Immigration Reform in France As Street Theater

High drama, artful staging, surprise endings

by Gerda Bikales

The year 1997 marks the fiftieth anniversary of the start of the Marshall Plan, probably the most successful American diplomatic initiative in history. In a move to counter the inroads of communism, the plan made American financial aid, expertise and moral encouragement available to the war-ravaged nations of Europe, stimulating the rapid recovery of their shattered economies and idled industries.

Its success also laid the foundation for Europe's unending immigration dilemmas, which are still making headlines today.

The Post-War Labor Shortage

At the end of Word War II, France faced the monumental task of reconstruction with a severe manpower deficit. In addition to the lives it had lost in the recently ended war, the country still suffered from the consequences of losing a million young men a generation earlier, in the trenches of World War I. As the post-war economy took off, France invited workers from overpopulated countries like Turkey and from its North African colonies (soon to be ex-colonies) to come to work in France. The idea was to recruit laborers for temporary work, but what they got were human beings with attachments to families and with problems adjusting to the new host society.

From Shortage to Surplus: 1974

In the early seventies, the first hints that the dynamic economy might be running into serious trouble came from rapidly rising oil prices, culminating in 1974 in an oil embargo by petroleum producing countries that threatened to bring the industrialized world to a standstill. Job creation slowed, and France, awakening to a host of social problems created by its immigration policies, decided it would no longer bring in workers to supplement its own labor force.

Yet, despite all the ballyhoo of the new policy of Immigration Zero, immigration continued to grow and to impact the public's consciousness. Though no additional workers were specifically recruited, immigration was fueled by family reunification, large numbers of refugees from Indochina, asylum seekers from Eastern Europe, and a steady stream of illegal immigrants.

In 1981, François Mitterand, a Socialist, became President of the Republic. He had campaigned on a platform of more employment and a new approach to immigration. His government opted to maintain the restrictions in place but to regularize those clandestine immigrants showing proof of employ-ment and residence in the country since January 1, 1981. Some 132,000 people took advantage of the offer. In 1991, with little fanfare, another regular-ization was granted to 14,000 asylum seekers, whose request for permanent resettlement had been refused after years of legal wrangling. Faced with considerable public uneasiness about immigration, and the rise of a new political party — the National Front — capitalizing on that sentiment, the rhetoric of the Mitterand years turned to expanding efforts to integrate immigrants into the mainstream of French society, while resisting illegal entries. “France can't take in all the world's misery,” the Socialist Prime Minister Michel Rocard announced — a phrase oft-quoted with relish by immigration reformers on the Right.

The problems of structural unemployment unfolding in the industrialized nations hit France especially hard. In the Mitterand years the

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government had nationalized many industries but had done nothing to make them more competitive in the global marketplace. A shrinking labor market failed to make room for young people. The National Front continued to denounce immigrants, and gained support from the jobless and insecure.

The Pasqua Laws, 1993

In the final years of his fourteen-year presidency, Mitterand, ill and politically weakened by the election of a Gaullist legislature, presided over the passage of tough new laws to stem the flow of illegal immigrants.

These measures, named for Minister of the Interior Charles Pasqua, firmed-up existing laws on the grant of residency permits, asylum requests, deportations and expulsions, and on some technical points. A major innovation required petitioners wanting to reunite with their families to secure certification from City Hall attesting to the adequacy and sanitation of the families' proposed living quarters. Importantly, the Pasqua law clarified a legal ambiguity that had permitted the implantation of polygamy in France. Henceforth, polygamists could no longer bring in more than one wife and her children. Those who violated this provision would themselves lose their right to legal residence in France.

Another set of changes revoked the right to automatic French citizenship by virtue of birth on French soil. To become citizens, children born in France without at least one citizen parent would have to affirmatively declare themselves French, some time between the ages of 16 and 21.

These laws were enacted despite the vociferous opposition of human rights and immigrant-support groups. In a rarely used procedure, the determined legislature overruled an unfavorable opinion by the Council of State, an important constitutional watchdog.

The Sauvaigo Report

Immigration surfaced again as an issue during the 1995 presidential campaign, won by the Gaullist Jacques Chirac. Under pressure from mayors of several cities with large immigrant populations, the new government appointed a legislative Commission to study current problems and make recom-mendations on further changes needed to win the battle against clandestine immigration. The mayors contributed their insights into the creation of clandestine communities, acquired through their mandated involvement in a program known as the "certification of domiciliation."

