Migrant Workers' Irregularity, Precarity, Dignity, and relevant Actors

A critical review of selected literature around key concepts and questions of the DignityFIRM project.

Working Paper WP4/5

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The aim of this state-of-the-art report is to provide a (common) conceptual starting point and basis for the empirical research to be carried out within work packages four and five (WP4 & WP5) of the *DignityFIRM* project, on the conditions of "irregular migrant workers" (IMWs) employed in Farm to Fork Sectors and along the Food Production Chain. It is based on a selective review of existing literature related to four key elements that are defined in the project proposal: First of all, it discusses (1) IRREGULARITY in relation to (a) migration/status – especially the complexities of the concept and emerging analytical frameworks for studying the phenomenon as such – as well as (b) employment. It then reviews some of the literature that links irregularity to (2) LABOR PRECARITY on one hand, and to (3) DIGNITY on the other. Regarding the latter, the focus will be on IMWs' access to human as well as employment rights, and on debates around their agency. The last part focuses on (4) The most relevant ACTORS involved in the governance of irregular migrant work, highlighting the multilevel- and multiactorness of the corresponding regulatory infrastructure/s or framework/s that cut across various fields of public policy (migration, labor market, welfare, etc.) and significantly rely on third sector and private actor engagement. These frameworks and related governance relations are partly sector-specific, and in any case go beyond formal/national policies and their local-level implementation.

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1. Irregularity

The notion of "irregularity" can be relevant in relation to a migrant workers' presence in the country of residence (migration status), as well as his or her employment in this country (worker status). Within the DignityFIRM project, the term "irregular migrant work" broadly refers to migrant workers from either inside or outside the EU and facing a totally or partially irregular condition of stay and/or employment. What makes their situation 'irregular' is that either their residence or employment in the country (or both) does not fully conform to existing rules and regulations.

1.1. Migrant Irregularity

Being an irregular – or 'undocumented', 'unauthorized', etc. – migrant entails much more than the simple (and complete) lack of formal authorization to enter, stay, and/or work in a foreign country. At least in academic debates, the non-binary, multifaceted and dynamic nature of migrant ir/regularity – as well as the fact that it is primarily a product of modern states' attempts to control and regulate international migration (e.g., De Genova 2004, Hollifield 2004, Düvell 2006) – has increasingly been recognized and is now widely accepted (see for example Triandafyllidou & Bartolini 2020a, Echeverría 2020, Schweitzer 2022a, Belloni et al. 2023). The intense scholarly engagement with this topic over the last decades was partly driven by an increased policy interest since at least the 1970s and has led to much more complex, non-binary conceptualizations of this condition, as well as the development of analytical frameworks capable of accommodating at least some of these complexities and nuances. Many authors conceptualized irregularity as some kind of continuum of in-between statuses (e.g., Ruhs & Anderson 2010, Kubal 2013, Triandafyllidou & Bartolini 2020b); while others emphasized the diversity of potential paths into and out of irregularity (Black et al. 2006; Cvajner & Sciortino 2010; Düvell 2011; De Lange 2015; Vickstrom 2019) and the very different meanings it acquires in/for different institutional contexts and spheres of social interaction (e.g., Bommes & Sciortino 2011, Schweitzer 2022a). This is further complicated by the fact that in many everyday encounters, status irregularity intersects with other dimensions of a person's identity, especially their race/ethnicity, class and gender (see e.g., Browne & Misra 2003, McCall 2005, Valdez & Golash-Boza 2020). Among the various dimensions of complexity that have been identified is the temporal fluidity of migrant status (Calavita 2003, Vickstrom 2014, Couper & Santamaria 1984, Düvell 2006, Belloni et al. 2023), the stratification that exists even within irregularity (Cvajner & Sciortino 2010, Paoletti 2010, Chauvin & Garcés-Mascareñas 2012), as well as the potential simultaneity of regularity and irregularity (Castles 1995, McNevin 2006, Ruhs & Anderson 2010, Mezzadra 2011, Van Meeteren 2014, Della Torre & De Lange 2018; Chauvin & Garcés-Mascareñas 2020). Most recently, Belloni et al. (2023: 154) highlighted the important value of "a translocal and transnational approach" to also account for the

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frequent 'spatial asymmetries' resulting from the fact that migrants – including mobile EU citizens – are often regular in one but irregular in another country or locality. Overall, it is important to keep in mind that while irregular migration exists in and across all (at least all liberal-democratic) countries, it is certainly not the same everywhere. This is why Triandafyllidou and Spencer (2020: 1) understand irregularity "as a structural characteristic of contemporary western societies but yet fluid in its forms and implications".

At the same time, also the way(s) in which migrant irregularity is being perceived and treated have been shown to vary significantly across different national but also regional and local contexts (e.g., Garcés-Mascareñas 2010, Van Meeteren 2014, Echeverría 2020, Schweitzer 2022a). One particularly crucial and widespread kind of (state) response to irregular migration that has received much attention from both scholars and policy makers, and which marks the stark contrast between Northern and Southern European countries, is regularization (e.g., Apap et al. 2000, Levinson 2005, Maas 2010, Brick 2011, Finotelli & Arango 2011). Regularization generally means the formal (though ex-post) legalization of a certain number and/or category of immigrants present in a particular country at a particular moment. The measure is highly contentious (especially among policymakers) though widely regarded as a crucial (if not unavoidable) way to 'unmake' migrant irregularity; and in practice, it is very often and intimately related to employment and broader labor market considerations (e.g., Malheiros & Peixoto 2023). For Pastore (2014: 390, see also González-Enríquez 2009), for example, regularization therefore constitutes an important "equivalent of labor migration policy", on which especially Southern-European countries (used to) rely on. In Western Europe the accession of Middle and Eastern European countries to the EU constituted an alternative type of "automatic" and systemic regularization as rightly pointed out by Recchi and Triandafyllidou (2010:145): "EU accession and European citizenship has automatically 'regularized' citizens of the new member states who had migrated to the old member states previously under irregular conditions (and/or were employed in the informal labour market), it has broadened their migration options within the EU."

Importantly, however, regularization has not only been considered (and investigated) in terms of a complete – although usually temporary and often highly contingent – legalization of immigration status as such; but it also serves to describe and better understand various instances of formal inclusion of irregular migrants within more specific societal subsystems and the corresponding institutional frameworks (like healthcare systems, for example). Schweitzer (2022a: 38) conceptualizes such instances as 'micro-regularization', whereby he builds on previous work on some of the myriad ways in which formally irregular migrants can effectively become less 'illegal' (Chauvin & Garcés-Mascareñas 2014, see also van der Leun 2003, Cvajner & Sciortino 2010, Paoletti 2010,

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Schweitzer 2017). This perspective is conceptually close and analytically complementary to that taken by Ambrosini (2016), who differentiates between (formal) 'authorization' and (social) 'recognition' of irregular migrants and highlights the frequent contradiction and antagonism between the two. More specifically, he argues that certain irregular migrants – namely those working in domestic care and agriculture (in Italy) – tend to be 'tolerated' by the receiving society since in their case "the absence of formal authorization is offset, and even substituted, by widespread social recognition" (Ambrosini 2016: 147). His explanation for this contradictory outcome is that "the application of legal rules is often soft with people in work" (it should arguably be added that this is especially true for those willing to do the least attractive work). He also notes, however, that this "tolerance related to work cannot be easily transferred outside the work sphere" (ibid.: 148), which is why irregular migrants' employment tends to be much less problematized than their migration to, and/or presence in, the host country.

