

Reproductive health in "illegality". Undocumented Female Migrants in Germany and in Italy

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RESEARCH BACKGROUND: STORY OF AN IDEA

The topic of migration and health, and specifically reproductive health, fascinated me for its multifaceted, ambivalent character.

On the one hand, the right to health and, in particular, the right to reproductive health, are enshrined in the International and European Human Rights Framework (e.g. Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women, European Parliament Resolution of 8 March 2011 on reducing health inequalities in the EU)

On the other hand, several governmental organizations and NGOs denounce that migrants without legal status benefit from this right to very differing degrees across the European Union and often encounter several legal and practical barriers when trying to access health care (e.g. FRA, 2011; PICUM, 2007)



There is a tension between international claims for (migrants') human rights on the one hand and (more or less) restrictive national laws and policies on the other hand. In order to highlight the role played by national legal and policy frameworks, I decided to conduct a binational research in Germany and in Italy.

The project analyses the topic of reproductive health in the context of a life without legal status through life stories and experiences of undocumented female migrants.

The focus lies on Latin American undocumented female migrants, a population present in both the considered countries that up to now has received little academical attention.

KEY TERMINOLOGY

UNDOCUMENTED MIGRANTS:
"people who have entered a host country without legal authorization and/or overstay authorized entry as, for example, visitors, tourist, foreign students or temporary contract workers or rejected asylum seeker" (WHO, 2003).

REPRODUCTIVE HEALTH:
"a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. [It] therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. [...]" (International Conference on Population and Development Program of Action, 1995).

Germany, the "utilitarian" model (Romero-Ortuño, 2004)

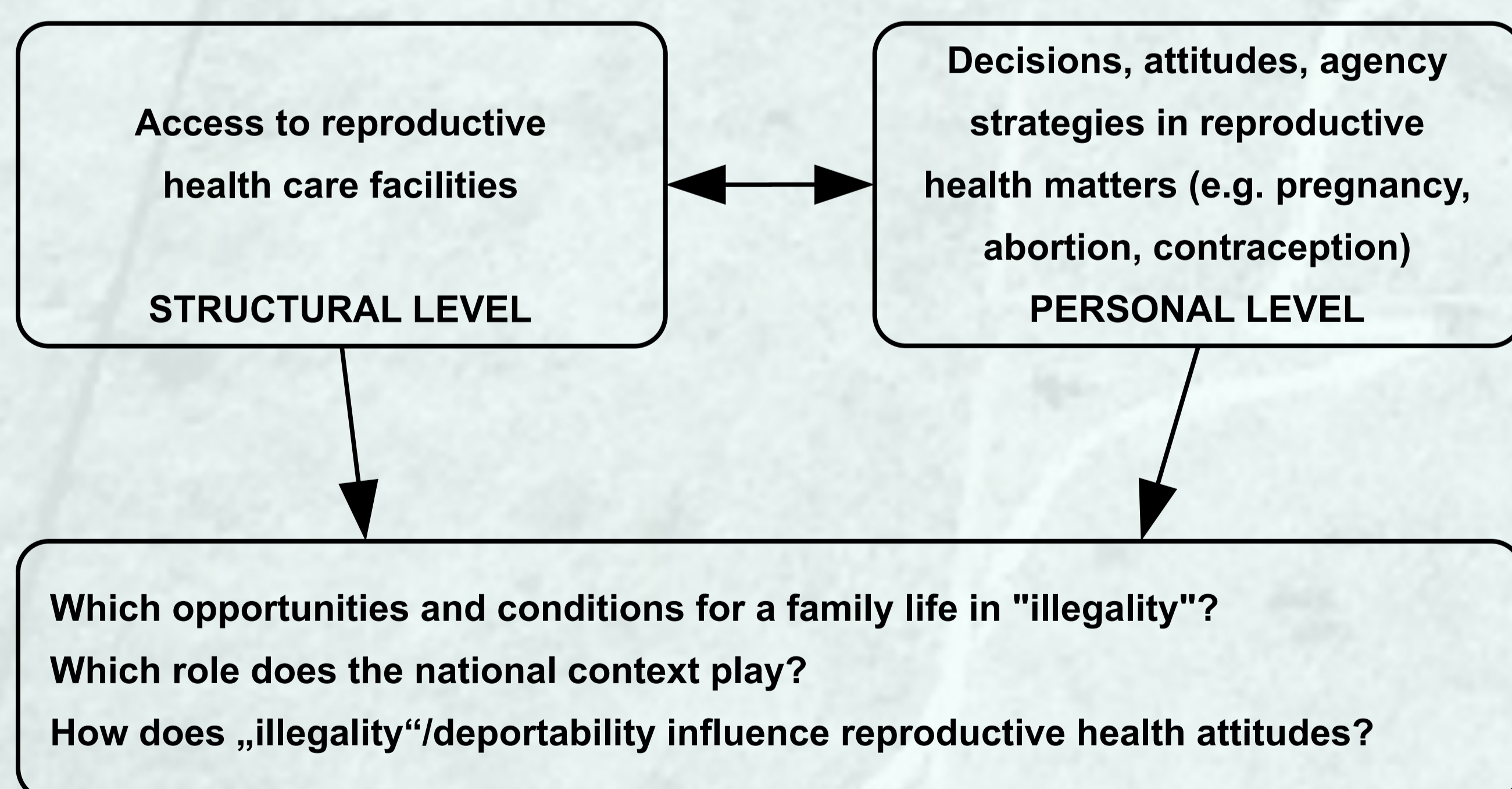
- Social Health Insurance system (complex and costly administrative reimbursement procedure)
- Undocumented migrants formally entitled to emergency and essential medical care
- *De facto* impossibility of accessing health care due to obligation of all public institutions to report foreigners without a valid permit of stay to the migration authorities
- For undocumented pregnant women possibility to temporary legalize their status of residence through a *Duldung*, which guarantees access to ante-natal care and delivery in a hospital
- Strict migration control, refusal of regularization programs and legalization possibilities extremely limited

