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Immigration, Integration, and Citizenship Policies in Portugal: The Case of Health in the 21st century

Políticas de Imigração, Integração, e Cidadania em Portugal: O caso da Saúde no século XXI

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MARIA ASENSIO
CIES-IUL, ISCTE—Instituto Universitário de Lisboa, 1649-026 Lisboa, Portugal; Maria.asensio@iscte-iul.pt
Beatriz Padilla
CIES-IUL, ISCTE—Instituto Universitário de Lisboa, 1649-026 Lisboa, Portugal
University of South Florida, Tampa, FL, USA;
E-mail: padilla.beatriz@gmail.com

ABSTRACT

This article investigates to what extent immigration is confronting Welfare States with citizenship's limitations as citizenship has been called into question by immigration, globalization and the increasing internal debate of political communities. This case study of immigration in Portugal examines the contradiction between the rhetoric of immigrant integration portray by the State and the reality of immigrant exclusion. Existing research highlights the importance of international human rights frameworks as a catalyst for governments' recognition of immigrants' social rights. The study of Portuguese immigration policy on which this article is based was undertaken as a way to explore such apparent contradictions. As a Southern European country that has undergone enormous political and economic transformation in the last three decades, experiencing the contradictions of advanced capitalist societies in an intensified way, Portugal offers an interesting case study for such analysis. This article aims to fill this gap. As we will see, the health policy on immigrants in Portugal can illuminate not only the contradictions of Portuguese society but also the broader contradictions of the Welfare State in the new global economy.

Keywords: policy gaps, Inmigration policy, social rights

RESUMO

Este artigo investiga até que ponto a imigração está a confrontar os Estados-Providência com as limitações da cidadania, uma vez que a cidadania tem sido posta em causa pela imigração, a globalização e o crescente debate interno das comunidades políticas. Este estudo de caso da imigração em Portugal examina a contradição entre a retórica da integração dos imigrantes retratada pelo Estado e a realidade da exclusão dos imigrantes. A investigação existente salienta a importância dos quadros internacionais de direitos humanos como catalisador do reconhecimento dos direitos sociais dos imigrantes pelos Governos. O estudo da política de imigração portuguesa em que este artigo se baseia foi realizado como uma forma de explorar tais aparentes contradições. Sendo um país do Sul da Europa que sofreu uma enorme transformação política e económica nas últimas três décadas, experimentando de forma intensificada as contradições das sociedades capitalistas avançadas, Portugal oferece um estudo de caso interessante para tal análise. Este artigo visa preencher esta lacuna. Como veremos, a política de saúde dos imigrantes em Portugal pode iluminar não só as contradições da sociedade portuguesa, mas também as contradições mais amplas do Estado Providência na nova economia global.

Palavras-chave: lacunas políticas, política de imigração, direitos sociais

Resumen

Este artículo investiga hasta qué punto la inmigración está confrontando a los Estados de Bienestar con las limitaciones de la ciudadanía, ya que ésta ha sido puesta en cuestión por la inmigración, la globalización y el creciente debate interno de las comunidades políticas. Este estudio de caso sobre la inmigración en Portugal examina la contradicción entre la retórica de la integración de los inmigrantes que presenta el Estado y la realidad de la exclusión de los inmigrantes. Las investigaciones existentes destacan la importancia de los marcos internacionales de derechos humanos como catalizadores del reconocimiento de los derechos sociales de los inmigrantes por parte de los gobiernos. El estudio de la política de inmigración portuguesa en el que se basa este artículo se emprendió como una forma de explorar esas aparentes contradicciones. Como país del sur

de Europa que ha sufrido una enorme transformación política y económica en las últimas tres décadas, experimentando las contradicciones de las sociedades capitalistas avanzadas de forma intensificada, Portugal ofrece un caso de estudio interesante para dicho análisis. Este artículo pretende llenar este vacío. Como veremos, la política sanitaria de los inmigrantes en Portugal puede iluminar no sólo las contradicciones de la sociedad portuguesa, sino también las contradicciones más amplias del Estado de Bienestar en la nueva economía global.

Keywords: policy gaps, Inmigration policy, social rights

1 INTRODUCTION

Is the current health system in Portugal sensitive to migrants' needs? Although the novel coronavirus is putting unprecedented pressure on Portugal's healthcare system, and despite the government announcement that will grant temporary residency rights to all immigrants and asylum seekers, health inequalities are still pervasive. This article investigates the extent to which immigration confronts welfare states, regarding citizenship. Citizenship has been called into question by immigration, globalization, and the increasing internal debate on political communities. These pressures have challenged the institutional setting of the nation-state within which the concept of modern citizenship emerged. They also opened ways to new forms of citizenship, such as transnational citizenship or human rights-based citizenship. In particular, immigration produces a tension between citizenship rights limited to the citizens and social rights that include all living residents. This case study examines the contradictions between inclusive immigration integration rhetoric and action in Portuguese migration policies regarding health.

Existing research highlights the importance of international human rights frameworks that catalyzes governments' recognition of immigrants' social rights (Tuohy, 2020; Freeman & Mirivolic, 2016). While human rights are inalienable rights based on personhood rather than citizenship or nationality, it is often nation-states who take the responsibility to protect and provide these rights.

Simultaneously, there is an ongoing debate on immigrants' use of welfare state benefits. It is argued that a paradox exists between the inclusive view of universal welfare states and the increasing restrictive position of nation-states regarding immigration regimes (De Haas, Natter, and Vezzoli, 2016). The European Union (EU) actively seeks to promote open borders, social cohesion and forms of solidarity typically associated with the welfare state. In addition, if people have legitimate rights to participate in political decision-making process in democracy, then nationality-based citizenship generates exclusions within the population. In order to grant citizenship to immigrants, policy makers have to tackle the structural barriers that are exacerbated by the welfare states to restrict immigrants' full participation as citizens.

