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Artículos

Occupational Disease and Its Recognition in Various Jurisdictions: A Scoping Review*

Enfermedad de origen laboral y su reconocimiento en diversas jurisdicciones: una revisión de alcance

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Abstract:

Occupational diseases arise from exposure to risk factors present in the workplace and undergo a process of study based on clinical and regulatory criteria for their recognition and economic compensation. This research synthesizes an approach to the recognition of occupational diseases through a comprehensive of the available scientific literature, following the methodological guidelines of PRISMA-ScR. Of the 152 references retrieved from the six selected databases, the analysis ultimately included 13 articles describing the recognition of conventional and emerging pathologies as occupational diseases. Although the legal basis often differs between jurisdictions, the method for determining causality among occupational, non-occupational, and personal risk factors remains consistent, as it is a medicolegal construct. Thus, understanding diseases, agents, and working conditions through exposure time allows for the development of better preventive measures to protect workers' health and safety.

Keywords: Occupational Disease, Legal Recognition, Safety and Health at Work, Occupational Risks, Occupational Health, Labor Law.

Resumen:

Las enfermedades de origen laboral se identifican como aquellos eventos que se producen como consecuencia de una exposición a factores de riesgo presentes en el trabajo, que surten un proceso de estudio a partir de criterios clínicos y normativos para su reconocimiento y compensación económica. En esta investigación se sintetizó, mediante una revisión de alcance, los abordajes para el reconocimiento de la enfermedad de origen laboral a partir de la información encontrada en la literatura científica disponible, siguiendo las recomendaciones metodológicas de PRISMA-ScR. De las 152 referencias recuperadas en las seis bases de datos elegidas, el análisis contempló finalmente trece artículos que describen, en el reconocimiento como enfermedades de origen laboral, patologías convencionales y emergentes; aunque la base legal a menudo di ere entre jurisdicciones, el método para determinar la causalidad entre los factores de riesgo ocupacionales, no ocupacionales y personales sigue siendo consistente, en razón a que es un constructo médico-legal. Es así como entender las enfermedades, los agentes y circunstancias del trabajo a través del tiempo de exposición permite construir mejores elementos de prevención para salvaguardar la vida de las personas.

Palabras clave: enfermedad laboral, reconocimiento legal, seguridad y salud en el trabajo, riesgos laborales, salud ocupacional, derecho laboral.

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Introduction

Occupational diseases are identified as events that occur due to exposure to risk factors present in the workplace. Individuals acquire these diseases over time due to their work activities through exposure to various chemical, physical, biological, psychosocial, or biomechanical agents that impact their health. For an occupational disease to exist, it requires a clinical diagnosis, the presence of risk factors (hazards), and sufficient exposure necessary to generate an effect on health.

According to figures from the International Labour Organization (2022), every year, 402 million people suffer non-fatal work-related accidents or illnesses, and 2.9 million workers die from these causes.[1] According to the document titled "Joint WHO and ILO estimates of the work-related burden of disease and injury, 2000-2016: Global monitoring report," most work-related deaths were due to respiratory and cardiovascular diseases.[2] Additionally, according to the report "Safety + Health for All Flagship Programme by the ILO: Key facts and figures (2016-2022)," for every 7500 deaths per day among the working population, 86 % (6500) were due to occupational disease.[3]

Despite underreporting in the reporting and notification systems for such events, this remains a limitation in accurately conveying the magnitude and characteristics of the problem both in Europe[4] and elsewhere.[5] This underreporting highlights the need to improve the detection and subsequent reporting of occupational diseases, starting from the first point of healthcare contact within the existing social security system, to ensure their recognition and financial compensation.[6]

From the International Labour Organization (ILO), three types of systems describe how to recognize occupational diseases within the social security system: 1) List-based or closed-list systems: This consists of a list of diseases that includes various conditions recognized as occupational when they occur under specific conditions. 2) Open system: The relevant legislative provisions include a general definition of occupational disease, specifying a causal relationship between the disease, the agent, and the work. 3) Mixed or open-list system: This system includes a list of occupational diseases while also providing a general definition of such diseases or other provisions that allow for recognizing the occupational origin of diseases that are not in the list or that appear under different conditions than those prescribed.[7]

For its part, the European Community established, through Recommendation (EU) 2022/2337 of 2022, the inclusion of COVID-19 in the list of occupational diseases and promoted the consideration of this list for the harmonization of legislative, regulatory, and administrative provisions for the recognition of these conditions as work-related, starting with the scientific criteria is the base of the initiative that may lead to compensation and preventive actions in the workplace.[8]