It should be noted that France doesn't require visas of short-term visitors from countries which don't produce large numbers of illegal overstays. Visitors from countries that do need an invitation from a French host must obtain a "certificate of domiciliation" from his City Hall confirming his capacity to offer decent hospitality to a guest. Most mayors' offices have routinely given approval, but others have attempted to make certification a meaningful instrument for filtering out people very likely to remain in the country indefinitely. Some hosts, it was known, were conduits for illegal immigrants, inviting guest after guest. A major weakness in the program was that though it was known when the guest was expected in France, no one had any idea of when — or if — he left.

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The Commission issued its report, drafted by National Assembly deputy Suzanne Sauvaigo, in April 1996, less than a year after Chirac took office. Its recommendations were tough, designed to make the implantation into clandestinity more difficult at every stage. Visitors would have to purchase health insurance and be finger-printed; a data-base of hosts would be established; medical care for illegal residents would be limited to emergencies and the treatment of contagious illnesses; employers of illegal residents would be severely punished — they would have to bear the costs of their employees' repatriation, and face the loss of French citizenship if naturalized or of their legal residence permit if foreign; French employers could lose voting rights for a time. The 10-day limit on holding illegal aliens under investigation would be extended, allowing more time to build a dossier that would hold up in a court system inclined to detect human rights violations at every turn.

The Sauvaigo report created an immediate uproar. The Left, a small minority in the Assembly, accused the center-Right ruling coalition of doing the National Front's bidding. The Right held that laxity on immigration benefited the National Front — only a firm government stand could disarm it. Open splits developed in the ranks of the majority, some (including Charles Pasqua) claiming that better enforcement of the Pasqua laws would be enough.

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It had been expected that the report would guide the drafting of a new law, to be proposed by the feisty new Minister of the Interior, Jean-Michel Debré, before the legislature's summer break. But the furor unleashed by political opponents and a host of human rights and pro-immigration organizations made Alain Juppé, the Prime Minister, cautious. He pulled back. "There is no need to pass legislation immediately, while things are so hot" he announced.

It sounded like the end of that chapter. Perhaps the government would have to make do with the Pasqua laws, after all.

Drama in Prime Time

This is probably what would have happened, were it not for some parallel developments that brought the issue of illegal immigration to a head, in a wrenching human drama and accompanying staged dramatics that all France could follow day-by-day on the evening news.

In the spring of 1996, while the government was planning a more hard-line approach to illegal immigration, the immigrants and their supporters were not idle. In March, some four hundred and thirty African men, women and children took over the St. Amboise church in Paris, to make known their "right" to legal residence permits, and announced their intention to remain in the church until their requests were granted. The occupants were mostly parents of French-born non-citizen children, who found themselves in a legal bind created by the 1993 laws, whereby they were neither deportable nor entitled to residency permits. Some were spouses and children from outlawed polygamous unions. Others were applicants for political asylum who had exhausted all appeals. The plan to have this large group of Muslim and Animist immigrants claim refuge in a Catholic church misfired when the priest in charge called the police to expel them, on the ground that the crowding was a safety hazard. Jean-Marie Lustiger, the Cardinal of Paris, justified this action and was taken to task by immigrant defense groups and by the French Protestant church. They had expected more support from the prelate.

Next, the group found shelter in a theater complex, then in an abandoned railroad warehouse. In late June, some three hundred people occupied another church, St. Bernard, where the priest was known to be more sympathetic. Throughout the occupation, the "St. Bernard collective" was supplied with food, baby formula, bedding and spokesmen by a host of organizations spouting pious human rights oratory and reiterating the occupants' "right" to residency permits. Despite criticism from international organizations such as Amnesty International and the European Federation for Human Rights, the government, in the person of Interior Minister Debré, stood firm in its refusal to deal with the occupants as a group, promising nothing more than a case-by-case review that might bring relief to some.

Seeking a formula to end the impasse, a group of 26 well-known supporters constituted itself a "College of Mediators" and offered ten criteria for resolving the problem of France's illegal residents. These ranged from a more generous interpretation of asylum laws to restoring automatic French citizenship to all born on French soil; essentially, their solution was to find some interpretation of United Nations and European Union Conventions that would justify the regularization of most of the country's currently illegal population.

To add pressure on the government, ten African men started a hunger strike in the church on July 4.