This paper analyzes healthcare services among migrants and identifies the main gaps in healthcare utilization among migrants in Portugal. As we will see, understanding recent immigration to Portugal and the legal frameworks set to manage these flows can illuminate the contradictions of Portuguese society but also the broader contradictions of the Welfare State in the new global economy. This article makes contributions. First, this research helps to understand the paradox of greater control of immigration in times of intense globalization. Second, we show that decision-making occurs in different spheres and at different levels that prevent immigrants from accessing NHS services, increasing health inequalities that might challenge the healthcare system if not correctly addressed. Third, this case study adds to the ongoing discussion of the pathways to promote immigrants' integration that lacks documentation on their residence status according to the legal framework.

Formulation, Implementation and Effectiveness Gaps

Over the last decade, theories on migration policies have paid particular attention to the policies' failures (Krissman, 2005; King & Crewe, 2013; Castles, 2004). Scholars working on citizenship, integration, and immigration began to quantify admission, integration, and naturalization policies and analyze inclusion or exclusivity of formal regulations (Hollifield, James and Tom Wong, 2013; Banting & Kymlicka, 2013; Hoehne & Michalowski, 2015). From both a conceptual and an empirical perspective, it is not always easy to clearly distinguish the three fields of immigration, integration, and citizenship policies. There are, however,

logical reasons for differentiating these policy fields. According to Fitzgerald et al. (2014), citizenship rights are the result of national policies embedded in socio-historical processes. Immigration rules are much more affected by international agreements and human rights norms and a quest for balancing, promoting, or controlling the flows. Integration and citizenship policies, on the other hand, are more directly shaped by cultural considerations.

The discussion on different policy areas has made clear that it is essential to differentiate between different steps of a policy process. Distinguishing the three aspects of the policy cycle allows us to analyze how they influence each other (Legido-Quigley 2019). It also allows us to study how the regulations are implemented and lead to both the desired or unintended results. According to Czaika & de Haas (2013: 20), it is possible to differentiate migration policy process to the following steps: (i) policy formulation (broadly stated objectives); (ii) policy outputs (stated policy objectives and specific laws, regulations, and measures); (iii) implementation (discretion and constraints) and (iv) policy outcomes (government effectiveness). The authors identify three different policy gaps: a formulation gap between public ideas and decisions implemented; a gap between the implementation of policy and the policy objectives (implementation gap); and finally, a gap between the goals and implementation of a policy and the outcomes (effectiveness gap) (Czaika and de Haad, 2013).

The analysis of discursive gaps suggests that health policy actors recognize the deliberative chances of implementation and take steps to enhance the quality of dialogue between different groups of actors implementing public health policies. Some scholars have identified a gap between policy goals and outputs or the formulation gap (Sainsbury, 2006; Goldberg, 2010; Freeman, 1998). Dominant policy ideas on immigration tend to obscure the fact that migration from Northern to Southern European countries is due to structural demand for high and low skilled migrant labor. It explains the considerable gap between a restrictive immigration discourse and softer policy practices. Restrictive rhetoric on immigration often serves to address concerns about immigration among political constituencies. While this rhetoric serves electoral interests, it may not be intentional. The crucial question is whether we can objectively determine the "real" intention of migration policy at all: what kind of arguments do Governments propose? How are these

arguments discussed in the public sphere? What decision-making systems allow political actors to have more space or acceptance to follow their strategies? What is the role played by civil society? How is public opinion taken into account in political debates? The answers to all these questions would allow us to understand the discursive gap better.

Many scholars (Natter, 2018; Falkner, 2011; Infantino 2010; Wunderlich 2010; Brachet 2005) have observed an implementation gap. It is the disparity between policies on paper and their actual implementation. Some rules and regulations are only partly implemented for practical, planning, budgetary constraints, or as a consequence of discretional power, ignorance, lack of information, or subversion in the form of subtle opposition. In many cases, politicians, civil servants, or NGO workers have considerable discretion in how they implement policies in the field. This implementation gap seems to be particularly significant if a large degree of qualitative appraisal is involved in policy implementation. The most considerable implementation gap is among the administrative and professional personnel who depend on applying these rights. The crucial question is: how is this policy put into practice by its ground actors? The problem is that it is almost impossible to measure policy implementation quantitatively. It is necessary a careful and qualitative judgment to assess the effects of policies. It is essential to be aware that a considerable part of perceived "policy failures" can be attributed to implementation gaps.

Thirdly, the effectiveness gap prevails for the extent to which a change in an implemented policy can affect the volume, time, direction, and composition of immigrants in the host country. It affects the degree to which the desired outcomes result from the outputs, such as the perception of the quality of public services, or the credibility of the government's commitment to such policies (Kaufmann et al., 2009:6). Perhaps we can say that a policy has failed if it has produced no effect in the opposite direction. As long as the policy has a significant impact in the desired direction and controlled other determinants of migration policy, the fact that other factors and policies influence migration cannot be a reason to qualify the policy as a failure.

