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Regulatory Regimes and (Infra)Structuring Emancipation Dynamics: The Case of Health Workers’ Migration

Joana de Sousa Ribeiro

Introduction

Migration and healthcare are socio-political phenomena that are governed by national and supra-national inter-related regulatory frameworks. On the one hand, the politics of admission into a country remain largely a matter of national regulation, despite the international recognition of the right to migrate as a Human Right (Universal Declaration of Human Rights, Article 13). On the other hand, International Health Regulations (IHR) are part of a supranational legal framework (WHO, 2005) that came into force in June 2007. The IHR, with the aim of preventing and responding to the international spread of diseases and other health risks, represent a common national effort to notify an international organisation such as the World Health Organisation (WHO) about specific public-health events, such as emerging infectious diseases.

While regulation tends to be a field of analysis in migration (Geddes & Korneev, 2015) and health studies (Chamberlain, Dent & Saks, 2018), emancipation remains an under-researched area, notably as regards its structural settings. Based on a case study addressing health workers’ migration to and from a Southern European country, Portugal, this chapter aims to debate the regulation-emancipation tensions, articulations and transactions through the concept of “(infra-)structuring emancipation”, which attempts to consider “emancipation” as a dynamic feedback mechanism in the overall migratory process.
The cross-cutting analysis of these two areas – international migration and international health – is an important challenge for the inter- and intra-play of regulation and emancipation. Indeed, this case study provides us with an opportunity to explore different fields of transnational practices (international recruitment practices, re-accreditation processes of foreign-trained professionals, as well as matters of the portability of qualifications or the sustainability of the health workforce) which helps to comprehend the inter- and intra-relations of regulation and emancipation. Taking into account the interrelatedness of several dimensions of regulation and the emancipatory potentials within each field of transnational practices (such as international recruitment, re-accreditation, portability of qualifications and a sustainable health workforce), this chapter envisages the relevance of a relational approach concerning the regulation-emancipation debate.

This regulation and emancipation division is analysed bearing in mind social transformations occurring in a capitalist society, where the labour market is organised via brokers and intermediaries (through international job fairs or recruitment by private agencies) and is affected by the role of social media networks in international recruitment processes. Additionally, institutional (infra-)structures, such as specific professional inclusion programmes and Offices, specific institutional networks, national legal frameworks, plus global health governance tools, are also taken into account.

I thus propose a re-evaluation of de- and re-regulation of mobility regimes vis-à-vis emancipatory mobility structures through the notion of ‘(infra-) structuring emancipation,’ which reintroduces the longstanding sociological dilemma of structure versus agency and its capacity, or not, of convergence. This includes debating the possibilities of blurring this binary as, for instance, “the cumulative effect of independent decisions may, over time, alter the decision making context” (Massey, 1990, p. 9). When one is aware of this dynamic, the tensions between regulatory regimes and mobility structures for emancipation become more visible, at least in its (dis)continuities.

Exploring the inter- and intra-relations of regulatory regimes and the “(infra-) structuring emancipation” dynamics related to the international mobility of health workers from and to Portugal, this chapter seeks to answer the following questions: how does the migration of health workers inter-play with regulatory regimes and structures of mobility? At what point are changing social transformations (e.g. the privatisation of intermediaries, the digitalisation of networks and informal recruitment channels) relevant contextual and cumulative
causation mechanisms for migration and do they consequently present themselves as specific fields of transnational practices for de(re-)regulation and emancipation? How can this case-study contribute to overcoming the traditional social sciences dilemma regarding structure and agency?

The chapter is divided into four sections. First, it briefly describes the context that frames the research analysis, namely Portugal as a country of immigration and emigration. Second, the paper highlights the general conceptual framework behind the analytical approach. This section, in particular, argues for a new concept: “(infra-)structuring emancipation” dynamics. This is followed by a section where the fields of transnational practices under this notion are described in more detail. The final section summarises and concludes the discussion.