Given the above, studying occupational diseases becomes very important because workers represent half the population and are the main contributors to a country's economic and social development.[9] The changes in the work environment affect the nature of occupational diseases, posing increasing challenges. New conditions and emerging diseases, occupational illnesses with long latency periods, and the possible causes of such diseases make managing these conditions a highly complex challenge.[10]

Because of this, studying occupational diseases becomes relevant, as workers represent half of the population and are the main contributors to a country's economic and social development. Changes occurring in the work environment impact the nature of occupational diseases, presenting increasing challenges. New conditions and emerging diseases, occupational illnesses with long latency periods, and the possible causes of such diseases make managing these conditions highly complex.

Colombia adopts a model that appears to be hybrid, as it includes certain diseases classified as direct occupational diseases, which, by nature, are understood to be work-related; others as presumed, which are assumed to be work-related unless proven otherwise; and others as proven, which allow interested parties (employers, workers, and entities within the Social Security System) to discuss and demonstrate whether a condition is of occupational origin.[11]

Thus, in Colombia, the concept of occupational disease differs from a work-related accident in that the latter is an unexpected event that occurs due to or in connection with work activity, whereas the former results from the presence and exposure to risk factors (hazards) in the workplace. Unlike work-related accidents, occupational diseases take time to develop. They are not necessarily linked to a single job, as they could naturally result from exposure to risk factors across different positions or activities with various employers.

According to the existing regulations within Colombia's General System of Occupational Risk, through a dual-entry format for consultation table, the national government identifies occupational diseases: by risk agents—classified as chemical, physical, biological, psychosocial, and biomechanical—to facilitate the prevention of diseases in specific work activities, and by groups of diseases to determine the medical diagnosis in affected workers. These groups include: Infectious and parasitic diseases; work-related cancer; non-malignant diseases of the hematopoietic system; mental and behavioral disorders; diseases of the nervous system; diseases of the eye and its appendages; diseases of the ear and speech disorders; cerebrovascular and cardiovascular diseases; diseases of the respiratory system; diseases of the digestive system and liver; diseases of the skin and subcutaneous tissue; musculoskeletal and connective tissue disorders; genitourinary system diseases; poisonings; and diseases of the endocrine system.[12]

In other words, occupational diseases can manifest in various physical and/or mental conditions. They may occur in multiple jobs, resulting from exposure to risk factors (hazards). This classification facilitates the burden of proof, as it allows authorities to presume the disease is work-related based on the diagnosis and confirm its occupational origin through evidence of exposure to risk factors (hazards).

In this regard, addressing the abovementioned definitions in Colombia and determining the presence or absence of occupational diseases in workers is essential. This process considers two key aspects: The classification of the disease, which serves as a mechanism to determine whether a disease is of occupational origin. This classification requires an evaluation by healthcare professionals to define the economic compensation that the social security system will assign to the affected worker; and the investigation of the disease, through which, within two (2) working days following the diagnosis of an occupational disease, a report must be submitted to Social Security entities. This report outlines the prevention plans to be implemented in the workplace to control the incidence of this disease among the working population.

Methodology

In this study, a scoping review was conducted following the methodological recommendations of PRISMA-ScR,[13] as it is an emerging topic in the academic community. The objective was to synthesize the published and available literature that establishes and describes key concepts based on the information found in scientific literature.[14]

This review follows the framework developed by Arksey and O'Malley (2005),[15] which consists of five stages: a) Defining the research question, b) identifying relevant studies, c) selecting studies, d) presenting the data, and e) comparing, summarizing, and reporting the results.

To answer the research question—What studies have been conducted regarding the recognition of occupational diseases worldwide?—, the search strategy used the following MeSH terms: "labour law," "Labor*Legislation*," "*disease*," "patholog*," "morbid*," "risk factor*," and "occupational exposure." The search for publications was done within the Scopus, Web of Science, HeinOnline, Oxford, PubMed, and Embase databases. The selection criteria included articles published in English and Spanish between 2013 and 2023.

The selection of articles occurred in three stages. The first stage involved reading the title and abstract in pairs, with each researcher independently reviewing the texts to identify relevant articles using the online tool Rayyan. In the second stage, a team of professionals with a background in legal sciences conducted a complete reading of the articles, assigning two researchers per document for independent review. Finally, the review included the selected articles based on the established inclusion criteria. Differences in selection were resolved through a consensus technique, considering the inclusion or exclusion reasons recorded by the authors.