This paper builds from Czaika and de Haad's (2013) inquiries on the assumption that the State is obliged to respond simultaneously to different and

contradictory demands in the field of migration policies, specifically those related to flow control and integration and citizenship. There is a sharp contrast between the discursive gap that accompanies immigration legislation and its real content, which systematically marginalizes immigrants and restrict their rights. Based on primary documents (legislation, policy documents, official reports, and newspapers), interviews with healthcare stakeholders, and secondary literature, this article shows the double gap between legality and reality. Limited social integration, the prevalence of discrimination, the economic marginalization of foreigners, and the negative media representation of immigrants are representative of its real content, which systematically marginalizes immigrants, circumscribing their rights.

Regulation, Integration and Citizenship Policies of Immigrants in Portugal

Immigration policies define the limits of those welcomed or desired in a country, identifying who may be admitted and under what conditions. They also specify who should not be permitted to enter (Segal, Elliott, Mayadas, 2010). Other migration-related policies include immigrant integration, which analyzes how these newcomers will be integrated into the society, what resources to access, and under what conditions.

Portugal became a new country of immigration (Padilla and Peixoto 2007; Padilla and França 2016). It was only in the late 1990s that immigration became visible. Since then, migration trends fluctuated according to the national and international economy, especially with the onset of the crisis in 2010. Portugal is a culturally homogeneous national community experiencing an influx of culturally and ethnically diverse populations for the first time; however, migrants are not distributed equitably across the territory. Population influxes and cultural populism are not new to Portugal. Unlike the northern European countries, for most of the 20th century, the country sent far more migrants than it received, first to the new world and later to northern and central Europe. Since the mid-1970s, a combination of internal and international factors, the establishment of a democratic regime in 1974, the African decolonization process, and later, joining the European Union and the modernization of the Portuguese economy, changed Portugal's migratory tradition (Fonseca et al. 2002).

While Portugal has a long history of population mobility, the experience of

external labor immigration began in the 1980s and increased significantly throughout the 1990s and 2000s. Whereas most migrants came from the former African colonies and Brazil in the 1980s and mid1990s, by the end of the 1990s, migrants from other origins (mostly from Eastern Europe) arrived in response to an expanding labor market to face public works (Expo 1998, the building of highways, bridges and other infrastructure) (Malheiros 2002, Fonseca et al. 2002). Along with the 2000s, flows intensified, becoming more diverse to include people from different regions of Asia (China, India, Pakistan, Bangladesh, Nepal, among others). However, with the onset of the crisis, which became evident in Portugal in 2011, emigration surpassed immigration until 2016 (SEF Reports, Padilla & França, 2018 & 2020).

The fast increase in migration meant new needs, which were met by integration measures. In 1996, emerged the High Commissioner for Immigration and Ethnic Minorities (ACIME) and later expanded. This entity experienced a metamorphosis on several occasions. From the original ACIME, it becomes the High Commission for Immigration and Intercultural Dialogue (ACIDI) and later the High Commission for Migrations (ACM). These changes were a response to both, reality (becoming more inclusive of taking into account immigrants and emigrants) and in philosophy (from minority and immigration affairs to interculturality), at least in discourse (Padilla and França 2016). The next table illustrates immigration laws as a novelty, beginning with the entrance of Portugal to the EU, aiming to control incoming flows and transpose European rules. In the new century, legislation continued its focus on transposing EU norms to national frameworks, emphasizing flow control. However, starting in the early 1990s, Portugal granted several regularization processes, which illustrate its inefficiency in flow control. Legislation on nationality had a long history that privileged its sanguinis over ius solis but slowly incorporated ius solis clauses to facilitate access to migrants' descendants (Claire Healy, 2011, Padilla and Ortiz 2017). Thus, contrary to what Fonseca et al. (2002) claimed about "positive discrimination" in favor of migrants from PALOPs and Brazil, facts show that Portugal had a low naturalization rate of 0.1 per 100 compared to 0.5 in Greece, and 1.8 in Italy and Spain. However, Organic Law n.º 2/2006 radically changed nationality acquisition patterns, proving that the removal of discretionary administrative power was far more critical than positive

discrimination. Since then, Portugal has one of the highest naturalization rates in the EU (Padilla and Ortiz, 2017).

Table 1 –Migration Legal Frameworks in Portugal, 1974-2020
Main Legal Frameworks
1974 - 1986
1986 - 2000
2000 - present
E/Immigration
Entrance to EU
Securitization & Integration
Immigration laws (regulation of flows, entrance, stay and expulsion)
Decree-Law 60/1993
Decree-Law 244/1998
Decree-Law 250/1998
Law 97/1999
Law 27/2000
Reg. Decree 5-A/2000
Decree-Law 4/2001
Reg. Decree 9/2001
Decree-Law 34/2003
Dispatch 283/2005
Lei 23/2007
Reg. Decree 84/2007
Law 29/2012
Reg. Decree 2/2013
Law 59/2017
Law 102/2017
Regularization Processes
1992, 1996
2001, 2003, 2005, 2007, 2017, 2020*
Nationality Laws
Decree Law 308-A/1975
Law 37/1981
Decree Law 322/1982
Law 113/1988
Decree Law 116/1993
Law 25/1994
Decree Law 37/1997
Organic Law 1/2004
Decree Law 135/2005
Organic Law 2/2006
Law 9/2015
Decree Law 71/2017
Organic Law 2/2018
New Nationality Law 2020 for newborn

* Dispatch n.º3863-B (temporary regularization due to COVID-19)

Source: Own elaboration (from Padilla & Matias 2007 and Padilla & Ortiz 2012)

