

# French Immigration Reform — Act II

by Gerda Bikales

Readers of "Immigration Reform in France as Street Theater" (*The Social Contract*, Summer 1997) were left dangling in uncertainty. After significant immigration reforms had been enacted in March 1997 by a center-Right parliamentary coalition, the political landscape changed abruptly in June 1997. In April, President Jacques Chirac had surprised everyone by dissolving the National Assembly in which his party enjoyed an overwhelming majority. In the subsequent legislative elections, his party lost decisively to the Socialists. The Socialist leader, Lionel Jospin, was appointed Prime Minister and formed a new coalition government of the Left.

At the time of this political turnaround, the legislation restricting illegal immigration had not yet been applied. Given the avowed objections of the newly empowered Left to the immigration policies of the Right, what would happen? Act II follows.

## A Surprise Victory

The victory of the Socialists and their Communist and "Green" allies surprised everyone. Most surprised of all were the Socialists. Expecting defeat, they had felt free to make extravagant promises to various factions within their uneasy coalition. They committed to expensive job creation schemes, while embracing the Communists' and Greens' demand for total revocation of the restrictive immigration reforms known as the "Pasqua" and "Debré" laws, enacted by governments of the Right over a period of several years.

The pro-immigration forces had made quite a show in 1996, when they organized to oppose laws drafted by Jean-Louis Debré, then Minister of the Interior. Several

hundred African illegal immigrants had taken over a Paris church, St. Bernard, vowing not to leave until the government issued legal residence papers to all the "paperless" (*sans papiers*). Ten men had gone on a hunger strike that lasted 52 days, and the press had duly reported on every aspect of this daily drama. Celebrities and intellectuals had issued manifestos defying the government, and protest marches were held in all major cities. Until the hunger strikers were forcibly removed from the church they occupied, the attention of the country had been firmly fixed on the ten men reported to be starving inside.

Nevertheless, the government had refused to grant blanket amnesty, and offered no more than case-by-case review. Despite heated opposition, fueled by growing fears of the extremist Front National party, the Debré proposals became law.

The sudden change of government soon thereafter reawakened the immigrant-rights movement. The day after the election, a delegation of *sans papiers* were warmly received in the new Prime Minister's office. Assurances were given that a liberal immigration policy was a priority.

## A New Immigration Optic

The Socialists lost no time getting to work. Within days of taking office their Minister of the Interior, Jean-Pierre Chevènement, addressed the problem of the "paperless" by issuing guidelines for regularizing their status. Applicants were invited to present their case to the local *préfet*,<sup>1</sup> who would review their *dossier* and make a final decision. The guidelines were generous, implying regularization for nearly anyone with family ties to a legal resident and offering yet another look at the merits of rejected political asylum claims. Students and sick people needing long-term treatment were also potentially eligible. Of the country's estimated 300,000 clandestine population, it was expected that 15,000 to 40,000 applicants would come forward.

The new government also commissioned a full review of existing immigration law, along with

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recommendations for wide-ranging changes. This task was entrusted to Patrick Weil, an academic political scientist experienced in the politics of immigration.

Mr. Weil worked quickly. By August, while the country was on its traditional annual leave, he released his recommendations. He saw no need to abrogate the Pasqua and Debré laws, but his recommendations aimed to reverse their thrust. Briefly, the salient proposals of the Weil report were:

- to return to a policy of automatic citizenship at eighteen for the children of aliens born on French soil [earlier changes had required such individuals to affirmatively request citizenship sometime between the ages of 16 and 21],
- to broaden eligibility for political asylum,
- to ease the formalities for obtaining a visitor's visa,
- to ease current income and lodging requirements for sponsors in family reunification cases, and
- to ease access of students to French universities and French subsidies.

To balance these liberalizations, Weil recommended tough measures to deal with delinquents and criminal aliens, and extended the period of administrative detention, from ten to fifteen days.

As he explained it, Weil wished to "de-dramatize" the immigration issue by shifting the focus away from controls. Immigration was to be perceived as a routine process in the affairs of the nation.

Neither the Weil report nor the amnesty plan satisfied the immigrant-rights groups. A howl of disapproval went up — they had expected more from Jospin's rhetoric. Anything short of universal amnesty and open-door immigration was deemed unacceptable. Throughout the enactment process that resulted in a major liberalization of the country's immigration laws, the human-rights lobby continued to accuse the government of betrayal. The first open break in the Left coalition occurred in the course of the immigration debate, when key Communists and Greens split from the Socialists in parliamentary voting.

The naturalization issue was taken up first. The opposition Right, reduced to a small minority, strongly defended the principle of *voluntary* rather than automatic citizenship for the French-born children of

foreigners. In a Senate vote, they called for a national referendum on the question, arguing that who and how one becomes a citizen is so fundamental to the future of the Republic that all citizens should be consulted. This was promptly denied.