The Inter- and Intra-Play among Regulation and Emancipation

Regulation and emancipation processes are generally understood as diametrically opposed processes in social theory such as the Marxism, Critical Theory, Political Economy, Feminist Studies and Subaltern Studies approaches, to name a few. Considering regulation as the “mechanisms of social control, including unintentional and non-State processes” (Baldwin et al., 1998, p. 4) and emancipation as “freeing those outside established structures of power from the constraints that hold them back from realising their potential” (Fierke, 2010), both concepts are essential for an analysis of cross-border labour mobility and its relation to decent international recruitment practices, effective knowledge transfer and a sustainable health workforce. In the framework of this debate and drawing on either capabilities theory or the agency-structure sociological division, emancipation is usually conceived as the opposite of regulation, reinstating in this way the dichotomous discourse of modernity.

In this regard, the migration literature tends to value a one-sided perspective (structure or agency) over one that effectively incorporates both sides (agency-structure) or, at least, one that illustrates the negotiation process driven by the agency. In this line, the concept of “relational agency” (Burkitt, 2015) presents an alternative approach that underlines the relational view and considers individuals as “interactants” rather than as singular agents or actors” (Burkitt, 2015, p. 2). In the process, the notion of “structure” is replaced by multiple relational links, “webs of interdependence” (Burkitt, 2015, p. 14) or networks, not confined to a fixed space or time. Apart from this argument, the contribution of Karen Barad
(2007) is also relevant, especially if an explanation of the inter-action and intra-action of constraints and enablers of mobility is envisaged.

To provide an explanation of the inter-action and intra-action of constraints and enablers of mobility, I also draw upon structuration theory (Giddens, 1984) and morphogenesis analysis (Archer, 1982), which redirect the focus towards a methodological and an analytical dualism respectively. The critical realist approach to migration studies (Bakewell, 2010) and the theorisation of agency and structure as phenomena that are interrelated and mutually informing (Sewell, 1992) endorse the possibilities of an integrative response in a specific area of studies such as migration.

Therefore, in order to contribute to a relational approach that considers the inter- and intra-play dynamics of structure and agency and drawing on the concept of “structures of opportunity” (Itzigsohn, 2000), usually referring to political participation resources, I propose the notion of (infra-)structuring emancipation. By that I mean the emergence of (infra-)structures that envisage the turning over of social and institutional constraints to mobility. The emphasis on “(infra-)structuring” in its verb condition translates an open-ended, dynamic and dialogical process of inter- and intra-relations of organised practices and webs of resources, in this case related to the study of international recruitment practices, transnational knowledge transfer and the sustainability of the health workforce.

The flowchart below (Flowchart 1) seeks to translate the inter- and intra-play among regulation and emancipation, having as a mediator “emancipatory infra-structures” dynamics, namely social media networks, job fairs, specific programmes and offices, specific institutional networks, the national legal framework and toolkits. Thus, this proposal represents an interstitial linkage that comprises regulation and emancipation approaches, considering multiple dimensions of regulation (supranational regulation, multilateral regulation, re-regulation, soft regulation, self-regulation, de-regulation), without neglecting the emancipatory dynamics that each field of transnational practices (international recruitment, re-accreditation processes, the portability of qualifications and a sustainable health workforce) contemplates.

Therefore, an attempt to consider regulation and emancipation in its (dis)continuous inter- and intra-play instead of diminishing tensions and articulations is an alternative proposal to explore the channels of cross-transactions among the two (Dépelteau, 2008). The question of such (dis)continuity gains even more relevance in the exploration of the international migration of health workers,
as the study of migration is too often based on deterministic proposals, such as those concerning “push-and-pull” models.

Indeed, instead of studying labour migration (in this case health workers’ migration) as an international labour flow between two places (and the respective pull-push motivations), the approach advocated in this chapter turns to a dialogic dynamics under the labour migration process, which involves several state and non-state agents, with a regulatory and an emancipatory scope. This constellation of interests and strategies is based on an inter-mediation of power relations often neglected in skilled migration research. However, besides that, an (intra-)mediation relationship between regulation and emancipation is also essential to consider. Thus, “(infra-)structuring emancipation” is a way to respond to the challenge of an integrative approach without being exclusively over-determined by a middle range focus.