1.2. Employment Irregularity

Like the concept of migrant irregularity, also employment irregularity covers a very diverse range of situations and relationships, and leaves room for what could be described as different 'degrees' of ir/regularity. Irregularity of employment can refer to the behavior of the employer as well as the migrant, depending on EU or national law: When the work is performed without or in conflict with free movement regimes and/or granted work permit conditions and/or in defiance of work permit regulations, it is not only the migrant worker but often also the employer who performs the irregularity and can be sanctioned for it (Berntsen & De Lange 2018; De Lange 2023). In addition, but not necessarily coinciding, irregular – or informal, undeclared, etc. – employment (e.g. not paying taxes and social security premiums) is very often presented as one of the symptoms of irregular migration, and as such, it easily becomes a powerful argument for a stricter/harsher/more effective control of external as well as internal borders (even though, of course, most informal/undeclared work is not performed by migrants but 'natives'). Overall, it seems that less efforts have been made to properly conceptualize this diversity, fluidity, and ambiguity than in the case of migrant irregularity[1]. As Triandafyllidou and Bartolini (2020b: 139) have argued, "irregular employment is a multifaceted phenomenon" that spans from partially or totally undeclared/unregistered work (paid lawful activities not declared to public authorities) to "activities involving organized networks that engage in illicit economic activities (e.g. smuggling of goods, drug trafficking, or other criminal activities)". The same authors explicitly highlight the diversity not only in terms of the various kinds of

[1] Within labor studies, the role of irregularity or informality has mostly been addressed in so-called 'developing' countries and in relation to the process of development (see e.g., Yusuff 2011, Loayza 2016, Almeida et al. 2022).

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economic relationships that count as irregular work but also with regard to the corresponding employment conditions: they identify seven 'types of irregular employment conditions' including different kinds of employment (dependent work), self-employment, and family work (*ibid*.: 142/3). A defining characteristic of all irregular employment is that it happens without, or (at least partly) outside of, a valid labor contract[2], which according to Mezzadra and Neilson (2013) constitutes the legal foundation of the relation between capital and labor (seen from a micro-level perspective). This is not to say, however, that irregularity implies the complete absence of control, but rather the opposite: irregularity and the underlying processes of illegalization can be understood as a particular form of control over not only the mobility but also the labor of migrants as well as citizens (cf. Mezzadra & Neilson 2013: 123).

Of particular relevance for the *DignityFIRM* project is **the relationship between irregular migration (status) and irregular employment**, which Triandafyllidou and Bartolini (2020b) recently depicted as 'a chicken and egg dilemma'. A decade earlier, Samers (2010) had noted that while "undocumented migration does not produce undeclared employment" and most of the latter is performed by citizens not migrants, it is true that both phenomena 'facilitate' each other. For him, it is precisely "[t]he apparently epiphenomenal character of undocumented migration and undeclared employment [that] raises significant questions about whether and how states respond to or indeed create these twinned processes" (*ibid*.: 210). A very similar point – that migrant/status and employment irregularity can mutually reenforce each other – was also made by Triandafyllidou and Bartolini (2020b: 149) who found that "migrants with more precarious and unstable work and residence conditions can fall into vicious circles of irregular stay and informal employment until a regular occupation is found with characteristics that allow them to regain their regular migration status". It is important to note that in this case regular (i.e. formal and authorized) work precedes – and constitutes a precondition for – status regularization. This sequence reflects the logic of most regularization programs, but arguably contradicts the still dominant assumption that without a regular immigration status employment cannot even be thought of as anything but irregular. As a result, what is still largely missing in not only public but also scholarly debates and emerging conceptual frameworks (even those explicitly advocating for a non-binary understanding of ir/regularity) is the possibility of a migrant workers' employment being 'more regular' than his or her stay in the country.

A good example for this omission is Ruhs and Anderson's (2010: 197) well-known attempt to highlight the "various combinations of illegal residence and/or illegal employment" in order to better

[2] On the role of employment contracts, see also Inghammer (2010). Empirical analyses have shown that "the types of work contract available to European migrants differ from the terms of employment for non-European migrants, resulting in differing opportunities for access to decent work", as Urzi (2015: 215) found in the case of agricultural workers in Italy.

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understand the differences between the resulting 'legal spaces of (il)legality'. If – for analytical purposes – both variables are treated as binaries, there are four possible combinations. Of these, however, the authors only explore three, which they present as different 'levels of compliance': 'full compliance' (with both residence and employment rules/restrictions), 'non-compliance' (i.e. irregular residence and irregular work), and 'semi-compliance', meaning "the employment of migrants who are legally resident but working in violation of the employment restrictions attached to their immigration status" (p. 195). What they leave completely unexplored is the (potential) second type of 'semi-compliance': illegal residence in combination with (semi-)legal employment. One reason for this omission is of course that such situations are much more difficult to identify and empirically investigate, but they certainly do exist. For example, Papademetriou et al. (2004: 30) have argued that in the US "unauthorized status is not a major obstacle to labor market integration" which makes it much more common (than in European countries) for irregular migrants to work in the formal sector and pay at least some payroll taxes (e.g., by using fake or somebody else's social security numbers). And also Ruhs and Anderson (2010: 205) themselves refer to cases where irregular migrant workers (in the UK) are able to obtain official and genuine documentation (like the Construction Industry Scheme (CIS) registration card) that not only facilitates their employment but arguably also makes it 'less irregular'. In a similar vein (though from a legal perspective), Inghammer (2010) argues that what he sees as the 'semi-legal' employment contract between employer and undocumented migrant worker provides a powerful base for significant legal claims. More recently, Belloni et al. (2023) have further complicated Ruhs and Anderson's (2010) framework by adding a third – the 'local' – dimension of ir/regularity (in relation to municipal rules and registers). Within this three-dimensional framework they contemplate the combination of 'irregular stay' (within the national territory) with 'regular residence' (within a municipality) but not with 'regular work' (which they thus also conceptualize as strictly contingent on 'regular stay'). In the EU context, one can be regularly staying in one EU Member State, yet irregularly staying and working in another, or the regularity of the work can be contested and uncertain as can be the case with intra-EU Posting (Iossa 2022; Danaj et al. 2023). The even more fine-grained typology presented by Triandafyllidou & Bartolini (2020b, on pages 145-7) does mention situations where employment is more regular than stay: that of migrants or asylum seekers working while waiting for a decision on, or regularization of, their status; and that of irregular migrants working with forged documents or under false identities[3]. Also these authors, however, later conclude – rather crudely and somewhat surprisingly – that "[e]mployment is irregular when workers are irregular" (ibid.: 155).

[3] To this, we could add the situation of migrants and (rejected) refugees in Gemany who received a so-called 'Duldung', which is not regarded a 'legal' residence status but under certain conditions can be combined with a temporary work permit (see: https://handbookgermany.de/en/duldung).

