

Right to health of immigrant minors in Italy and Europe

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Undermined survival is usually the reason to migrate: wars, persecutions, famines, natural calamities are just few examples, as well as cultural, economic, social or religious issues. The diversity of these reasons thus correlates with the extreme variability of migrants typologies and their origin countries.

Nowadays it has been reached a sufficient stability of the phenomenon, also testified by the growing number of family unities in Italy and all over the Europe, and by the birth of several children in the welcoming country.

This stability has encouraged family reunions, made possible thanks to the possibility of maintaining their arriving relatives; these further flows brought to an actual presence of 993 238 minors in the immigrated population in Italy, which is 21.7% of the total immigrated population in Italy, and 9.7% of the underage resident population of the entire country (1).

In Italy the underage immigrant population enjoys only rights resulting from their parents' legal status (*Legge 268/98*). In fact until 14 years of age, any minor is recorded in his parents' Visa.

Between 14 and 18 years old, foreign teenagers, living with their regularly immigrated family, are susceptible of their own Visa for "family reasons".

From the 18th birthday, they can request to acquire the Italian Citizenship, if they have regularly and continuously lived in Italy; in fact, in Italy, minors born to foreign parents are considered themselves "foreign" until 18 years of age, despite they attended regularly the Italian school system and achieved the corresponding qualifications.

Right to health is, thus, deeply bound to right to citizenship.

Acquiring citizenship in most part of Europe is based on principles such as the "Ius soli" (a right by which nationality or citizenship can be recognized to any individual born in the territory of the related state, not accepted in Italy); and "Ius sanguinis", which is a social policy by which citizenship is determined by having one or both parent who are citizens of the nation. "Ius soli" is usually applied to those states with consistent immigration flows and availability of increasing the population numerosity, such as United States, Brazil, Argentina and France (the only European State), while "Ius sanguinis" to those countries where emigration is predominant.

A third principle, which is called "Ius cultus", hasn't been internationally recognized yet; this is defined by the right of being a citizen by attending continuously and regularly the Italian school system and by accomplishing the corresponding qualifications, which indirectly certifies the correct social integration and the acquisition of the welcoming country's culture.

Recently, the President of the Italian Republic, Giorgio Napolitano, has himself dealt with the issue of children born in Italy to foreign parents, stating that: "It is absurd and insane that children born in Italy don't acquire the Italian citizenship. They are deprived of a fundamental right. Children have this ambition" (2).

In modern age, right to health was reconsidered and declared in the Universal Declaration of Human Rights by United Nations (UN) on December 10th 1948, (art. 25), referring to every individual, to motherhood and to infancy (3).

In 1949, in the Constitution of the World

Health Organization, this concept was better defined by as "the highest attainable standard of physical and mental health" (4), furthermore described in The Alma Ata Declaration on primary health care 1978 art.1: "state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity" (5).

Right to health doesn't thus have to be applied in terms of equality, but in terms of equity. The Italian Republic Constitution acknowledge human rights independently of citizenship (*art.2*), overall the right to health (*art. 32*). Art. 3 of the Constitution states that "all citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country".

The Consolidation Act (*Testo Unico*) 286/98 [*art. 28 para. 3*] recognizes that the involvement of minors in every administrative and jurisdictional procedures is a major priority, recalling art. 3 para. 1 of the 1989 New York United Nations Convention on the Rights of the Child (6); moreover, it explicates in art. 35 [*para. 3, lett. a and b*] the particular attention of the Italian Republic to the safeguard and promotion of motherhood and infancy even if concerning irregular immigrants.

Convention on the Rights of the Child states that any amendment shall be binding on those States Parties which have accepted it; the Italian Republic ratified it with Law 179/98, along with all European countries. This right is not generalized, but its specific target is "the enjoyment of the highest attainable standard of health" (*art. 24*) (6).

The European Parliament has emanated in 2011 (7) a resolution that aim to reduce in all the States Parties health inequalities in the European Union (EU), with particular concern to health rights of immigrants, even if irregular; in Italy this resolution seems hard to be applied, since every Region of Italy needs to acknowledge and apply it, making new "ad hoc" regional laws.

Notwithstanding these considerations and statements, Italy nowadays still separates health rights for regularly immigrated minors and for irregular ones.

The different enjoyment of primary health care in variously immigrated minors leads to

increasingly worsening living conditions, which can contribute to the recurrence of severe pathologies such as TB and Syphilis, and to the decreased surveillance towards endemic diseases in foreign origin countries, like HIV, nutritional deficiencies, metabolic and genetic diseases, which usually require greater attention especially in precarious living conditions.

Moreover, this malfunctioning system entails - as a direct consequence - the overusing of Emergency Departments, and also creates big concerns in managing hospital admissions, since immigrant minors often need to be admitted also for less important pathologies because of their poor primary care in the territory.

UNICEF and Italian delegates from the pediatric and academic environment have drawn up in 2007 the FIMP (Federazione Italiana Medici Pediatri) Document of Sabaudia (8) and in 2010 the SIP-SIMM (Società Italiana Pediatria - Società Italiana Medicina delle Migrazioni) Joint Document. For this purpose, an interregional *technical task-force* was formed, in order to discuss inequalities of health rights for immigrant minors.

Some Italian Regions are already working on this topic, like Puglia, which has emanated specific Regional Laws for letting immigrants without Visa register to a Family Practitioner or Pediatrician (9). This Law was approved by the Corte Costituzionale (Supreme Court) with Sentence no. 299/2010.

Puglia's Regional Laws should be considerate outstanding example, since it is also economically convenient for Regional administrations to manage territory primary care services, which have smaller costs if compared to the higher expenses of hospital admissions.

Moreover, some Regions, have started to pay attention to particular category of children: in the Update of Lazio's Regional Immunization Plan of 2008 (10), a paragraph concerning immunization of persons belonging to vulnerable groups and poor socio-economic conditions, such as nomads, immigrated women, etc, was in fact added.

In the *North-western Europe*, migration and integration policy is a longstanding and complex political issue, also accompanied by substantial research activity. In *Great Britain*, for example, a large number of initiatives addressing problems of health care and diversity are the result of a "general consciousness" to eliminate racial discrimination. In *France* the creation of the Universal Medical Coverage (C.M.U) ensures that any legal resident who is not covered by another mandatory health care insurance scheme, has access to the

health care insurance to cover all medical costs. Undocumented residents living in France for less than three months are the beneficiaries of free health care insurance for first care.

Most *Southern European* countries have policies on migration less established, less resources and the debate on the politics of immigration is relatively recent, but National Health Services are being currently challenged by the new waves of migration, consequently, the debate on migrant health is very much part of the agenda (11). In Greece formal access to free of charge services of the national health care system for migrants is dependent on registered employment, regular status and insurance coverage, except in emergency situations (12).

In *Eastern Europe* immigration is a new phenomenon, still far outweighed by emigration. In these countries, policy making on migrants and minorities is in a state of flux. For many countries, accession to the EU (or the prospect of such accession) has had a strong effect on emigration, immigration and policy making (13).

A recent report on health inequalities in the European Union (12) concludes that “more health is concentrated in the higher-level socioeconomic groups, characterized e.g. by higher (tertiary) education, or higher income, etc. [...] for numerous EU members and the EU as a whole, health inequality is present and is in favour of individuals with higher socioeconomic status. [...] In Italy, levels of inequality increase steadily but are still very small to be considered significant”. Has Italy yet any possibility to avoid the establishment of a very conflicting society? Once more the response is in a diligent and considered application all over the country of the principles that our Fathers left to us in the Constitution.

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