**Setting the Context**

This case study is embedded in the analysis of “overstayer” and “overqualified” migrants’ experiences, such as those of: a) Eastern European migrants who
came to Portugal during the late 1990s on tourist visas and who took jobs below their educational qualification level before their qualifications were recognised and b) overqualified Portuguese emigrants who, in the aftermath of the 2008 economic, social and financial crisis, migrated to escape from reduced career prospects, underemployment and unemployment. In both cases, migration is tied to experiences of overqualification in Portugal where the public welfare and healthcare systems suffered from disinvestment during the austerity period, affecting recruitment and job opportunities. Between the late 1990s and the beginning of the twenty-first century, Portugal, along with other Southern European countries, received a large immigrant population from countries in Eastern Europe with which it had had no prior social, economic, historical or cultural privileged relations (Baganha, Marques & Góis, 2004). As a member of the Schengen agreement, Portugal turned into an attractive country for immigration, especially when the secondary labour markets in Italy and Spain became saturated and these traditional immigration countries implemented control policy measures. Indeed, with an immigrant population rising from approximately 50,000 individuals in 1980 to almost 480,300 in 2018 (SEF, 2019), Portugal began to imagine itself at the centre of an Intra-EU mobility regime (Peixoto, 2009), whose differentiation, stratification and contradictions were pointed out by some authors (Engbersen et al., 2017).

Additionally, the “relatively strong historical propensity for intra-European Union (EU) mobility” (Holland & Paluchowski, 2013, p. 4) from Portugal was evident during the 2008 economic and financial crisis. Indeed, the available data report around 100,000 exits in both 2011 and 2012, a figure that surpasses the international flows during the dictatorship period of the 1960s. During the 2008–2011 period, Portugal was the only Southern European country where the percentage of Portuguese emigrants having less than three years of migration and higher qualifications almost doubled (from 14% to 27%), which reveals a structural change in the profile of the Portuguese emigrant population (Holland & Paluchowski, 2013). Moreover, unemployment increased significantly during the austerity period (from 12.7% in 2011 to 16.2% in 2013), affecting in particular young workers under 25. For instance, during that period an estimated 7,000 to 9,000 nurses were unemployed.

Therefore, the dual migratory profile of Portugal as an immigrant and an emigrant country has become more obvious. As such, this coexistence has been called a “mixed regime” (Peixoto, 2007; 2009). This singularity of the
Portuguese migratory experience also applies to the health sector. On the one hand, the international outflow of doctors and nurses was in part a consequence of the economic and financial crisis. For instance, the data from the Portuguese Nursing Council showed that, in 2010, 179 Portuguese nurses requested a Certificate of Good Standing for working abroad, a required document for working in EU countries which, at least, reveals the intention to migrate, while a year later, precisely at the beginning of the “Troika” period, when Portugal signed two Memoranda of Understanding,\(^\text{11}\) that number had risen to 1,775. The following three years (2012–2014) reported more than 2,500 and, in 2017, 1,286. Additionally, data from the Medical Council registered that between 2014 and 2017 nearly 1,219 people left the country. On the other hand, it is important to remark that precisely at that time (in 2017) there were 3,103 foreign health professionals working in Portuguese NHS institutions (2.4% of the total staff), mostly doctors (58.9%) and nurses (17.6%) (ACSS, 2018).

**Fields of Transnational Practices in Health Workers’ Migration**

The case-study under analysis aims to translate the intertwined relationship embedded in the regulation-emancipation tensions. This case of healthcare workers migrating to and from Portugal gives us an opportunity to analyse international recruitment practices, the re-accreditation processes of foreign-trained professionals, the portability of qualifications and the sustainability of the health workforce in line with the de(re-)regulation regimes and the emergent emancipatory (infra-) structures (Table 1). Indeed, and for the purposes of this chapter, these matters are important fields of transnational practice for studying the relationship between regulation and emancipation. Therefore, taking into account examples of supranational regulation, multilateral regulation, “soft regulation”, self-regulation, (de)re-regulation processes and emancipation structures (Table 1), the relevance of an inter- (but also intra-) relational approach for the regulation-emancipation debate becomes more obvious.