Throughout the spring and summer of 1996, apprehended illegal immigrants continued to be deported in chartered airplanes, back to their African homelands. The previous government had rarely resorted to deportation, but Debré was convinced that high-profile expulsions were very effective disincentives to those contemplating illegal resettlement in France. More than 14,000 people

had already been deported in the previous twelve months. Now, the much-publicized departures were intended to symbolize government resolve unmoved by the growing agitation.

As the days went by and the hunger strike continued, tensions escalated. After the first month of the strike, crowds started to gather on the street in front of St. Bernard, waving slogans of support and denunciations of the government. Two articulate spokespersons for the "collective" of the *sans papiers* ("paperless") became television celebrities, stating and restating their conditions for ending the strike, daring the government to persist unto the death of these desperate people. Doctors looking after the strikers (and after the babies — eight more were born in the two-and-a-half months of St. Bernard's occupation) gave daily reports of their weakening condition. Emmanuelle Béart, the major French film star of the younger generation, took up residence at the church, appearing before the cameras disheveled and without make-up, holding a baby in her arms. Well-known artists and intellectuals from many fields appeared on cue in an orchestrated show of support, attracting more crowds in their wake.

Public sentiment reflected a growing concern about the fate of the strikers. The Left seized the moment, organizing demonstrations in Paris and in the larger cities. Red flags, not often seen since the fall of communism, reappeared confidently at protest marches. An inchoate expectation hung over the country. Would a seemingly indifferent government come up with more generous offers? Would the strikers be allowed to starve? Would the police storm the church and force-feed the strikers? Something had to happen.

It did. On the 39th day of the strike, 300 police officers accompanied by doctors entered the church and removed the strikers by ambulance to several hospitals. They expected the patients to be hospitalized for several days and made no immediate plans for their post-hospital detention, but all were found to be in surprisingly good health and not in need of medical intervention. Within hours, the patients checked themselves out and regained the church on their own to continue the hunger strike. France, in the midst of its languid August vacation ritual, held its breath as the danger of starvation became more imminent.

On the 52nd day of the fast, the police stormed St. Bernard's and evacuated the 300 Africans and their supporters. A human drama that had been allowed to go on too long and too far was over, at last.

Despite all the time the government had had to prepare itself for this moment, what followed bespeaks of indecision and confusion. Four days after the raid, four of the aliens were put on charters and returned to Mali, eight received short prison terms, seven were put in administrative detention, sixty-four were placed under deportation order, forty-nine were granted short-term residency permits — a number that was expected to go much higher. More than 140 individuals of the St. Bernard collective were left in legal limbo when the court simply released them on technicalities. They and their supporters capitalized on their national celebrity, continuing to press their demands as the "St. Bernard collective of the paperless." Some went into hiding but emerged periodically to try another church seizure or denounce the departure of another chartered flight filled with deportable aliens.

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Approaching the Debré Laws

The dramatic events at St. Bernard urgently revived the immigration issue, after it had been all but dismissed by the Prime Minister. The Pasqua laws had been shown to be internally inconsistent. The new militancy of the immigration rights lobby had demonstrated an urgent need for better controls. The Interior Ministry was ordered back to work on a new legislative draft.

By October, the draft was ready for internal review and its outline became known. It was to be a softer version of the previous spring's Sauvaigo report. It would allow police searches of certain categories of vehicles within 20 kilometers of land borders, as border controls within Europe had virtually disappeared and the unguarded frontiers had become gateways for illegal entries. It would establish a data-base of fingerprints of visitors from countries with a record of overstays, and of apprehended illegal residents. The new law would give temporary legal residence permits to various categories of people caught in the contradiction of being neither deportable nor eligible for legal settlement.

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But it was the proposal in "Article I" that drew all the attention. The reformers wanted to retool the required "certificate of domiciliation" into a useful device for checking the departure of guests at the expiration of their visa. The host would be asked to mail a form to City Hall, reporting the guest's departure.

People felt uneasy about this breach in the traditional rules of hospitality — it doesn't feel right to snitch on a guest's movements to the authorities. This is a delicate issue in France, which has a disgraceful history in this area — under the German occupation, all too many too willingly cooperated with the authorities by reporting the comings and goings of neighbors and associates, resulting in the arrest and deportation of thousands of persecuted Jews and political dissidents. More than fifty years later, the shame of it still stings.

Nevertheless, in December 1996 the bill went through a first reading in the National Assembly uneventfully. The Left hardly raised its voice. It was badly torn on the immigration issue, its mainstream sector having supported restrictions in the Mitterand era. The hard Left had seemed to score with its open embrace of the "St. Bernard collective," but subsequent opinion polls confirmed solid support for immigration reform. The Socialists could not ignore the National Front's raids on its own constituency. Unable to agree on any alternative policy, the Left remained paralyzed As the year 1996 ended, there was no reason to doubt that the Debré proposals would soon become law.

