Access to social security benefits by members of ethnic minorities in France

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ACCESS TO SOCIAL SECURITY BENEFITS

BY MEMBERS OF ETHNIC MINORITIES IN FRANCE

By

JANE BALLANTYNE

A Master's Thesis

Submitted in partial fulfillment of the requirements
for the award of

Master of Philosophy of the Loughborough University of Technology

22nd August 1989

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ABSTRACT:

**ACCESS TO SOCIAL SECURITY BENEFITS BY MEMBERS OF ETHNIC MINORITIES IN FRANCE**

BY JANE BALLANTYNE

This thesis examines the way in which the social security system in France treats non-nationals and members of ethnic minorities. The investigation covers three main areas: consumption of benefits by non-nationals; legal entitlement members of ethnic minorities, and administrative and cultural barriers to take-up.

It is demonstrated, with the evidence of the cost-benefit analyses on immigration produced in the late 1970s, that non-nationals, and especially those from outside the EEC, are not a disproportionate drain on the social security system, and indeed that it is probable that immigration has contributed to a lower deficit in the social security budget than would otherwise be the case.

An analysis of the detail of French social security legislation concludes that, far from reflecting the just and equitable principles which underpin it, ethnic minority claimants suffer a high degree of legal discrimination. The interplay between immigration law and social security entitlement, and the cultural assumptions upon which social security law is based, are shown to be the principal causes of such discrimination.

The practical application of social security law to members of ethnic minorities is investigated by means of an analysis of the demands of the claiming process for selected benefits. Evidence from a number of sources, including anecdotal evidence gathered from interviews carried out in France, leads to a number of preliminary conclusions. Poor language and literacy skills; fear and mistrust of an alien bureaucracy, and discriminatory treatment by social security officials contribute to the creation of barriers to the full realisation of social security entitlement by members of ethnic minorities.
Many people have helped me to research and put together this thesis. In particular, thanks are due to my supervisor, Dr Alec Hargreaves, for his unfailing support, his clear-sighted analysis and his attention to detail. I am very grateful to my partner, Simon, who has encouraged me throughout, and done more than his fair share of childcare and housework.

I would like to thank the following people who gave up much of their time to share their experience and knowledge with me, and who provided me with valuable insights into many of the issues I discuss in this thesis: M. Patrick Mony of G.I.S.T.I. (Groupe d'Information et de Soutien des Traveilleurs Immigrés); Mme C. Henocque of S.S.A.E. (Service Social d'Aide aux Emigrants); M. Quatrelivre of the D.D.A.S.S. (Direction Départementale d'Aide Sanitaire et Social) in Nanterre; Mme Annie Gollot of the C.S.S.T.M. (Centre de Sécurité Sociale des Travailleurs Migrants), and Mme Cathérine Withol de Wenden of the C.N.R.S.

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INTRODUCTION

Immigration policy in Western Europe this century, and particularly since 1945, has developed, not surprisingly, in direct response to the economic needs of the host countries. In the 1950s immigration from both Southern Europe, and from the Third World into the main industrial nations increased dramatically. The labour and skill shortages hampering post-war reconstruction led to recruitment of workers abroad - from Italy, Spain and Yugoslavia, and later from North-West Africa, workers came to the car factories and building sites of France; and London Transport recruited directly in the West Indies.

Official immigration policy developed on an ad hoc basis, legitimising existing practices and responding to the needs of employers. Immigration controls reflected the general aim of recruiting to fill the gaps in the workforce. As such, in France a system of work and residence permits developed which restricted immigrants to certain types of work, and to settlement in designated départements. O.N.I. (Office National d'Immigration - the organisation responsible for co-ordinating recruitment and settlement of immigrant workers) carried out extensive health checks on prospective entrants. This was intended to ensure that only those workers who were physically fit were given entry clearance; such workers would be an asset to the workforce and unlikely to incur expensive medical costs. The entry of dependants was not encouraged in the case of Third World immigrants, since they were of no economic benefit to France. (1)

In the 1950s across Western Europe public perceptions were, on the whole, favourable to immigration. Immigrant workers were generally accepted as making a necessary and useful contribution to reconstruction and post war growth. With the onset of the oil crisis and spiralling unemployment, both public perceptions and immigration policy changed dramatically. There was no longer a
need to import labour. As such primary immigration was stopped in France in 1974 and in the UK in 1973, with the implementation of the 1971 Immigration Act.

The recession hit those sectors of industry with a high proportion of immigrant workers particularly hard. As a consequence unemployment grew in the immigrant community. Many young men, who had moved to France as workers, had to claim unemployment benefit; the increase in secondary immigration meant that their dependants also claimed social security benefits. Public fears and discontent, whipped up by the popular press, found in the immigrant community a convenient scapegoat for all the ills of unemployment, inflation and the developing crisis in funding the social security system. Economic, and equally important, political considerations led not only to the tightening up of immigration laws, but to restricting access by non-nationals to the social security system. In 1986 the Loi Pesqua introduced a new requirement for entry clearance: proof of adequate moyens d'existence (means of support), the implication being to discourage entry of people who might have to claim means-tested benefits. In the U.K. such a provision has been in force for some time; entry clearance is given subject to the condition that the immigrant should have "no recourse to public funds" (public funds is defined in the Immigration Rules as the means-tested benefits).

Immigrants, and as a consequence all members of ethnic minorities began to be depicted as scroungers, unwilling to work and content to live on the largesse of the social security system. In November 1984 the News of the World and the Daily Mail ran prominent stories under the headline, "£470 a week Abdul". The implication in the headline is clearly that this man was receiving this sum as a cash benefit, and consequently living a life of luxury. In fact he had been housed in a hotel at this cost by a Local Authority under its duty to house homeless persons, as there was no other accommodation available. Jean-
Marie Le Pen's virulent and racist speeches, given wide coverage in the media, have done much to popularise this theme in France, suggesting that immigrants are a burden on the social security system, using up funds which should, by right, go to 'real' French families.

Such racist imagery is not new - the caricature of the 'lazy native' is one that has subsisted since the colonial period. Writing two hundred years ago, for example, E.Long stated:

Africans were brutish, ignorant, idle, crafty, treacherous, bloody, thievish, mistrustful and superstitious people. (3)

In similar vein, Thomas Carlyle, writing on the problems of creating a competitive labour market in the West Indies, stated:

Where a black man, by working about half an hour a day (such is the calculation) can supply himself, by aid of sun and soil, with as much pumpkin as will suffice, he is likely to be a little stiff to raise into hard work. (4)

The reasons for the resurgence of such imagery are rooted in a complex relationship between changed economic conditions and increasing tension in community relations. Such tension has grown out of fear and suspicion and has been expressed in terms of apparently 'objective' economic grievances. Immigration policy, initially responding to largely economic demands, has increasingly become a political issue. Restrictions in access to social security benefits can be interpreted as a response to political pressure, with governments feeling a need to be seen to be doing something about the problem. Behind the smokescreen of economic necessity, immigration legislation during the last ten years in both France and the U.K., has in fact done little more than make life more difficult and precarious for the settled minority communities in Europe, feeding rather than allaying racial tension.

There is no longer any primary immigration from the Third World into European countries; the only groups who can apply for entry
are dependants, and asylum seekers and refugees. The number of such applications annually are minimal and can be counted in tens rather than hundreds of thousands. However immigration legislation of the last decade has imposed draconian restrictions on the entry of such groups, with results that are not only inhumane and contravene commitments to the UN Declaration of Human Rights, but that, because of the small numbers involved, make little sense in the economic terms used to justify such action. Equally, restrictions in access to social security benefits for non-nationals cannot be justified financial terms, but they do have the result of increasing insecurity, poverty and resentment. For example, in both France and the U.K. if a spouse or fiancé of a citizen is granted entry, this is generally on the condition, for the initial 12 or 15 months in France, that the 'sponsor' proves that s/he has sufficient means to support his/her (future) spouse, and similarly in the UK that the new entrant should not have 'recourse to public funds'. In order for a foreign spouse to be accorded settlement rights in both countries the couple must prove that the marriage is genuine, which generally implies that they have lived together for that initial period. Since they are effectively excluded from claiming social security benefits, and in France, the new entrant is not allowed to work, the strain on their marriage may be so great that they are unable to show that the marriage is genuine!

It appears that the intention behind recent immigration policy, and the resulting effect on social security entitlement, is to discourage immigration by the few still allowed entry, and by making life less secure for settled immigrants, to encourage them to return to their country of origin. Immigration controls in both France and the UK have always been concerned with controlling the movement of poor people. Those with significant financial resources have traditionally been excluded from restrictions on immigration. This has been illustrated recently by the Hong Kong crisis in the UK. Public disquiet about giving rights of settlement to three and a half million British passport...
holders in Hong Kong has been expressed in terms of the potential burden on national resources, notably those of the welfare state. While the government has echoed this disquiet in refusing to grant rights of settlement, it has been at pains to emphasise that people of independent means, that is with £150,000 or more at their disposal, will be granted admission.

* * *

Research into the complex and often controversial field of access by ethnic minorities to social security benefits in France has so far been fragmentary. I have attempted to survey all existing published work in this field, and to gain additional information, where possible through a number of formal and informal channels.

The thesis is divided into three parts. Chapter 1 treats the question of consumption of benefits by non-nationals as a means of examining the reality behind the view that immigrants (i.e. black people) are scroungers. Chapter 2 discusses the legal mechanisms by which non-nationals are restricted in their entitlement to benefit. Finally, Chapter 3 examines the practical problems experienced by ethnic minority claimants in gaining access to their social security entitlements, and discusses the methodological difficulties involved in gathering the necessary data.
INTRODUCTION - NOTES

(1) For an overview of immigration policy in France see:
WITHOL DE WENDEN, Catherine, Les Immigrés et la Politique, Presses de la Fondation Nationale des Sciences Politiques, 1988

(2) News of the World, 18th November 1984 and Daily Mail, 19th November 1984

(3) LONG, E, History of Jamaica, 1774

(4) CARLYLE, Thomas, cited in CURTIN, P, Imperialism, New York 1972, p. 139
CHAPTER 1 - CONSUMPTION OF BENEFITS BY NON NATIONALS

1.1 Cost-Benefit Analyses: Context and Problems

Post-war immigration from underdeveloped countries into Western Europe was initially perceived as a positive and valuable contribution to reconstruction and economic recovery. Passengers aboard the liners arriving in Southampton from the West Indies in the 1950s were given a warm and enthusiastic welcome: Pathé newsreels presented the new arrivals as patriotic 'friends from overseas' come to join in the great 'national effort'. Between 1950 and 1974 I.N.E.D. polls in France demonstrated an increasing willingness on the part of the French public to accept immigrants, and an acknowledgement of their economic utility. (1)

By the late 1960s in the U.K. and the mid 1970s in France the mood and perceptions of the host societies had begun to change. With the deepening economic recession in the wake of the oil crisis combined with increasing racial tensions, immigration was no longer seen by the public as a good or even useful phenomenon. Popular consciousness, moulded by the mass media, saw immigrants as a drain on French society: taking jobs which would otherwise be open to French nationals, and as a burden on the French welfare state. (2)

From 1976 onwards, in response to the situation a number of 'cost-benefit' analyses have been undertaken, which attempt to address such questions. The style and content of the research has differed widely: from narrowly quantitive exercises based on apparently objective economic castings, to work taking a broader and more qualitivative approach, attempting to tackle social and cultural issues. A major problem has been in the selection of indicators on which to base even the most preliminary of findings. These range from the effect on the balance of payments of the transfer of funds overseas, to more problematic questions
relating to the effect on French society of cultural diversity. Other aspects considered include the effect on patterns of employment, on the falling birth rate, on the provision and funding of the Welfare state, and the costs of additional provisions such as language and literacy training, specialist social work and housing provision.

The oft quoted truism that statistics can be massaged to prove whatever one wants is especially apt in this case. Not only does the framework of the debate keep being shifted to include or exclude particular factors, but access to the necessary data is extremely problematic. This is partly due to the sensitivity of the issue which results in a reluctance on the part of official organisations to provide researchers with the necessary material, but also because since 1982 it has been illegal to keep official records based on ethnic origin. In a report on immigration produced for the Commissariat de Plan, published towards the end of 1988, the authors comment on the consequences of such a policy:

L'argument de la non-discrimination - qui fonde le secret statistique - entre Français et étrangers, louable dans son principe, se retourne contre ceux qu'il tend pourtant à protéger, l'impossibilité de travaux scientifiques ouvrant le champ aux chiffres les plus fantaisistes. (3)

A clear example of the way in which available data can be used to prove opposing views is in the analysis of the effect on France's balance of payments of the transfer of funds abroad. The argument that it is a major factor contributing to a potential balance of payments deficit goes as follows. Economic migrants, often young and single, or leaving spouse and children in the country of origin, come to France to work, with the intention of sending money home to their family and relatives and/or saving against their return. They maintain their living expenses at a minimum level in order to facilitate this, and transfer a large
part of their earnings out of France thus increasing the balance of payments deficit. (4)

The counter argument, based on very similar data, points out that this is over simplistic. If the money were not to be transferred, consumption in France would be liable to increase with a consequent rise in demand for imported goods. Thus the effect on the balance of payments might be equally, if not more, serious. As the situation stands the money transferred abroad usually goes to countries to which France is a major exporter; thus the balance of payments is actually improved by increased exports. In a government report Anicet Le Pors concludes that:

Dans la situation économique concrete d'aujourd'hui, les travailleurs immigrés contribuent en effet à la capacité exportatrice du pays et leurs transferts mêmes induisent des exportations françaises. (5)

It is an argument which can never be resolved—neither of the hypotheses can be definitively proven or disproven.

A further illustration of the way in which the 'facts' of immigration are open to manipulation is in the area of employment. One aspect of the discussion concerns the role of immigration in post-war reconstruction. The 'positive' role played by importing labour is 'demonstrated' by France's rapid modernisation in the 1950s and 1960s. Immigration provided a cheap and mobile labour force which, in solving the problem of a labour shortage, facilitated this economic progress. The opposing argument puts forward the view that this was a short-sighted solution, with the consequence that cheap, unskilled labour has discouraged capital investment in modern equipment, and so stunted technological innovation and development.

Examples of the way in which the facts or statistics can be turned on their head in such ways are numerous, and serve to illustrate the complexity of the debate. This does not mean that cost-benefit analyses are irrelevant or without use. Rather, it
emphasises the need for caution in approaching the question, and illustrates the importance of avoiding snap judgements. This must obviously be the case in any such analysis, but here, where preconceptions and prejudices on both sides are numerous, such good practice is all the more vital.

Perhaps the greatest value of such exercises has been to redress the balance in the debate and to challenge the simplistic view referred to at the beginning of this chapter, that immigration is responsible for both unemployment and the crisis in the French welfare state.

The aim of this chapter is to examine in detail one aspect of the debate, that is to assess the effect of immigration on the social security system by looking at the pattern of consumption of welfare benefits by immigrants.
1.2 Immigration and social security

The crisis in the social security system has injected a particularly topical note into the debate. The image of the 'lazy native' of a former era has become the social security scrounger of today, a convenient scapegoat for problems whose real causes are far less easy to identify. That this theme should be exploited by the 'Front National' is not surprising. The following extract from a speech made by Jean-Marie Le Pen in the run up to the legislative elections in 1988 illustrates the point:

Les jeunes couples français n'ont pas assez d'enfants parce-qu'ils n'ont pas les logements sociaux qu'il faut. Ils n'auront jamais de HLM car il y aura toujours une famille sénégalaise de sept, huit ou neuf enfants pour passer devant eux. (6)

However it is not only the extreme right who propound such views, the traditional right also make use of the same ideas. For example in February 1985 the 'Club 89', founded by Michel Aurillac - later a minister in Chirac's government - produced a work entitled 'Une Stratégie de Gouvernement'. In the third chapter, 'Maîtriser l'Immigration', there are assertions to the effect that immigrants benefit disproportionately from social security payments, especially from family benefits because of the greater number of children in most immigrant families. There is the clear implication that this is at the expense of native French families. The conclusions of this publication were, it appears, accepted by Chirac, Barre and Giscard d'Estaing - the principal leaders of the French right and centre-right. (7)

Before examining the available research in this field I propose to outline briefly the nature of the crisis in the French social security system. It is rooted in three particular demographic and social factors: the ageing population combined with a lower birthrate; the rise in long term unemployment, and the greater
consumption and escalating costs of health care. A fourth factor worthy of consideration is that the whole system is unwieldy, made up of a large number of both private and public organisations, a headline in Le Monde sums it up as "Une mosaique de caisses et de regimes". The same article goes on:

La complexité du système français, constitué de multiples régimes à base plus ou moins reliées entre eux et différents par leur financement comme par leurs prestations, en fait un casse-tête même pour les spécialistes. (8)

This has the consequence that central planning and government social policy initiatives are difficult to implement.