Having said that, several fields of transnational practices related to the institutional regulation of healthcare migration (international recruitment practices, re-accreditation processes, the portability of qualifications and a sustainable health workforce) are analysed below, in order to show the inter- and intra-play between regulation and emancipation.
### Table 1 Fields of Transnational Practices, Regulatory Regimes and Emancipatory (Infra-)Structures

<table>
<thead>
<tr>
<th>Fields of transnational practices</th>
<th>Regulatory regimes</th>
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<tr>
<td>International recruitment</td>
<td>Soft regulation</td>
<td>Social media networks</td>
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<td></td>
<td><em>(WHO Global Code of Practice and the International Recruitment of Health Personnel)</em></td>
<td><em>(Facebook groups)</em></td>
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<td></td>
<td>Multilateral regulation</td>
<td>Jobs Fairs (virtual or not)</td>
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<td></td>
<td>De-regulation and Re-regulation</td>
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<td></td>
<td><em>(recruitment agencies)</em></td>
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</tr>
<tr>
<td>Re-accreditation</td>
<td>Self-Regulation</td>
<td>Specific programmes and offices</td>
</tr>
<tr>
<td></td>
<td><em>(professional bodies: Ordem dos Médicos and Ordem dos Enfermeiros)</em></td>
<td><em>(programmes for foreign-trained doctors and nurses; support office for academic and skills recognition)</em></td>
</tr>
<tr>
<td>Portability of qualifications</td>
<td>Supranational regulation</td>
<td>Specific institutional networks</td>
</tr>
<tr>
<td></td>
<td>Re-Regulation</td>
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International Recruitment Practices

The recruitment of healthcare professionals in Portugal has gone through a process of increasing privatisation and informality; from bilateral agreements to international recruitment agencies, from talent searching to social media and social networking, the process of international recruitment is becoming an increasingly selective and non-state-driven process. Therefore, a WHO Global Code of Practice on the International Recruitment of Health Personnel was adopted by the sixty-third World Health Assembly on 21 May 2010 and serves as a guide for ethical and decent international recruitment practices. Portugal was one of the signatory countries; by then the state’s role in international recruitment was still launched through bilateral agreements.

Indeed, in 2008 the Portuguese Ministry of Health established bilateral agreements with Cuba (44 physicians in 2009; contracts were renewed in 2012, not necessarily with the same group) and Colombia (82 physicians in 2011). Additionally, a formal permit for healthcare professionals from Costa Rica (14 physicians in 2008, nine in 2011) and a cooperation healthcare agreement with Uruguay for three-year periods (15 physicians in 2008) were launched. The medicine regulatory body (Ordem dos Médicos, OM) was sceptical about this solution. As the former president of the OM stated:

We had colleagues who wanted to be hired under the same conditions and we were not given these same conditions. So, there was a positive discrimination of those colleagues who were proactively imported.

At the same time, specialised job fairs, organised by international companies such as Careers and White and MedPharmJobs, were launched in hotels in Porto, Coimbra and Lisbon and, increasingly, in virtual space to attract Portuguese graduate students and healthcare professionals (mainly doctors
and nurses) to work abroad. This corresponds to a process of cross-border recruitment de(re)regulation. Following Mackenzie and Lucio (2005), I prefer the term “re-regulation” precisely because it involves a change of the regulatory functions of actors. For instance, recruitment agencies (some of them based in the Portuguese cities of Porto, Viseu and Lisbon) have assumed the role of gatekeepers as they are responsible for the selection, registration, advising, and initial introduction of recruits to the technical language and caregiving culture of host countries such as the United Kingdom, France, Belgium, the Netherlands and Denmark. These agencies are represented at job fairs and other recruitment events, while also organising promotion events in hotels, hospitals, medical schools and nursing schools. The recruitment agencies interviewed pointed out that their recruitment work was not as welcome in public hospitals and education institutions. Indeed, an employee of one of the recruitment agencies recounted the case of a nursing school professor who was not happy about the launching of an international recruitment drive at the nursing school:

[…] for him, we were draining people. What he wanted to say is that we were the ones to blame […] Even when I asked him about the working conditions for nurses in Portugal – the lack of a labour contract, the lump sum contracts, the amount of payment for each hour – he said that the current situation was not so bad.

Thus, an entire international recruitment industry has flourished, involving a range of activities and services, including the recruitment process, language-learning schools, translation, document authentication services and career guidance. This “migration industry” (Castles & Miller, 2003, p. 27) also targets the best qualified segment of the migrant population, the “skilled workers”. Locating the concept in the migration systems theory framework, the above authors underlined the importance of a “meso-structure” in understanding the (re)production of the migration process. However, the analysis of “migration intermediaries” within a skilled “migration industry” remains rare (Tissot, 2018).