With the onset of new migration flows, integration policies became necessary, and the High Commission of Migrations ACM (previously ACIME and ACIDI) gained relevance in centralizing integration policies in Portugal. Integration policies can be measured, and MIPEX is a tool specifically developed to assess how responsive and effective States are regarding the integration of migrants. Overall, Portugal has been ranked on the top, running second worldwide. MIPEX measures eight policy dimensions of integration, divided into 167 indicators. The most recent development of MIPEX was the health strand, which measures health policies about three different migrant populations in a given country explicitly: regular migrants, asylum seekers, and undocumented migrants, in comparison with national populations. In contrast with all other dimensions, MIPEX – Health ranked Portugal as 22nd out of 38 countries. MIPEX – Health considers the equitability of policies relating to four issues: a) migrants' entitlements to health services; b) accessibility of health services for migrants; c) responsiveness to migrants' needs; and d) measures to achieve change. The main problems with entitlements arise from the use of discretional power and problems with documentation. Furthermore, the economic crisis and Troika led to weaker entitlements, especially for undocumented migrants and asylum-seekers. During austerity, in addition to discretion, hidden changes in legislation made it impossible to apply exceptions for some vulnerable groups (Padilla et al. 2016).

Immigrants' Access to Health Care in Portugal: Objectives, Outcomes, and Gaps

The Portuguese National Health System promotes citizens' right to health protection and access for all citizens regardless of economic and social background (Asensio, 2021). It also improves the health status of the population based on both principles of equity and equality (WHO, 2014). However, if the health strategy does not provide any objective of action targeting migrants' health, a "Health in All Policies" framework is adopted. The emphasis is given on social determinants of health, cooperation between the different institutions and levels, health literacy, and interculturality. As Czaika & Haas (2013) suggest, "there is often a considerable discrepancy between publicly stated and "real" objectives of migration policy, resulting in a wide gap between policy rhetoric and actual policy objectives and policies on paper."

A systematic review of available evidence on the association between health outcomes and integration policies shows that, in general, immigrants experience a definite disadvantage for most health outcomes compared to non-immigrants. The implementation of written policies varies widely, depending on factors such as financial and human resources, availability of knowledge on health services, the weighting of different and competing policy priorities, and the discretion of civil servants and other state agents. Several gaps might contribute to lower utilization of health services: lack of knowledge about available healthcare services, language, and diverse cultural perspectives to health. Evidence shows that the health care they received does not meet their needs . Also, migrants suffer discrimination in housing, education, work, and social security. Sometimes, host societies impose discriminatory practices and regulations as well as plan policies that, by design, permit unequal treatment of migrants, resulting in limited access to health services. The use of health services was lower by those without Portuguese nationality, regardless of country of birth than natives (Ledoux et al., 2018; Dias et al., 2008). Individuals without Portuguese nationality were less likely to benefit from other subsystems and the NHS as their public healthcare provider due to a higher proportion of unemployment. These results are in line with other studies that found migrants less likely to have health insurance and, therefore, less likely to use healthcare services than the natives .

Gaps in Migrants' Health Policy Formulation

According to Czaika & de Haas (2013), the discursive gap is the discrepancy between discourses – ideas, problems or situations of interest to legal practitioners- and migration policy in the form of rules and regulations of the modern State, the processes of administrative governance, laws, rules, and measures on paper. The Portuguese Constitution guarantees access of immigrants to full social citizenship, which addresses the rights of immigrants under the principle of nationality (art.º 15) and the principle of equality (art. 13º). It does not mean that entitlement to health care services is available to everyone at all times. Instead, it suggests that entitlements can be improved by including migrants' healthcare access in national policies, plans, and strategies.

Figure 1: Conceptual framework

Source: Czaika & de Haas (2013)

On the other hand, eligibility may be weakened by required payments, if service providers pass on the details of service users to immigration authorities and other procedural obstacles. An analysis of health policy in Portugal reveals a considerable gap in policy rhetoric. The broad approach to protect the health of immigrants opens substantial room for migrants. Yet, many migrants never enroll, register, or are subsequently drop out of the system (Oliveira & Gomes, 2017:9). The legal framework restricts access to full citizenship to immigrant workers and their dependents who are not residents. Even though some rights are guaranteed to be universal, the remaining specified rights are reserved. Social citizenship rights come from residency status and the social model of economic incorporation. Therefore, access to health care as specified in the Constitution is, in fact, only available to legal residents while entitlements to social security rights are directly dependent upon formal employment.

Ruling immigrants' access to health care services favors closing the gap between immigrants and the National Health Service (NHS). Although constitutionally rights cover the entire population of Portugal, a significant percentage of benefits from these services. Despite this favorable policy, however, there are often difficulties putting the Law into practice (Baganha, 2001; 2005; 2006; Fonseca et al., 2002; Bäckström, 2014).

Overall, the discursive gap emerges from the tale of integrating migrants through the labor market and regularization programs rather than through health and welfare policies. Given the central role of economic migration, the role of the labor market in integration dynamics, and the intensity and duration of the economic recession, we could expect the integration of migrants to be particularly sensitive to the financial crisis (Carvalho, 2017). National Integration Plans and the Migration Strategy constitute Portuguese integration policy frameworks. However, during 2007-2013, under the National Integration Plans, integration efforts were more substantial, since then, the adoption of the Migration strategy, aiming immigration and emigration, has translated into increasing disarticulation. Additionally, integration measures have been incorporated at the municipal and regional levels through a more bottom-up policy process with the third sector and

the Catholic Church's contribution. Consequently, integration policies in health have been reactive rather than proactive, explaining why Portugal falls behind in terms of integration policies and outcomes (Finotelli & Ponzo, 2017).