Italy, the "humanitarian" model (Romero-Ortuño, 2004)

- Tax-financed National Health Service
- Undocumented migrants formally entitled to access urgent and essential health care
- Access to medical facilities cannot result in any notification to the migration authorities
- All female migrants, irrespective of their legal status, are entitled to full ante- and post-natal care as well as free-of-charge abortion at the same conditions of Italian women
- Sharp contradiction between a formally restrictive migration policy and widespread recourse to ex-post regularization programs for undocumented migrants with an already existing labour relationship

CENTRAL RESEARCH QUESTION

How do female migrants experience and manage their reproductive health in the condition of "illegality"?



THEORETICAL FRAMEWORK AND POSSIBLE LINES OF DEVELOPMENT

- „Illegality“ understood as a social, political and legal construction (Düvell, 2011) and as the result of simultaneous processes of inclusion and exclusion put in place by state and society (Chavez, 2007)
- Concept of *biolegitimacy* (Fassin, 2001): the migrant body as the new site of inscription for the politics of immigration, the role of the (sick) body in achieving social legitimacy. Case of permission of stay for undocumented pregnant women.
- Three sides of a coin: Entitlement vs. Access vs. Deservingness. The (gendered) construction of deservingness (Castañeda, 2008): from undeserving to deserving (pregnant) women
- Undocumented female migrants and national welfare regimes: An ambiguous relationship. Beneficiaries or actors?

METHODOLOGY

- Qualitative methodology based on Grounded Theory principles
- Narrative interviews with undocumented female migrants
- Explorative expert interviews with members of NGOs, associations, staff of public health providers working with undocumented migrants

CURRENT STATUS

- Summer 2013 Start of first field work phase in Berlin.
- Five expert interviews were conducted, first contacts to undocumented migrants were established.
- Review of existing academical literature
- Accurate analysis of legal and policy framework for reproductive health care on a national and international level

LITERATURE

- Castañeda, H. (2008). Paternity for sale. Anxieties over "Demographic Theft" and Undocumented Migrant Reproduction in Germany. *Medical Anthropology Quarterly* 22(4), 340-359.
- Chavez, L. R. (2007). The Condition of Illegality. *International Migration* 45 (3), 192-196.
- Düvell, F. (2011). Paths into Irregularity. The Legal and Political Construction of Irregular Migration. *European Journal of Migration and Law* 13, 275-295.
- Fassin, D. (2001). The biopolitics of otherness. *Anthropology Today*, 17 (1), 3-7.
- FRA (2011). Migrants in an irregular situation: Access to healthcare in 10 European Union Member States. (Retrieved from <http://fra.europa.eu>)
- ICPD (1995). Program of Action. (Retrieved from <http://www.unfpa.org>)
- PICUM (2007). Access to Health Care for Undocumented Migrants in Europe (Retrieved from <http://picum.org>)
- Romero-Ortuño, R. (2004). Access to health care for illegal immigrants in the EU: should we be concerned?. *European Journal of Health Law* 11, 245-272
- WHO (2003). International Migration, Health and Human Rights. *Health & Human Rights Publication Series Issue 4*.