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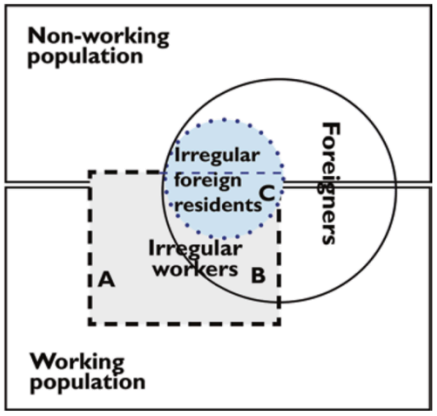

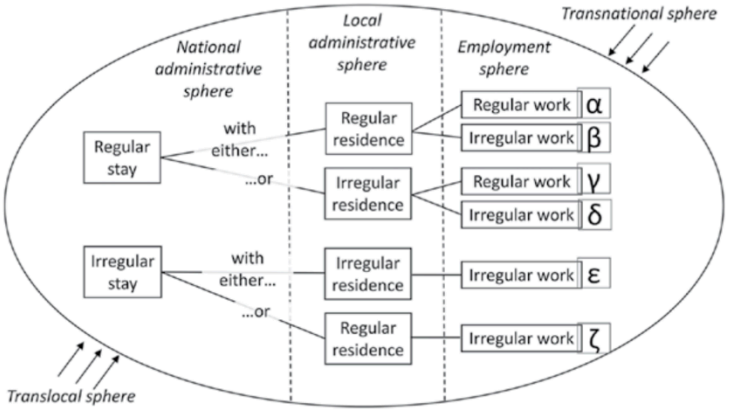

Arguably, following this simplistic logic means not only uncritically accepting the state/policy perspective but also implies falling back on the (closely related) binary understanding of ir/regularity, which so many scholars identified as unsuitable for understanding the everyday realities of migrants in different irregular situations. The *DignityFIRM* project could try to start filling this conceptual and empirical gap in current scholarly understanding and existing analyses of ir/regular migrant work. It could do this by focusing on how, when, and where the employment of irregular migrants becomes (relatively) 'less illegal' (cf. Chauvin & Garcés-Mascareñas 2014), and what this means in terms of their working conditions. It could also look for concrete instances of 'micro-regularization' (Schweitzer 2022a) of migrant labor, which can potentially take many forms including an explicit protection of irregular migrants' rights as workers. For example, as noted by O'Cinneide (2020: 60), the International Convention on Migrant Workers (ICMW) seeks to extend several fundamental rights to migrant workers in irregular situations – an aspect that will be discussed in more detail in subsection 3 below – but it also makes explicit that this extension does not imply, nor give or advance the right to, regularization. The aim, it could be argued, is thus to produce (a certain and limited form of) regularity in terms of the workers' relationship with his or her employer, while leaving their relationship with the state untouched.

Another important characteristic of irregular employment – with or without regular immigration status – is that it tends to further precarity. For Triandafyllidou and Bartolini (2020b: 143) irregular work always implies "higher vulnerability and more exposure to exploitation, low enforcement of labour rights, more insecurity and less continuity of employment or accruing of wages." The following

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section therefore discusses some of the literature on precarious labor and its relation to (irregular) migration.

2. (Labor) Precarity – and its relation to (irregular) migration

Just like (migrant) irregularity, also (labor) precarity is a complex and multifaceted concept, and in fact, the idea of 'precarity' has been used precisely to overcome the false dichotomy of ir/regular immigration status, with 'precarious status' including not only irregular but also various other 'forms of less-than-full immigration status' (Goldring et al. 2009, see also Oxman-Martinez et al. 2005, who analyzed the implications of precarious migration status in terms of individual wellbeing). Much more commonly, however, the notion has been employed in relation to labor/employment. In this context, it seeks to capture a combination of "instability, lack of protection, insecurity and social or economic vulnerability" (Rodgers & Rodgers 1989: 5) of workers, which is often described as resulting from the neo-liberal restructuring of contemporary economies and labor relations (e.g., Standing 2011, Mezzadra & Neilson 2013, etc.). On the one hand, precarious working conditions are thus closely related to more general trends like the 'intensification' (e.g., Rogaly 2008, cit. in Geddes & Scott 2012: 200) or 'multiplication' (Mezzadra & Neilson 2013) of labor, as well as an increasing segmentation of national but also local labor markets (e.g., Piore 1979, Geddes & Scott 2012). On the other hand, precarity has sometimes been argued to be **more than mere vulnerability**. Anderson (2010: 303) explicitly distinguished the concept of precarity from that of vulnerability by highlighting that "'precarity' captures both atypical and insecure employment and has implications beyond employment pointing to an associated weakening of social relations". That is, precarious employment does not just affect a worker's relationship with their employer but also with many other people (and institutions) around them. One condition that very clearly undermines a workers' everyday social relations, and thus his or her position within society, is the poverty that unavoidably results from the **low (insufficient) pay** that is characteristic of (even full-time) precarious employment. As Sassen-Koob (1981: 72) noted almost half a century ago, it is often the low-wage jobs that are performed under precarious conditions, which in turn "embody a form of control over the workforce that presupposes the **powerlessness** of the workers". Around the same time, Miles (1987) famously described migrant labor as one of several forms of 'unfree labor' that accompanied the rise of global capitalism as a necessary complement of free (wage) labor. While the question of workers' individual agency will be discussed in more detail below, it is important to highlight another, closely related, aspect and dimension of precarious employment: **flexibility**. Contemporary (capitalist) economies, it has often been argued, are in constant need of not only cheap but also (and more importantly) flexible labor that "allows for greater differentiation in pay and qualification schemes, so that changes in demand can be dealt with quickly", as Caviedes (2010: 59) put it. The same author distinguishes

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between 'numerical', 'temporal', and 'wage' flexibility as the three most sought-after types of flexibility (*ibid*.). Another relevant dimension could be the flexibility with which employment-related health & safety requirements are being enforced, given the clear overrepresentation of migrant workers among victims of work accidents. Research conducted within the *DignityFIRM* project could analyze the relationship between ir/regularity and these different kind/s of flexibility from different perspectives (incl. that of employers and their associations, as well as irregular migrant workers themselves).

Given the obvious difficulty of finding workers willing to accept jobs that are characterized by low wages, a lack of control, imposed flexibility, etc., much of the **most precarious work has traditionally been performed by immigrants, and particularly those with precarious legal status**[4]. There is a huge body of literature on the decisive role that im/migrant labor has played for and during the rise and consolidation of global capitalism, and much of it has focused on temporary labor migration policies including historical and contemporary 'guestworker' programs (e.g., Miles 1987, Castles 2006, Ruhs & Martin 2008, Colucci 2008, Stanziani 2020). In this context, it has often been argued that – and less often studied how – the intersection of immigration and labor law produces particularly extreme kinds of vulnerabilities and exploitability, like those that Zou (2015: 142) described as 'hyper-precarity' and 'hyper-dependence'. Focusing primarily on the UK, Anderson (2010: 301) has shown that "immigration controls work to form types of labour with particular relations to employers and to labour markets". According to her, it is not immigration policy alone but its intersection with what she calls "less formalised migratory processes" that helps to "produce 'precarious workers' that cluster in particular jobs and segments of the labour market" (*ibid.*). This is most clearly the case for irregular – and thus officially 'unsolicited' – migrant workers, but it also helps to explain the labor market position of many other (including 'regular') migrants. According to Anderson's (2010: 307) influential analysis, immigration policy plays a threefold role in this production of precarious (foreign) labor: it creates different legal/administrative categories (often but not necessarily based on some hierarchy of 'skills'[5]); it influences the employment relation itself (e.g., by tying a worker to one specific employer); and it institutionalizes uncertainty (by making the work permit conditional on

[4] For example, "[a]sylum seekers who are rejected on first instance or who are waiting for their case to be processed, minors and women who do not receive adequate support or protection, and individuals with tolerated status represent a pool of people that is likely to accept irregular work out of necessity as they have no other option" (Triandafyllidou & Bartolini 2020b:140/1).

[5] The often taken for granted idea of 'skills' and 'skill level' has also been criticized in this context: e.g., Mezzadra & Neilson (2013) note that many migrants performing so-called 'low-skilled' jobs in fact possess formal qualifications and skills and, more broadly, they emphasize the role of borders in "the valorization and devalorization of labor power" (p.138); Anderson & Ruhs (2012: 19) remind us that "the notion of 'skill' is socially constructed and highly gendered" and sometimes it is more related to a workers' acceptance of certain working conditions than any concrete abilities, experience, or knowledge.