The cost of providing health care has, in recent decades risen dramatically. Not only has demand risen with improved health education, but so has the actual price of treatment with the development of ever more sophisticated medical technology. An additional strain on the provision of health care is the increase in the proportion of elderly people in France's population, who along with babies under a year old, are the greatest consumers of medical treatment. (9)

The improvements in health care combined with a better standard of living are major factors in contributing to the increase in the numbers of old people in France. Since 1970 average life expectancy has increased by 2.9 years for men, and by 3.7 years for women. This factor combined with the lowering of the retirement age - the number of men working between the age of 60 and 64 halved between 1971 and 1983, and the number of women of the same age has fallen by a third in the same period (10) - has put an enormous strain on pension schemes. As the proportion of contributors to pensioners drops, the pension schemes are struggling unsuccessfully to balance their books: predictions for 1988 show the main pension organisation with a higher deficit (19.23 billion (US) Francs) than any other part of the social security system. (11)
An additional cause of the drop in the proportion of contributors to those on benefit throughout the social security system is the rise in unemployment, especially long term unemployment. This has itself given rise to other problems, in that there are large numbers of people who have paid insufficient contributions to claim unemployment benefit or whose benefit, which is time-limited has run out - 40.7% of the total number unemployed were not entitled to any unemployment benefit in December 1987. (12) If they do not have children they are left with no source of income that they have a right to. The French parliament has recently passed legislation which will ultimately introduce a guaranteed minimum income for everyone, but the indications are that it will be some time before this is fully implemented.

The causes of the problems in the French social security system are for the most part common to the majority of countries in the developed world, who have experienced similar, although not always such pronounced, demographic and social developments. There is however a significant difference in the way that the discussion is framed in France, as compared to, for example, the UK. A selection of headlines from Le Monde illustrate the form that the debate takes: "Dépenses en hausse.... et recettes en baisse", "De l'excedent au déficit" and "Les comptes année par année". (13) The crisis is expressed in terms of a budget deficit, with the social security system running on an overdraft.

The reasons for these perceptions are rooted in the underlying principles of the French welfare state. As in many other countries it developed after the war, based on a system of state insurance. People in work pay a proportion of their earnings to cover the main risks of unemployment, sickness, old age and industrial injury. Employers pay an additional contribution per employee also based on a percentage of the gross wages. In addition they fund the majority of the programme of family benefits paid at the rate of 9% of each employees earnings. The percentages are subject to an upper earnings limit, as such the
system is fundamentally one of horizontal rather than vertical redistribution, with the lower paid bearing a disproportionately higher burden. Entitlement to benefit is based principally on satisfying the relevant contribution conditions. There are a number of state administered benefits funded by taxation in the name of solidarité nationale, but compared to, for example the UK, this makes up only a small proportion of overall spending.

In the U.K. National Insurance benefits are, as in France, paid out of an identifiable fund with entitlement dependant on meeting the relevant contribution conditions. However, unlike France, the low level at which such benefits are paid has had the effect that the National Insurance budget has been in credit for many years. It is the income related (means-tested) benefits that have become the central part of the British social security system. Entitlement to these benefits is based on criteria of need, not contributions: as such the increase in spending on health and social security in Britain does not lend itself to being expressed in terms of a budget deficit.

There is a view that the social security budget is a finite fund, which may be exhausted by overconsumption by any one section of society. This attitude is based on a misconception of what a system of state insurance actually represents: it is only finite, and therefore possible to exhaust, if a political decision is taken not to raise contribution levels, or to supplement the fund from general taxation to meet demand. It is in fact a form of taxation, intended to be redistributive, the contribution levels can be adjusted in the same way as income tax rates and allowances. Since the language of a state insurance system is so similar to that of private insurance schemes, it is understandable that there should be an obsession with the view that some people, and immigrants in particular, are getting out more than they paid in. This might be a legitimate view in for example, a private pension plan, where the pension realised would be entirely dependant on the money paid in and invested. However
in a state insurance scheme is intended not to give a return on investment, but to be redistributive, it is not a tenable view. The authors of the report to the Commisariat de Plan, cited above, point out that:

Dans un système de protection sociale combinant traditionnellement les principes d'assurance, de répartition et de solidarité, présenter un bilan financier relatif à une population spécifique peut sembler une démarche discutable; n'est-il pas tout aussi artificiel de prétendre bâtir un bilan de la protection sociale des immigrants que ce le serait pour n'importe quelle autre catégorie sociale choisie en fonction de son âge, de son revenu, de son sexe, de son lieu de résidence ou de son secteur d'activité? (14)
1.3 Family Benefits - 'overconsumption' by immigrants?

In analysing the available data on immigration and consumption of benefits, I will concentrate on three main areas: family benefits; health care, and industrial injury payments. The reasons for this are firstly that these areas are the most contentious - rumours and wild assumptions abound; and secondly because, for reasons not unconnected with the first point, there is significantly more data available.

Family benefits in France are administered by the Caisses d'Allocations Familiales (CAF). The bulk of the expenditure goes on Allocations Familiales (AF - the approximate equivalent of Child Benefit in the United Kingdom, but only payable for second and subsequent children). There are then a range of specific benefits, mainly means-tested, designed to help families on a low income with, for example, housing costs or to meet the needs of lone parents.

Recent research by the CAF, based on a sample survey of 2% of claimants, indicates that non-French, and especially non-EEC families receive a disproportionate share of family benefits. At 31st December 1985, of the 4 million families claiming family benefits, 88.7% were French, and 3.8% nationals of a non EEC country. However of the proportion of total benefits paid out 84.5% went to French families and 9.5% to non-EEC nationals. <15>

A study carried out in the mid 1970s in Grenoble, which compared the number of contributors to the number of claimants of benefits, established that the proportion of French claimants was lower than that of contributors (74.9% against 83.75%). For non-nationals the opposite was true - 25.04% of claimants against 16.25% of contributors. <16> A study carried out by ENA students in 1984 came up with comparable results: the proportion of family benefits received by non-nationals was 14.4% of the total, whereas their share of the contributions was only 7.9%. <17>
On the face of it therefore, foreign families, and especially those from outside the EEC, receive a disproportionate share of family benefits, and are a considerable financial burden on the system. However such a statement is both simplistic and misleading. The question arises as to what this share is disproportionate to. Clearly it is disproportionate to their contributions, however in a system designed to meet certain social policy objectives, involving, for example, redistribution from rich to poor and from those in work to those unable to work, such an approach is hardly appropriate. A more relevant and productive approach is surely to analyse whether the consumption of benefits by non-nationals is disproportionate to their needs, as defined by the system itself.

One of the major reasons for the 'overconsumption' can be explained with reference to the sort of criteria upon which payment of family benefits depend. The size of the family, the age of the children, and - for the means-tested benefits - the level of income are the principal factors in determining the requirements of families and therefore the level of benefit payable.

The higher birth rate among non-EEC families - 33% have four or more children, as compared to only 6.6% of French families - when combined with the level of income is clearly the most significant factor. Figures based on déclarations de ressources (statements of income, completed by claimants of means-tested benefits) received by the CAF, show that 48.2% of French families earned over 90,000F in 1985, as compared to only 13.5% of non-EEC nationals. At the other end of the scale only 11% of French families had an income below 50,000F, whereas the proportion of non-EEC families was 37.2%. Since these figures are based only on those who filled in forms to claim means-tested benefits, the true difference may be considerably higher as only the poorer sections of society will claim means-tested benefits.
When these two factors are combined, it is clear that the greater the number of children, the lower the income is likely to be. Although this is true for both French and non-EEC families, there is a much greater proportion of large non-EEC families on a very low income: of those with four or more children approximately three-quarters have an income below 70,000F, but this is true for only about half of the French families of a similar size. (19)

One of the most likely causes of this is that the number of women who work, and therefore contribute a second income, is much lower in non-EEC families, due to a combination of cultural and social factors - for example the acceptability of women working, and the lower level of skills and/or qualifications. In families with two children two-thirds of French women go out to work, and only 40% of non-EEC women; in families with four or more children the proportions are a quarter to 12.3% respectively. (20)

When these two factors alone (size of family and level of income) are fed in to the comparison, and like is compared with like, then, logically enough, the disparity virtually disappears. There remain, however a few areas where a disparity remains, and other factors need to be considered. One such area concerns families with two children where there remains a disparity of between 10% and 20% in favour of non-EEC families. This can probably be explained with reference to the age of the children: non-EEC families of this size often contain very young children since the family is still in the process of growing. They are therefore more likely to qualify for a special benefit - Allocation au Jeune Enfant (AJE). (21)

There is one particular area of benefits which shows a markedly higher level of consumption by families from outside the EEC - those for single parents. There are two benefits available: Allocation de Parent Isolé (API) which is means-tested, and Allocation de Soutien Familial (ASF), which is not, and is designed to minimise the loss of income where no maintenance is being paid. The proportion of non-EEC lone parent families in
receipt of API is 23% compared to 15% of French families. This is clearly attributable to the lower earning power of non-EEC women, and to the higher average number of children. The disparity in payments of ASF (57% of non-EEC single parent families as opposed to under half French families) is probably the result of a lower divorce rate among non-EEC couples, particularly those in the Muslim community. In these circumstances, therefore, there is less likelihood of a proper maintenance arrangement through the courts. (22)

The scheme to help families and some other people on a low income with their housing costs is also administered by the CAFs. There are two sorts of benefit available. The difference stems from a policy decision to encourage landlords to improve their rented housing stock. As such, tenants of accommodation built after 1977, or improved to specified standards receive a different, and in some cases, a higher level of, benefit (Aide Personnalisée au Logement - APL) than do those in older, unimproved accommodation (Allocation de Logement Familial - ALF). When the figures are examined, with adjustments made for the fact that housing costs, and therefore the maximum allowable rent, are higher in Paris and other major conurbations where the majority of the immigrant community is concentrated, roughly the same proportion of French and foreign families receive some sort of help with housing costs. However, as Antoine Chastand of CNAF points out:

   Si les Français se répartissent globalement moitié-moiité entre ALF et APL.....les étrangers bénéficient massivement de l'ALF au détriment de l'APL. De plus l'aide qu'ils perçoivent, ALF et APL confondues est toujours légèrement moindre, toutes choses égales par ailleurs. (23)

If non-EEC citizens claimed the two benefits in the same proportions as do French people, then the amount received would be between 15% and 20% higher, mainly because the accommodation covered by APL is generally more expensive. The consequence is therefore that non-EEC families, as a result of the lower
standard of housing to which they have access, are effectively discriminated against by the benefit system.

In a social security system intended, at least to some extent, to redistribute income in favour of those in greatest need, it is hardly surprising that the poorest members of society, and those with highest child care costs, should benefit more than the average. As Guy Herzlich commented:

On aurait sans doute obtenu des résultats moins contrastés, mais comparables en examinant la situation des familles ouvrières, leur fécondité étant aussi supérieure à la moyenne. (24)

The fact that non-EEC families receive a greater share of family benefits than do French families as a whole does not establish that they are actually receiving either all they need, or all that they are entitled to. In fact there is persuasive evidence to the contrary, which suggests that despite the apparent 'overconsumption', the CAF is actually making a net profit from immigration, due to the condition of residence required to claim most family benefits.

The CAF study cited above, looked only at non-EEC families as a proportion of all claimants resident in France. If, as in the Grenoble study of the mid 1970s, one combines the total number of claimants both in France and abroad, then a somewhat different picture emerges. Although the figures quoted earlier from this study showed that the ratio of non-EEC contributors to beneficiaries is lower than that of French contributors to beneficiaries, this does not reflect the level of payment received. This is because only one benefit - AF - is payable overseas, and it is paid at a significantly lower rate than in France. In 1972 the average monthly payment of AF per child resident in France was higher for non-EEC children (106.90F as compared to 89.72F). This was principally due to the social and demographic factors outlined above. However when the figures for
those children on whose behalf AF was being paid abroad were added in, then the balance swung the other way - for Portugese, Tunisian and Algerian nationals the figure was 73.34F per child as compared to the 89.72F for French children. (25)

The authors of the Grenoble study, Cordeiro and Verhaeren, then explored the consequences likely to arise if the families of immigrant workers, left the country of origin to take up residence in France. Since entitlement to the full range of benefits is strictly dependant on residence in France, they would then be entitled, not only to AF paid at a higher rate, but also to the other benefits.

Based on figures from the CAF in Isère, Cordeiro and Verhaeren calculated the likely additional costs which would be incurred as a consequence. The complicated calculation took into account factors such as: the average number of children per family by nationality; the distribution of age, since this affects the level of benefit payable, and the probable number of families with only one child receiving AF, who would not qualify in France. The study arrived at two possible figures: the first based on the official numbers of claimants, where the estimated additional cost to CAF would have been 1.358 billion (US) Francs; 1.129 billion (US) for North-West Africans alone. The second figure was based on results of other research which had strongly suggested that, due to a range of administrative problems, a significant number of families abroad were not receiving benefit to which they were entitled. In this case the total annual 'saving' was estimated at 1.824 billion Francs, with 1.517 accounted for by North-West Africans. The actual payment of AF abroad was only 15.08% or 11.68% respectively of the total payable if these families lived in France. (26)

The authors point out that there would be no problem for CAF in finding this additional sum, since at 15th March 1972 the organisation had a surplus of 7.103 billion (US) Francs. (27)
In 1987 the surplus was actually only in the order of 0.17 billion (US) (28), but the fact remains that if it were not for the savings made on the basis of the contributions of non-EEC workers with families in the country of origin, then there would be an enormous deficit - or contribution levels would have to be raised. The contribution to Fonds d'Action Sociale (FAS - an organisation which provides certain specialised social services and housing for the minority communities) is made in acknowledgement of this 'profit'. However in 1972 it was 98.112 million Francs (29), a tiny proportion of the estimated savings. The supposed reciprocity through bi-lateral social security agreements is generally argued to be another factor in lessening this 'profit'. However, this is an unrealistic view because it takes no account of the actual flow of migrant labour, comparatively few French people go to work in North-West Africa and those that do are generally part of company organised welfare schemes based in France.

The authors of the Grenoble study conclude:

Au niveau des allocations versées hors-métropole, il existe une distortion considérable dans la redistribution des revenus en fonction de la charge familiale. Alors que les allocataires étrangers sans famille en France cotisent dans les mêmes conditions que tous les autres, le niveau de leurs prestations familiales est dérisoire. (30)

This probably remains substantially true today, because although there has been increased family re-unification, there remain significant numbers of single immigrant workers, partly as a result of the strict conditions imposed on those workers who wish to bring in dependants.
The question of health care costs is an especially contentious one: there is a widespread view that North-West Africans make unreasonably heavy use of hospitals, in particular, putting an already stretched health service, under further strain. This argument has even less of a basis in solid fact than that concerning family benefits.

According to a report produced by a group of students at the École Nationale d'Administration (ENA) non-nationals were responsible for 7.6% of contributions for health insurance, and for only 6.3% of the expenditure. (31) An INSEE-CREDOC survey in 1980 showed that health expenditure on the minority group held most responsible for overuse of health care facilities, the North-West Africans, represented only half of that for Portuguese, Italians and Spanish immigrants, and as little as a third of that for French nationals. (32) It is clear therefore that non-EEC nationals are far from constituting a disproportionate burden on the health service.

There are however significant differences in the pattern of consumption, especially between North-West Africans and French people. Visits to a G.P. are far less frequent for the former group, an average of 3.14 visits per annum, as compared to 5.29 for French patients. (33) The frequency of hospital attendance is however higher for North-West Africans, 54% as against 48%. Here there would appear to be an element of truth to the public perceptions noted above. (34) Yet despite the higher level of attendance, the actual average cost remains lower, 2130F to 2367F (35) for three principal reasons. Firstly, there is some use of French hospital treatment by non-residents who are liable to pay the full costs. Secondly there is a high incidence of industrial injuries among immigrant workers, in which case the cost is met by the employers. Thirdly, the reasons for admission of North-
West Africans are often significantly different from those of French people, and may not require the use of expensive medical technology.

