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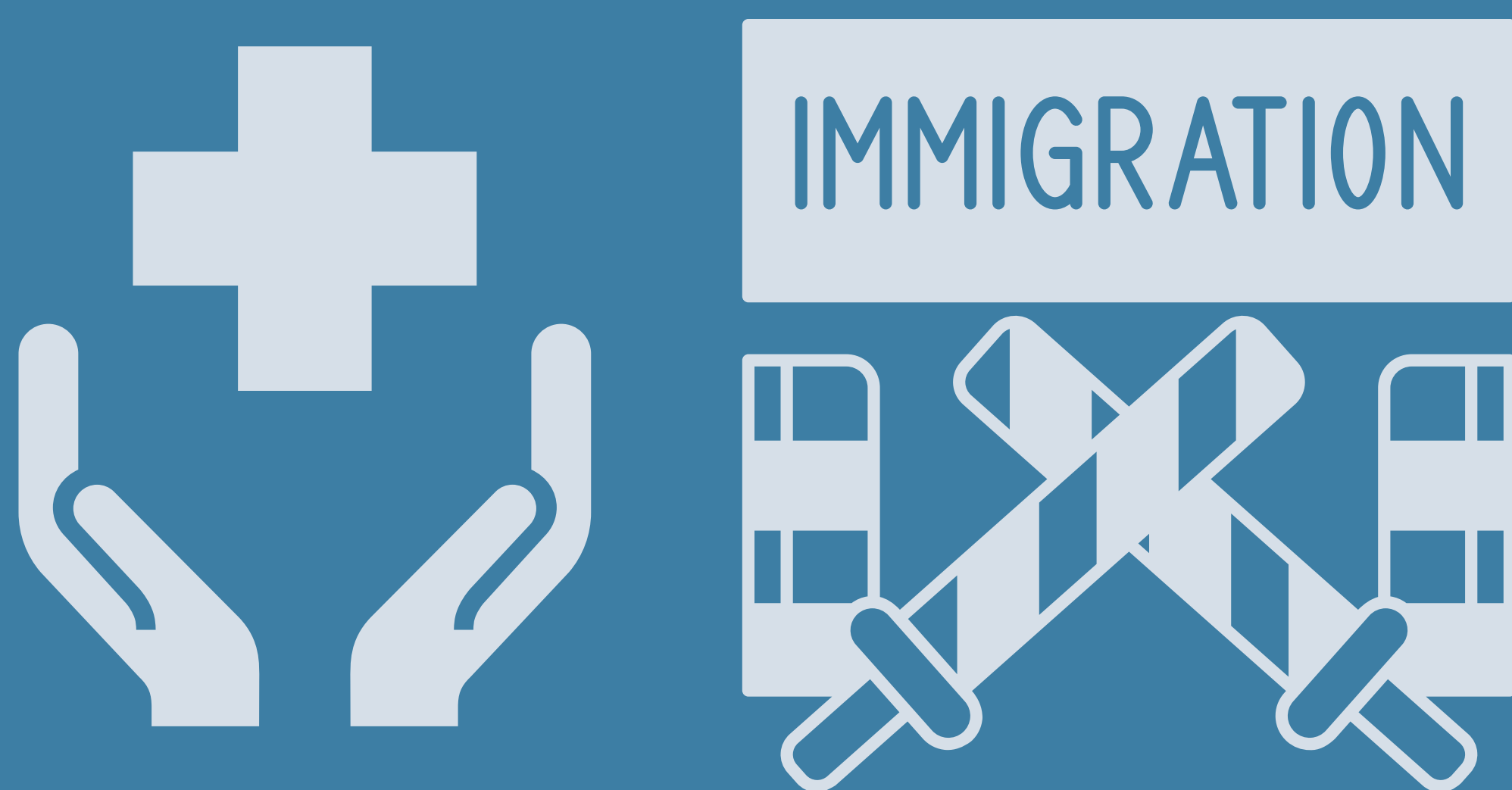
Background:

Europe's migrant containment policies jeopardized public health measures to mitigate COVID-19. When borders closed and normal deportation procedures were hindered, most EU member states held migrants in administrative detention for prolonged/indefinite durations in various types of immigration detention sites (including in offshore containment vessels). Many were severely congested and lacked basic infrastructure, power, sanitation, ablution facilities and hygiene.



Methods:

A socio-legal assessment focused broadly on the balance of European immigration detention regulations, international and European legal instruments and provisions on conditions of detention, and the actual conditions and treatment of immigrant detainees, putting an emphasis on developments before and after COVID-19.



Results:

The concept of vulnerability is central in European refugee and asylum law and policy. There are observed complexities in the European Court of Human Rights (ECtHR) decision-making when considering state obligations to protect the health of all immigration detainees during potential threat of contagion; the vulnerability aspects of special groups of migrants (women, pregnant women, juveniles, children, those with medical conditions and the disabled), when held in immigration detention, and when establishing the requisite threshold of severity of the environmental conditions of detention as per Article 3 (prohibition of torture, inhuman or degrading treatment or punishment) of the European Convention on Human Rights. By analogy prison based jurisprudence at the ECtHR, norms and standards relating to right to health and disease mitigation which may offer additional protections.

Conclusion:

A public health rights-based argument can shape effective immigration detention policy reform by enhancing protective parameters based on broad definitions of health vulnerability within immigration detention spaces. Broad consideration of environmental health factors in light of threats of disease in detention spaces also warrant further consideration when establishing the threshold of the severity of conditions and when assessing detainee vulnerability (not limited to age, gender or health status).