Review Results

As shown in Figure 1, the literature search results, presented using the PRISMA flow diagram for the study selection process, indicate 152 references retrieved from the six selected databases. The researchers excluded a total of 58 studies after removing duplicates and reviewing the titles and abstracts of the publications. Of the 94 potentially eligible references, researchers excluded 28 due to language and 24 for being published outside the observation window. After a full-text review, they discarded 28 articles for not addressing topics relevant to answering the research question.

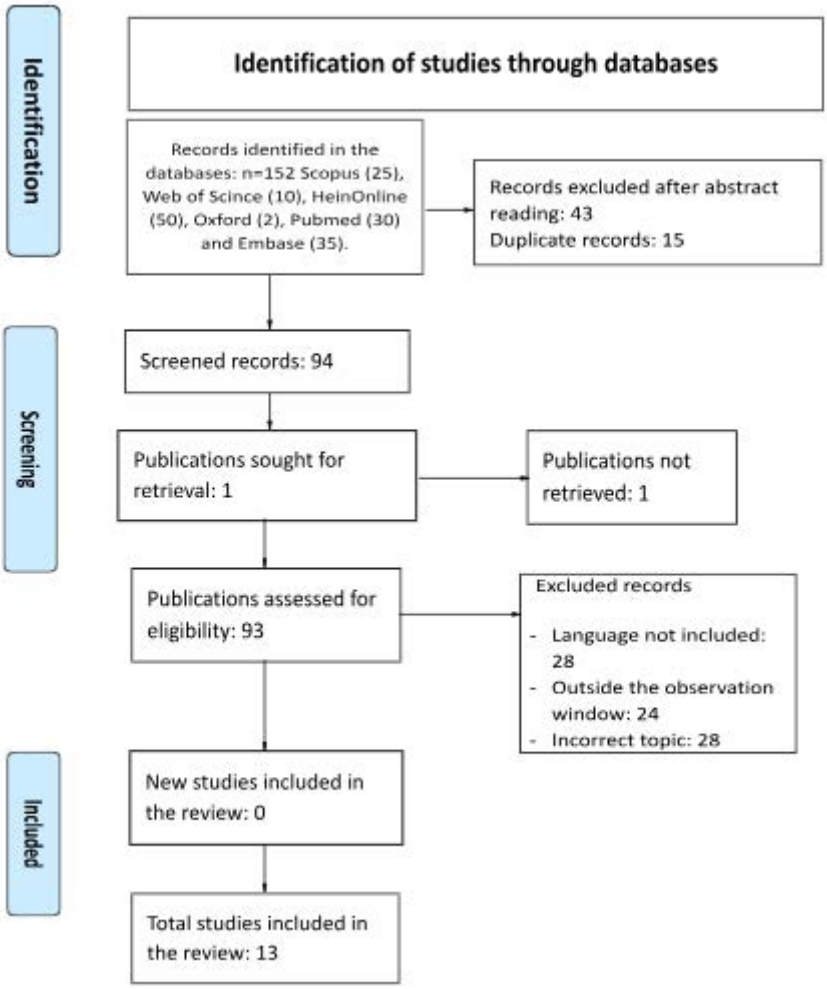

FIGURE 1.
Flowchart of results found
Source: Page M. J. et al. Declaración PRISMA 2020: una guía actualizada para la publicación de revisiones sistemáticas. *Rev Esp Cardiol* [Internet]. 2021 Sep;74(9):790-799.

Thirteen articles were considered and grouped into two main themes: Recognition of conventional pathologies as work-related diseases and Recognition of emerging pathologies as work-related diseases. The following sections describe the studies for each thematic content.