Moreover, the expansion and use of personal networks through social media open up new ways of understanding the importance and role of weak ties (Granovetter, 1973) in job-seeking. The case of the Portuguese healthcare professionals abroad demonstrates the relevance of Facebook groups (such as *Internato Médico no Estrangeiro, Médicos Portugueses no Estrangeiro, Médicos Portugueses Residentes no Estrangeiro* and *Diáspora dos Enfermeiros*) in the
process of seeking information about jobs overseas. The *Diáspora dos Enfermeiros* (Nurse Diaspora) Facebook group is a noteworthy case, because it started as a social media group and later emerged as a collective association (*Saúde além Fronteiras*). This association addresses not only Portuguese nurses abroad but also potential emigrants. Then, the coordinator of *Saúde além Fronteiras*, himself a former emigrant and one of the first Portuguese health-sector migrants in the United Kingdom, began to engage in consultancy and international recruitment. Currently, he is considering returning to nursing practice in Portugal because, “here [in Portugal] the potential talent is wasted ... we don’t have the possibility to be recognised as a professional group”.

To sum up, it is important to note the relevance of intermediary infrastructures as meso-level practices and resources that enclose new forms of de(re-)regulation regimes and the emergence of “emancipatory (infra-)structures” (social media networks, international job fairs, specific programmes and offices, specific institutional networks, national legal frameworks and toolkits) that could serve not only as facilitators but also as gatekeepers12 of a selective recruitment process.

*Subsidised Programmes for Foreign-Trained Doctors and Nurses*

Special reaccreditation programmes were created to address situations of overqualification among foreign-trained professionals working in Portugal in the secondary labour market (Baganha et al., 2004). First, the Project to Support the Professionalisation of Immigrant Doctors (PAPMI, 2002–2005) was piloted and coordinated by civil society organisations. Its main aim was to facilitate the recognition of the qualifications of foreign doctors in order for them to be able to practise in Portugal. The main challenges in the implementation of this project were related to unfamiliarity with the regulatory bodies, employers and academic institutions, not knowing about the occupation-specific language, a lack of recognition of or pertaining to professional experience gained outside Portugal, institutional discrimination against older female applicants, difficulties in adjustment to the Portuguese workplace culture, and not understanding the caregiving culture.

After this initial pilot project there was another project targeting the reaccreditation of foreign-trained doctors (Professional Integration of Immigrant Doctors, PIPMI, 2008–2009), which received sponsorship from the Health Ministry. This project was a collaboration by the Ministry with several organisations that had already been involved in the pilot project, including an established international Catholic organisation, a foundation, medical and
nursing schools, medical and nursing professional councils, embassies and consulates, and the Borders and Foreign Bureau (SEF). Nursing, too, received special attention regarding the recognition of qualifications. Indeed, a project aimed at the recognition of nursing qualifications was developed between 2004 and 2007. This project comprised Portuguese language courses and the provision of social services to facilitate family inclusion in Portuguese society.

The assessment of diploma equivalence is a long process as it involves the need to gather all the required documents (and their translations), the delivery of the documentation to a medical faculty and nursing school, a waiting period, attendance at Portuguese-language training courses, a training period (four months for nurses, four to six months for physicians), several exams (a language exam as well as theoretical and clinical diagnosis exams), registration with the medical and nursing council, and a professional internship (if a licence is to be issued).

The organised civil society that coordinates and implements the above projects performs important roles during the re-accreditation process, from service provision to bridging and bonding social capital, promoting connections among the applicants for the projects and even mentoring newcomers. The organisations involved in the projects act as certifiers of the whole of the recognition process, which is essential for public recognition of the re-accreditation process as a societal added value.