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future developments, like host country economic conditions or political conditions at origin). It is through these mechanisms that individual migrant workers become dependent on their employers, while (at the macro-level) the economy as a whole – or at least certain economic sectors – have become more and more dependent on migrant workers: According to Cornelius (1998), for example, this demand for migrant labor has long become 'structurally embedded'. One explanation for this structural demand for foreign labor[6] has been provided by Sassen-Koob (1981: 65) who particularly emphasized the "growing treatment of immigrants as a commodity in labor import and export policies" and famously asked "whether immigrant labor has a distinct mode of participation in the accumulation process or a distinct mode of being consumed in the labor process"[7]. Arguably, both of these questions could also be asked in relation to *irregular* migrants, or – even more specifically – for migrants facing various different *types* or *degrees* of irregularity (as discussed above).

Answering these questions would first of all require a nuanced understanding of **the relationship between irregularity and precarity**, which is not as straightforward as one might think. For example, a majority of migrants interviewed for the study led by Ruhs and Anderson (2010) did not perceive their often exploitative working conditions as a direct result or function of being employed irregularly (independent of their immigration status). It is certainly true, however, that irregular employment is generally more likely (than regular employment) to be performed under precarious conditions, whereas substandard employment conditions may in turn amount to irregular work (if it breaches existing regulations and protections), as Triandafyllidou and Bartolini (2020b) have noted. But it is also important to remember that not all irregular migrants work under particularly precarious conditions and those who do, share many aspects of their condition with other (regular) migrant workers (e.g., Ruhs 2017) and even with some citizens. It has even been argued that irregular migrant workers can have certain advantages over migrants who are legally employed on temporary work permits, for example (Apgar 2015).

At the same time, irregularity and its production have been identified as playing a crucial role within contemporary labor supply systems for certain economic sectors, notably including most of the food production chain (e.g., Jordan & Düvell 2002; Calavita 2003, Van der Leun & Kloosterman 2006; Menz

[6] Another influential explanation was provided by Freeman (1995, 2006), who "tried to explain the 'expansionary bias' of policy regimes governing the entry and stay of (regular and irregular) migrant workers. According to his model of 'client politics', the making of such policies tends to be driven by powerful interest groups who benefit from large-scale immigration (as a source of cheap and flexible labour) and whose interests prevail over those of a more restrictionist but poorly organised public that bears its rather diffuse costs (in the form of depressed wage levels and increased competition for jobs and resources)" (Schweitzer 2022a: 13).

[7] For Sassen-Koob (1981) it is not just the lower wages but also the inherent powerlessness of immigrant workers that makes them profitable for employers, and ultimately renders them a distinct category of labor supply.

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& Caviedes 2010, Pastore 2014). In historical perspective, international migration has gradually come to replace earlier labor-supply systems (incl. different forms of slavery), whereby the corresponding (national) policies tended to reflect the changing domestic labor supply and demand situation in each country (Sassen-Koob 1981). It is in this way and context that migrant irregularity – which is usually expected to trigger hostile and exclusionary state responses – has also been said to produce a particular type of inclusion. De Genova (2013), for example, described this process as 'inclusion through exclusion', while Mezzadra and Neilson (2013: 159) employ the notion of 'differential inclusion' to describe how some migrants' inclusion is "subject to varying degrees of subordination, rule, discrimination, and segmentation". Seen from this perspective, the primary function of migrant irregularity is to perpetuate foreigners' subordinate and precarious position within local, national, and global labor markets, which (in turn) increasingly depend on this kind of labor. Immigration control thereby not only "contributes to the peripheralization of a part of the world" but also works as "a mechanism facilitating the extraction of surplus labor by assigning criminal status to a segment of the working class – the illegal immigrants", as argued by Sassen-Koob (1981: 70). Analyzing this process at the micro-level (of individual decision-making), Bloomekatz (2007: 1965) has shown that many employers in the US explicitly prefer hiring irregular (or at least temporary) immigrants rather than U.S. citizens because the former can more easily be exploited. Here, it is important to remember that also **exploitation** (and labor precarity more broadly) is a matter of degree. Urzi (2015, quoting Shelley, 2007: 7), for example, considers a whole spectrum of more and less exploitative work experiences that ranges from the stretching of working hours, via underpayment and denial of rest, to extreme forms of abuse, such as workplace bullying, threats of or the actual use of violence. For Bloomekatz (2007: 1976), the exploitability of migrant workers is not only the result of the legal insecurity produced by immigration legislation but can at least partly be explained with immigrants' lower social standing[8] as well as "the different social institutions [and 'social orientations'] that shape their response to the workplace"[9]. All this makes migrant workers more likely to accept lower pay and worse conditions, which might in turn be framed (especially by employers) in terms of a 'better work ethic' (as was also shown by Anderson & Ruhs 2012: 30/1).

While these accounts more or less clearly reflect the (Marxist) idea of migrants in general and irregular/precarious migrants in particular forming part of the 'reserve army of labour' that is necessary for capital accumulation (e.g., Castells 1975, Samers 2003), others have criticized this representation as too simplistic. For example, Ambrosini (2016: 153) has noted that "the idea of a

[8] Importantly, she also notes that she highlights the parallels with/to the position of women vis-à-vis the labor market.
[9] Here, she specifically mentions social networks, income-earning opportunities, and measures of success (*ibid*.: 1977).

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hidden and astute political project, as well as an undeclared agreement between governments and economic actors, to let foreign workers without permits, and hence rights, into the country, in order to exploit them" is unable to explain employers' widespread support for, and participation in, regularization exercises. And also Ruhs and Anderson (2010) follow a more nuanced approach by asking which *exact functions* the different types of il/legality ('compliance', 'semi-compliance', and 'non-compliance') have not only for employers but also for migrant workers themselves. From the employer perspective, they argue, illegality helps (i) minimizing labor costs, (ii) recruiting 'good workers' with the preferred qualities and attitude, and (iii) minimizing 'immigration costs' (i.e., costs arising from either state sanctions or from complying with state requirements for legal employment of migrants) (*ibid.*: 195). Migrant workers, on the other hand, tend to pursue three main objectives: (i) securing their residence in the host country; (ii) economic improvement, and (iii) social integration (*ibid*.: 198). All of these can easily be linked to the idea of "dignity".

3. Dignity (for irregular migrant workers)

Given that the key aim of the *DignityFIRM* project is to "promote dignity for irregular migrants" (proposal part B p.3) it is important to also consider some of the existing literature that has approached the conditions of irregular migrant workers from the perspective of human dignity[10]. That the project proposal does not provide any definition of this central concept arguably underlines the fact that the very notion of human dignity constitutes an 'essentially contested concept' (Rodriguez 2015: 743), which renders any agreeable and unambiguous definition inherently difficult. What is certain, is that exploitative and precarious working conditions – and thus, at least indirectly, both migrant and employment irregularity and informality, which as discussed above tend to further such conditions – undermine human dignity. Hence, if dignity is the opposite (or at least presupposes the absence) of precarity, is reducing precarity and vulnerability – and thus, ensuring access to decent work[11] – enough to promote/produce dignity for irregular migrants?

First of all, it is important to remember that calls for an **improvement of employment conditions** in sectors characterized by high shares of migrant labor are hardly ever made in favor of migrant workers but are instead **regarded as an *alternative* to migrant labor**, i.e., a way of attracting 'native' workforce and thereby reducing the share of, and dependence on, migrants (e.g., Anderson & Ruhs

[10] On dignity of asylum seekers in relation to work see e.g. Zwaan (2021).
[11] The concept of "decent work" is an overarching normative concept driving ILO and more generally UN activities (see for example: https://www.ilo.org/global/topics/decent-work/). See also Rijken & de Lange (2018) on the question of decent work for low-waged migrant workers.