In addition to domestic laws, Portugal has signed all the principal international instruments on human rights and migrant workers' protection (Spencer & Hughes, 2015), ensuring human rights and immigrant workers' security. However, the international convention on the protection of all migrant workers' was not signed yet. Portugal played an essential role in bringing migrant health issues to the World Health Assembly during its 2007 EU presidency, as underlined by the Council Conclusions on Health and Migration. Health and migration was a major theme of the Portuguese Presidency and its health program. The program focused on the addressing migrant' health, health determinants, and access to health services, recognizing that member States should ensure migrants access to health care by applicable EU, international and national instruments. The Presidency provided political impetus for the further consolidation of migrant health initiatives. On the other hand, some specific groups were subjected to particular conditions to access healthcare beyond those requirements established by national laws and practices .

Between 2007 and 2010, there was a period of significant activity in the migration arena, with high-level conferences on migrant health and related topics such as health inequalities. The Portuguese-led EU Council conclusions were echoed at WHO, where efforts culminated in the discussion and approval of a resolution on migrants' health at the 61st World Health Assembly in 2008. The health of migrants has since then continued to be addressed by several other presidencies. The guiding results range from the 2010 Spanish council conclusions on equity and health to the Dutch report of 2016, which presents the best investment practices in social determinants of health . The European social charter and the charter of fundamental rights are also relevant to migrant health. The EU has also issued a series of legally binding directives on the health of migrants .

Both international and European frameworks open the way to health equity. Nevertheless, equal access to health care is not feasible without a national commitment. Despite the migrant health agenda gaining significant momentum, difficulties remain in translating the policy vision into coherent and sustained

policies and programs. Portuguese and other Member States' legislation on health policies need to comply with international and European standards that set parameters for the respect of human rights, including health. Nevertheless, the EU also shows a discursive gap about recognizing health as a human right, being Portuguese policies more flexible on health access compared to other EU member states. Policy making is regarded with contradictory elements of immigration policy, dividing institutional accountability between two legally separate governmental agencies. For instance, foreign citizens have the right to be included in the NHS, regardless of their economic means or legal status. The definition of policy discourse based on entitlement to health care generally focuses on acceptance and integration rather than on control and expulsion (WHO, 2014: 3). While ACM presents the softer side of immigration policy, such as assisting both documented and undocumented migrants, the Foreigner and Border Service (SEF) reveals its harsher side, expelling illegal migrants and handling other technical matters. Most of the responsibility for administering immigration law resides with SEF, which sees itself as playing a primarily technical role and is not a policy-making body.

Two factors explain the gap between policy rhetoric and policy practice in the area of health. While migrants' integration received sustained political consensus and remained a guiding principle as it favors the principles of equality and non-discrimination, certain entitlements depended on legal residency. According to measures targeting legal residency conditions covered by the Ministry of Internal Administration (MAI), the legislation follows the general EU and Schengen Agreement guidelines. The control procedures exercised at external borders seem to be discretionary, not following an explicit orientation. It is unclear how MAI coordinates activities with those of the Ministry of Health (Peixoto, 2013:491). Policy decisions do not reflect the reality of the problem as ordinary citizens experience it. It suggests that the adoption of health policy goals and values varies across time and different aspects of the same policy arena. Decision-making occurs in various stages and at different levels, some of which are more significant than others and prevent immigrants from accessing NHS services (Parsons, 1995). At one level, there are decisions on priorities and health strategies foreseen by high policy actors to make "national" health such as the

"National Health Plan." At another level, there are decisions of other actors involved in "health" policy at the level of a hospital, health centers, family health units, or local health units where the National Health Plan does not get transposed necessarily. Despite the political will reflected in Law and the active presence of innovative migrant information centers in the central municipalities, there are discursive policy gaps experienced in the policy arena, the healthcare system, and the individual level . The policy arena focused on ideas related to both Law and policy, including access to NHS and limitations to the type of healthcare they could use. The healthcare system focused on bureaucracy, capacity, and existing discriminatory practices. The individual-level focused on the undocumented immigrants' fear, stigma, and lack of social and financial resources that created gaps in health care.

Health Policy Implementation Gaps

According to Czaika & Haas (2013), the implementation gap diverges between policies on paper and their real implementation. Determining capacity to act has been a neglected area of research and policy analysis (Parsons, 1995). Although Portugal defines a migration policy, no comprehensive migrant health policy is implemented, and the need for tools to ensure accountability and evaluation remains. This gap exists because capacity is a difficult concept to define and subsequently to assess and measure. Various studies have shed light on some of the implementation gaps hampering immigrants' access to health services at organizational, professional, and community levels (Dias et al. 2011; Bäckström, 2014). In the case of health care policy in Portugal, evidence has shown that a lack of information can hinder access to ensure equitable access to health services for everyone living in the country

(WHO, 2014).

Health in Portugal is a fundamental right (Asensio, 2021b). In the first decade of the new millennium, great efforts were made in Portugal to implement policies to support immigrants' integration and health promotion. Nevertheless, the access and use of health services can become confusing at different levels due to legal, structural, organizational, economic, cultural and language barriers . Portuguese nationality law is the legal set of rules that regulate access to Portuguese citizenship, which is acquired mainly through descent from a

Portuguese parent, naturalization in Portugal or marriage to a Portuguese citizen. Also, migrants who seek citizenship must respect the Law and speak basic Portuguese. For example, a child born in Portugal qualifies for citizenship at birth if his parents were living in the country legally for five years or were born in Portugal. If one of these conditions does not apply, the child will acquire citizenship if the minor has concluded the first cycle of compulsory education in Portugal (European Commission, 2013).