It is both interesting and relevant to a discussion of costs or benefits of immigration to provision of health care, to examine the reasons for the differences in the pattern of consumption outlined above. One of the most important reasons for the overall lower level of consumption is due to the 'high quality' in health terms, of immigrant workers who come to France. Before being given leave to enter France they have to undergo a thorough medical examination, which sifts out not only those with serious diseases, but all those who are not fully fit. Nearly a quarter of all Algerian candidates for immigration into France in the early 1970s were rejected due to an "insuffisance staturo-pondérale". (36) In addition there is a process of self-selection which reinforces the medical controls: it is really only the youngest and fittest who have the initiative and courage to take on the challenge of emigrating for work.

The demographic characteristics of the immigrant population are another significant factor in their lower expenditure on health care. Despite the increased level of family re-unification single young and middle-aged men are still in a sizeable majority in this population. Statistics show that men aged between 17 and 39, with the exception of industrial injuries, are the lowest consumers of health care among the population as a whole. (37) It is babies, young children and the elderly who account for the highest expenditure. The over 60s who represent 19% of the French population account for 43% of total health care costs; in 1984 only 10% of the foreign population in France was over 60, (38) a considerable number having returned to their country of origin at retirement.

Children under 10 represent a greater proportion of the foreign population than of the French: 17% as compared to 13%. (39) Yet
expenditure on health care for children among the foreign population is a third less per child than for French children. (40) This can be explained by reference to social and cultural, rather than demographic factors. Patterns of health care consumption in the developed world are very different from those in the Third World where hospitals and public dispensaries are often the only available source of primary health care. Generally, medical help and expertise are sought only to deal with immediate problems of illness or injury, rather than as part of a programme of preventative health care involving for example, regular check-ups and vaccinations for young children. Immigrants coming into France naturally bring with them expectations and habits from their country of origin. This factor certainly helps to explain both the greater use of hospitals by the North-West African community, and the lower cost of medical care for their children.

Pierre Mormiche of INSEE has noted:

Les immigrants maghrébins constituent un cas extrême de 'distance culturelle' au médecin. (41)

It is at the age of forty that French (and indeed western) men start to make much heavier use of medical facilities, reflecting both the fear and the reality of stress related diseases at this age. For North-West African men of this age, this is not at all the case, possibly due in part to differences in diet and lifestyle. As Pierre Mormiche comments:

La population immigrée d'Afrique du Nord la plus âgée est plus éloignée culturellement de la pratique médicale occidentale que ne le sont les jeunes. (42)

He suggests that this may also be true of North-West African women, who play a particularly important role in shaping the attitudes of the next generation.

Whilst there is a grain of truth in the view that non-EEC nationals, and in particular Maghrébins make greater use of hospitals than do the French population, the significance of such
a factor has been crudely distorted. When the actual cost of
treatment, both specifically in hospitals and for health care in
general, is examined, it is clear that there is in fact dramatic
'underconsumption' by this section of the community. The reasons
for this are a combination of demographic factors and cultural
attitudes to Western medical practice.

In a related area, that of industrial injuries payments (both the
resulting medical needs and the subsequent invalidity pensions)
we find that foreign workers account for approximately 20% of
industrial injuries payments, but constitute only 6% of the
workforce. (43) There is not, on the whole, much controversy
about funding here, since the charges are borne by the employers,
in different proportions, depending on the risk factor of the
sort of work, and on the company's previous safety record. Since
the vast majority of immigrants are concentrated in those sectors
of the economy where the risk of industrial injury is highest -
engineering, building work etc - it is not surprising that the
statistics should be as they are.

It is, however, a matter of concern that there is some evidence
to suggest an 'underconsumption' of both necessary medical
treatment and of invalidity pensions. It appears that many
immigrant workers lose out to a marked degree, mainly due to
excessive administrative processes and related problems of
language and literacy. After a serious accident many immigrant
workers return to their country of origin to convalesce. Whilst,
in theory, their entitlement should not be affected, it is not
uncommon for claims to be lost due to the long, drawn out and
complicated procedure to establish the degree of incapacity upon
which the pension is based, a process which takes place in
France. Even if there is not the problem of prolonged absence
from France, the whole process requires such a high level of
language skills and confidence in the face of bureaucracy, that
many immigrant workers fail to argue their case convincingly, or
lack the confidence to challenge initial decisions. (44)
In addition, if the injury is such that the worker is no longer capable of doing his/her job, not only does the invalidity pension often fail to compensate for the loss of earnings, even in the best of situations, but any benefit (AF) payable to the family in the country of origin will cease if he has returned there and is unable to work. A further point to note is that there is a mass of anecdotal evidence to suggest that a significant number of employers fail to notify industrial injuries, in part because of the effect on their safety record and the consequent penalties imposed. It is not unreasonable to suppose that this occurs more frequently in the case of immigrant workers among whom lack of language skills, ignorance of their rights, and insecure employment all contribute to increase the probability of such occurrences.

It is therefore appropriate to argue that in the field of industrial injuries, not only are immigrant workers not a disproportionate burden on the system, but due to the probable loss of entitlement they are in effect subsidising the cost of the system to employers.
1.5 Conclusion - The nature of the debate

The view that the immigrant population is a drain on a hard pushed social security budget is clearly a myth. Even where apparently there is 'overconsumption' as in the case of family benefits, it is evident that this is quite simply due to social and demographic factors. When like is compared with like, then the disparity all but disappears. Furthermore it can indeed be argued that the contributions of immigrant workers have, for many years, cushioned the French social system from a much higher deficit than now exists.

The crisis in the main pension scheme is a case in point. Immigrant workers are responsible for 8.3% of the contributions and only 5.03% of the expenditure. (45) This is caused principally by the fact that those who return to their country of origin upon retirement may lose entitlement, or discover that their contributions are insufficient to qualify for a reasonable pension. In addition, once returned to the country of origin, they are unable to benefit from the 'top up' provided for people resident in France who qualify for little or no pension.

A related factor in the field of pension-funding is the higher birth-rate of the non-EEC population in France. An issue that has been the subject of so much reproach in the media is likely to prove an important bonus in future funding of pensions. The proportion of those in work to those drawing a pension has fallen in recent decades, due in part to the falling French birth-rate; the higher birth-rate in the population of immigrant origin will offset this.

Another factor in the argument that France has made a net profit from immigration is related to the concept of the profile of 'le travailleur national'. It is assumed that there is a standard pattern throughout someone's life of times when they will be on
the receiving end of social security benefits (that is during childhood, old age and sickness) and times when they will be contributing (that is, when in work). This profile is used to forecast social security provision. The profile of the immigrant worker is rather different: the country of origin will have borne the costs of educating and providing health care and child support for the worker. If, as often happens s/he returns home at retirement, even assuming that a pension is payable, it will be the country of origin which bears all the additional costs of medical and social care in old age. Based on figures from 1960-1965, at a time when the 'rotation' system was still dominant, Alfred Sauvy calculated the saving as representing twenty-five times that paid out under bi-lateral agreements. (46) This includes the fact that the principal cost of raising children of immigrant workers who have remained in the country of origin, will not be borne by France. With the increase in family reunification through the 1970s a similar calculation would not now produce such dramatic results. There are, however, a sizeable number of families who have, either through choice, or through force of circumstances remained in the country of origin, whom the immigrant worker will only rejoin permanently upon retirement. As such France continues to make considerable 'savings' in social security expenditure.

With the perceived crisis in the social security system the analysis of immigration and social security expressed in terms of profit and loss has been equated with a notion of a finite fund, diminishing at a rapid rate, in part because of the immigrant population. This is based on a particularly narrow understanding of the workings of the social security system, and of the nature of the crisis.

A system of state insurance bears no relation to for example, a private pension scheme, where contributions paid, by being invested in a growing fund, have a direct bearing on the amount of pension realised. In a system of state insurance social
security benefits are paid out of current contributions; the contribution conditions which must be satisfied for a successful claim, serve no purpose other than to control the number of claimants. Indeed the rate at which contributions are paid, and the level at which benefits are set are determined on political not actuarial grounds. It is therefore a particularly selective means of taxation to fund a system to meet identified needs. As such it is intended to be redistributive: from those in work to those without work; from young to old, and from childless to those on a low income with high child care costs. It is an absolute nonsense to single out any group who are particularly poor, and have higher child care costs, and blame them for the apparent deficit. In fact all that the existence of a deficit proves is that the proportion of people in work to those out of work has changed, and that the means of financing needs to be examined and perhaps adjusted.

The immigrant population qualifies for many income maintenance benefits because of its poverty. It was precisely this poverty that made immigration such an attractive proposition in French eyes after the war. Immigrant workers from Third World countries were willing to accept lower wages, and possibly a lower standard of working conditions than their French counterparts. These were great advantages for a capitalist economy which is able to derive many benefits from such flexibility and mobility of labour. By encouraging immigration especially from North-West Africa the French authorities brought in a sector of the population which would, by definition, be eligible for more than the average amount of benefit.

None of the authors of the various 'cost-benefit' analyses - whether their works cover a wide spectrum or are limited to a narrow range of criteria move far beyond the crude notion of profit versus loss. In any comparable study which singled out a particular part of the French population, for example the elderly or pre-school children, the emphasis would be on questions about
the appropriateness of current provision, and contain recommendations for future policy to meet the identified needs better. This provides something of a clue as to what the underlying premise of all such exercises really is. The fundamental question behind all studies, of the left or right, sympathetic to the needs of the immigrant community or not, is whether immigration is a good or a bad thing. It is a question of political importance, hiding behind the smokescreen of the apparently neutral language of economists and statisticians. As Abdelmalek Sayad points out:

Rationaliser dans le langage de l'économie un problème qui n'est pas (ou pas seulement) économique mais politique, revient à convertir en arguments purements techniques des arguments éthiques et politiques. (47)

Even the most sympathetic authors have been drawn into the debate on these terms. Even if their conclusion is that France has made a net profit out of immigration and that it can therefore be seen as a 'good thing' on the whole, they seem to accept that it is a legitimate question to ask. Yet the population of immigrant origin is now largely settled in France. It is therefore politically mischievous to suggest that cost-benefit analyses of this kind can validly discuss members of French society, especially those who have known no other home, in terms of whether or not they are an asset to France. Conducting the debate in these terms seems to carry the implicit rider that if immigration is a bad thing then the immigrant community should be dispatched elsewhere. Given that for none of the mainstream political parties is large scale repatriation a serious option, the only reason that they have encouraged and taken part in this debate must relate to political expediency: politicians wish to be seen to be 'doing something' about immigration. Such an attitude is both short-sighted and irresponsible: it has the consequence of lending credibility to the perspectives of the far right, with potentially damaging effects on race relations in the future.
CHAPTER 1 - NOTES

(1) See "Attitudes à l'égard de l'immigration étrangère; Nouvelle enquête d'opinion", Population, 29 année. no. 6, nov-déc 1974, pp. 1015-1069.

(2) See, for example, the BVA opinion poll in Paris-Match, 29 nov 1985, p.88.


(5) LE PORS, Anicet, Immigration et développement économique et social, Etudes Prioritaires Interministérielles, Paris, La Documentation Française, 1977, P.192


(7) LOCHAK, Danièle, Glissement du Discours et Pratiques à la dérive, Paris, GISTI, juin 1987, p.16

(8) HERZLICH, Guy, "Une mosaïque de caisses et de régimes", Le Monde, 20/9/85

(9) HERZLICH, Guy, "Dépenses en hausse.....recettes en baisse", Le Monde, 30/6/87

(10) "Les soldes du régime générale", Le Monde Dossiers et Documents, février 1988, Toute la Protection Sociale, p.11
(11) Ibid

(12) "Deux chômeurs sur trois indemnisés", Le Monde Dossiers et Documents, février 1988, Toute la Protection Sociale, p.8

(13) Collected in Le Monde Dossiers et Documents, op cit.

(14) Commissariat Général du Plan, op cit, p.210

(15) CHASTAND, Antoine, "La Place des prestations familiales dans les revenus des immigrés", Revue de Droit Sanitaire et Social, no 2, 1987


(17) Ecole Nationale d'Administration, Les Immigrés et la protection sociale, July 1984

(18) Commissariat Général du Plan, op cit, p.223

(19) Ibid, p.223

(20) Ibid, p.226

(21) CHASTAND, Antoine, op cit, p.233

(22) Ibid, p.237

(23) Ibid, p.236

(24) HERZLICH, Guy, "Les raisons des "avantages" des étrangers", Le Monde, 22/7/87

(25) CORDEIRO & VERHAEREN, op cit, p.39
(26) Ibid, p.50
(27) Ibid, p.56
(28) "Les soldes du régime général", Le Monde Dossiers et Documents, février 1988, Toute la Protection Sociale
(29) CORDEIRO & VERHAEREN, op cit, p.51
(30) Ibid, p.56
(31) Ecole Nationale d'Administration, 1984, cited in Commissariat Général du Plan, op cit, p.209
(32) Commissariat Général du Plan, op cit, p.211
(33) Ibid, p.211
(36) DESTANNE DE BERNIS, G., Préface in CORDEIRO & VERHAEREN, op cit, p.12
(37) MORMICHE, Pierre, "Pratiques culturelles, profession et consommation médicale", Economie et Statistique, no 189, juin 1986, p.43
(38) NGUYEN VAN YEN, C., op cit, p.284
(39) Ibid, p.284
(40) Ibid, p.284

(41) MORMICHE, Pierre, op cit, p.43

(42) Ibid, p.43

(43) Commissariat Général du Plan, op cit, p.230

(44) Ibid, p.229

(45) Ibid, p.209

(46) Ibid, p.211

(47) SAYAD, Abdelmayak, "'Coûts' et 'Profits' de l'Immigration,
    Actes de la recherche en sciences sociales, no 61, mars
    1986, p.79
CHAPTER 2 - EQUALITY BEFORE THE LAW?

2.1 Introduction

French social security and social assistance law is based on principles which are generally thought to exclude any discrimination on the basis of nationality. Elie Alfandri, a leading authority on this subject, states:

Le droit de la protection sociale, compte tenu du fondement et des finalités de celle-ci, postule l'égalité des bénéficiaires, indépendamment de leur nationalité. (1)

It is this widely accepted view that this chapter aims to examine centrally. To do so we need to consider first of all the conditions of entitlement to benefit, and the principles which underpin French social policy legislation. It will be seen that these do indeed appear to be non-discriminatory.

2.2 Guiding Principles

The French system of welfare benefits is divided into two main parts, covered by separate legislation: sécurité sociale ("social security") and aide sociale ("social assistance"). The former is based on the concept of social insurance. Regulated by the state, the system is administered by Caisses (semi-autonomous insurance companies). Contributions are paid, generally by those in employment, to cover the risks of illness, injury and unemployment for themselves and their dependents. The main criterion upon which payment of benefits is based is therefore an appropriate contribution record. The other basic criterion is one of residence in France. Family benefits operate in a slightly different way. They are entirely funded by the employers, and therefore their payment is not linked to an individual contribution record. It can be argued that the employers' contributions represent an indirect deduction from
wages. Payment of family benefits was, before 1978, subject to being in employment, although with some exceptions. Since that date the conditions of entitlement have been relaxed to include all families resident in France.

The provision of *aide sociale* complements and makes up for some of the gaps left by the social security system. It is a decentralised system, funded by taxation and administered by local authorities. The benefits payable fall into two main categories: *aide sociale légale*, which is based on entitlement, and *aide sociale facultative*, a range of discretionary benefits which, to some extent, vary depending on local need. The basic conditions of entitlement are that of residence and that of need – the benefits are means tested.

Finally there are a few other non-contributory benefits directly funded by the state, through the *Fonds National de Solidarité*, mainly for elderly and handicapped claimants. They are administered by appropriate local organisations, either local authorities or *Caisses d'Allocations Familiales* (CAF’s – the organisations which administer the payment of family benefits locally). The basic conditions of entitlement are the same as those for *aide sociale*.