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2012: 34)[12]. For De Lange (2023: 200), 'decent' work "implies that migrant workers are protected against abuse. However, in practice, neither administrative enforcement measures nor contractual enforcement does much good for migrant workers. The blurring of the administrative and civil law instruments is part of the problem, because it creates a legal complexity difficult to navigate, if relevant actors are aware of the options at all." Her case-law review showed how employees of a competing business requested formal administrative enforcement to curb unfair competition by employers illegally employing and underpaying its foreign employees. However, there was no attempt made to protect the migrant workers from losing their jobs as a result of this claim, or help offered to them to invoke their right to back payments (*ibid*.). There is little further empirical evidence of how co-workers or competitors deal with businesses engaging migrant workers irregularly and/or informally. Empirical studies that have looked at how (irregular/precarious) migrant workers perceive their own working conditions suggest that there is some relationship between precarity and dignity. For example, Urzi (2015) has traced the effects of the intersection between immigration status and work precarity on feelings of human dignity among irregular agricultural workers in Sicily. Other literature has looked at the role and use of human dignity in national and EU legal frameworks: Focusing on the jurisprudence of the European Court of Justice regarding asylum law and irregular migration, for example, Bačić Selanec & Petrić (2021: 500) examined the ways in which human dignity is being invoked and how this conditions the treatment of third-country nationals. What seems to be largely missing are empirical investigations of whether (irregular) migrant workers' dignity is being considered as relevant at all, and if yes then how it is perceived and framed, by street-level actors – including employers, trade unions, civil society actors, and other public and private intermediaries. This is a gap that the research to be conducted within work packages 4 and 5 of the *DignityFIRM* project could help to fill.

More philosophical accounts of human dignity have often related it to both human rights and individual autonomy and agency. For Crépeau & Samaddar (2009: 55), for example, "[r]especting the dignity of [a] person is protecting [their] ability to make personal choices [and] recognising the individual as a subject, i.e. a bearer of rights". Without going into the details of the legal-philosophical debate/s on the topic (which will not be immediately relevant for WP4 and WP5), the remainder of this subsection will focus on these two aspects/dimensions of human dignity: rights and agency.

[12] Ruhs and Anderson (2012: 4) define 'skill shortages' – with which employers tend to justify the need for labor immigration – as "employers' difficulties with finding the 'right' workers to fill vacancies at current wages and employment conditions". The aim is thus to import (cheap) labor *instead* of letting the labor market raise the price of this labor. See also Sassen-Koob's (1981: 66) distinction between 'quantitative' (absolute) labor shortages and 'relative scarcities' of cheap and powerless labor (as a result of working-class struggles and welfare state protection).

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3.1. Dignity as access to fundamental and labor rights

As noted by Carozza (2013: 932, and many others), human dignity "serves as the single most widely recognized and invoked basis for grounding the idea of human rights generally". More specifically in relation to irregular migrants, O'Cinneide (2020) has recently explored the potential of **human rights** law as a tool for effectively challenging exclusionary policies directed against this group. For him, the predominance of national (over international) law means that irregular migrants face a double layer of legal exclusion – not only from the status and entitlements enjoyed by citizens (of the state where they are present), but also from the already reduced set of rights and privileges accorded to regular immigrants in that same country. This is exactly what (in theory) reduces irregular migrants' very existence to what Agamben (1998, following Hannah Arendt) famously called 'bare life' and what (in practice) produces their social and economic marginalization. O'Cinneide (2020) identifies a number of external (weak enforcement mechanisms, lack of access to justice, etc.) and internal (proportionality, lack of substance, etc.) constraints that explain the glaring gap between human rights rhetoric and ambitions and the actual realization of many of these rights in everyday practice (see also Dembour & Kelly 2011, Inghammer 2010). Others have more explicitly related this gap to the insufficient weight given precisely to the human dignity of irregular migrants in applying international human rights law (e.g., Bosniak 2006, Carens 2013). It is also important to keep in mind, as Crépeau & Samaddar (2009: 58) noted in their essay *Recognizing the Dignity of Migrants*, that "[t]he founding fathers of the international human rights system never really envisaged that human rights would apply to migrants: [instead] it was built to frame the relationship between citizens and their State institutions". For them, this is what ultimately explains the ineffectiveness of this regime, which becomes particularly visible from the perspective of/on irregular migrants: While "the foreigner is also often conceived as […] having no complete legal personality, […] the irregular migrant is close to having no legal personality at all"[13] (Crépeau & Samaddar 2009: 60).

Cholewinski (2005: 73) has analyzed the international and regional legal frameworks relevant for irregular migrants' access to various **social rights** and noted not only that "national laws […] make access to many of these rights very difficult if not impossible" but "even where such access is not prohibited by the law and should be available, the very illegality of the migrants' stay creates further legal and practical obstacles to the enjoyment of these rights". In relation to this, *DignityFIRM* research intends to shed new light on the intersection/s of these various legal and practical (but also administrative, discursive, etc.) obstacles, and/or the potential for overcoming them by different

[13] Note that according to EU law, this is not true for irregular migrants working in any EUMS, as established in Employer Sanctions Directive 2009/52.

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kinds of actors giving more weight to the idea that human dignity does not depend on immigration status.

A closely related set of rights that is particularly relevant in the context of this project are **labor or employment rights**, including the right to receive a fair wage, to compensation during sickness and for work accidents, to (equal) access to domestic labor courts, as well as to organize (as workers) (e.g., Chauvin & Garcés-Mascareñas 2012). All of these are – at least in practice – often inaccessible for precarious status migrants. In relation to some of these rights, however, Cholewinski (2005) identifies a potential overlap of state and irregular migrants' interests, e.g., to denounce exploitative employers as a way of combating exploitation as well as informal work more generally. He thus recommends that "legal challenges by irregular migrants against their employers should be facilitated by the provision of legal aid and without exposing them to the risk of expulsion for bringing such actions" (*ibid*.: 77)[14]. The ability to take (in this case legal) action against unfair treatment is not only a question of rights – like the above-mentioned right to organize i.e., join a trade union (e.g., Inghammer 2010) – but also a matter of agency, which leads to the second key dimension of dignity.

3.2. Dignity as individual agency

Dignity is inseparably linked to human agency, as explicitly highlighted by Crépeau & Samaddar (2009: 55) who "posit that the able adult's dignity rests in being an agent of one's destiny, in having the ability to exercise options regarding one's own life." The question of irregular migrants' agency vis-à-vis the ('host') state and its institution is theoretically interesting (given their subordinate and formally rightless position) and empirically challenging to grasp. It has received a lot of scholarly attention over the last decades, which was not only focused on 'classic' forms of political protest and claim-making (Chimienti 2011, McNevin 2013) but also more subtle ways of challenging or resisting migration governance through everyday practices (Sigona 2012, Schweitzer 2017, Triandafyllidou 2017, Hajer 2021). While none of these accounts has focused specifically on migrant agency in the workplace or in relation to employment, other studies have shown that (irregular) migrant workers are not necessarily helpless victims of unscrupulous employers and their exploitative practices. Instead, they are depicted as capable of using their agency to actively negotiate and sometimes mitigate the precarity they face at work. For instance, Esbenshade et al. (2019) show how immigrant taxi drivers in San Diego achieved improvement of their working conditions in spite of their marginal position and lack of formal rights and protections, while Mezzadra and Neilson (2013) refer to a

[14] A similar point is made by Anderson (2010: 314): "The extension of employment protection irrespective of immigration enforcement matters would be an important step in protecting the rights of migrant workers and avoiding potential undermining of employment standards and rights".