For example, implementation gaps can be substantial, such as the refusal of access by service providers or administrative staff, documents requirements that irregular migrants cannot provide, lack of knowledge about entitlements, language barriers, or fear of detention. (FRA, 2011; Cuadra, 2000). Consequently, immigrants underuse health services hinder timely and adequate health care . In Portugal, there are no health programs exclusively targeting immigrants or minority ethnic groups. So, they use the same health services available to all citizens. Migrants with legal residency or those working and contributing to social security can obtain a user card number that provides access to healthcare services. Examples of covered services include consultations with general practitioners and specialists, diagnostic tests, specialized treatments, and hospitalization . Nevertheless, migrants' entitlement to health care services is among the lowest in EU countries (MIPEX, 2015) due to discretionary power. Although the underlying legislation does not restrict practical entitlement to healthcare directly, migrants encounter administrative difficulties in implementing their rights. Despite universal coverage and access to healthcare, immigrant communities do not benefit from all available services. While the legal guarantee has proved to be effective, it alone has not been effective enough to properly confront the issue of poor migrant health . Moreover, financial constraints, discrimination by institutions, lack of knowledge on rights and information on available services, and limited resources in the health sector restrict the efficiency and effectiveness of a responsive healthcare system (Ingleby, 2005). Some steps were taken at different levels, national, regional, and municipal, to overcome some obstacles.

Although the underlying legislation does not directly restrict the practical right to medical care, migrants face administrative obstacles to exercise their rights and face difficulties due to the lack of responsive health services. Some initiatives

have been implemented to overcome common barriers. Some efforts can increase health equity, but to reach equal access, effective communication on health rights and the health care system towards migrants and health providers is necessary. First, very little practical information is provided on how to access these services. Also, linguistic barriers are insufficiently tackled to increase the responsiveness of the health system to migrants or adapt them to meet their needs. Studies have suggested developing programs to improve migrants' knowledge of health services as they benefit from information on health services and entitlements (Rechel et al. 2011). As Bäckström (2014: 89) says: "For many immigrants (…) it is not clear how the NHS functions. Even if the Portuguese Law provides access to health care to all residents regardless of their origin and legal condition, it shows that many immigrants have significant difficulties when trying to access Health Services. Due to these reasons, immigrants often choose to go to the emergency services at the hospitals". Some of the main gaps in access to healthcare services related to the NHS's structural and functioning characteristics are the unstable and precarious situation of immigrants, their difficulties in trying to obtain social protection, the cost of healthcare fees, strict scheduling, and highly bureaucratic procedures (…). Research has shown that undocumented migrants, even those with guarantee free access such as pregnant women and children, face difficulties accessing health services (Bäckström 2014). Access is denied based on assumptions related to legal status or lack of contributions to social security. However, that is not stated in the laws.

The behavior of both administrative and medical health staff is another decisive factor that influences the use of services. In Portugal, migrants have the same entitlement to healthcare as any other resident. However, evidence shows that healthcare staff may refuse access when they do not know the rules or grant access despite restrictive regulations (especially undocumented migrants). Also, health center staff are often wary of allowing access to migrants whose legal status is unclear, fearing that they will not pay the copayments or give

a false statement or address (Dias et al., 2008; 2011; Eurofound, 2014). In consequence, migrants tend to avoid primary health centers and go directly to hospitals where access seems easier, enforcement of payments is less strict, or delayed, particularly in emergencies. It often results in the exclusion of immigrant

communities from the healthcare system. The economic crisis has also reduced the income of many families, hampering immigrants' access to health services. Loss of employment, reduced salaries, fewer working hours have harmed family income, made many immigrants undocumented, and created difficulties in accessing services. Although undocumented migrants are legally entitled to the same healthcare access as everyone else, healthcare providers are not always aware of this. However, when further examinations, treatments, or follow-up consultations are required outside the hospital, migrants commonly drop out of their follow-ups to avoid additional payments (Rodrigues & Schulmann, 2014; Eurofound, 2014: 23). Overall, the real complexity of administrative procedures and different interpretation of current legislation result in inconsistent administrative practices that may limit access to health services for migrants. For example, while legal immigrants are allowed to access the NHS, information systems in the Portuguese NHS do not allow undocumented migrants. Foreign citizens who have been in Portugal more than 90 days and who do not hold a document providing the authorization to remain or reside or a work visa in Portugal, they do not have access to any referral to other levels of healthcare, examinations, or drug prescriptions (Entidade Reguladora da Saúde, 2015:50). One explanation for the implementation gap resides within public administration and the complexities of obtaining and remaining in legal status in the face of inflexible, slow, and inconsistent bureaucracies . It seems as if the power of documents will validate one's social existence. As Ewick and Silbey (1998:120) refer to: "Often to receive one's paper (…) is to become someone different, to be officially recognized and, thus, to enter the social script". To guarantee or renew legal status in Portugal, foreigners must (1) obtain a preliminary work contract to obtain a provisional work permit; (2) take this work permit and other documents to the SEF for a residence permit; and (3) finally, secure work and residence permits (which usually expire after one or two years). The work contract, the work permit, and the residence permit mutually depend on each other, in a vicious circle in which irregular immigrants are trapped .

According to numerous official reports , another explanation of the implementation gap is the broad discretion accorded to regional health administration (ARS) officials. Its effects can be seen in the vastly discrepant

distribution of permanent residency. While all residents in Portugal are covered by NHS regardless of their legal status, the complexity of administrative procedures to have a health card or even a social security number (NISS) and the possibility of having to pay for services limit many immigrants' access to health care. Implementation of the healthcare card or user number is left to local authorities. For legal immigrants, it is required to register with local health centers, which requires a declaration of residency. The declaration needs to be signed by the local township and two officially voter-registered witnesses, confirming that he/she lives in the corresponding address. The local authorities are sometimes ambiguous about giving out these residence cards to immigrants. Lately, some centers have been requesting additional documentation such as rental contracts, and employment declaration.