Vitrolles, February 1997

The theatrics of immigration reform took another dramatic twist early in the new year. A mayoral election in the small and unimportant city of Vitrolles, near Marseilles, caused panic when the winner turned out to be Catherine Megret, wife of the National Front's second in command and the presumed successor to the party's aging leader, Jean-Marie LePen. Three other towns, including the city of Toulon, already had National Front mayors, but Madame Megret won with a clear majority, while the others had only gathered a plurality. It didn't help to calm people's worst fears when the newly elected mayor told a German reporter that she would like to see naturalized immigrants stripped of their French nationality and deported, and that French employers should be required to hire only French citizens, or pay higher taxes if they insist on hiring foreigners.

The importance of the election was greatly overblown — one might have thought that the National Front was about to take over the whole country in a coup d'état. Memories of an earlier time when French fascism had triumphed and brought disgrace upon the nation came back to haunt many. Now, it was felt, the time had come to take a stand against the National Front, and the immigration bill still awaiting passage was the perfect medium to carry this message.

The film world took the lead. A few days after Vitrolles, 59 actors, directors and producers well-known to the public signed a declaration that they would disobey Article I, and would not report the departure of their foreign guests. They took little risk in doing so, for no penalties were to be imposed on those who failed to return the departure form, other than a refusal to issue subsequent certificates of domiciliation to a delinquent host.

The cinema folks were followed by 155 writers of some reputation. From then on, the movement spread quickly. Eleven hundred journalists (many no doubt reporting on the developing immigration story) added their names. New lists of people deemed influential — theater professionals, university professors, psychiatrists, architects — joined the coordinated campaign to keep the names coming. A union of magistrates also signed on. "Immigrants with names difficult to pronounce," college and high school students, doctors and dentists, the lists of people calling for civil disobedience exploded. Several Internet home pages were launched to recruit more protesters.

While the legislation was under consideration by the Senate, the protesters took to the streets. In one impressively disciplined march, an estimated 100,000 people walked the Paris streets in total silence toward the East Railway Station, an empty suitcase in their hands. The symbolism was vivid — they retraced the route of the mass deportations during the Nazi occupation. It was perhaps too vivid; some who had actually been forced to walk that route leading to the concentration camps were scandalized by the inappropriate parallels the organizers implied, and made their objections known.

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The media gave the impression that the government was under irresistible pressure, and would cave in at any moment. Yet the results of several opinion polls showed that the reforms had strong popular support. They offered a counterweight to the protests, and kept the majority politicians in the legislature in line. In March, the Debré laws were passed, with some adjustments. In a compromise, Article I was changed to require that hosts notify the "préfêt" rather than the mayor — a more remote figure in the life of the community, yet one closer to the central government. For reasons only the French can appreciate, this arrangement seemed less objectionable. Other changes accommodated minor criticism from the Council of State, which gave its blessing to the amended laws.

Incredibly, after a tumultuous year, major reforms to curtail illegal immigration in France had passed all the hurdles and had become law. It remained to be seen whether they would work.

Legislative Elections, May-June 1997

In April, President Jacques Chirac decided to dissolve the National Assembly and called for new elections a year before the current Assembly term expired. A set of complex calculations had convinced him that his chances of retaining his parliamentary majority were better at that time than a year later.

In the course of the short and intense campaign, the out-of-power Socialists, uneasily allied with the Communists, promised to create 700,000 publicly financed jobs, a 35 hour work week, and to move the retirement age to 55. They also promised to annul the Pasqua and Debré laws.

Chirac miscalculated. His party lost, badly, undone by the National Front's spoiler strategy of denying victory to the Right by tacitly throwing its support to the Left.

On election night, spokesmen for the "paperless" announced that a delegation was on its way to collect on the Socialist's promise of "papers." That promise was quickly restated by Leonel Jospin, the new Prime Minister. The delegation, which included some veterans of the "St. Bernard collective," was well received in the Prime Minister's office.

Legalization has been offered to an unknown number of clandestine residents, estimated to be at about 40,000, but possibly much higher.

New laws, steeped in the rhetoric of human dignity, generosity and compassion, are expected to be introduced this summer. The Debré and Pasqua laws await revocation. TSC