For more than a century French law had wavered, at times granting citizenship outright to all children born in France, at other times placing conditions on this privilege. Reforms instituted in 1993 stopped the then-current practice of allowing non-citizen parents to petition

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for citizenship on behalf of their young French-born children, requiring instead the older child's personal affirmation, sometime between ages 16 and 21. This was judged too harsh and complicated by the Socialists. They opted to reverse the process: the grown child would automatically become French at age eighteen, *unless* s/he formally rejected citizenship within six months of reaching eighteen, and up to a year thereafter. To placate those for whom birthright citizenship represents further immigration opportunities, alternative mechanisms were added to permit children as young as thirteen to become citizens.

A package of changes in immigration procedures was taken up next. The proposed legislation followed the Weil recommendations closely. As had been the case in the naturalization debate, the shrunken but vocal minority of the Right put up a fierce fight against many of its provisions, throwing technical roadblocks at every turn. Nerve-wracking all-night sessions were marked by acrimonious exchanges in which the Minister of the Interior accused the opposition of holding views identical to those of the extremist National Front, while the Right accused the government of legislating "open doors immigration," and the offended radical Left threatened to walk out. At one point, legislators found themselves

looking at more than 1700 amendments, offered by these two opposite ideological camps. In mid-December, the Communists and Greens bolted from the bill. It just squeezed through its all-important first reading in the Assembly, 276 to 254.

### New Sources of Immigration

The bill that finally became law in May 98 has the potential of increasing legal immigration substantially.

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Two new categories of political asylum claims were added to the existing one, based on the Geneva convention. As formerly interpreted by French law, only persons escaping government-sponsored persecutions were eligible for asylum. The new law also grants “constitutional” asylum to “fighters for liberty,” a phrase lifted from the country’s 1945 Constitution. This protection is to be extended to persons fleeing persecutions unrelated to government policies. Large numbers of Algerians are expected to claim and qualify for this benefit, for the murderous reign of terror gripping that country is not government-ordered but perpetrated by Muslim fundamentalist factions. A third asylum category, to be known as *territorial*, will be granted at the discretion of the Minister of the Interior to anyone subjected to “inhuman or degrading treatment” or facing “major risks to his personal security” in his own country. Objections to both categories have been raised within the European Union, which attempts to maintain common screening and eligibility standards for political asylum. Furthermore, relaxed admissions to France opens all other member countries to the resulting immigration, as border controls have virtually disappeared and citizens from any member State can settle freely in any other.

Another change certain to increase immigration rapidly relates to the issuance of visas in various categories. Under the earlier law, family reunification sponsors had to live in France at least two years, meet

minimum income requirements, and show proof of adequate lodging to house the family. The revised law, drawing on the claim of a person’s universal right to “lead a normal family life,” requires just a year’s residence and lowers income and lodging requirements. A law passed in 1993 had limited men in polygamous unions to bringing in one wife and her children — a limitation now partly lifted, to allow children from a first union to immigrate along with the chosen wife and her progeny.

In the case of visas for visitors from countries with a consistent record of visa overstays, the law since 1982 had stipulated prepaid hotel reservations or an invitation from relatives or friends, who had to obtain a “certificate of domiciliation” from the mayor’s office in their town, attesting to suitable living arrangements. Under pressure from the Left’s radical wing, the practice was labeled useless and replaced by a simple declaration from the would-be host. The discretion of consular officials to refuse visas to individuals likely to remain illegally in France was curtailed — henceforth, refusal must be justified for many categories of visa applicants. A new category of visas for students, artists, and intellectuals was put in place to speed up their entry.

Throughout the enactment process, Prime Minister Jospin and Interior Minister Chevènement assured the public that these changes were not only more humane and consistent with French tradition, but also good for the image of France and unlikely to add substantially to the immigration flow. Whatever the increases, they would be largely offset by lower illegal entries, as many tempted to take up illegal residence would now have a legal way to accomplish their goal. The prolongation of administrative detention from ten to fifteen days, to permit the government to strengthen its case in deportation proceedings, didn’t quite make it. The Council of State, a respected constitutional watchdog, opined that this additional loss of liberty was too long. A compromise of twelve days survived the legal challenge.

### **Amnesty and the Problem of Declared Illegality**

Other immigration stories made headlines, too. Prime Minister Jospin, on a trip to Mali and Senegal, had promised to end the use of charters for deporting people. Charters had been instituted some years earlier as an efficient and less expensive way to repatriate people. The immigration lobby had made charters a symbol of the

State's inhumane behavior, and Jospin sought a more dignified way to return people to their homeland. Deportees were thus put on regular airline planes, accompanied by a security officer. Unlike the unadvertised charters, the departure times of scheduled flights were known. Organized opposition groups assembled at the airport, disrupted check-in operations, and recruited the cooperation of the passengers — most of them sympathetic fellow nationals of the deportees. Some flights became scenes of terror when the unwilling passengers took after the security agents in mid-flight. In some incidents, the deportees refused to leave the plane on arrival, while on-the-ground police refused to help the French agents. Some airlines soon refused to transport deportees. These problems have further cut the government's ability to deport people.