Such a system does not appear to lay itself open to the charge of discrimination on the grounds of nationality. Social security law cannot distinguish between the contributions paid by immigrants and nationals, and there can therefore be no difference in the payments. As Alfandri comments: "Comment concevoir une discrimination pour des prestations fondées sur des cotisations?" (2) Equally the criterion of need for *aide sociale*, either financial or related to a specific situation, for example disability, does not make a distinction between the nationality of claimants. 'Need', although open to a wide variety of interpretations is held to be objective inasmuch as whatever definition is used, it cannot alter with nationality.
One of the most fundamental proofs of the neutrality of the French welfare benefits system is often said to lie in the fact that entitlement is conditional upon residence, rather than nationality, where both aide sociale and sécurité sociale are concerned. Residence is interpreted so broadly that virtually any non-national living in France is entitled to the same benefits as a French person. Article 124 of the Code de la Famille et de l'Aide Sociale (CFAS - the body of legislation which governs aide sociale) states:

Toute personne résidant en France bénéficie, si elle remplit les conditions légales d'attribution, des formes de l'aide sociale telles qu'elles sont définies par le présent code.

On the face of it the concept of residence for aide sociales is restricted neither to a tight legal definition involving, for example, proper immigration status, nor to a consideration of length or stability.

The Code de la Sécurité Sociale (CSS - the body of legislation covering sécurité sociale) requires simply that the residence should be in metropolitan France. Article L311-7 of the CSS states:

Les travailleurs étrangers et leurs ayants-droit bénéficient des prestations d'assurances sociales s'ils ont leur résidence en France.

In principle there is no requirement for proof of satisfactory immigration status, although Alfandri notes, in passing that family benefits are an exception to this rule.

Alfandri concedes that since a number of non-contributory benefits are funded by the state in the name of solidarité nationale, it would be conceivable for non-nationals to be excluded from some of these advantages. Equally, the degree of autonomy given to local authorities to respond to the needs of their area might also lead to discrimination. There is also the
issue that rights to social protection may, in certain circumstances, be limited by considerations of national security.

However Alfandri argues that there are a number of checks built into the French legal system which restrict the possibility of any such discrimination. The préambule to the 1946 constitution ties the hand of any legislator wishing to introduce discriminatory clauses, when it states that:

La nation garantit à tous la protection de la santé, la sécurité materielle, le repos et les loisirs

and it acknowledges

le droit d'obtenir de la collectivité des moyens convenables d'existence pour tout être humain qui, en raison de son âge, de son état physique ou mental et de la situation économique, se trouve hors d'état de travailler.

(My emphases)

That this represents more than well meaning statements of intent is confirmed by a recent decision of the Conseil Constitutionnel (23/1/87). It re-affirmed that the spirit of such principles in the préambule could not be contravened by any legislation.

To demonstrate the efficacy of such checks in limiting the possibility of discrimination, commentators point to a decision taken by the Tribunal administratif de Paris in March 1986 in response to a case brought against Paris City Council by M.R.A.P. (Mouvement contre le Racisme et pour l'Amitié entre les Peuples). Paris City Council had introduced a local benefit, Congé parental d'éducation, and restricted payment to French families only. This benefit was intended to support the income of large families, where, on the birth of a third child the mother decided to stay at home to look after the family. A monthly sum of between 1,700 and 2,000FF was payable in 1984. The Tribunal found that such a decision could not be justified; that there was no basis for discrimination either on the grounds of individual circumstances differing with nationality, nor in the interests of the effective targetting of local services to the community.
Many of the contributors to a special edition of the *Revue de Droit Sanitaire et Social* (3) point out that further checks on discrimination are to be found in international law, for example, the Geneva Convention on refugees of 1951; the European Social Charter; I.L.O. agreements on social security and social assistance, and the various bi-lateral agreements on social protection between France and certain other countries.

There is only a very limited possibility that security considerations could in any way limit benefit rights, Alfandri argues. This could occur only, he believes, where the threat faced is really serious, as for example in the case of terrorism. He bases his view on an analysis of the reasons for the introduction of social protection in the first place: that is as a means of social control. Historical analysis of the development of the welfare state in Europe makes it clear that social security provision was not the result of state philanthropy. Fear of vagrancy and social discontent, along with the needs of a developing capitalist economy, were the driving forces behind social legislation in France, as in the rest of Europe. To limit entitlement too widely would, the argument goes, carry with it serious risks to public order. Any group, in this case the immigrant population, whose means of support are removed, lose a sense of having a stake in society, and therefore any loyalty or respect for its institutions.

The conclusion to the argument outlined above is that unlike immigration law which is constantly changing and becoming increasingly restrictive reflecting the xenophobia across much of Western Europe:

*Le droit de la protection sociale fait preuve d'une remarquable stabilité, et - choix volontaire ou contrainte des garde-fous mis en place - met sur le même plan Français et immigrés.* (4)
It is essentially this view that I wish to examine. If the guiding principles are not reflected in the actual content of the laws and regulations then the assertion that immigrants and French are "sur le même plan" cannot be justified. This chapter will therefore examine in some detail the content of both domestic legislation and the bi-lateral agreements in order to assess the validity of such a conclusion.
2.3 Principles in Practice

The starting point for such an assessment is an examination of the specific conditions of entitlement to benefits, combined with an analysis of the degree to which they do in fact meet the ideal of equality of treatment between nationals and non-nationals.

A crucial component of the argument that citizens and non-citizens have equal rights to social protection is that a basic condition of entitlement to benefit is not nationality, but residence interpreted in its least restrictive sense. Whilst this principle does certainly exist, there are a number of exceptions which suggests that it is not reflected in the detail of the law.

Non-citizens who are not refugees, or who come from countries who have no agreement with France covering social assistance are often excluded from certain state funded non-contributory benefits. It is important to note that very few developing countries have such an agreement. The benefits concerned are the *Allocation Supplémentaire du Fonds National de Solidarité* and the *Allocation Spéciale Vieillesse* both for elderly people with no or limited pension rights, and the *Allocation aux Adultes Handicapés*. The law has recently changed: the condition of entitlement was based on nationality not residence, but the qualifying criterion is now to be length of residence. At the time of writing the exact length had not been stated, although it has been suggested that this will probably involve fifteen years unbroken residence in France.

A number of payments under *aide sociale*, theoretically open to all people resident in France, exclude certain non-citizens in the same way. This is done firstly by means of a condition of length of residence for specific benefits. French citizens, refugees and nationals of countries who have an agreement with
France covering social assistance, are not subject to such a condition. All other non-citizens have to fulfill a residence condition of three years for aide médicale à domicile, and of fifteen years for the range of aide sociale payments for the elderly. This is hardly consistent with the view that the definition of residence in Article 124 does not refer to the length of stay.

Further evidence of the potentially restrictive definition of residence is to be found in guidelines given by Philippe Séguin, Ministre des Affaires Sociales, in 1987 in response to a written question. He began by stating:

La condition de résidence est en règle générale considérée comme satisfaite lorsque la personne de nationalité étrangère demeure en France de manière générale, et y a son principal établissement.

But the Minister then added further guidelines as to what factors should be taken into account by the Commissions d'Admission d'Aide Sociale (the decision making body for aide sociale applications). These included

la situation de ces personnes en fonction de critères de fait, et notamment des motifs pour lesquels l'intéressé est venu en France, des conditions de son installation, des liens d'ordre personnel ou professionnel qu'il peut avoir dans notre pays, des intentions qu'il manifeste quant à la durée de son séjour. (5)

These criteria, although apparently objective are sufficiently imprecise to be open to widely varying interpretation. It will remain up to individual Commissions d'Admission d'Aide Sociale to determine what constitute suitable "liens d'ordre personnel ou professionnel", or adequate "conditions d'...installation", and whether the claimant satisfies these criteria. The lack of detailed guidance on how local officials should interpret the criteria, in effect confers on them very wide administrative discretion. This leaves open the possibility that the assessment
of an individual's circumstances will be based on subjective value judgements.

Thus whilst the condition of residence for the majority of contributory benefits is indeed defined in terms sufficiently broad that non-nationals are not generally excluded, this is clearly not the case for non-contributory benefits. Payment may be subject to conditions of length of residence as well as to potentially restrictive and possibly subjective criteria in the definition of residence.

Alfandri argues that immigration law, especially in terms of internal security and the control of illegal immigration, does not significantly affect entitlement to benefit for non-nationals. The evidence does not support this contention. Changes in conditions of entitlement to family benefits over the last decade demonstrate the 'cross-over' between social legislation and immigration law. Payment of these benefits is subject to satisfactory immigration status for both the claimant and the children concerned, unlike the general condition of residence for all other social security benefits. Alfandri concedes that this is an exception, but fails to establish the significance both in terms of the central role of these benefits in the revenue of large, low income families, and in the implications of the social security administration operating as a means of discouraging and of policing immigration.

There are a wide range of benefits under the general heading of family benefits and they form a significant, and in some cases an essential proportion of the income of low paid families. Given the fact that immigrant families are generally both larger, and have a lower income than the average, the role of family benefits is even more important for them. Official figures illustrate this fact: for non-EEC nationals living in France, family benefits can raise pre-tax revenue by more than half again (51.4%). (6)
It is instructive to examine the progressive tightening up of the qualifying conditions for family benefits, especially since 1983. Article L512 of the C.S.S. states:

Bénéficient de plein droit des prestations familiales dans les conditions fixées par le présent livre les étrangers titulaires d'un titre exigé d'eux en vertu soit de dispositions législatives ou réglementaires soit de traités ou accords internationaux pour résider régulièrement en France.

In order to interpret this provision the CAFs referred to a ministerial circular of 16th March 1983, which established a list of titres de séjour (the different categories of residence rights under immigration law) that could be accepted. It is significant that this document excluded any titre valid for three months or less, as well as the receipt of a first application for a titre. This affects both asylum seekers and recently arrived family members.

Asylum seekers on being given leave to enter France have to apply for refugee status to OFPRA (Office Français de Protection des Réfugiés et Apatrides - the body which deals with requests for refugee status). It often takes over two years for such a request to be processed (27 months in 1984 [7]), and there is some evidence to suggest that the situation has not improved since then). During this period asylum seekers hold a temporary titre valid for only three months, which is automatically renewed until such time as a decision is taken as to the status of the person concerned. There is often intense suspicion of asylum seekers, since it is felt that the right to request asylum is being used as a loophole to continue economic immigration. In actual fact the vast majority of all requests for refugee status are accepted either by OFPRA or at the appeal stage; such a view is therefore based more on prejudice than on fact.
Members of a family who have recently entered France quite legally under Regroupement Familial (family re-unification) legislation are often in possession only of a receipt of their first application for a titre. Family benefits were not therefore granted to many such families at first, despite the fact that their inability to produce their titre was the result not of illegal immigration status, but of the slow bureaucratic process.

This interpretation of article L512 was successfully contested by, for example, a judgement on 23rd May 1985 of the Lyon Commission de Première Instance de Sécurité Sociale (now the Tribunal des Affaires de Sécurité Sociale - the equivalent of the Social Security Appeal Tribunal in Britain). It concerned an asylum seeker who was appealing against the rejection of her claim for Allocations Familiales (the approximate equivalent of child benefit in Britain). The commission found that the temporary titre valid for three months held by the woman in question was consistent with the requirements of Article L512, for although temporary it was in accordance with the "dispositions législatives ou réglementaires" required to live in France legally. Explaining this decision the Commission stated in its findings that:

..une circulalre de ce genre, si elle tend à délimiter ou à préciser le champ d'application d'un texte législatif, constitue une simple interprétation à envisager; Mais qu'en elle-même, tout comme une instruction ministérielle, elle n'a pas de force de loi; (8)

Coincidentally, a law passed on 29th December 1986 containing various provisions concerning family policy, contained an addition to Article L512, namely article L512-2. This stated that a decree, which does have the force of law, would define those titres that CAFs should accept as proof of satisfactory immigration status.
There is no doubt that this represents a conscious decision to use the benefit system as a means of identifying and discouraging illegal immigration. At a press briefing on the (then) proposed Plan Famille, Mme Barzach, the Minister of Health explained:

L'exigence de cette preuve de régularité pour l'attribution des prestations familiales préservera l'intégralité des droits des étrangers en situation régulière. Mais elle supprimera l'attrait de notre système de prestations familiales pour les clandestins. Elle concourra ainsi à une meilleure maîtrise des flux migratoires. (9)

Thus the intention to discourage illegal immigration by removing what is felt to be a major incentive is clearly stated. It also appears that the social security administration is being used as a means of internal policing of immigration. An indication of a further move to make benefit entitlement subject to satisfactory immigration status is to be found in a bill drafted in 1987, proposing the following wording for Article 186 of the 'C.F.A.S.:

Les étrangers qui ne sont pas couverts par une convention internationale d'assistance et qui produisent un titre de séjour régulier défini par décret en Conseil d'Etat bénéficient:...... (10)

There then follows a list similar to the existing one of those aide sociale benefits that can be claimed, with an additional condition of six months residence to qualify for aide médicale.

Since there has been no primary immigration into France since 1974, the two main groups of people (excluding EEC citizens) who have rights of entry are dependants and refugees. As noted above both these groups will be virtually debarred from claiming family benefits during the early stages of their stay in France. Granted that this period can extend to more than two years, this is a not insignificant exception. Recent entrants, many of whom may have fled persecution and are going through the difficult process of re-adjustment, find their situation made even more
difficult and precarious by being denied access to basic income maintenance. It is difficult not to conclude that, quite apart from the government's attack on illegal immigration, the benefit system is being cynically used as a means of discouraging even legal immigration.
2.4 Creating Illegal Immigrants

It appears not unreasonable, however, to exclude illegal immigrants from entitlement to benefit. That is, until one examines just who is contained within the definition of an 'illegal immigrant', and how this came about. Illegal immigrants - clandestins in French - is a term which conjures up images of secret landings on deserted beaches; of people who are deliberately deceiving the authorities, generally for doubtful and even criminal reasons. French official discourse certainly serves to reinforce this impression. Danièle Lochak has studied the frequency with which clandestin occurs in conjunction with the term or idea of délinquant. This is not only found in the discourse of the far-right and of the 'respectable' right, but in speeches made by François Mitterrand and Laurent Fabius, his former socialist prime minister. For example in a speech to the Ligue des Droits de l'Homme in April 1985 referring to illegal immigrants Mitterand commented,

pas de logement, pas de travail, donc le travail au noir, ou bien on peut imaginer...... (11)

In actual fact the majority of people in France who are classified as illegal immigrants have entered France quite legally, and may have been settled there for some time. There are a range of possible reasons for their subsequent reclassification as illegal immigrants, for example, overstaying temporary leave or failing to renew strictly within the time limits.

One of the most important categories of illegal immigrants are dependants entering France as visitors and settling without proper authorisation. The reasons for this can be understood by looking at the working of the legislation governing family re-unification. The right of entry into France of non-EEC dependants has been progressively eroded since the early 1970s. In July 1974 the right was completely suspended, but re-instated
in July 1975 on condition that the whole family moved to France. In November 1977 a decree set strict conditions for dependants entering France, in particular that they should have no right to work. This was subsequently annulled by a decision of the Conseil d'État dated 8/12/78, as a result of an action taken by GISTI (Groupe d'Information et de Soutien de Travailleurs Immigrés). The court upheld the right to a family life for foreigners living in France, as for citizens, as expressed in the préambule to the 1946 constitution. It recognised that to exercise this right dependants entering France should be allowed to work, and therefore to contribute to the family economy.

When the Socialist government came to power in 1981 they initially relaxed the conditions by removing the requirement that the whole family had to come at one time. However, by 1984 it was felt that the procedures governing Regroupement Familial were creating problems for the proper integration of the arriving family members. This was because dependants were not arriving through the official channel of introduction administered by the Office National d'Immigration (O.N.I.), who coordinate the whole process of immigration and act as a reception agency. Instead families were entering France as visitors with temporary leave, and then requesting change of immigration status. Consequently a decree was passed in December 1984 to the effect that dependants would have to gain prior entry clearance through O.N.I., it would no longer be possible to apply for change of status after arrival in France. Clearance is subject to a number of conditions: principally the requirement for the worker to be able to house and support his/her dependants adequately, conditions which are defined in strict and precise terms.

Dependants continue to enter France to rejoin their spouse/parent, even if s/he cannot fulfill the conditions set out in the legislation, which is often the case. The condition for housing is expressed in terms of so many square metres per person at levels which although ideal, are felt by many people to be
unfair. For example the minimum requirement for a family with two children is 43 square metres, and 79 square metres for a family with six children. It is especially difficult to meet this condition in the Paris region and in other large conurbations where the principal concentrations of immigrant communities are to be found. Rented property in these areas is scarce and expensive, especially of the sort of size required to house a large family. There is a particular problem in that the organisations which administer low cost housing (H.L.M. - Habitation à Loyer Modéré), only consider applications to house people already present in France, yet entry clearance for dependants entering France is subject to definite proof that the 'sponsor' already has the accommodation. It is not difficult to see why the housing condition defined in such terms excludes the legal entry of many dependants.

