors. Collective action for better working conditions and right enforcement in such sectors appear to represent essential strategies to any attempt to enhance the working conditions migrant workers.

4. The international right to health of migrant workers.

After having traced, within the framework of the social determinants of health, how immigration law affects health inequalities and how labour protections might contribute to contain in the case of migrant seasonal workers its impact, this section will reflect on how the protection of the right to health of migrant workers at the international level, as a standard that should inform national

authorities' action, might support reform objectives concerning both immigration law and labour protections.

The most widely used and comprehensive articulation of the right to health in international law is set out in the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Article 12 ICESCR provides that 'the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health', to which the right to occupational health represents an integral component. General Comment no. 14 of the Committee on Economic Social and Cultural Rights (CESCR) elaborates and interprets the right to health as requiring States to respect and fulfil such right to everyone, including migrant workers.

The General Comment specifies that, though the drafting of article 12 of the ICESCR did not adopt the definition of health contained in the preamble to the Constitution of WHO, the reference in article 12(1) of the Covenant to 'the highest attainable standard of physical and mental health' is not confined to the right to health care. On the contrary, the drafting history and the express wording of article 12(2) acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.

The Report of the UN Special Rapporteur on the right to health dedicated to migrant workers clarifies that the right to health requires States to adopt and implement an evidence-based national health policy which does not discriminate against non-nationals and addresses the needs of irregular and regular migrant workers, at all stages of the migration process, including pre-departure and return. As an aspect of their right to health obligation, States should ensure availability and accessibility of quality health facilities, goods and services, including existing health insurance schemes, to migrant workers, on the basis of equality with other nationals.

With regard to the occupational health of migrant workers, the Report specifies that States should ensure that occupational health laws and policies address the unique vulnerabilities of migrant workers in dirty, dangerous and degrading (3D) industries and are implemented, monitored and enforced. It then considers that the vulnerability of migrant workers in 3D jobs may be further intensified in connection with the legal status of migrants, especially undocumented ones, putting them in a weaker position to negotiate their rights with employers, and that sponsorship mechanisms tying a migrant's authorisation to work with one specific employer encourage such exploitative practices.

It also considers the condition of migrant workers in agriculture dedicating particular attention to the particular occupational risks of work in agriculture, such as informal arrangements and lack of coverage under labour and occupational health and safety laws, leaving little room for migrant farm workers to negotiate working and living conditions necessary to facilitate the realisation of their right to health and protection from inadequate and unhygienic living conditions, food insecurity, underpayment of wages and excessive hours among migrant farm workers.

The report concludes that the right to health approach fills gaps in existing frameworks that protect migrant workers and their families and bolsters protections contained therein.

What are particularly interesting, for the purposes of this paper, are the recommendations concerning immigration policies and labour protections for migrant workers. The Special Rapporteur, in the same report, recommends that States establish labour corridors through enforceable bilateral agreements, in accordance with the right to health framework, which clearly define the rights of migrant workers, obligations of recruitment agencies, employers and States, and remedies, including compensation for violations, in line with the right to health; ensure protection of migrant workers, especially those in dangerous industries, from abuse and exploitation by employers by providing accessible redress mechanisms and compensation in cases of violation.

Such recommendations are in line with General Comment no. 23 CESCR on the right to just and favourable conditions of work that identifies migrant workers as a group that is particularly vulnerable to exploitation in connection to abusive labour practices that give employers control over the migrant worker residence status or that tie migrant workers to a specific employer, long working hours, unfair wages, and dangerous and unhealthy working environments and requiring States to refrain from adopting labour and migration policies that increase the vulnerability of migrant workers to exploitation.

Further investigation should be dedicated to the provisions of the European Social Charter (ESC) that protects under Article 3 the right to health and under Article 11 the right to health and security in the workplace. While the ESC does not include migrants within its personal scope of application, its Appendix extends the applicability of Articles 1 to 17 and 20 to 31 to nationals of other Parties that are lawfully resident or working regularly within the territory of the Party concerned.

5. Conclusions.

Better awareness of how law affects the health of migrant workers sets the ground for designing and implementing better policies which aim to effectively promote their right to health. Acknowledging the role of precarious migration status on health inequalities represents an essential precondition for doing so. The paper illustrates an example of how labour protections can be used to contain the impact of immigration policies, contributing to ease the ties that create additional dependence of migrant workers on their employers as well as realising an objective that is shared with medicine and health studies: to address the disempowerment of migrant workers. In this view, better employment protections should be central to any attempt to effectively enhance the health status of migrant workers. The way the right to health has been interpreted at the international level might provide further insights as to how the claims for health equity could be framed.

Such considerations invite reiteration of a question that has already been addressed elsewhere with regard to undocumented migrant workers: after removing the alibis (associated with real contrasts between immigration rules and the labour market), the paradoxes (the national legislation that contributes to creating precarious status, discouraging workers from exercising their rights, even in situations in which they are being exploited) and the abuses (of criminal sanctions), what is left over of the issue of migration? Sociologists have answered this question identifying, at a macro level 'the interests of governments, nationalist and/or merely ideological policies and bureaucratic approaches to the management of the public administration, and at a micro level, the expediencies of employers (companies and families), of associations that deal

with migrants; and finally workers (who are anything but encouraged to make complaints, even if they are suffering from serious labour exploitation)'.

The answer to this question allows us to situate the way immigration law and employment law interact with regard to the health status of migrant workers within a wider frame where immigration law exposes labour law to major systemic challenges, such as that concerning the tensions between migration status and employment status, that end up calling into question claims of autonomy of labour law 'as a body of law dealing with a discrete set of social relations or phenomena, namely employment relations.'