The other big immigration story was the unforeseen large number of applicants for amnesty. Within days, the predicted 40,000 maximum was exceeded. By the October 1997 filing deadline, more than 170,000 applications had been received at the prefectures. It is believed that this number was inflated by double filings, some people hedging their bets by applying in more than one prefecture.

Day-by-day, as cases were reviewed, a tally was kept on the outcomes in each prefecture. It was clear that some *préfets* interpreted the guidelines more restrictively than others, a fact that the immigrants's defenders took as conclusive proof of the unfairness of placing *any* conditions on amnesty. Overall, as the May 31, 1998 deadline for reviewing cases approached, it became known that somewhat over half the cases would receive favorable action. The bulk of the denials, about 70,000 — were bachelors without family ties in France or political asylum seekers with weak claims.

Two years earlier, when Interior Minister Debré was pushing through restrictive immigration laws and showcasing a policy of high-visibility deportations by charters, some 400 African *sans papiers* had occupied a Paris church, ten men had gone on a hunger strike, celebrities had issued manifestos of support, and marchers had taken to the streets by the tens of thousands. As amnesty rejections mounted, the pro-immigration organizations attempted repeatedly to duplicate these tactics, but met with limited success. Media interest faltered, perhaps because the Jospin government was already busy liberalizing immigration

policy on all fronts, and could not creditably be made into the "bad guy" in a play dramatizing the "good guys."

As July neared, almost all but the most complex cases had been adjudicated. In their statements, Chevènement and the Prime Minister continued to oppose unconditional amnesty. This left the country wondering what to do with 70,000 unlawful residents, now identified by the authorities, but realistically unlikely ever to be deported. They constituted a new class in the

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Faced with more hunger strikes and clamors for an appeals procedure, the Prime Minister went back on his pronouncements on the finality of prefectural decisions and established yet another appeals board. They would not rubber stamp every application, Jospin insisted, but offered a chance to correct some overlooked inequities. The government's unspoken plan at that time seemed to be to gain time — regularize some more people and deport some others, bribe with an outright gift of cash whatever number possible into returning voluntarily, and quietly find additional ways to legalize the status of others.

### Football Glory and its Immigration Lessons

On July 12, the French "football" (soccer) team, familiarly known by the color of their shirts as *les bleus*, won the World Cup. The whole country went wild in celebrating this much hoped-for but unexpected victory. Winning the world's most illustrious sports event was widely perceived as a turnabout in the nation's fortunes, which had been sliding steadily for decades into economic paralysis, internal factionalism, and international irrelevance. The Cup's prestige confirmed

that France was still a power to be reckoned with, a real winner in today's competitive world.

It did not escape anyone's notice that the magnificent French team was not *bleu* but multi-colored. Many of its talented players were of African, Arab, Caledonian and Caribbean origin, immigrants and sons of immigrants. Didn't this victorious outcome prove convincingly that Frenchmen of all ancestries could work together in harmony toward common goals?

As euphoria gripped the country, Charles Pasqua, an elderly former Minister of the Interior whose name has become synonymous with immigration restriction, announced his support for unconditional amnesty to all registered *sans papiers*. Its self-confidence restored by victory on the football field, France could tackle its immigration headaches with renewed generosity.

Government spokesmen claimed to be amused by this proposal from the country's foremost advocate of strict controls. And though at this writing the declared *sans papiers* are still in limbo, football glory and Pasqua's surprising about-face have had an immediate effect. With the nation packing its bags to take off for the sacrosanct August vacation, more flexible interpretations of some technical points regarding prior residence in France were announced. They are expected to clear the path to amnesty for another 30,000 applicants. The question then becomes: with 30,000 more ineligible given permanent papers, can the remaining 40,000 be far behind? Probably not — if the elation of the World Cup win can be made to linger a while longer.



#### NOTE

<sup>1</sup> The system of prefectures is France's way of dispersing the centralized power of the State. Administratively, the nation is divided into 96 *départements*, each with a prefecture and several sub-prefectures, headed by a *préfet* or sub-*préfet*. These officials incarnate the executive power of the Republic, and have considerable discretion in the interpretation and application of the laws. The prefecture is a very powerful institution, staffed by an élite corps of professional administrators. They are transferred frequently to minimize the potential for corruption by reshuffling local power arrangements.