The requirement to prove sufficient resources can also act as a barrier to the re-unification of families. Whilst a reasonable income is entirely desirable, it is unrealistic to demand this of a section of the population who earn some of the lowest wages in France. Figures produced by the CNAF in 1984 show that French families with four or more children have an average annual income of approximately 88,000FF whereas for non EEC nationals with the same size family it is only 58,000FF. (12) Furthermore for the latter the greater proportion of this income is made up of family benefits. There therefore exists a 'Catch 22' situation similar to the refusal of H.L.M. administrators to accept housing applications for family members about to come to France. Income maintenance benefits for families on a low income administered principally by 'C.N.A.F.' which would significantly supplement the revenue of such families, cannot be claimed, or taken into account, until the family is in France.

Understandably the rules are by-passed by families desperate to live together and to bring up their children jointly. The consequences of this are that an increasing number of families
suffer poverty and hardship, as well as risks to their health. This group contains a large proportion of children and women of child-bearing age who will not only be excluded from family benefits and but as a consequence, from proper medical care especially during pregnancy and early childhood.

There is a certain irony in the fact that a piece of legislation designed to promote family life, and especially to improve the situation of low income families, should have the effect of relegating many of the poorest families in France to the margins of society and to increase the risks of illness and disease. As Jean Quatremer pointed out,

La suppression des allocations prénatales aux femmes étrangères clandestines va rendre impossible, en fait, le suivi de la grossesse. Même chose pour les allocations postnatales: l'enfant est invité à se développer clandestinement. (13)

It is not only the legislation governing Regroupement Familial that has, in effect, encouraged illegal immigration. An important consequence of the Chirac government's immigration policy between 1986 and 1988 was to 'create' illegal immigrants. Under the reforms carried through in the field of immigration by the previous Socialist government many non-citizens living in France were issued with a Carte de Résident, valid ten years and automatically renewable for many people. The sense of security that this provided, especially for people who had lived and worked in France for most of their lives, and with no ties with their country of origin, proved to be illusory.

In September 1986 the Chirac government introduced a new Immigration Act, the Loi Pasqua. The most important aspect of the Act was to limit those categories of people receiving the ten year Carte de Résident automatically. Now excluded for example, are spouses during the first year of their marriage, even if married to a French citizen. They will only be given a ten year
carte de résident after a year if the marital relationship is proved to be genuine. The numerous practical obstacles in the way of this, in particular gaining entry to France in the first place or being granted extension of leave once there, may result in spouses being classified as illegal immigrants. People who have lived in France since before the age of ten also no longer have the right to automatic issue of a carte de résident, if they are given a prison sentence of 6 months or more, which can include the totting up of a number of minor sentences. As Danièle Lochak comments:

La moindre pécadille peut aboutir à priver le jeune étranger de la sécurité que procure la carte de résident. (14)

The same is true for those people who have lived in France for ten years or more, who can lose their right to a 'carte de résident' in the same circumstances.

This can give rise to a situation where a settled person is refused renewal of their carte de résident, or a young person is not issued with their first 'carte de résident', and yet is not deported. It is somewhat illogical to refuse someone the right to stay in France, thereby depriving them of the means to lead a normal life, and yet not to deport them.

It is perhaps the case that the reasons for refusal of a carte de résident may not be adequate grounds for deportation. For most groups of people such grounds are defined as being une menace à l'ordre public. Alternatively they may belong to a category of people who can only be deported in extreme circumstances, for example spouses of French citizens after the first year of marriage and parents of French children, that is where they are une menace grave à l'ordre public. There is one group who cannot be expelled at all: young people under eighteen. The consequence for all these groups is that, without a legal titre de séjour, the means to lead a normal life in France are removed: that is the right to work, and therefore to health, old age, family and unemployment benefits. The situation for young people who either
cannot or have not taken French nationality is perhaps the most serious. They cannot work and they will not receive the state funded *Allocation d'Insertion* (special unemployment benefit for young people with an insufficient contribution record).

Thus illegal immigrants are 'created' who remain in France pushed onto the margins of society. The logic of the policy, aimed at reducing immigration, must mean that it is expected that such people will leave France of their own accord. This is, in practice, unrealistic by any standards, where immigrants long settled in France, with no base in, or links with their country of origin, are concerned, and this is even more obviously the case with young people who have never lived in their so called home country. The consequences cannot be other than to marginalise sections of French society, to push them further into poverty, and possibly into crime and lead to racial tension borne of resentment and exclusion.

The reality of increasing poverty in France has been well documented recently, for example in a report to the *Conseil Économique et Social* presented by M. Joseph Wrésinski, the late director of A.T.D. Quart Monde (*Aide à Toute Détresse - Quart Monde*, a pressure group concerned with poverty in France). The report notes in particular that a significant cause of poverty is the failure of the system of social insurance to provide adequate cover for all groups, with the consequence that a growing number of people are left without sufficient means to survive adequately. (15) A survey was carried out in 1986 by *Médecins du Monde* of the first 1,106 patients to resort to their free dispensary in Paris. The study was designed to examine the medical pathology of the patients and also their social characteristics. 48% of the S.C.S.s (*Sans couverture social* - those with no social insurance) were non-citizens. Of this proportion 13% were Maghrébins and 16% were from *Afrique Noire*. The great majority of this group (72%) were settled in France, as either asylum seekers, refugees or immigrant workers. The reason
therefore for lack of cover was not generally because they were on a temporary visit. Significantly the most common of all reasons for visiting the dispensary was pregnancy. One of the doctors working in the dispensary commented:

En France, il vaut mieux lorsqu'on est enceinte soit être assurée sociale, soit avoir de l'argent. Sinon le suivi médical de la grossesse est quasiment impossible. (16)

The lack of cover for non-citizens especially in terms of health is a serious problem. Whilst an important cause of this is the extension of the definition of 'illegal immigrant', it is also a significant problem for those who are quite legally in France. For example refugees are granted a form of unemployment benefit for their initial period in France (Allocations d'Insertion); this then entitles them to social security health insurance. However the length of time taken to grant this benefit, related to delays on the part of OFPRA, means that there may be a period of some months during which an asylum seeker cannot afford to fall ill or become pregnant. There is a similar problem for newly arrived dependants, especially pregnant women. Depending on the stage of the pregnancy, the family may be excluded from certain family benefits which depend on precise timing of the claim (Allocations au Jeune Enfant). Additionally, she may also be excluded, quite 'legally' from cover of the costs of the birth. This is due to the fact that the Caisses d'Assurance Maladie require a three month period before claims can be made. This is demanded despite the fact that the husband may have been paying social security contributions for many years; and that there is no doubt but that she qualifies as his ayant-droit, and did so under a bi-lateral agreement before coming to France. If the amendment to article 186 of the C.F.A.S. were ever to be passed the effect would be to exclude all these groups from any means at all of gaining even minimal help with the costs of health care from aide sociale.
Contrary to the view taken by Alfandri immigration law does seriously affect rights to benefits. The requirement of proof of satisfactory immigration status for family benefits is only the tip of the iceberg. The cynical use of the benefit system as a means of discouraging immigration, allied to the creation of illegal immigrants in France are much more far reaching in their implications. The argument that the ordre public sécuritaire only rarely takes precedence over the ordre public social, generally when it is a question of national security (for example when there is a threat of terrorism) is fallacious. The results of the Loi Pasqua have been to deprive a number of immigrants of the means with which to lead a normal life in France. Paradoxically, the removal of basic rights to work and to social security benefits, in the name of public order, reduces the effectiveness of social control. People who have no job, no money, inadequate housing and who are subject to racial discrimination feel excluded from society. This sense of exclusion, both objective and subjective, leads to a flouting of the rules of the society in which they have no stake, and to racial tension. Analyses of the reasons behind the 1985 riots in British cities (Brixton, Toxteth, Handsworth etc) have acknowledged the role of poverty and exclusion in building up resentment. Ironically then, the measures in the Loi Pasqua designed to enforce public order may prove to be counter productive, and to produce the opposite effect. It is unrealistic to expect people to 'go home', especially if it is somewhere that they have either never been, or have no real contact with.
2.5. Family Law

Conditions of entitlement to a whole range of benefits in France, especially for dependants of an assure social are based on definitions of family relationships. When these relationships are being determined for immigrant families, the interplay between the law of the country of origin and French domestic law is complex and even contradictory. In theory when French law refers to a spouse, to children for whom one is responsible and to minors, this should be determined with reference to the law of the country of origin. This principle, stated in Article 3 A13 of the Code civil, has been confirmed by case law on marriage, on the age of majority, and on the status of children - natural or adoptive. In addition bi-lateral agreements have been drawn up with various countries in an attempt to clarify areas where the laws conflict.

In practice the minority groups who are seriously affected by such problems, are those which come from countries where family law is based on non-European traditions, that is, principally Muslims. It is instructive to analyse the practical implications of differing definitions of the family on entitlement to benefit.

Polygamy is the most obvious cultural difference in family composition. In theory French case law, based on loi international privée recognises the legitimacy of polygamous marriages. In 1972 a Dahomian appealed to the Conseil d'Etat against the decision of a Prefet to expel his second wife. The court overturned the ‘Prefet's’ ruling on the grounds that the right to a family life should be defined with regard to the 'loi personnelle' of the person concerned, and that:

pour un dahomien polygame, la vie familiale normale suppose donc la presence des deux femmes. (17)
In practice social security law does not accept the validity of such marriages. Article 313-3 of the C.S.S. lists those dependants who can claim health benefits and pension rights on the basis of the assured social's contributions. In the first place there is 'le conjoint'—the spouse, in the singular. A circular issued by the C.N.A.M. (Caisse National d'Assurance Maladie—the principal health insurance organisation) in August 1979 stresses this interpretation:

Le fait d'entretenir au foyer plusieurs épouses même légitimes au regard du droit musulman, ne peut être considéré comme constituant la vie maritale. (18)

The only concession is that if, for example the first wife starts work and is therefore insured in her own right, then another wife can take her place as ayant droit.

This can be argued to be overly restrictive, especially in the light of a law introduced in 1978 which recognises a common law wife as an ayant droit, and allows a Frenchman to claim benefits for both a wife with whom he no longer lives and his common law wife. Thus two partners can be and are effectively recognised under French social security law, but only as long as they do not live under the same roof. A recent report for the Commissariat Général du Plan, comments:

L'application de ce principe à la seconde épouse résidant en France aurait la mérite de rendre nos règles cohérentes et de régler des situations qui pour ne pas être très fréquentes n'en sont moins difficile à vivre. (19)

There is a further irony: Article 313-3-4 of the C.S.S. bestows the quality of ayant droit on any of a number of people living under the same roof as the assured social, if they are devoting their time exclusively to bringing up at least two of his children and doing the housework. The list of possible ayants droit in this category includes anyone from a great niece to a grandmother. Since the wives in a polygamous marriage are likely to be doing just this, it does appear somewhat unjust.
In terms of pension rights Article L353-3 of the C.S.S. allows a pension to be split between the latest and former wife (wives), not subsequently remarried, of an assuré social in the event of his death. However in the same circumstances the pension cannot be split between wives of a polygamous marriage. This is hardly consistent with a view expressed by Philippe Chenillet, a specialist in social and economic administration, who states categorically:

Le système de protection sociale française face à la vieillesse ne semble nullement discriminatoire envers les immigrés, ni dans ses fondements, ni dans ses règles, ni dans la pratique administrative qui permet la mise en œuvre. (20)

Family benefits are principally concerned with the welfare of children, and as such the regulations are not generally concerned with the status of the mother. However, it is not possible to pay Allocation au Jeune Enfant to more than one wife at a time, since the law cannot accept two concurrent pregnancies. There is the additional factor that under immigration law it is not possible for a man settled in France to bring in more than one wife. Therefore few second or third wives of a polygamous marriage are actually living in France, and many of those that are, are unlikely to have satisfactory immigration status, and so will not be able to claim benefit themselves for their children. The decision cited above concerned the case of a second wife already present in France; since it is no longer possible to request a change of immigration status once in France, this situation is unlikely to recur.

Polygamy is therefore not recognised in practice as a legitimate form of family organisation. The fact that social security law allows a claim for a common law wife and an ex wife at the same time, indicates that the motivation probably has less to do with a concern for expenditure than with a deliberate decision to
discriminate against members of a culture that allows a man to live with two or more wives, and to have children by them.

The institution of Kafala in Muslim law does not create any problems in social security law in terms of the definition of what constitutes a family. Kafala is a practice similar to adoption, where a child is given to another family or couple to bring up as their own. Often this occurs where a couple is childless, or where it is felt that the child will be given a better chance in life with the other family. The main differences compared with adoption are that the natural parents do not repudiate the child and give up all rights, and that the arrangement, although it has a long tradition in some Muslim societies, has been expressed only relatively recently in a legal form. The definition in social security law refers to having a child à charge (i.e. having responsibility for a child), and this is defined broadly as follows:

est considéré comme ayant un enfant à charge toute personne qui assume d'une manière générale, le logement, la nourriture, l'habillement, et l'éducation de cet enfant. Le fait pour un assuré de ne pas avoir la garde d'un enfant, n'implique pas nécessairement qu'il n'en a pas la charge.

However, here again immigration law affects entitlement to benefit. Firstly, a child taken in under Kafala may not even be given right of entry under regroupement familial legislation, which requires proof of the status of the relationship. Entitlement to benefit in this case therefore becomes academic. Secondly, the requirement to provide proof of proper immigration status for the child or children for whom family benefits are being claimed often takes the form of legal proof of filiation. Under, for example Algerian family law Kafala is legally established by means of either a court hearing, or a statement witnessed by a notaire. However it often remains an informal arrangement. C.A.F.'s will only accept legal proof of Kafala,
and generally only that provided by a court hearing. A statement made by Madame Barzach demonstrates that this requirement forms part of the general policy of using the benefit system as a means of discouraging illegal immigration:

Cette mesure réduira l'incitation actuelle due à l'insuffisance des dispositions d'application du code de la Sécurité sociale, à l'égard de l'arrivée, du séjour d'enfants qui peuvent être sans lien de filiation direct. (22)

It is also the case that, as for polygamy, French law is unwilling to acknowledge a form of family organisation alien to French culture. It is again ironic that while the definition of being responsible for a child is a very broad one, clearly intended to protect the maximum number of children, there appear to be a deliberate exclusion of families that have not taken on French values.

There are two situations, where unlike the above, the loi personnelle (personal law/status) of a non-national does take precedence over French family law. Firstly, for the Congé Parental de Naissance ou d'Adoption the father is given three days extra paid holiday on the birth of a child or on the arrival of an adoptive child. The conditions of entitlement for this benefit when the birth of a child is concerned, are that the household should be 'legal': that is, the father must recognise the child and he must live with the mother. However under Muslim law an illegitimate child cannot be recognised by the father. Therefore since in this case loi personnelle of the claimants country of origin takes precedence, the child cannot be legally recognised if the parents are not married, and so the benefit will not be paid.

The second case where French domestic law is overridden by the law of the claimant's country of origin concerns the definition of the age of majority for payment of Allocation de Soutien Familial. The payment of this benefit continues as long as the
child or children are minors. Since the age of majority is lower notably in a number of Third World countries, this can effectively exclude the payment of benefit for children who would qualify for longer if they were French.

It does appear that the conflict between French domestic law, international loi privée and the family law of the country of origin is cynically resolved according to whichever gives fewest rights. Thus polygamy and Kafala are not recognised by French social security law, but Muslim law on the legitimacy of a child and on the age of majority is accepted.
2.6 Residence and Repatriation

The view that the condition of entitlement to welfare benefits is residence and not nationality is held to be proof of the non-discriminatory nature of the system. This clearly has to be qualified in the light of restrictive guidelines on the definition of residence and of requirements of proof of legal immigration status. There is a further qualification: whether it is correct to state that residence as a criterion is necessarily just in a system based on insurance type contributions and on taxation.

A significant proportion of immigrant workers in France are men whose families have remained in the country of origin, and who, as a result will return there on retirement. Whilst this proportion has decreased with the policy of family re-unification in France, it remains an important category — partly due to the constraints of regroupement familial legislation itself. These workers will all be paying French taxes and obligatory social security contributions.