TABLE 1.
Description of the selected articles

Author & Year	Country	Title	Relevant findings
Linetskaya, A. (2014)	Rusia	Asbestos lawsuits in Russia: Bring one if you can.	It concludes that liability lawsuits are the only available mechanism to compensate for the harm caused to exposed workers.
Park, S. Y., Kim, H. R. & Song, J. (2014)	Korea	Workers' compensation for occupational respiratory diseases.	The criteria for recognizing occupational respiratory diseases improved after the 2013 amendment and serve as the basis for compensating workers suffering from these conditions.
Song, J., Kim, I. & Choi, B. S. (2014)	Korea	The scope and specific criteria of compensation for occupational diseases in Korea.	It highlights the relevance of clinical expert criteria in the legal decision for recognizing a disease as work-related.
Spector, J. T., Krenz, J., Rauser, E. & Bonauto, D. K. (2014)	USA	Heat-related illness in Washington state agriculture and forestry sectors.	It explains how the lack of policies and regulatory measures related to heat-related illnesses among agricultural and forestry workers in Washington is a barrier to achieving compensation for workers.
Angelovska, I. & Mahler, V. (2014)	Germany	Occupational palmoplantar psoriasis: a clinical case series with consideration of the S1 guidelines on expert medical assessments of occupational psoriasis.	It highlights the relevance of clinical expert criteria in the legal decision for recognizing a disease as work-related.

Bermúdez, G. M. & Pineda, O. J. A. (2015)	Mexico	Suicide as Occupational Hazard in México.	They argue that a toxic work environment can cause suicide, so occupational exposure should be recognized as a contributing factor.
Laštovková, A., Nakládalová, M., Fenclová, Z., Gaďourek, P., Urban, P., Stikova, E. J. & Pelclová, D. (2015)	Czech Republic	Low-back pain disorders as occupational diseases in the Czech Republic and 22 European countries: comparison of national systems, related diagnoses and evaluation criteria.	Overload can cause lower back pain, which qualifies as an occupational disease if the diagnosis is sufficiently proven. The diagnosis qualifies if it sufficiently proves the condition, meets the exposure and/or occupation criteria, and confirms the duration of exposure.
Dickel, H., Blome, O., Dickel, B., Bruckner, T., Stockfleth, E. & Soemantri, S. P. (2016)	Germany	Occupational syncarcinogenesis in the skin-combined effects of two carcinogens from the German occupational disease list.	It highlights the relevance of clinical expert criteria in the legal decision for recognizing a disease as work-related.
Secunda, P. M. (2019)	USA	The employee right to disconnect.	Describe los avances legislativos en políticas de desconexión laboral en Francia y Alemania como estrategias preventivas para la reducción de afectaciones a nivel mental en los trabajadores.
Duncan, D. (2019)	New Zeland	Invisible Consequences: The Health Hazards of Women's Work in New Zealand	Destaca la falta de un marco normativo adecuado para abordar los riesgos para la salud en trabajos predominantemente realizados por mujeres en Nueva Zelanda.
Berger Richardson, Sarah (2021)	Canada	From Slow Food to Slow Meat: Slowing Line Speeds to Improve Worker Health and Animal Welfare in Canadian Abattoirs.	Refiere que la regulación de aspectos asociados con factores no ocupacionales, mejora las condiciones laborales en poblaciones específicas.
Iyer, S. (2021)	India	Silicosis and the State: Configuring Labour's Interest as the Public Interest.	It reviews Supreme Court rulings on silicosis as a consequence of exposure to risk factors in the workplace, affecting some workers and even their family members (para-occupational diseases).

Davies, A. C. L. & Rodgers, L. (2023)	United Kingdom	Towards a more effective health and safety regime for UK workplaces post COVID-19.	It argues for shifting from a risk-based approach to adapting management to new workplace hazards to prevent occupational diseases.

Source: Own elaboration.

As shown in Table 1, South Korea, the United States of America, and Germany were the most representative countries, each with two (2) publications related to the topic. Countries such as the United Kingdom, the Czech Republic, India, Russia, New Zealand, Canada, and Mexico have also shown interest in addressing the legal aspects of compensation for work-related diseases, each contributing one publication. Given this, developed countries have been mainly concerned with conducting studies on recognizing work-related diseases for compensation among affected workers.

Regarding the pathologies described in the selected publications, the studies focused on respiratory diseases related to chemical exposure, musculoskeletal disorders, and alterations in the psychosocial dimension.