Immigrants' Health Policy Outcomes: The Efficacy Gap

Despite everyone's right to enjoy the highest possible level of physical and mental health, there is substantial evidence of inequalities in Portugal between migrants and natives in both the State of health and access to healthcare. According to international standards, legal frameworks, policy efforts, indicators, and communication tools are essential to address migrant health issues. However, general policy areas such as labor, social affairs, and anti-discrimination can also influence migrants' health vulnerability and health outcomes (Pace and Shapiro, 2009). Similarly, it is time to acknowledge that health sector policies are fitted in wider systems that largely determine their effectiveness. What Czaida and Haas (2013) named policy efficiency gaps remind us that there are limiting factors to the effectiveness of migrants' health policy outcomes.

Many issues need to be considered: the realities of the public administration system and its procedures. So many health policies must function; the local training and educational systems and how they train professionals as well as the dominant cultural and economic values. For example, are the frequent legislative changes treated with respect and implemented accurately and promptly in every health center, Family Health Unity, or Local Health Unity? Are all citizens (legal, refugees, or undocumented migrants) treated equally with respect and dignity in each healthcare unit (USF, Health center, hospital)? How frequently do top civil servants

or politicians interfere with internal demands? We must also consider the private sector and the legal system and whether their practices are congruent with the proposed reforms and the governance systems that facilitate or restrict the scope for interference. The determinants of the policy effectiveness model remind us of the need to look outwards. So, for healthcare reforms to be successful for the integration of migrants, we need to give more attention to an upstream approach to health shifting the focus from individual risk factor and behavior to the societal conditions that keep people healthy: factors from the political, legal, educational and administrative systems on which successful health policies relies like adequate income, education, community connection, good access to a medical doctor .

Health Outcomes

A systematic analysis of available evidence in the association between health outcomes and integration policies shows that fuller integration improves health outcomes as immigrants increasingly seek health care when needed. Overall, migrants experience a definite disadvantage for most health outcomes compared to non-immigrants. In order to explain the efficiency gap, we used three measures of healthcare access as outcome variables from the OM report (2017) and OM Statistic Outlook: (i) better health status; (ii) whether or not the respondent had a regular doctor and (iii) self-reported perceived unmet healthcare need in the past 12 months.

(i) Self-reported Health Status

The analysis of cross-sectional data from the Eurostat EU-SILC dataset shows that being a non-EU citizen and living in the EU is not a significant determinant of self-reported health inequalities per se. Instead, living in a country with problems in migrant integration truly matters (Giannoni et al., 2013). A person's self-reported health status is how people perceive their physiological and psychological health. The differences in perceived health statuses between foreign and native-born populations can be attributed to gender, health behavior, and other social and economic circumstances. In Portugal, immigrants tend to be generally healthier than their native-born counterparts. On average, recent migrants, younger than the rest of the population, account for a high proportion of foreign-born residents. This

overall better health of migrants is referred to as the "healthy migrant effect" (OECD, 2015:193). It reflects the findings that migrants have lower death and hospitalization rates, longer life expectancy, and lower occurrences of life-style related risk factors. However, evidence shows that their health deteriorates with time. Studies find a disproportionate share of migrants among population groups with low health outcomes. Thus, migrants' primary health advantage when they arrive in Portugal is said to decline to levels more in line with Portuguese born residents (OM, 2017: 263).

Figure 2: Foreign and native-born adults who report they are in good health or better, 2016

Source: Eurostat, 2018

Figure 3: Adults who report they are in good health, by citizenship, 2012

Source: OECD (2015)

(ii) Medical treatment

Visits to the doctor for preventative and curative health care and medical check-ups are critical indicators of access to professional health care. Respondents were asked how often they visited a doctor in the previous 12 months. According to INE (2014), the percentage of Portuguese nationality respondents who declared to have gone to the hospital in the last year by total residents of Portuguese nationality with more than 15 years in the country was 41.1%. For foreign citizens, this percentage is lower, accounting for 18.8% in foreign residents of the European Union and 20% in the case of foreign citizens from non-EU countries.

Table 2: Resident population aged 15 years and older who went to the hospital for health care (without hospitalization) in the 12 months prior to the interview, by nationality, in 2014

Nationality	Go to the hospital for healthcare
Resident population older than 15 years old	%
A/B	
Portuguese	
EU nationals	
Third country nationals	3.5

08.164
17.243
52.951
8.5
28.840
91.580
264.150
41,
1%
18,8%
20,0%
Total
3.5
78.448
8.8
84.570
40,
3%

Source: INE (2014) in Observatório das Migrações (2017: 265)

Table 3: Resident population over 15 years of age who consulted a doctor in the 12 months prior to the interview by nationality and type of medical consultation in 2014

Nationality
Ty
pe of medical consultation
Sh
are (%) of the population that visited a doctor by share of population
Ge
neral medical
Ge
neral medical
Ge
neral medicine
Ot
her Specialty
Portuguese
EU nationals
Third country nationals
6.5
58.323
27.561
82.740
6.5
58.323
27.561
82.740
76,
9%
30,1%
31,3%
49,
3%
18,3%
18,9%
Total
6.6
68.715

4.2
70.604
75,
1%
48,
1%

Source: INE (2014) in Observatório das Migrações (2017: 266)

(iii) Unmet healthcare needs and Reduced Quality of Life

It is possible to evaluate the equity of access to health care by assessing reports of unmet medical needs due to fear of doctor, hospital, examination, or treatment. Individuals are typically asked whether there was a time in the previous 12 months when they felt needed health care but did not receive it, then why the need went unmet. Since 2007, Portugal has experienced a reduction in public spending on health. The decrease in spending does not always mean that budgets have been cut; it may also indicate the reduced need. The unmet medical needs increased, especially for those unemployed and retired. The employed populations' main reasons for not seeking healthcare are financial barriers, long waiting times, inability to take time off work, and family responsibilities. In the long term, reduced access may also lead to unmet needs, with unaddressed health conditions possibly worsening and increasing demand for certain health services.