This would enable a Frenchman's family to claim health benefits on the basis of his contributions, and to benefit from his pension and unemployment insurance. His family would also qualify for the range of family benefits. Although funded by the employers' contributions they were, before 1978, in effect a right based on employment; entitlement is now open to all families in France. Finally, the state funded non-contributory benefits, and aide sociale are funded by taxation, and, depending on need, are open to most people resident in France.

The principle of territoriality which underpins the benefit system means that, where there is no appropriate bi-lateral agreement an immigrant worker's family who have not joined him in France receive none of the insurance cover that they would
qualify for as his ayants droit if they were in France. Equally they would not be eligible for any of the family benefits, nor any of the benefits funded by taxation. The worker himself, upon return to his country of origin, might not be able to draw his pension, or receive invalidity benefits after an industrial injury. In these circumstances the condition of residence itself can be held to be discriminatory.

It is argued, however, that the complex system of bi-lateral agreements on social security, and in some cases on aide sociale, ensure that the system remains equitable for the majority of immigrant workers not settled in France with their families. It is worth examining the scope of these agreements in some detail in order to ascertain whether they do in fact fulfil the role attributed to them. Before doing so it will be useful to provide a context by looking at the historical development of the system of bi-lateral agreements for social security and social assistance.

The system has its origins in the labour migrations in Europe in the early twentieth century, when the scope was limited to agreements on industrial injury and disease compensation. After the Second World War the shortage of labour in France was accompanied by a dramatic expansion in the number of agreements established, and in their scope. Initially these were drawn up with neighbouring countries, that is, with countries with a similar degree of economic development and therefore similar standards of social protection. The agreements were as a result based on the principle of reciprocity. With increasing economic immigration from developing countries, especially from North West Africa, the nature of the agreements changed. The principle of reciprocity was no longer straightforward to apply, both due to the different levels of development and to the related fact that the migrations were one way phenomena. Consequently the scope of these agreements, drawn up initially in the 1960's and based on a
system of flat rate payments made by France, was much more restrictive than the scope of those with European countries.

With the development of the EEC, many of the early agreements have been superseded by the multi-lateral agreements under the Treaty of Rome. There remain about thirty bi-lateral agreements which link France to the countries of origin of the immigrant population. They are a disparate collection of legislation that bears all the hallmarks of a series of unconnected measures of expediency. The one element that they have in common, particularly in the case of those with developing countries, is that they are designed to protect people in employment. This is a source of some of the present problems in the current economic climate, as will be shown below. The contrast in the scope of protection subsists when, for example, one compares the agreement with Mali to that with Switzerland. There are however variations between agreements with neighbouring African countries, which are far less easily explicable, and which lead to discrimination lacking in any logic, between immigrants from different African states.

Under the majority of such agreements health cover is provided for the families remaining in the country of origin, and for some workers on retirement. As outlined in the previous chapter, this operates on the basis of a fixed sum, calculated in relation to the health care costs in that country, paid by the French Caisse to the equivalent organisation in the country of origin. The cover enjoyed by the dependants is obviously of a lower standard than if they had been in France. It is also much more limited. For example, there is no maintien du droit by which people in France benefit for an additional twelve months cover if their situation changes, and they can no longer be defined as ayants droit. Additionally, the right to health care for the dependants is based on the man being in work; if he becomes unemployed or retires, all health protection is lost, which would not be the case if the family were resident in France.
The right to a pension accrued while working in France is, under the agreements, open to immigrant workers who have returned to their country of origin. There are, however, two situations where, even when there is an agreement with the country concerned, the worker or his family lose out. Firstly, the fringe benefits provided by the 'Caisses', for example free holidays and pre-retirement courses, are not open to a worker who has left France. Secondly, the widow's pension is not payable to the surviving spouse outside France, although she may be eligible for a lump sum payment on the basis of her husband's contributions. There are also significant variations as to the method by which pension entitlement is calculated, especially in the case of someone who has built up partial pension rights in more than one country. Quite apart from the illogicality of such variations, and the consequent bureaucratic labyrinth through which the person concerned has to find a way, this can result in delays and even losses of entitlement, causing significant hardship.

Finally unemployment benefit remains strictly territorial, even under the agreements. Payment is subject to being registered for work with A.N.P.E. (Agence Nationale pour l'Emploi). It cannot therefore be claimed by a worker who, made redundant, has chosen to return to his country of origin, even temporarily. It is possible however for the worker to take advantage of the aide à la réinsertion (repatriation assistance), which includes a lump sum payment in compensation for loss of benefit entitlement. A condition of acceptance of this aid is that the recipient undertakes not to return to France.

Family benefits are not funded by individual contributions and therefore the argument is slightly different. They are however covered by the bi-lateral agreements. Families remaining in the country of origin receive payments of differing amounts and frequency, either directly, as in Morocco, or through the local social security system. The only benefit payable is allocation
familiale; the agreements do not cover the range of benefits which supplement the income of large, low income or single parent families in France.

The rates at which benefit is paid, whether sent directly to the families from C.N.A.F. or received via the equivalent organisation in the country, are all dramatically lower than the rates for metropolitan France. Based on figures for July 1981 a Togolese family with four children resident in France would receive 1,400FF a month of allocation familiale. If the mother and children were in Togo the payment they would get, after a substantial share had been taken by the Togolese authorities (120FF), would be only 80FF. If one pushes this comparison to the extreme and takes the example of a family with ten children, then the difference would be 4,317FF if resident in France and still only 80FF in Togo. (23) This is because virtually all the bi-lateral agreements limit the number of children for whom benefit can be claimed abroad to a maximum of four.

This is hardly convincing evidence of a fair and just system, however one views the source of funding for family benefits; that is through employers' contributions. Before 1978 a condition of entitlement to benefit was to be in employment, albeit subject to numerous exceptions, including, notably, those on unemployment benefit. Since that date payment of family benefits has been open to all resident in France, regardless of their employment status. Whether one views the employers' payment as, indirectly, a deduction from wages, or as now the equivalent of a form of company or payroll tax, it can be argued that all who work or who have paid taxes have, at least, a moral entitlement to family benefits. The fact that families remain in the country of origin, either by choice, or as a result of the constraints of the regroupement familial legislation, should not mean that they lose out so dramatically on payment of benefit. This is especially true in the light of the man's contribution to the French economy as a worker who has paid taxes, often for many
years. However to suggest that dependants remaining in the country of origin should receive the same level of benefit as those in France, is not a realistic proposition: the cost of living is generally lower in developing countries, and there is the risk of creating economic and social disequilibrium in these countries.

The 1978 change in the conditions of entitlement to family benefits has recently given rise to a further inequality. Up until 1985 the C.N.A.F. continued to pay family benefits for the families of workers on unemployment benefit, remaining in the country of origin. Then in December 1985 the C.N.A.F. issued a circular, apparently in response to ministerial directives, to the effect that this practice should cease:

Les travailleurs étrangers en pré-retraite, les bénéficiaires de la garantie de ressources ainsi que d'une manière générale tous ceux qui sont au chômage, quel que soit le type d'indemnités qu'ils perçoivent, ne peuvent continuer à percevoir les prestations prévues par les conventions internationales signées par la France. (24)

The minister argued that in issuing his directive, he was simply applying the law as set out in the bi-lateral agreements. The basis of his argument is to be found in Article 46 of the 1980 Franco-Algerian agreement, the first of the agreements to be redrafted since the change in 1978. This states that in order for families remaining in the country of origin to qualify for family benefit they should meet the conditions set out in French social security law. Article 89 of the accompanying Arrangement Administratif of October 1981 interprets this condition as being in employment, based on either a certain level of pay or of hours worked per month. This interpretation is justified on the basis that since 1978 French law has changed, and no longer contains any reference to chômeurs, since all now qualify for family benefits.
The cutting of *allocations familiales* for all families of unemployed workers remaining in the country of origin by the *C.N.A.F.* was totally unjustified. Ministerial directives specifically referred to Algerians only, since this was the first, and at the time, only agreement to be redrafted after 1978. All the other agreements refer to the provisions of French social security law prior to this date: that is where *chômeurs* are specifically included as a category who qualify for benefit. However, even allowing for the change in the law which the Algerian agreement took into account, it seems ludicrous that a measure designed to extend protection to all families in France should have the effect of restricting it for families outside France. GISTI have argued further that this is quite possibly illegal. Certainly at least the spirit of French domestic law is breached, if not the actual letter.

It is difficult not to view such measures as another example of the deliberate use of the social security system to control or reduce the numbers of immigrants living in France. Perhaps it is hoped that workers in France will give up their rights to unemployment benefit and return to their country of origin. Yet the actual effect will be for the workers concerned to make every attempt to get their families to join them in France. This possibility is noted in the report to the *Commissariat Général du Plan*:

> En accroissant sans aucune justification sérieuse la disparité déjà forte de traitement entre familles résidentes et non résidentes et en précipitant ces dernières dans un véritable dénuement dès lors que le chef de famille est chômeur, cette nouvelle réglementation constitue une incitation directe et puissante aux regroupements familiaux de fait...... (emphasis in the original text) (25)

Non-contributory benefits: *aide sociale* and the handful of directly state-funded benefits are not payable outside France. Here again one questions the justice of the condition of
residence, however widely it might or might not be interpreted. Immigrant workers pay the same rates of tax as equivalent French workers but their families remaining in the country of origin will not have anything like the same level of social protection. This will not only affect the families, but also the workers themselves upon retirement. They will not be eligible for any of the 'top-up' payments for people with inadequate pensions.

The situation of a worker who has returned to his country of origin after suffering a minor industrial injury, which is sufficient to prevent him from finding another job may be particularly serious. His injury may entitle him only to a small disability pension, as this is based on an assessment of the percentage disability. However he is unlikely to have been able to accrue sufficient contributions to qualify for an adequate retirement pension, due to his shortened working life. Anecdotal evidence suggests that this is not an uncommon situation, especially as immigrant workers are employed in areas of industry where there is a proportionately higher risk of industrial injury. Additionally, as will be discussed in the next chapter, the provision for retraining after an accident at work is completely inadequate for the majority of immigrants.

For both contributory and non-contributory benefits the condition of residence is not a guarantee of fair and equal treatment, regardless of nationality. Firstly, for nationals of a country with no bi-lateral agreement with France who either return to their country of origin, or whose families remain there, there is virtually no protection. It matters little what contributions or what taxes have been paid by the worker; both he and his family will lose any benefits if they cannot meet the residence condition. When this factor is considered in conjunction with the constraints of immigration law on family re-unification the system appears to be particularly discriminatory.
The bi-lateral agreements, which are supposed to work as a check on serious discrimination do not appear to fulfil this aim. They do offer a greater measure of protection by waiving the condition of residence, but this is only in certain circumstances. The amount of family benefit actually payable is so much lower than for families in France that the fact that it is paid to families remaining abroad in reality represents only a minor concession. The cutting off of family benefits and health insurance for families of unemployed immigrant workers remaining abroad is a blatant example of unequal treatment between residents and non-residents. The report to the Commissariat Général du Plan, cited above strongly criticises this particular aspect of the system:

Il ne se révèle ni assez contraignant pour empêcher le développement d'interprétations unilatérales des engagements dans un sens restrictif, ni assez souple pour épouser sans heurt les évolutions du droit interne ou de la conjoncture (chômage, par exemple). (25)

The difference in treatment between different nationalities is the other significant area of discrimination. Other than EEC countries the only countries to have an agreement with France which provides for the protection of unemployed people are Sweden, Switzerland, Canada and the United States. There are similar exceptions to the provision of social assistance - the non-contributory and discretionary benefits - under the bi-lateral agreements. The aim of reciprocity, applied to all the agreements, is the fundamental reason for the undermining of the principle of equality of treatment between nationals and non-nationals.

Thus the argument that a system based on contributions is inimical to discrimination on the basis of nationality does not hold up. Ironically this is precisely because of the other factor which is held up as evidence of the non-discriminatory nature of the social security system: the condition of residence.
2.7 International conventions

International conventions on social security and social assistance drawn up by organisations of which France is a member are held to operate as safeguards against unreasonable discrimination. The content of, for example, the European Social Charter, the United Nations Convention on refugees and International Labour Organisation articles 118 and 143, defines ideal standards for fair and just treatment in this area. For example article 3 of the I.L.O. convention 118 states:

Tout membre pour lequel la présente convention est en vigueur doit accorder sur sa territoire, aux ressortissants de tout autre Membre pour lequel ladite convention est en vigueur, l'égalité de traitement avec ses propres ressortissants au regard de sa législation, tant en ce qui concerne l'assujettissement que le droit aux prestations, dans toute branche de sécurité sociale pour laquelle il a accepté les obligations de la convention.

However an examination of precisely which conventions France has ratified shows the limitations of such a view. For example, whilst it has ratified the I.L.O. convention 118, this is with the significant exception of those sections concerned with unemployment and old age. A further consideration is that, for the conventions to have any legal force they must also have been ratified by the country of origin of those non-nationals concerned. For the majority of developing countries this is not a realistic proposition: their economies are not sufficiently developed to support social welfare systems on the scale of Western industrialised nations. Even if such agreements theoretically have some legal force, the obstacles for any individual or group seeking to enforce its rights against apparently conflicting national legislation are almost insurmountable.
The evidence of discrimination in French social security and social assistance law discussed in this chapter, demonstrates how far short France falls of the ideal of equality of treatment for nationals and non-nationals set out in the international conventions. Immigrants in France are faced with a range of additional conditions to qualify for benefit. This, as shown, includes conditions of length of residence; requirements to prove settled immigration status, and discriminatory definitions of the status of family relationships. The strictness with which the principle of territoriality is enforced, means that families remaining in the country of origin are entitled to only limited social protection, and if the workers return to their country of origin either when unable to work, or on retirement they lose many of their rights to social protection.

Membership of an international organisation, such as the I.L.O. brings with it a responsibility to bring domestic legislation into line with the relevant international conventions, in order to be able to ratify them. I.L.O. convention 143 concerning the social and economic rights of immigrants without legal immigration status came into force in December 1978. It affirms the right of all immigrants, regardless of immigration status to social protection:

Sans porter préjudice aux mesures destinées à contrôler les mouvements migratoires à fin d'emploi en assurant que les travailleurs migrants entrent sur la territoire nationale et y sont employés en conformité avec la législation pertinente, le travailleur migrant doit dans les cas où cette législation n'a pas été respectée et dans lesquels sa situation ne peut être régularisée, bénéficier pour lui-même et pour sa famille de l'égalité de traitement en ce qui concerne les droits découlant d'emplois antérieurs en matière de rémunération, de sécurité sociale et autres avantages.
In the intervening ten years, France, in common with every other member state, should in principle, have been bringing domestic legislation into line in order to ratify this convention. Developments in both immigration and social policy legislation in this period have in fact moved in entirely the opposite direction. Increasingly, benefit entitlement has been made subject to proper immigration status, with the consequences of increasing poverty and risks to public health.