The above experiences were also incorporated at a governmental level, as the High Commissioner for Migration (ACM) created a Support Office for Academic and Skills Recognition. This Office’s purpose is to make available an integrated structure which could respond to the barriers previously identified during the launching of the projects: gathering all the documentation required for the application process in the country of origin (namely the syllabus programme), the translation and authentication of all the documents, and registration with professional associations. As stated by the Office coordinator, the aim of the Office is to:

Show all the options, to state what is possible, what is not possible; so, when the applicant decides, he could decide in a responsive way [...] because if the goal is to work as a doctor, he or she has to know that there is a regulator body that rules the procedures.
As I have argued elsewhere (Ribeiro, 2018), the implementation of the ACM Office is an example of a bottom-up institutionalisation process of non-state actors’ initiatives. This institutional response, in conjunction with the subsidised Programmes for Foreign-Trained Doctors and Nurses, represents a turning point in the process of re-accreditation, which could be considered as a new (infra-) structuring dynamic as regards the recognition of migrants’ qualifications, although not extended in all its dimensions, such as the inter-recognition one (Ribeiro, 2019).

Frameworks Supporting the Portability of Qualifications

One of the main pillars of the European Union project is the free movement of European citizens, namely the right of entry to any Member State, whatever one’s social condition, regardless of professional status or illness. The regulatory regime of the Professional Qualifications Directives (Directive 2005/36/EC and the amending Directive 2013/55/EC) allows for the automatic recognition of professional qualifications in regulated professions (doctors, dentists, pharmacists, nurses, midwives, veterinary surgeons and architects), thereby facilitating free movement (European Commission, 2011). Overall, the provision of qualifications recognition is thus an opportunity to extend the accessibility of the internal labour market to certain EU-EEA professionals.

While the 2005 Directive simplified the legislative framework adopted since the 1960s, the so-called “modernised Directive” (Directive 2013/55/EC) adjusted it to a digital age, incorporating measures that facilitate the recognition procedures. Indeed, both the use of the Internal Market Information System (IMI) as an effective alert system about professional malpractice and the introduction of a European Professional Card increased the transparency of the recognition process. These initiatives are among the new measures provided for by the 2013 Directive. This amending Directive also addresses the question of linguistic proficiency. Language proficiency tests are envisaged in the case of professions that deal with patient safety. These tests are implemented after the recognition of qualifications but before a professional licence is issued by a regulatory body.

In the Portuguese case, the year 2007 marks an important turn in the process of recognition of educational qualifications issued in countries that are incorporated in the European Network of Information Centres (ENIC), which reigns supreme in the EU-EEA region. That year, a national regulation (Law Act nº 341/2007) was implemented to govern the process of diploma recognition in terms of academic titles. This regulation simplified the recognition of foreign
academic degrees by removing lengthy bureaucratic procedures and can thus be considered part of either an emancipatory (infra-)structure or a re-regulatory regime. According to the Portuguese National Academic Recognition Information Centre (NARIC), the above national legal framework gained international recognition as a good practice and could be transferred to other national legal frameworks. In this regard, this specific institutional network and the above national legal framework correspond to a new (infra-)structuring dynamic regarding knowledge transfer.

**Sustainable Health Workforce**

“Towards a sustainable health workforce in the WHO European Region: a Framework for Action” outlines an international instrument advocating for a sustainable health workforce in the WHO European Region. The above document is aligned with the main guidelines of the *Global Strategy on Human Resources for Health: Workforce 2030 (2016)* and the *Working for Health and Growth: Investing in the Health Workforce (2016)*, both perceived as a paradigm shift in health workforce policy. Moreover, the need to sustain a transformed and effective health workforce within strengthened health systems is also underlined in the 2030 agenda goals.

In an international context, a sustainable and resilient health workforce is considered one of the main drivers for health system strengthening in the European Region. To obtain such a workforce several challenges need to be addressed: supply and demand imbalances, gender inequality and gender imbalances, achieving an appropriate skill mix, geographical maldistribution, gaps in attaining decent working conditions, and improving recruitment and retention. The internal imbalances within the EU, a social effect of regional socio-economic asymmetries (in favour of Northern and Western Europe), make effective actions across various sectors and institutional actors even more urgent. To understand this question fully it is important to note that in 2010 the WHO adopted the *Global Code of Practice for the International Recruitment of Health Personnel*, which corresponds to a “soft regulation” to prevent international recruitment from countries of the metaphorical Global South, notably those with critical staff shortages. Consequently, Southern and Eastern European countries have been perceived as potential source countries, aggravating the inequalities in the distribution of health workers within the EU.