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similar case from New York, and Iazzolino (2023) discuss migrant solidarity and activism in the Digital Economy.

As discussed above, immigration rules are often depicted as the primary source of limitation to migrant workers' ability to escape or contest exploitative employment relationships (e.g., Anderson 2010), but it has also been argued that at least *some* migrants (as well as employers) do have significant agency vis-à-vis the state's migration frameworks (Ruhs & Anderson 2010)[15]. The fact that the *DignityFIRM* project covers a wide range of rather different categories of more or less irregular migrant workers might be usefully linked to Ruhs and Anderson's (2010) suggestion to explore the 'differential agency' that different categories migrants have vis-à-vis the state's legal and administrative frameworks.

Apart from (or better: in addition to) restrictive immigration rules and regulations there are also other factors – including the lack of social networks, language proficiency, and knowledge of local "customs" and bureaucratic structures – that tends to undermine (especially newly arrived and/or precarious status) migrants' agency, including the capacity to choose better-paying jobs for which they would often be qualified (Calavita 1992, Ruhs 2017). There is also the longstanding idea that (again, especially recent) migrants 'naturally' have lower expectations regarding working conditions because their reference is the country they migrated from and/or because they see employment much more instrumentally than 'native' workers (e.g., Piore 1979). In relation to this, particularly irregular migrant workers' un/awareness of their rights (and potential for mobilization) is a key aspect that the case studies conducted within the *DignityFIRM* project will pay attention to.

With regard to the relationship between more secure and thus less precarious immigration status on one hand and dignity in the form of (better) working conditions on the other, Ruhs (2017) investigated how Eastern European migrant workers becoming EU citizens (as a result of EU enlargement) affected the wages they were paid. The study showed that this status change did influence earnings, but not simply because their status is regularized but because a more secure status allows migrants to change jobs. This suggest that regularization as such – especially if it ties migrant workers to their current employers or jobs – will not necessarily lead to higher wages (see also Rivera-Batiz 1999 and Lofstrom et al. 2013 on the wage-effects of legalization in the US, where the latter find a stronger 'wage-effect of legalization' for skilled migrants than for the unskilled). The role and potential effect of status regularization is also mentioned in the DignityFIRM proposal, which highlights that in order to realize/ensure dignity for irregular migrant workers "EUMS have to offer access to safe and healthy living and working conditions, protection, and ultimately, a way out of

[15] Ruhs & Anderson (2010) also note that irregularity (in relation to migration and employment) can be a strategic choice not only for employers but also for some migrants.

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irregularity" (proposal p.6). This as well as the reviewed literature thus suggests that neither decent work, nor regularization, *alone* will automatically produce dignity for migrant workers.

4. Relevant Actors

Migrant labor is dearly needed in most parts of Europe, and this fact is reflected in contemporary labor migration policies, as Menz (2010: 25) has noted: "The restrictive approaches that dominated the period between the mid-1970s and the mid-1990s have given way to more liberal policy design regarding 'desirable' labour migrants, though not other migration categories". Irregular migrant workers are – at least officially – among the latter group, even though also their labor is dearly needed in certain sectors. What has also changed – or, more likely, recently caught the attention of more and more scholars – is the number and diversity of actors that play an active role in (labor) migration policymaking (besides national governments). These include "organised interest groups, courts, ethnic groups, trade unions, law and order bureaucracies, police and security agencies, local actors and street-level bureaucrats and private actors" (Lahav & Guiraudon 2006: 207) and their influence is not only felt at the national, but also the local and EU levels. At the same time, both supranational (especially EU) institutions and local (as well as regional) governments seem to be gaining sway. Especially the role of local authorities has often been highlighted in the recent literature (e.g., Triandafyllidou & Spencer 2020, Spencer 2020), while others, like Belloni et al. (2023), have argued that it is never only one but always **multiple levels** of governance that need to be kept in view when analyzing the condition and effects of irregularity. Importantly this is not only true for different levels of government and of public as well as public-private governance and accountability structures (De Lange 2015), but also of analysis: In relation to this, Gordon and Lenhardt (2008) have stressed the importance of differentiating between aggregate data regarding national – and concrete experiences within local – labor markets; while Ruhs (2017: 9) noted that "the relationship between immigration status and earnings is likely to be highly specific to local contexts and labour markets".

In addition, it has been argued that the role that labor migration plays, and the ways in which it is being governed, are also characterized by **sector-specific differences**. Some authors even identified a 'sectoral turn in labor migration policy' (Caviedes 2010) or at least argue that European labor migration policies on the whole are "increasingly driven by sector-specific concerns" (Menz & Caviedes 2010: 5, see also De Lange et al. 2021). Others, including Triandafyllidou and Bartolini (2020b) stressed the corresponding need for more comparative and sectoral studies and have developed what they call a 'sectorial approach' to understanding irregular migrant work. Empirically, they look at domestic work, agriculture and construction and trace the "different labour and migration dynamics and different challenges" that characterize these sectors (*ibid*.: 151/2). De Lange

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et al. (2021), looking at the political economy, law, and regulation of migrant workplaces, focused on the hidden spatiality typical of migrant labor on ships, construction sights, and private households. Importantly, however, there are also cross-sector influences, or, as Anderson and Ruhs (2012) call it, 'sectoral interdependencies': The fierce competition (between large supermarket chains) in food retail, for example, creates pressure to lower wages in agricultural production (and arguably also food processing). In addition, as De Lange et al. (2021: 229) argue, the political economy of consumer behavior must be considered as an explanatory factor of migrant dependency, since "[c]onsumers have little knowledge of how much of the money they pay for a product is for the migrants who make the (cheap) produce available to them". These insights have triggered more and more calls for not only cross-country but also cross-sector comparative research (e.g., Pastore 2014), which the *DignityFIRM* project is well-placed to deliver. It will thereby also contribute to raising public awareness of these issues.

At the same time, and as already noted, many scholars have highlighted the **multiplicity of actors** involved not only in regulating labor migration (as noted e.g., by Menz & Caviedes 2010: 3) but also industrial relations (e.g., MacKenzie & Martínez Lucio 2019; De Lange et al. 2021), which also makes it inevitable to depart from an overly state-centric view and disproportioned focus on national policies and regulatory frameworks. Ruhs and Anderson' (2010) analysis therefore systematically combines the perspectives of employers, migrants *and* 'the State', which significantly increases the explanatory potential. For example, they argue that what explains the persistence of semi-compliance is that it serves the interests of migrants as well as employers *and* is difficult to control for the state (whose interests it does not serve). Most studies, however, tend to privilege a single perspective, even though not necessarily that of the state. In a recent review of the existing literature on the relationship between migrant labor and low-quality work, Wright et al. (2019) identified three predominant approaches among such studies: worker-centered (focusing on the supply side), employer-centered (focusing on the demand side), and state-centered (focusing on policies). The *DignityFIRM* project not only wants to combine all three of them, but also adds the role of private and civil society intermediaries. In relation to the latter, it could draw on the work of authors like Ambrosini (2016), who highlighted the – usually facilitating – role of smugglers, co-ethnic brokers, employers, NGOs, ordinary citizens and civil servants. NGOs are generally attributed a pro-migrant (rights) attitude and influence (even though also far-right groups are often constituted as non-profit organizations and should thus be considered in such analysis). While many authors have highlighted (and critically discussed) the ambiguous role of NGOs within migration governance (e.g., Fassin 2009, Ticktin 2016, McGhee et al. 2016, Schweitzer 2022b), these studies have all focused on 'humanitarian' migrants rather than labor migration and migrants' employment relations and conditions. Also De Lange et al. (2021: 293-294) have stressed the relevance of intermediaries and

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their methods of recruitment, thereby drawing attention to the de-materialization of the workplace through e.g. the platform economy, a topic that is receiving increased attention (e.g., Altenried 2021, Farbenblum et al. 2018, Doorn & Vijay 2021).