The report to the Commissariat Général du Plan cited above, examines the situation of immigrants and settled minorities in France. The report was completed in October 1987, but it has only just been released, a year later, by the present government. The reasons for the suppression of the report by the previous government are not difficult to understand; the working party that produced it is highly critical of many aspects of France's treatment of immigrants and settled minorities. This is particularly the case in the field of social protection. The authors note that a significant cause of the inequality of treatment between nationals and non-nationals, and between residents and non-residents, is in great part due to the attempt to apply principles of reciprocity in a situation where this is unrealistic. They recommend therefore that

le principe de l'égalité de traitement entre travailleurs étrangers et nationaux devrait donc prendre le pas sur la recherche d'une réciprocité qui n'est pas à la mesure des pays pauvres. (27)

Their other major criticism is of the way in which the benefit system is being used as a means of discouraging immigration, and they conclude with the following comment:

Il serait illusoire de penser qu'on puisse réguler des flux humains par des réglementations restrictives ou des privations de droits. (28)

The publication of the report by the present government may be an indication that it will take the issues raised seriously in developing future policy.
The position outlined at the beginning of this chapter, to the effect that French and immigrants alike were sur le même plan is completely unfounded: the actual social security and social assistance legislation and regulations are very far from reflecting the ideals of equality of treatment which underpin them. The law discriminates openly against immigrants from developing countries; the implications that this may have for sanctioning discriminatory administrative practices will be discussed in the next chapter.
CHAPTER 2 - NOTES


(2) Ibid, p.172

(3) Revue de Droit Sanitaire et Social, no 2, 1987

(4) ALFANDRI, Elie, op cit, p.176

(5) Journal Officiel, S (Q) no 37 du 17/9/87

(6) CHASTAND, Antoine, "La place des prestations familiales dans les revenus des immigrés", Revue de Droit Sanitaire et Social, no 2, 1987

(7) BURIEN DE ROSIERS, Etienne, "La Protection Sociale des Réfugiés", Revue de Droit Sanitaire et Social, no 2, 1987


(9) Press briefing by Mme Michèle de Barzach, Ministre chargée de la Santé et de la Famille, 8/10/86


(12) CHASTAND, Antoine, op cit, p.233

(13) QUATREMER, Jean, "Santé: Les immigrés vont trinquer", *Libération* 24/11/86

(14) LOCHAK, Danièle, op cit, p.27


(16) NOUCHI, Franck, "Les exclus de l'hôpital", *Le Monde* 23/12/86


(18) Ibid, p.248

(19) Commissariat Général du Plan, op cit, p.245


(21) CNAF circular, 2/7/51, cited by MONEGER, Françoise, op cit, p.251

(22) Mme Barzach, press briefing, 8/10/86

(23) GISTI, *Santé et protection sociale des étrangers*, avril 1982, p.41

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(25) *Commissariat Général du Plan*, op cit, p.271

(26) Ibid, p.271

(27) Ibid, p.274

(28) Ibid, p.274
CHAPTER 3 - PRACTICAL PROBLEMS OF ACCESS

3.1 Context

Research into immigration and social security has, until very recently, been confined to the issue of consumption or 'over-consumption' of benefits by immigrants, together with the issue of their legal entitlement to social security payments. Studies which look at other minority groups, for example the rural elderly, in relation to social security have a very different emphasis. Certainly patterns of consumption are important, as is entitlement, but the aim of such investigations is to assess whether take up is sufficiently high, and whether the range of benefits available is adequate and appropriate to the needs of the rural elderly. Depending on the outcome of such questions the main focus of such studies is concerned with the issue of how best to improve take up. The barriers which might discourage elderly people from making claims are investigated, and the ways in which the system could be made more sensitive and more responsive to the culture and needs of such a group is explored.

In the case of immigrants and ethnic minorities these questions are rarely posed. Instead, as I have shown, the question of consumption of benefits is posed purely in the context of whether France, as the host country, is gaining or losing from the phenomenon of immigration, especially from the Third World. Those who 'demonstrate' the net profit the French social security system has made, and continues to make out of immigrants' contributions do so without challenging the underlying assumptions of their opponents, according to which, if 'over-consumption' could be proved, then the logical implication is that immigrants and their descendants should be repatriated. The discussion on legal entitlement to benefit is placed in the context of whether or not the French social security system is, at a formal level, even handed and non-discriminatory - that is
whether non-nationals have the same rights as French people. The questions of whether the social security system is accessible to ethnic minority groups, and whether its provisions are appropriate to their needs are not addressed.

In the late 1980s it is no longer appropriate to talk of the immigrants of the 50s and 60s, and of their offspring, in terms of a foreign and transitory population. The vast majority are settled in France, a number have taken French nationality, as have a majority of their children. They have become a part of France's population, who have, in the same way as the rural elderly, particular needs and problems stemming from differing cultural values and experiences, which merit the attention of social policy researchers.

My intention at the beginning of my research was, centrally, to investigate the way in which the French social security system treated ethnic minorities. In particular I was concerned to gather evidence on the take-up of benefits, and to investigate the existence of barriers which may, in some way, restrict access to the system for this group. It rapidly became clear that there was compelling evidence to suggest that the law itself constituted a significant barrier. It was also apparent that there were two other principal areas which merited further investigation: one lay in problems related to language and literacy problems, and the other concerned the relationship between ethnic minorities and the bureaucracy.
3.2 The claiming process

To investigate these matters I began with an analysis of the claiming process of a number of benefits, and gathered anecdotal evidence as to the problems experienced by claimants whose first language was not French, or who were clearly identifiable as being of immigrant origin. One particular type of claim that stood out as being worthy of further investigation was that of Industrial Injuries benefits. There were a number of reasons for this. Firstly, immigrant workers are concentrated in the highest risk sectors of industry, especially building work and heavy engineering; secondly, they often possess a lower level of skills and experience in the work than their French counterparts, making them more prone to accidents at work; and thirdly, this appeared to be an area which caused considerable concern to those advisors and social workers that I interviewed. (1)

When an employee has an accident at work, the first stage in making a successful claim is that the employer reports the accident. This involves the completion of two lengthy forms, one of which is given to the victim and forms a record of the treatment received throughout the period of incapacity. (See Appendix I) There are different sections for completion by the doctor and pharmacist involved. It is the claimant's responsibility to ensure that these are properly filled in, and forwarded to the Caisse Régionale d'Assurance Maladie (C.R.A.M. - the local health insurance organisation). Quite apart from the complexity of language and structures in the explanatory notes, the print on this form is very small and the variation in typeface is visually confusing. The other form requires a detailed description of the accident. One copy of the former and the whole of the latter have to reach the local C.R.A.M. within 48 hours. Without the employer's co-operation it is virtually impossible to make a successful claim. Despite the legal provision for heavy fines against an employer who does not comply, anecdotal evidence suggests that accidents at work,
especially where an immigrant worker is involved, may go unreported. This is probably due, in part, to the fact that the cost of funding Industrial Injuries benefits is borne by employers, in proportion to the number of reported accidents at each workplace, and in relation to the assumed level of risk in the nature of the work. Employers may therefore have an interest in failing to report an accident. In circumstances where a worker has a poor command of the French language and a fear of bureaucracy, and is perhaps concerned at the effect on his/her immigration status of losing a job, due to injury or dismissal, he or she may fail to press the employer to report an accident.

Once an accident has been reported and the worker visited a doctor there begins a potentially lengthy process to assess the extent of the injury, and the degree of any resulting permanent disability. Numerous problems may arise when, for example the employer's description of the injuries received conflict with that of the victim's - especially if questioning takes place some time after the accident. Other difficulties arise out of difficulties in communication, which may make it difficult for the doctors involved to build up a clear understanding of the nature of the injury. This may be particularly true if the victim has to appear before a panel of doctors who put a series of complex and testing questions, designed to test thoroughly the claimant's assertions and thereby identify any fraudulent claims. This process, by its very nature, involves a high degree of language and advocacy skills and a claimant who does not speak French as a first language is at a particular disadvantage.

If there is no permanent incapacity then, as long as the injury has been accepted as being due to an accident at work, the worker will receive free medical treatment and a higher than normal level of sick pay, until s/he has recovered.

Numerous accounts given both orally, and recorded in written case studies, suggest that this process is far less straightforward
than it appears. If a worker is, at the time of the accident, doing something that is not strictly part of his/her job, or is in a part of the factory or building site where s/he should not be, then it may well not be accepted as an industrial injury. For example, an Algerian building worker was seriously injured at work when he fell while carrying a sack of cement up some stairs where there were nails and pieces of broken glass lying around. He claimed that he was doing this in response to a request from a bricklayer. His boss, however, claimed that he had had no right to be doing this, since he had been employed solely to mix mortar. As a consequence his injury was not recognised as resulting from an industrial accident, and he was entitled to sick pay at a lower rate, to only partial cover of the health care costs involved, and to no invalidity pension or possible re-training. Despite appealing against the decision, he was unsuccessful at each stage, due, it seems, partly to his unfamiliarity with the demands of the process, to an insufficiently high level of language skills and to poor legal representation at a later stage. He had failed to find sufficient witnesses to prove his case because he believed that the support of his doctor was all that was necessary for him to win his case. This worker not only lost his case for the recognition of his injury as resulting from an industrial accident, but ended up without any means of financial support. His sick pay was stopped when a medical board deemed him once more fit for work, shortly after restarting work his injury became worse and he had to leave, his employer refused to sack him, thereby debarring him from an unemployment benefit claim.

If there is a permanent incapacity, then the level of invalidity pension paid is linked to an assessment of the seriousness of the disability, assessed in terms of a percentage. This involves further visits to a doctor; possible appearances before a panel of doctors, and maybe detailed and complex questioning and tests. In my interviews with advisors and social workers repeated
suggestions were made to the effect that in the less straightforward cases immigrant workers without representation are awarded a lower percentage than their French counterparts. If the victim fails to attend for the necessary examinations then the claim will be seriously jeopardised. His/her absence may be due to a failure to understand the letters inviting him/her to attend, or to the fact that, on the advice of his/her doctor s/he has returned to his/her country of origin to convalesce.

The final stage open to victims of an industrial injury is to go through a process whereby s/he is assessed in terms of his/her ability to do another sort of work, and then, most importantly, provided with the necessary retraining and help with finding work ('Reclassement professionnel'). Since a significant part of this reassessment involves aptitude tests requiring a high level of language skills, including, for example, written tests, it is very difficult for a worker whose first language is not French to succeed. One of the recommendations with which a small scale study carried out by the Service Social d'Aide aux Emigrants (SSAE) concludes, emphasises this point:

Comme nous l'avons vu, le reclassement professionnel est difficile à réaliser, il y aurait nécesité pour la COTOREP d'adapter les possibilités de rééducation professionnelle notamment en matière de tests (conçus pour les français) d'inventer des structures pour le rattrapage scolaire, la mise à niveau de ceux qui le souhaitent et qui ont les capacités, et de multiplier les possibilités. (3)

This study found that of 61 foreign workers who had suffered an industrial injury, 16 had been forced to give up work completely as a result, and only one was given a 'Reclassement professionnel'. (4) Whilst these figures should be treated with caution - taking into account especially the lack of information on the severity or otherwise of the accidents, and the lack of comparable statistics for the French population as a whole, they
do serve to indicate the possible existence of a problem, and make a prima facie case to justify further investigation.

A second illustration of the complexities of the claiming process and the demands made on the claimant's linguistic abilities concerns maternity benefit (Allocation de Jeune Enfant - A.J.E.) I have chosen to look closely at this area as it affects women principally, who, traditionally in Muslim societies are not expected to have any dealings with the administration, and who, often confined to the home, have even less opportunity than their male counterparts to develop their language skills. This was also an issue which clearly concerned many of the social workers and advisors that I spoke to.

A.J.E. is payable from the fourth month of pregnancy until the child reaches 3 months old, or longer on a means-tested basis if there is at least one child in the family under 3. In order to receive the A.J.E. it is necessary to comply strictly with various formalities. Firstly the pregnancy must be declared by the 15th week, or entitlement may be reduced accordingly. This is carried out by means of a Déclaration de grossesse given to the woman by her doctor; she then completes it and posts or takes it to her local C.A.F.. She must then provide proof of 3 visits to a doctor during her pregnancy - one before 3 months, another during the 6th month, and the last in the second half of the eighth month. Throughout her pregnancy she will need to carry around with her a large pad of forms and explanatory documents, the Carnet de Maternité. This contains all the forms that she needs to have filled in by her doctor in order to qualify both for free medical treatment and for A.J.E.. Appendix II is an example of one of 29 forms to be completed throughout the process, and forwarded either to the local C.A.F. or to the C.R.A.M..

After the birth she has to provide proof of a series of medical examinations of her child at precisely determined points of
his/her development. In addition, she must formally claim allocations familiales, the form will usually be sent to her after she has declared her pregnancy. To claim beyond the three months a Déclaration de ressources must be completed. (This is similar to an income tax return, the claimant has to provide information as to her/his family's exact income and resources.)

During this time, in order for the necessary medical expenses to be paid she will also be required to ensure that a large number of forms are sent off at the appropriate times to the local C.A.M. Since the primary responsibility for the completion of these formalities falls on the woman, who, if confined to the home, may possess a lower level of language skills than her husband, and who will almost certainly have less experience of dealing with bureaucracy, it seems likely that at the very least some or all of the benefits will not be claimed in some cases. Evidence from advisors and social workers strongly suggests that this is the case - especially due to a failure to understand the importance of the various deadlines for each stage of the payment, and to incomplete or incorrect completion of the forms.

Many officials that I spoke to in the main social security organisations referred explicitly or more obliquely to the view that immigrants are less than honest, and that the information they provide has to be closely monitored. One official at the C.N.A.F. explained a system that they were testing in one département at the time, whereby the Déclarations de Ressources would be checked against the Déclarations d'Impôts, in order to eliminate suspected fraud. No-one was able to provide me with any substantive evidence to the effect that immigrants made more fraudulent social security claims than any other sector of the population. The comments that were made to me by such officials did, however, appear to indicate the existence of a certain amount of prejudice, and attitudes unsympathetic to the ethnic minority claimant. More sympathetic commentators suggested
firstly that inaccuracies often arose as a result of communication problems, and secondly that the need to provide such precise information on official forms, as in other aspects of their lives, was alien to many people of immigrant origin. Inaccurate or missing information in such circumstances, it was suggested, may result more from cultural reasons than from a deliberate desire to deceive the authorities.
3.3 **Language and Literacy**

On the basis of the evidence I had gathered there seemed to be a clear prima facie case for the existence of two principal barriers to the successful claiming of benefits. Firstly, a high level of language, literacy and in some cases advocacy skills are required throughout the claiming process: access is therefore clearly restricted for people whose first language is not French. Secondly, the complexity of the process, and the numerous dealings with the bureaucracy which are involved may be alien and intimidating for claimants with a different cultural background, for example, those from rural villages in Algeria. Whilst I have selected only two particular benefits to illustrate these points in detail there are many others where it was clearly indicated to me by professionals working in the field that problems relating to the level of language skills are a significant factor.

To investigate these issues further I attempted to gather some basic evidence on take-up of benefits, broken down on the basis of nationality and/or ethnic origin. This proved all but impossible: it is illegal to keep official records based on nationality, and there has been little research done as to non-take-up of benefits. Officials of the four main social security organisations were reluctant to admit the possibility though an official at the CPAM de Paris acknowledged that some of the peripheral benefits such as medical equipment and 'massages' may go unclaimed. (5)

An additional line of investigation which I pursued concerned the provision of translated material and of interpreters by the social security organisations. Here again, it proved extremely difficult to gather reliable information. CPAM de Paris do occasionally use an interpreter service; they used to translate leaflets into Yugoslav and Turkish but have discontinued this. An official at the CNAF said it was unlikely that any such service was provided by the de-centralised semi-autonomous CAFs,
firstly that inaccuracies often arose as a result of communication problems, and secondly that the need to provide such precise information on official forms, as in other aspects of their lives, was alien to many people of immigrant origin. Inaccurate or missing information in such circumstances, it was suggested, may result more from cultural reasons than from a deliberate desire to deceive the authorities.
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but she was not sure! I sent a questionnaire designed to elicit this information from the regional CAFs, but despite an initial agreement in principle, the CNAF then declined to circulate it (see Appendix III).

I was however able to collect a virtually complete set of claim forms and explanatory leaflets produced by the social security organisations, with a view to conducting an analysis to determine the level of linguistic difficulty for second language speakers. I began by investigating various possible methodologies with the aim of developing a standard against which to assess the range of vocabulary and the grammatical complexity of the leaflets and claim forms, and therefore their accessibility for people whose first language is not French.

One possible approach was to use the 'Threshold Level', produced by linguists for the Council of Europe, as the basis on which to develop this standard. This is a list of basic vocabulary and exponents in all the European languages concerned, intended as a guide to language teachers of competence in the target language. This had the advantage of providing an objective benchmark, widely accepted as encompassing the common vocabulary and exponents necessary for a basic functional command of the language, against which to judge the official literature.

I carried out a test sample on one explanatory leaflet, by checking each word or phrase against the Threshold listing. Little of the language in the leaflet matched that on the list, although much of it was carrying out the same, or similar functions. On the face of it, this could be used to argue that unnecessarily complex language was being used. However, whilst the linguists involved in drawing up the 'Threshold Level' were concerned to produce a comprehensive collection of the most common vocabulary and expressions used to carry out all necessary functions in day to day communication, the aim was to aid language teaching. As such, exponents were not only selected on
the basis of common usage: economy of construction was another major concern. In other words, a grammatical construction could be included on the grounds that it could be reused in a variety of situations, rather than because it was the most common way of expressing a particular idea. Therefore the fact that language used in the leaflet did not tally with the Threshold list did not necessarily mean that it was not in common usage.