During the Fourth Global Forum on Human Resources for Health (Dublin, 13–17 November 2017), a *Toolkit for a Sustainable Health Workforce in the WHO*
European Region was developed, revealing the importance of health workforce sustainability in a region such as Europe, where the regional inequalities remain. This toolkit was created in order to support Member States and other stakeholders in the implementation of several strategic objectives (education and performance, planning and investment, capacity-building and analysis and monitoring), as well as collecting policy-evidence resources, such as international and national Human Resources for Health strategic documents (WHO Studies and Recommendations, European Union Joint Action on Health Workforce Planning and Forecasting disseminations, data from the European Commission Expert Group on European Health Workforce), analytical, planning and management tools, as well as case studies from within the WHO European Region and other research material. This tool is a valuable resource for Member States, including employers in the public and private sectors, non-governmental organisations, professional associations, educational and training institutions, trade unions and civil society organisations, to assess their health workforce policies within a local context.

This Framework for Action for a WHO region (Europe), where the reliance on foreign-trained health workers in some countries is evident, as it is in Portugal (Wismar et al., 2011), is a “soft regulation” initiative. However, with the creation of the above toolkit (Toolkit for a Sustainable Health Workforce in the WHO European Region) a further step was taken towards a common transnational (infra-)structure addressed to the sustainability of the health workforce.

Concluding Remarks

In the case analysed – healthcare migration to and from Portugal – the reported social transformations (the privatisation of intermediaries, digitalisation of social networks and informal recruitment channels) are mainly related to the replacement of state (infra-)structures with non-state ones, driven by the market or organised via civil society networks. This social change poses new challenges regarding the equation of regulation regimes and mobility structures; among them, the emergence of an (infra-)structuring process that inter- (intra-)mediates regulation and emancipation.

Therefore, the given examples (social media networks, job fairs, specific programmes and offices, specific institutional networks, national legal frameworks and a toolkit) provide us with relevant settings for the analysis of the
proposed term “(infra-)structuring emancipation”, it being a facilitator (but also a gatekeeper) of the structure of mobility. Additionally, the processes of de(re-)regulation that the intermediaries of international recruitment envisage replace state mechanisms in the admission procedures with other channels of transaction of a corporate nature, for instance international recruitment agencies or social media networks.

Thus, as this case study illustrates, emancipatory (infra-)structures and de(re)regulation regimes assume an important role regarding a regulation-emancipation (dis)continuum process. In that, specific social transformations, for instance, growing privatisation, digitalisation of social networks and the increase of informal recruitment channels, should be understood as part of a continued, mutually constitutive, inter- (intra-)relationship of structure and agency.

In line with Salazar and Smart (2011), this chapter intends to go beyond the lack of balance of mobility with freedom, by illustrating new confinements that produce new modes of power relations, for instance among them the emergence of market mechanisms and the processes of de(re-)regulation. Indeed, looking at “emancipatory (infra-)structures” allows us to visualise other actors, processes and outcomes, which render visible the (dis)articulations that undergird the regulation versus emancipation binary. The dichotomy logic in mobility studies was problematised by some authors (i.e. Glick Schiller & Salazar, 2013), but the “regulation versus emancipation” dimension has not been given much attention.

In times of heightened cross-border mobility (Urry, 2008), the (de) commodification of labour intersects with state and non-state initiatives, and with structures of mobility which also have emancipatory potential. In this way, the term “regimes” in migration studies, drawing on Esping-Andersen’s (1990) seminal work, implies a constellation of institutional, social and technological actors and processes that lead not only to varying degrees and forms of regulation but also to emancipation. The concept of “(infra-)structuring emancipation” introduced in this chapter seeks to capture this phenomenon.

To sum up, this chapter has sought to contribute to the structures and regimes of mobility debate, presenting a proposal that envisages inter- and intra-relations between constraining and enabling resources, the “(infra-)structuring emancipation”. Like the frameworks of other regimes, such as care regimes (Lutz, 2017; Anderson, 2012), it encompasses the structures and regimes of mobility with a sliding scale of regulation that addresses “emancipatory (infra-)structures”. Thereby it looks at a dialogical and open-ended combination of regulation and
emancipation that needs further analysis in the future concerning, for example, its extension beyond healthcare contexts.