Recognition of Conventional Pathologies as Work-Related Diseases

The publications on recognizing respiratory pathologies (asbestosis, lung cancer, silicosis, and mesothelioma) highlight the importance of considering medical evidence to determine the disease's origin, ensuring the recognition of the economic and healthcare benefits to which the worker is entitled under the applicable legal framework.[16-17-18]

- Linetskaya (2014) explores asbestos-related litigation, particularly the challenge of proving and/or disputing causation and effect, as well as determining the value of compensations for damages or losses caused by asbestos exposure. The study concludes that liability lawsuits are the only available mechanism to compensate workers affected by exposure. Another significant issue is the lack of legislation regarding sanctions or penalties for the damages caused. It is also worth noting that lawsuits related to the use of harmful chemicals are almost nonexistent, as there are currently no reliable records of cases brought to court that resulted in compensation for affected individuals, mainly due to uncertainty about whom to sue, the evidentiary requirements, and the direct causation needed for legal claims.
- In 2014, researchers Park et al. described the changes in specific criteria for recognizing occupational respiratory diseases. Following the 2013 amendment, the classification included diseases such as asbestosis, asthma, COPD, and allergic rhinitis. Affected workers can apply for medical benefits and/or an annuity compensation for pneumoconiosis through the Korea Workers' Compensation and Welfare Service. In this regard, the 2013 amendment in Korea improved the criteria for recognizing occupational respiratory diseases, making it possible for individuals who develop these conditions due to their work to access compensation. This article examines how occupational health and safety legal frameworks address these diseases, particularly in response to the high prevalence of respiratory conditions and the compensation claims that workers file.

- In his study, Iyer (2021) documents how the emergence of public interest litigation in the 1980s provided an opportunity to obtain compensation for work-related illnesses. The study focuses on cases in India, where the issue of silicosis has evolved. Initially, authorities framed the disease as a matter of forced labor; later, they treated it as a human rights violation. The National Human Rights Commission recommended that state governments compensate victims of this disease and their families. Although the state compensates affected workers, it has not fully achieved the goal of worker protection, as some employers actively evade their responsibility. Additionally, the study analyzes Supreme Court rulings on silicosis due to workplace exposure to risk factors, affecting workers and their families (para-occupational diseases).

It is worth noting that between 2014 and 2016, three publications described how compensation for workers with work-related diseases has evolved. The authors present the legal proceedings for specific pathologies and analyze how clinical experts influence legal decisions by determining the occupational origin of the disease and assigning compensation, even when governments do not explicitly include the condition in their official lists of occupational diseases.[19-20-21-22]

Recognition of Emerging Pathologies as Work-Related Diseases

Technological advancements in work processes, job restructuring, and global factors such as climate change, employment trends, the aging workforce, and women's labor market participation have transformed the world of work, creating new working conditions and, consequently, different hazards and risks that lead to various health outcomes.

These articles address contemporary topics, encouraging reflection on modern hazards and risks affecting the working population's[23-24] psychosocial dimension and musculoskeletal health.[25]

- Secunda (2019) explores the impact of constant work connectivity, enabled by modern technologies, and its effect on workers' mental health. Continuous availability outside working hours compromises employees' privacy and autonomy, potentially leading to work-related stress and other mental health issues. The article also examines how France and Germany have addressed this issue through legislative advancements in disconnection policies (France) or voluntary initiatives (Germany). In the case of the United States, the study suggests following these examples and establishing Occupational Safety and Health regulations to protect workers, ensuring their right to disconnect and enjoy adequate rest outside working hours.
- In 2015, Bermúdez & Pineda addressed suicide based on experiences in large companies that recorded numerous events related to their working conditions in countries such as France, Japan, and South Korea, comparing them to situations in Mexico from a legal perspective. They argue that a toxic work environment can lead to suicide and that it should be considered an outcome of occupational exposure.

Two publications highlight the importance of including environmental factors in occupational analyses[26] and the demographic characteristics of workers. [27]

- Spector et al. (2014) describe heat-related illnesses among agricultural and forestry workers in Washington, analyzing workers' compensation claims over a specified period (1995-2009). In these

claims, workers report a lack of training and the absence of a safety plan against high temperatures, which has led to occupational health issues and, in some cases, even deaths. However, authorities have not implemented any regulatory solution to prevent these incidents from recurring. Similarly, the text highlights how the lack of policies and regulatory measures not only allowed illnesses to develop but also led to fatalities. Finally, the article advocates for adopting more measures to promote health-related initiatives regarding heat exposure.

- In 2019, Duncan analyzed health risks in jobs predominantly performed by women in New Zealand and highlighted the lack of an adequate regulatory framework to address these issues. The text indicates that psychosocial factors contribute to risks such as stress, harassment, violence, and fatigue for female workers in these occupations. However, New Zealand's current legislation on health conditions related to stress and psychosocial risks is limited compared to the stricter regulations governing workplace accidents and other safety aspects. One reason for this disparity is that traditional approaches underpinning the Accident Compensation Act do not adequately consider the risks of female-dominated jobs. Finally, the text concludes that there is a lack of regulatory development regarding the impact of occupational segregation on workplace health and safety.