Another relevant category of non-state actors that has received a lot of attention in this very context are trade unions (see e.g., MacKenzie & Martínez Lucio 2019). According to Cholewinski (2005: 77), for example, they "have an important role to play in including irregular migrant workers in their membership structures and assisting them to organise themselves in the protection of their interests". At the same time, the fact that restrictive immigration rules are often justified "both as a means of protecting migrant labour and as protecting British workers and business from illegitimate competition", as Anderson (2010: 302) highlighted, puts trade unions in very difficult position vis-à-vis irregular migration. In relation to this, De Lange (2023) presents a telling example of a Dutch labour union protecting 'its own' in court. In terms of the relative weight and concrete influence that trade unions have within the economic system, Menz and Caviedes (2010: 2) have identified a general shift of power from trade unions to employer organizations meaning that "governments feel ever more compelled and capable of accommodating business demands for labour recruitment programmes". An important question to be answered by *DignityFIRM* research would be whether such shift can be noticed in the countries/sectors under study, and what it means for (negotiations around) the working conditions of irregular migrant workers. Another one could be what the discrepancies are between the narrative frames and actual practices of trade unions regarding IMWs.

A lot of scholarly attention has always – and unsurprisingly – focused on the role of employers**.** On one hand, it is on each employer to choose the kind and number of workers needed and to define their concrete working conditions, so they matter as individual decision-makers. Qualitative research on employers' decision-making in relation to migrant irregularity has shown that they often prefer not to know their workers' immigration status (e.g., Ruhs & Anderson 2010). From a sociological perspective, Sciortino (2000: 220) asked whether "the person who hires an undocumented immigrant really also lobbied in favour of a weak enforcement of border controls?" and Schweitzer (2022a: 16) argued that "[s]ince the answer will often be 'no', it [… is necessary] to shift the focus of analysis: from the rather abstract idea of competing 'powerful interests' behind the making of immigration policies to the subsequent and much more concrete re-negotiation, bending and selective transgression of the resulting rules and regulations by implementing actors". Here, it is crucial to differentiate between different types of employers, in terms of size/scale but also other dimensions, like the (direct or indirect) nature of employment relations, as noted by Anderson and Ruhs (2012: 16). More specifically in relation to migrant domestic workers, for example, Pastore (2014: 391) stressed the important difference it makes that in this case the employer (and work site) is a private

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household. Here *DigityFIRM* research will pay attention to the many different types of employer-employee relationships within the different F2F-sectors. On the other hand, individual employers certainly also have collective power, since they "are represented in influential advisory councils and help co-manage migration flows considered of economic utility" (Menz & Caviedes 2010: 12). Menz (2010: 27) suggested to focus more specifically on the political activities and advocacy position of employer associations, which he identifies as a surprising gap in the more recent literature considering that "organized business played a pivotal role in earlier Marxist-inspired analytical contributions" (as mentioned above). It might also be useful to draw on scholarly work on the power of corporate actors more generally, like that of Garsten and Sörbom (2017), whose analysis focuses on the national and supranational levels and might be helpful in understanding the role and position of corporations between markets and politics, where they constantly "manoeuvre across and combine market and political interests" (*ibid.*: 12). In particular, *DignityFIRM* research will also have to consider the role of other relevant (corporate) actors, like supermarket chains (food retail), that put significant power on food producers (Geddes & Scott 2012; Siegmann et al. 2022).

At least in some economic sectors, the most significant kind of intermediary between employer and employee are (temporary) employment agencies. Many scholars have highlighted their increasing importance as 'labor market intermediaries', a trend that seems to be linked to the growing reliance of these sectors on migrant labor (e.g., MacKenzie & Martínez Lucio 2019: 188/9), particularly including construction (Triandafyllidou & Bartolini 2020b, see also Forde et al. 2015 and De Lange et al. 2021). It has also been shown how the involvement of these intermediaries further intensifies migrant workers' precarity and dependency (e.g., Zou 2015). For employers, it is not only "a common way to control the period of workers' employment, and in particular to facilitate flexible and short-term employment" (Anderson & Ruhs 2012: 21), but also a way of outsourcing both the costs of workers' inactivity and the risks of breaking immigration rules (Ruhs & Anderson 2010), which EU law tries to curb through chain liability under the Employer Sanctions Directive (See the *DignityFIRM* working paper for WP3).

Rather similar to that of employment agencies is the role of (usually more informal) social and/or ethnic networks, as argued for example by Maher and Cawley (2015). Also Anderson and Ruhs (2012: 32) identify recruitment through migrant/ethnic networks as a common practice in many countries and sectors that is used by employers as an alternative way "to control and regulate the flow of labour". Importantly, it has also been noted that the distinction between employment via an agency as opposed to more informal networks is not as clearcut as it might seem. In the agricultural sector in Piedmont, for example, there is a recent trend for migrant entrepreneurs themselves to set up temporary labor supply agencies, which overlaps with the informal intermediation of the '*caporali*'

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(gangmasters) that is often performed by co-ethnics[16]. Looking specifically at the Agri-food sector in the UK, Geddes and Scott (2012: 209/10) highlight the great variety of (nine different) 'modes' of indirect recruitment via formal and informal intermediaries – they call them "modes of gangmaster recruitment" – and identify the corresponding level of risk of worker exploitation (ranging from 'very high' to 'low'). In addition, they note the importance of asking "why vacancies are filled in this way and why it is not possible or cheaper to recruit directly" (*ibid*.: 211). Also this is an important empirical question that could be investigated within the *DignityFIRM* project and maybe even included in the interview questionnaires.

In order to go beyond investigations of the more or less specific roles that certain kinds of actors are playing in relation to IMWs, WPs 4-5 will also have to focus on the **relationship/s between the different actors** and can thereby draw on a wealth of more and less recently proposed approaches and concepts. For example, it could draw on the work of authors who have analyzed the diversity of actors and plurality of interests involved in local negotiations around the reception of refugees via conceptualizations like 'local migration regimes' (Hinger et al. 2016) or 'local battlegrounds' (Campomori & Ambrosini 2020). Following a similar aim – namely "to attend to institutional processes and also focus on variously situated actors' efforts to redraw boundaries" – Goldring and Landolt (2013: 20) proposed the idea or figure of the 'assemblage' (in their case: and 'assemblage of non-citizenship'). This could be particularly useful in the context of *DignityFIRM* because it helps "approaching legal status boundaries from a perspective that highlights the multi-actor work that goes into producing, contesting, bridging, breaching, and negotiating these boundaries and associated rights" (Goldring & Landolt 2013: 10). Another potentially useful conceptual tool is the so-called 'garbage can model' of decision-making (Olsen 2001, Pierre & Peters 2005), which could help to downplay the (rather static) role of formal laws and regulations while highlighting the underlying power dynamics, and instead emphasize the inconsistency of diverse actors' perspectives and interests. This idea clearly overlaps with that of 'interactive governance', which Torfing et al. (2012: 14) define as "the complex process through which a plurality of social and political actors with diverging interests interact in order to formulate, promote and achieve common objectives by means of mobilizing, exchanging and deploying a range of ideas, rules and resources". This means that the government is just one among many (kinds of) actors involved, and it is not in control of, nor necessarily leading, this process. Interactive governance is a particular form of what the same authors more generally define as governance: "the process of steering society and the economy through collective action and in accordance with some common objectives" (*ibid*.: 11). They explicitly distinguish their approach from a pluralist perspective on governance, which understands "nongovernmental actors as independent pressure groups competing over political influence on

[16] See Gagnon (2023) for a good overview of the literature on this particular and well-researched case.