Notes
1 Among the exceptions please consider the debate initiated by Boaventura de Sousa Santos more than 20 years ago (Santos, 1995) and the international project coordinated by him at the Centre for Social Studies, University of Coimbra, Portugal, from January 1999 to December 2001 and entitled “Reinventing Social Emancipation”: https://www.ces.uc.pt/emancipa/en/team/index.html.
2 To best reflect the simultaneity of both processes I employ the expression ‘inter- (intra-) play’.
3 Such as supranational regulation, multilateral regulation, ‘soft regulation’, self-regulation, and de(re-)regulation.
4 Please consider one of the exceptions, namely Mainwaring (2016).
5 In my view, other proposals such as “Migrant Infrastructure” (Xiang and Lindquist, 2014), “Critical Infrastructure” (Korpela, 2016), “Infrastructuring Environments” (Blok, Nakazora & Winthereik, 2016) or “Arrival Infrastructure” (Meeus, Arnaut & van Heur, 2019; Saunders, 2010) do not emphasise enough the emancipatory dynamics (the dialogic potential for enabling transformation). Instead the focus is on the materialities.
6 Among the exceptions are Groutsis, van den Brock & Harvey, 2015; van den Brock, Harvey & Groutsis, 2016 and, more recent, Sandoz, 2019.
7 This chapter is based on longitudinal doctoral research. It is supported by biographical interviews with nurses and doctors who came from non-EU countries (Moldova, Russia and Ukraine), alongside accounts collected from Portuguese working abroad. Additionally, semi-structured interviews with international recruitment agencies and several national and international institutional actors were carried out; and official documents from the last decade concerning immigration, emigration and health policies were analysed. All quotations are selected from the interviews conducted as part of the PhD research.
8 Drawing on Maria Ioannis Baganha’s proposal to distinguish five types of “foreign illegal workers” (Baganha et al., 1999), the category of “overstayer” corresponds to the person who comes to Portugal on a short-term visa (usually a tourist visa) and then remains in the country.
9 Indeed, the 2011–2014 period was marked by intense austerity policymaking.
10 In the case of Italy, after the restrictive Bossi Fini law (Law 189/30 July 2002), voted in by the then centre right government in 2002, a so-called “security package” from the Minister of Interior, Roberto Maroni, was introduced (Law 125/24 July 2008 and Law 94/15 July

One of them with the European Commission and the European Central Bank (the Memorandum of Understanding on Specific Economic Policy Conditionality (MoU)) and the other with the International Monetary Fund (the Memorandum of Economic and Financial Policies (MEFP)).

This gatekeeping role occurs due the fact that the emancipation dimension under analysis in this article is sustained on infra-structures configurations and not on superstructures ones, following the Marxist terms. Therefore, it does not analyse the structural transformation of the societal configuration but just the overpassing of social and institutional constraints, a selective process then. In this case, the elected ones are the included on the social and institutional networks or who have a diploma in medicine or nursing areas and are selected for specific recognition programmes.

This EU legal framework also applies to third-country nationals who are members of the family of an EU citizen exercising their right to free movement within the European Union; who have the status of long-term residents; or who have refugee status in a Member State. Those conditions are accepted when the qualification is obtained in an EU Member State.

The European Professional Card (EPC) is an electronic certificate to be exchanged between competent authorities through the Internal Market Information System (IMI). This professional mobility tool has been available since 18 January 2016 for five professions (general care nurse, physiotherapist, pharmacist, (real) estate [the term ‘real estate’ is an American one. In English it is real property or land. But we do have a profession of ‘estate agent’, which is why I have put the ‘real’ in brackets] agent and mountain guide).

To implement the Lisbon Recognition Convention (Council of Europe, 1997), the Council of Europe and UNESCO launched the ENIC Network (European Network of National Information Centres on academic recognition and mobility) to include the Member States of the EU, the EEA and associated countries.


World Health Assembly Resolution WHA69.19, Document A69/38.


By resilient I mean a workforce able to adjust and transform in the face of societal challenges such as an ageing population, technological innovation in medicine and health care, preparedness for critical events (i.e. natural disasters, armed conflict, pandemics, etc.).
20 Notwithstanding, its public relevance should not go unnoticed. Consider, for instance, the debate introduced by anti-European parties during the Brexit campaign around the National Health Service (NHS) and its supposed threats to its sustainability caused by the financial costs of the UK’s European Union membership.

References