Another method of gauging equity of access to health services is by assessing reports on unmet medical needs (Popic, T. & Schneider, S. & Asensio, M. 2019). The main differences between Portuguese citizens and foreign citizens can be observed when analyzing the time interval since the last medical appointment. According to the National Health Survey (2014), the majority of Portuguese and foreigners had their last general and family medicine consultation less than 12 months ago, but in the case of foreigners, the percentage is higher. Regarding the time since the last consultation of the specialty, there are even more significant discrepancies between Portuguese and foreigners. While the majority of Portuguese (48.3%) had their last visit less than one year ago, in the case of foreigners the majority (53.3% of the foreigners in the EU and 46.5% of foreigners outside the EU) stated that their last consultation of the specialty was the longest, that is, more than one year ago (OM, 2017).

Table 4: Resident population with 15 years of age by nationality and time elapsed since the last medical visit of General and Family Medicine

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Time elapsed since last visit

Po
rtuguese
EU
Nationals

Thi
rd
Nationals
To
tal

Less than 12 months ago
More than 12 months ago
Never
Total

%
75,
4
24,0
0,7
100

60,
3
35,6
n.a.
100

60,
4
35,9
n.a
100

75,
1
24,2
0,7
100

Total
(N)
8.7
01.872

45.
700

13
6.919

8.8

84.581

Source: INE (2014) in Observatório das Migrações (2017: 266)Conclusion

The current COVID crisis has emphasized the critical principle of public healthcare in the efficacy of immigrants' access to health care. Addressing immigrants' health needs is a fundamental component of any effective public health policy promoting sustainable health outcomes and successful integration policies. From a public health perspective, guaranteeing immigrants' access to health care improves public health outcomes not just for the immigrant population, but for everyone, fostering social justice for the future generations. Promoting immigrants' access to health care reduces the need for costly emergency care and high costs for the health system.

According to Mosca, Rijks, and Schultz (2013), the adoption of particular, quantitative, attainable, time-sensitive, and relevant indicators on migrants' health will assist States in setting goals, monitoring the progress of migrant health, and improving socio-economic determinants of health. Therefore, universal health coverage addresses the specific needs of immigrants, recognize the impact of social determinants of health-related to migration, and support a human rights-based approach to health. However, the lack of standardized data on migrants' global health poses difficulties in assessing the problem. Research shows that multiple factors such as financial costs, fear of deportation, language barriers, and fear of abuse or discrimination have contributed to the creation of barriers of access to the healthcare system.

In Portugal, the pandemic shows how essential it is for governments to strengthen their capacity to minimize the spread of the virus and limit some of its most extreme adverse effects on public health. Immigrants' access to healthcare depends on their capacity to afford it because the principle of solidarity, that once was guaranteed by the public system is eroded.

Moreover, this is happening when Portugal faces persistent inequalities in access to healthcare systems. By highlighting how these singularities are interrelated, this article contributes to a better understanding of the specificities, potentialities, and weaknesses of Portugal compared to other areas of migration health policies. For these reasons, drawing reliable conclusions on such a complex

subject requires further research and comparisons with other geographic areas, which we hope this work encourages.

There is an apparent debate in immigration research about the efficacy of immigrants' access to health care. Addressing immigrants' health needs is a fundamental component of any effective public health policy promoting sustainable health outcomes and successful integration policies. The current COVID crisis emphasizes the key principle of public healthcare. From a public health perspective, guaranteeing immigrants' access to health care improves public health outcomes not just for the immigrant population, but for everyone, fostering social justice for the future generations. Promoting immigrants' access to health care reduces the need for costly emergency care and high costs for the health system.

According to Mosca, Rijks, and Schultz (2013), the adoption of particular, quantitative, attainable, time-sensitive, and relevant indicators on migrants' health will assist States in setting goals, monitoring the progress of migrant health, and improving socio-economic determinants of health. Therefore, universal health coverage addresses the specific needs of immigrants, recognize the impact of social determinants of health-related to migration, and support a human rights-based approach to health. However, the lack of standardized data on migrants' global health poses difficulties in assessing the problem. Research shows that multiple factors such as financial costs, fear of deportation, language barriers and fear of abuse or discrimination have contributed to the creation of barriers of access to healthcare system.

In Portugal, the pandemic is showing how essential it is for governments at all levels to strengthen their capacity to minimize the spread of the virus and limit some of its most extreme adverse effects on Public Health. In this kind of system, immigrants’ access to health is dependent on their capacity to pay for and solidarity granted by the public system is eroded.

And this is happening at a time when the general trend in inequality has spared as Portugal faces persistent inequalities in access to healthcare systems. By highlighting how these singularities are interrelated, this article contributes to a better understanding of the specificities, potentialities, and weaknesses of Portugal compared to other areas of migration policies. For this reason, drawing reliable

conclusions on such a complex subject requires further research and comparisons with other geographic areas, which we hope this work encourages.

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