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public policy" and government as "a neutral and relatively insulated mechanism for aggregating the plurality of demands and translating them into legitimate policy outputs" (*ibid*.: 11). The latter reminds of Boswell's (2007) portrayal of the state as a broker, whereas Torfing et al. do recognize "the central influence of government in and over governance" (p.11) and its "crucial role as facilitator and manager of policy interaction" (p.15).

One thing that all these (and similar) concepts and approaches have in common is that they allow (or even demand) empirical investigations to **focus on more-than-policy (making and implementation)**. And this ambition is also reflected in the *DignityFIRM* proposal with its focus on 'regulatory infrastructure/s' that are defined as "a wide array of legislative frameworks, laws, policies and actors enabling and constraining IMs' working conditions and access to basic rights and services" (proposal part B p. 8, see also Gkliati et al. 2023). This sounds similar to what MacKenzie and Martínez Lucio (2019: 179) have called 'regulatory space', whereby they mean "a recognised boundary of jurisdiction for the regulatory processes in question […] within which economic and social actors can act with relative confidence regarding the actions of others". Importantly, the latter authors also explicitly recognize the importance of 'informal regulation' that often exists in symbiotic relationships with formal regulation (*ibid*.: 180). Their main criticism is that "[t]he role of regulation in international migration is too often reduced to the focus on […] the national state level and its at times coercive implementation […which in fact is just] one site of regulation operating within a multilevel tapestry of regulatory spaces and actors" (MacKenzie & Martínez Lucio 2019: 181). It is also in line with the above-mentioned regime perspective, which – in the words of Mezzadra and Neilson (2013: 179) – "means carefully investigating the set of heterogenous social practices and structures, of discourses, actors, and rationalities that intervene in processes of governmentalization" (in their case, of borders). *DignityFIRM* understands the relevant regulatory infrastructure *not* as a predetermined and clearly limited space and thus chooses to look not just at migration (as well as occupational safety and health) policies, but also at regulatory processes relatively unaware of the impact they have on IMW, including corporate social responsibility policies (see WP3 Working Paper).

In relation to the theorization of globalization much more broadly, the same authors also highlight the mediating role of "'abstract third agents' such as logistical calculations, legal orders, economic forces, or humanitarian narratives" (*ibid*.: 10). The role of concrete practices has also specifically been stressed by Ambrosini (2016: 148) who speaks of the 'practical governance' of irregular migration (and employment), which "has to take account of the attitudes of these actors, and the influence of their interests", thus adding wider social acceptance to the long list of relevant factors (see also Triandafyllidou & Bartolini 2020b). In addition, it has been argued that policies and regulation become (most) productive when they intersect with other social processes, including those they seek

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to regulate or control (e.g., Schweitzer 2022a). For example, as Anderson (2010: 306) put it, "[i]mmigration controls work with and against migratory processes to produce workers with particular types of relations to employers and to labour markets". The **relationship between wider structures and individual agency** has also been addressed by Menz and Caviedes (2010: 5), who note that "[t]he system of political economy prevalent in a given polity [and one could add: at a given time] – be it national, regional, or sectoral – strongly shapes the types of labour migrants employers will be most interested in". In a very similar vein, Anderson and Ruhs (2012: 16) noted that "employer demand for migrant workers can, to a significant degree, be explained by 'system effects' that 'produce' certain types of domestic labour shortages" and which "arise from the institutional and regulatory frameworks of the labour market and from wider public policies" including welfare and social policies. A related (but more specific) question for *DignityFIRM* will be: Which systems or system effects (and underlying configurations) produce a need for irregular migrant workers?

The latter also points to the fact that governance of irregular migrant workers is spread across **multiple 'fields' of regulation** (and thus many different spheres of public policy). This certainly includes – as already discussed – the field of labor migration, but also closely related policies of deportation (e.g., De Genova 2002), detention (e.g., Mezzadra & Neilson 2013[17]), asylum (e.g., Calò et al. 2021), and regularization (e.g., Apap et al. 2000, Levinson 2005, Maas 2010, Brick 2011, Finotelli & Arango 2011). It also includes mainstream labor market (see e.g., Wright & Clibborn 2019) and welfare policies (see Bommes & Sciortino 2011), particularly including the benefits system, which can make (native) unemployed more or less willing to apply for temporary and low-paid jobs that otherwise have to be filled by immigrants (Anderson & Ruhs 2012: 25). Precisely in order to capture the cross-cutting nature of any government's efforts to regulate foreign labor, Pastore (2014: 403) suggested conceptualizing them as parts of one 'migrant labour supply (MLS) policy field', which in addition to labor migration policy as such also includes a) the management of intra-EU mobility (through national implementation of EU free movement regulations), b) *functional equivalents* of labor migration policies[18], and c) *functional alternatives* to labor migration policies, that is, "all policies and measures (mainly situated in the fields of employment, education or training policies) which are explicitly meant to reduce the dependency on immigrant labour" (*ibid*.: 402/3).

Also several other authors have tried to make sense of this apparent mess of different levels, sectors, actors, forms and fields of regulation, by providing some kind of structure or framework for (more)

[17] They compare immigration detention with the 'benching' of Indian IT workers in the body shopping system to depict detention as a means not so much of excluding migrants but for "regulating the time and speed of their movements into labor markets" (Mezzadra & Neilson 2013: 132).
[18] He defines these as "policies giving access to domestic labour markets to immigrants admitted for reasons other than work" (*ibid*.: 402).

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systematic analysis across (at least some of) these various dimensions of multiplicity. A relatively recent attempt has been made by Zhang et al. (2021), who try to structure the various factors contributing to migrant workers' precarious labor market position in terms of various levels, differentiating between 'macro-level regulations' (immigration law and labor market regulations); 'meso-level organisations' (employers, employment agencies, trade unions); and 'individual-level factors' (migrants' gender, ethnicity, class, occupation, etc.). Already more than a decade ago, Samers (2010) made a first attempt at sketching what he called the 'political economy of undocumented migration and undeclared work', which according to him is constituted by (at least) six processes: (1) the widespread (public and political) support for restrictive policies against irregular migration; (2) the difficulty of deporting irregular migrants; (3) cost and benefits of policing irregular migration; (4) humanitarian protest (against deportation etc.); (5) the practical and political difficulty of punishing employers, and (6) what he calls 'political confusion', i.e. the often rather ambiguous position of both right and left-wing parties in relation to irregular migrant work. Around the same time, also Anderson and Ruhs (2012: 16) provided a framework for analyzing the complex relationship between labor shortages, immigration, and public policy that focuses on four concrete aspects: (1) the characteristics of employer demand; (2) the characteristics of labor supply; (3) employers' recruitment strategies and practices; and (4) immigration (policies) as well as alternative responses to perceived staff shortages.

Particularly the latter might provide a useful starting point for an analytical framework that could guide the investigations to be carried out within the *DignityFIRM* project, and particularly WP4 and WP5. In any case, such analysis will have to take seriously not only what Pastore (2014: 408) identified as "the necessity to complement context-based explanations with a more fine-grained focus on policymaking processes", but also on how the resulting policies (and their implementation) then interact with other social and economic processes and local level influences.

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Migrant Workers' Irregularity, Precarity, Dignity, and relevant Actors

A critical review of selected literature around key concepts and questions of the DignityFIRM project.

ABOUT DignityFIRM

Towards becoming sustainable and resilient societies we must address the structural contradictions between our societies' exclusion of migrant workers and their substantive role in producing our food.

www.dignityfirm.eu

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