Two articles, in turn, considered the COVID-19 pandemic as a key factor in assessing occupational health and safety systems. Davies and Rodgers (2023)[28] point out that the pandemic exposed deficiencies in the occupational health and safety system in the United Kingdom. Although the country has strengthened its regulations in this area, the article criticizes the risk-based approach as insufficient, as it does not adapt quickly to emerging hazards like COVID-19. Instead, regulations focus on high-risk workplaces while neglecting risks present in everyday working life. Meanwhile, Berger Richardson's (2021)[29] publication views the COVID-19 pandemic as an opportunity to regulate food safety and improve working conditions in slaughterhouses, following the example of countries like Germany, which introduced reforms to protect workers in this sector.

Discussion

Suspecting the occupational origin of a diagnosed disease is not always easy. This scoping review found that existing regulations in various regions rely on the clinical assessments of healthcare professionals. As indicated by Spain's National Institute for Occupational Safety and Health, recognizing an occupational disease begins with case management by physicians within the National Health System or, when applicable, by physicians from the prevention service.[30]

In most of the reviewed studies, research found that exposure criteria and/or occupation and the duration of exposure are sufficient to determine the origin of the diseases affecting workers, establishing a causal link between work and illness, as stated by the ILO in 2010 during the review of Recommendation 194 on the list of occupational diseases for registration and reporting[31] implying that the key factor is not just the occupation but the associated risks and how the frequency and duration of workers' exposure to these risks lead to various diseases. Some of these illnesses are already well-identified due to their occupational links, such as those related to asbestos, while others, like mental health disorders resulting from psychosocial risks in the workplace, are emerging more gradually.

Therefore, experts from various disciplinary fields must study the causal link and consider the working conditions in which labor activities occur, as several reviewed articles indicate.[32-33-34-35-36-37-38-39] It is worth noting that in Colombia, through Decree 1477 of 2014, Article 3 states: "the risk at the workplace to which the worker was exposed, circumstances of manner, time, and place, concentration, measurement, intensity, as well as occupational history and the diagnosis of the disease resulting from the associated risk" guide the causal link in determining the origin of diagnosed diseases.[40]

The main finding of the scoping review indicates that although the legal basis for the employment relationship often differs between jurisdictions, the method for determining causality among occupational, non-occupational, and personal risk factors remains consistent. Thus, distinguishing between medical and legal causality is essential in allocating benefits based on workers' rights and financial compensation for the physical or mental strain associated with their jobs.

Within this context, it is highly relevant to understand how an occupational disease manifests and develops[41] because identifying diseases and diagnosing their origin determines the corresponding coverage within the social security system.[42-43] Additionally, understanding diseases, the agents, and the working conditions that cause them over time allows for the development of better prevention measures to safeguard the lives of the working population.[44]

Conclusions

Studies on the recognition of occupational diseases indicate that medical evidence of diagnosis and exposure conditions are essential for establishing the causal link necessary to proceed with appropriate compensation.

The legal and technical frameworks supporting actions for worker protection still require coordinated efforts to ensure the timely recognition of occupational diseases. Such recognition is a medico-legal construct that involves defining clinical, diagnostic, and occupational criteria, alongside legal concepts that address the contingencies faced by workers whose work capacity has been affected.

As observed in most of the reviewed studies, authorities and institutions have progressively introduced a growing number of formal requirements into the processes for compensation and recognition of occupational diseases, with the aim of achieving favorable outcomes for workers. In recent years, there has been a legal development focused on advocating for the rights of workers exposed to occupational risks leading to occupational diseases.

Several publications highlight the need to develop policies and regulatory measures aimed at preventing occupational diseases and mitigating their impact on the overall disease burden, which translates into significant social and economic losses. These publications underscore the importance of considering not only the gender of workers but also the potential for para-occupational diseases in specific economic sectors.They also bring attention to the uncertainties surrounding liability, evidentiary requirements, and the causal factors that support legal processes for the recognition of occupational diseases and subsequent financial compensation, revealing a lack of continuous and rapid evolution in social security regulations.

The assessment of occupational diseases requires the integration of concepts and criteria from various fi elds within Occupational Health and Safety—such as medicine, industrial hygiene, ergonomics, and psychosocial aspects—alongside legal considerations for risk prevention and worker protection.

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Notes

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