Other studies produced by/for language teachers held similar problems, and it became clear that I could draw on their work only to a limited extent. Language teachers are concerned with developing in their students the ability to communicate in a particular situation, and will analyse the language specifically needed for the task, rather than determining standardised levels of difficulty.

An alternative approach that I investigated was to assess the leaflets against vocabulary frequency studies, on the basis that this would provide an objective measure of language in common usage. Vocabulary used in the leaflets and claim forms that was not in common usage was likely to make the literature more difficult for a second language speaker to understand. The nature of language frequency studies meant that I would first of all have to draw on a number of pieces of work, and take into account the context and the intention behind them. It would then be necessary to break the language down into different functional categories in order to assess those cases where an uncommon term was used in place of a more usual one.

This did not appear to be a very satisfactory approach since language that is in common usage amongst a particular social group or in a particular region may be inappropriate and therefore less common in a different area or cultural setting. Furthermore the frequency with which a particular term is used does not necessarily indicate its level of complexity. This is particularly true in the case of second language speakers who, by
translating directly from their first language, may use vocabulary or structures which are apparently more difficult/less common for a native speaker.

Detailed assessment of possible methodologies led me to conclude that, although there was a wide range of work to draw on, there was nothing readily available which would be appropriate to the task in hand. It would be necessary for me to develop appropriate criteria, and possibly engage in linguistic research among the minority communities in France. This was not something that was either very practical, or appropriate to my particular skills. Furthermore, I doubted that the probable findings would necessarily justify the work put in. A quick analysis of any of the claim forms or explanatory leaflets demonstrates that the language is bureaucratic and complex, and therefore difficult for anybody with a low level of literacy. This is obviously a far greater problem for people whose first language is not French, particularly since a significant number of the first generation of North-West African immigrants come from a predominantly oral culture and are therefore, in many cases, completely illiterate. See for example the leaflet in Appendix IV. This leaflet is part of the Carnet de Maternité, referred to in Section 3.2 above. It concerns entitlement to supplementary maternity leave, due to medical problems arising during pregnancy. The whole of the Notice d'Information is written in long unwieldy sentences, see point 1 under the heading "Attention", at the bottom of the form. Quite apart from the bureaucratic language, its numerous subclauses make the meaning particularly difficult to disentangle.
3.4 Fear of bureaucracy

In a series of interviews with professionals working with minority groups, it became clear that language and literacy problems and lack of competence in an alien bureaucracy may represent only a part of the barriers to take up and successful claiming of benefits. Anecdotal evidence strongly suggests that many immigrants and members of ethnic minorities have a deep mistrust and fear of French officialdom, stemming from actual or perceived discriminatory treatment. This perception is apt to be strengthened in relation to social security claims, for in many cases non-nationals are required to produce proof of satisfactory immigration status before a claim can be processed. This is the case for family benefits, and in practice (though not in theory) for the payment of costs of medical treatment for dependants.

A certain amount of research exists in the broad area of the relationship between immigrants and the administration. Based on a small-scale C.N.R.S. study on immigrants' attitudes to a number of official forms, Catherine de Wenden has analysed the responses aroused.(7) Although these varied depending in part on the nationality of the interviewee, common to many were the emotions of fear and concern apparently aroused by the endless struggle that many face to ensure that their immigration papers are in order. In some ways their first contact with the bureaucracy, in the shape of the stringent demands of the Interior Ministry before the granting of settled immigration status, shaped their response to all subsequent dealings with the bureaucracy.

While interviewing an official at the Direction Départementale d'Action Sanitaire et Sociale (DDASS) in Nanterre who was responsible for taking applications from immigrants to bring dependants into France, and for producing the necessary 'social enquiry' reports, I witnessed this phenomenon at first hand. A Tunisian in his mid-fifties was applying to bring in his wife and
two younger children. The documentation actually required consisted of his *titre de séjour*, proof of his earnings and of the accommodation that he had. However, as the interview progressed, he pulled out every conceivable piece of official looking paper with trembling hands. He was clearly fearful and seemed almost to expect a rebuttal, or even an outright refusal on the spot. His language skills appeared poor, but this was difficult to judge because of the stress he was so obviously under. It was impossible not to reflect on the nature of the treatment he had received in the past, which appeared to have shaped his frightened and submissive attitude.
3.5 Discriminatory practices?

Work carried out by Christian and Myrto Bruschi develops this theme from the angle of administrative practice towards immigrants and members of ethnic minorities. (8) They argue that whatever the legal rights of immigrants may be, administrative practice perverts or ignores these rights by means of internal circulars not published in the Journal Officiel, and of verbal instructions from superiors. This, they suggest has a hidden logic: it acts as a brake on policies considered too generous but the lack of publically available documentation makes it sufficiently subtle for it to be difficult to challenge. This, they argue, provides the state with an additional means of control over potentially disruptive sections of society: by keeping people waiting for vital documents, they remain dependant on the administration, and will not readily challenge it. The consequence of such practices is that,

L'immigré maghrébin ou africain ressent la pratique administrative dont il est victime, comme un acte raciste s'expliquant par le couleur de sa peau. (9)

Examples of the sort of practices referred to by the Bruschis include the loss of papers by the administration - be it the Préfecture or the CAF; long delays in processing claims and other paperwork, with the consequence in both cases that the person concerned may give up, or move to another area before anything is sorted out.

The stories that were related to me certainly provided sufficient supporting evidence to convince me that this was an area worthy of investigation. Examples included repeated loss of documents relating to claims; incorrect or misleading information apparently deliberately given by counter clerks, and hostile and even racist behaviour by social security officials. This view was reinforced by noting the way in which official discourse appears to sanction such practices, with Ministerial statements
expressing quite explicitly the idea that in tightening up access to the social security system illegal immigration would be discouraged. (See Chapter 2)

A clear example of discriminatory administrative practice concerns the requirement to provide proof of proper immigration status, or of residence in order to receive benefits. As I noted in the previous chapter, there is a requirement for the claimant to produce proof of his/her immigration status and that of the children, in order to claim Allocations Familiales for a family in France. For payment of the costs of medical treatment of dependants, proof of residence in France is the only requirement. The Ministre des Affaires Sociales et de la Solidarité nationale clarified this as follows:

En l'absence d'obligation légale relative à la nature des pièces à fournir, les intéressés peuvent utiliser tous moyens de preuves et notamment, un titre de séjour pour les adultes ou un certificat de scolarité pour les enfants. (10)

After seeking clarification of this point with the Caisse Primaire d'Assurance Maladie de Paris the CFDT concluded that the legal implications of this were as follows.

Toutefois, en l'absence de dispositions légales limitant à ce seul moyen de preuve la vérification du caractère permanent de la résidence, une attestation sur l'honneur pourrait être acceptée, les Centres se réservant ainsi une possibilité de recours s'il s'avère par la suite qu'il s'agit d'une fausse déclaration. (11)

Administrative practice however frequently demands far more than is strictly necessary. For payment of family benefits the regional CAFs frequently request proof of proper immigration status for both parents, not just for the claimant. For health benefits, despite the clear interpretation given by the minister, the regional Caisses continue to request a titre de séjour giving long term residence rights. In November 1981 GISTI produced a
pamphlet on health and social security entitlement for non-nationals in which they argued that there existed no legal justification for such a demand. By September 1984 GISTI felt it necessary to produce a further circular for advisors drawing their attention to the situation as follows:

Depuis la publication de ce dossier, nous n'avons cessé de contester les pratiques abusives de plusieurs Caisses ou Centres de paiement qui s'obstinaient à exiger de la part des ayants droit étrangers d'un assuré social la présentation d'un titre de séjour. (12)

As I explained in the previous chapter, it may be some time before a dependant entering France under the Regroupement familial legislation will be given this, partly because only a temporary titre is issued initially, and secondly because of long administrative delays at many of the Préfectures. The consequences of this period during which dependants have no health cover are extremely serious, giving rise to unacceptable health risks especially in pregnancy and child development. The following example is a not untypical illustration.

3.6 Conclusion

It became clear to me that in order to document and classify the problems faced by immigrants in their dealings with the social security administration I needed to carry out some detailed survey work. This was especially necessary if I were to move beyond the point of collecting anecdotal evidence in a far from systematic manner.

I needed first of all to gather some reliable data on take-up, then I wanted to test out the various hypotheses I had formed as to probable barriers to claiming benefit by this community. I received the agreement of two organisations in the Paris region who offer advice, support and representation to ethnic minorities and immigrants (Groupe d'information et de soutien des travailleurs immigrés - GISTI and Association de préorientation des travailleurs migrants - APTM, Nanterre), to carry out questionnaire and interview based surveys. However I was aware that this alone would not be sufficient. On its own it would achieve little more than adding to the mass of anecdotal evidence indicating the need for further systematic research. People who go to these organisations for advice and assistance are already, by definition, experiencing some sort of difficulty in their dealings with the administration. I would need a far broader sample including, in particular, some sort of control group, for this approach to be of real value. The ideal approach would have been to gain the co-operation of one of the regional social security offices. This would have had the advantage of providing data on the administration of the claims, as well as first hand evidence of interaction between official and claimant. It was however unfortunately out of the question to secure this co-operation. Initial enquiries were met with a somewhat suspicious response, despite my presentation of the research in the relatively neutral terms of language and literacy problems.
Whilst it is impossible to draw detailed conclusions concerning this part of my research into the problems faced by immigrants and ethnic minorities in gaining access to the social security system, I have however gathered sufficient evidence to demonstrate the need for further research in this area, and to indicate those approaches which would merit detailed analysis.

The most interesting, and potentially productive area concerns the relationship between the claimant and the social security administration, and the extent to which the attitude and practice of the officials au guichet constitute a barrier to the take-up and successful claiming of benefits. It is also without doubt the most sensitive area. Few organisations would be happy to acknowledge the possibility of discriminatory or even racist practices in their midst. Co-operation from the main social security organisations would therefore be very hard to gain, and alternative approaches would demand an enormous commitment in terms of both people and funds.

There is also a need, I believe, to go beyond the identification of problems of access, to investigate whether, even if such barriers were to be removed, the social security system is capable of meeting the needs of ethnic minorities appropriately. As was noted at the beginning of this chapter, this question is regarded as an important area of research with groups such as the rural elderly, a comparable research effort where ethnic minorities are concerned is now long overdue.
CHAPTER 3 - NOTES

(1) I interviewed staff at the following welfare and advice agencies in March 1988:
Groupe d'Information et de Soutien des Travailleurs Immigrés
(GISTI) - Paris
Centre de Sécurité Sociale des Travailleurs Migrants (CSSTM)
- Paris
Service Social d'Aide aux Emigrants (SSAE) - Paris
Direction Départementale d'Action Sanitaire et Sociale
(DDASS) - Nanterre

(2) CORDEIRO, A & VERHAEREN, R.E., Les Travailleurs Immigrés et
la Sécurité Sociale, Presses Universitaires de Grenoble,
1977, pp95-97

(3) SSAE, Étrangers en situation de précarité, Paris, mars 1986,
p. 18

(4) Ibid, p.9

(5) Official at the Caisse Primaire d'Assurance Maladie de

(6) Conseil d'Europe, Un Niveau Seuil, Hatier 1975

(7) WITHOL DE WENDEN, Catherine, Les Immigrés face à
l'Administration, Pluriel no 21, 1980

(8) BRUSCHI, Myrto et Christian, 'Le Pouvoir des Guichets', in
L'Immigration Maghrébine en France, Dossier de la revue, Les
Temps Modernes, Editions Denoël, Paris 1984

(9) Ibid, p.229

-102-
(10) Réponse Ministérielle no 15938, Journal Official Sénat, Questions et Réponses du 16 août, p. 1285


(12) Ibid, p. 1

(13) *Plain Droit*, no 1, octobre 1987, p. 16
BIBLIOGRAPHY

ANWAR, Muhammed & GARAUDY, Roger, Social and Cultural Perspectives on Muslims in Western Europe, Research Papers: Muslims in Europe no 24, Centre for the Study of Islam and Christian-Muslim relations, Selly Oak Colleges, Birmingham, 1984

ALFANDRI, Elie (ed), Revue de Droit Sanitaire et Social, no2, avril-juin, 1987, "Immigration et Protection Sociale"

Association des juristes pour le respect des droits fondamentaux des immigrés, Le Droit et les Immigrés, Edisud, 1983

BAKER,J., "There is an alternative: France's single parents", Poverty, Spring 1987

BAROU, Jacques, "Quel droit de cité pour les immigrés?", Projet, no 194, juillet - août 1985


BONNECHERE, Michèle, "La Protection Sociale de l'Immigré en Situation Irregulière", Revue de Droit Sanitaire et Social, no 2, avril-juin 1987


BURIN DES ROSIERS, Etienne, " La Protection Sociale des Réfugiés", Revue de Droit Sanitaire et Social, no 2, avril-juin 1987

-104-
Caisse Nationale d'Allocations Familiales, Les conditions d'accès de familles à leurs droits sociaux en matière de prestations familiales, Paris, Etudes CAF, no 22, 1980

Caisse Nationale d'Allocations Familiales, "Prestations Familiales et Nationalité des Allocataires", Lettre CAF, no 5, juin 1987

C.E.R.C. (Centre d'étude des revenus et des coûts), Protection sociale et pauvreté, Documents du CERC no 88, Paris, Documentation Française, 1988

CFDT, Les Droits des Etrangers, Paris, 1986


CNDP - Migrants, Repertoire des thèses universitaires sur l'immigration, Paris


CORDEIRO, A., L'Immigration, Paris, La Découverte, 1984


COSTA LASCOUX, Jacqueline, "Droits des Immigrés et Droits de l'Homme", Regards sur l'Actualité, no 113, juillet-août 1985

Council of Europe, Clandestine Migrants in the U.S. and Europe: National Policy and Human Rights, Colloquy 10/6/85


Dinand, Jean-Michel, "Les Travailleurs immigres clandestins en France", Regards sur l'Actualité, no 119, mars 1986


F.E.N. (Fédération de l'Education Nationale), Dossier immigration, Paris, F.E.N., 1985

Fenton, C.S., Race, Health and Welfare, Department of Sociology, University of Bristol, 1985

Fortier, Jacqueline, "A la permanence administrative", Informations Sociales, (CNAF), no 2 1987


Gautron, Myriam, Les étrangers à Paris et leurs besoins d'aide sociale, Paris, CREPIF (Centre de Recherches et d'Etudes sur Paris et Île de France), février 1987


GISTI (Groupe d'Information et de Soutien des Travailleurs Immigrés),
Santé et Protection Sociale des Etrangers, Paris, avril 1982

GISTI, Note sur le Paiement des Prestations-Maladie aux Ayants-droit
d'un Assuré Social, Paris, octobre 1983

GISTI, Situation des Ayants-droit des Travailleurs Immigrés au Regard
de l'Assurance Maladie-Maternité, Paris, septembre 1984

GISTI, La Suppression des Prestations Familiales pour les Étrangers
Privés d'Emploi dont la Famille réside au Pays d'Origine, Paris, avril
1986

GISTI, Prestations Familiales: Conditions de Versement aux Étrangers
Résidant en France avec leur Famille, Paris, juillet 1986

GISTI, Le Statut des Algériens en France - L'Accord bilatéral du 22
décembre 1985, Paris, septembre 1986

GISTI, La Loi du 9 septembre 1986 sur l'Entrée et le Séjour des
Étrangers en France, 2e édition, Paris, février 1987

GISTI, La Politique des Visas, Paris, avril 1987


GOLLOT, Annie, La Sécurité Sociale Française, Paris, Berger-Levrault,
avril 1987

GORDON, Paul & NEWHAM, Anne, Passport to Benefits?, London, CPAG/
Runnymede Trust, 1985

GOUGENHEIM, G., L'Elaboration du français fondamental (1er degré):
e'étude sur l'établissement d'un vocabulaire et d'une grammaire de base,
Paris, Didier, 1964

-107-
GREGORY, Jeanne, *Sex, race and the law: legislating for equality*, Sage publications, 1987


HERZLICH, Guy, "Une mosaïque de caisses et de régimes", *Le Monde*, 20 novembre 1987


*Informations sociales*, no 1, 1987, "Plus ou moins égaux"

*La Tribune*, "24 ans après....Travailleurs Algériens qu'en est-il de vos droits?", no 127, octobre 1985


*Le Monde dossiers et documents*, no 152, février 1988, "Toute la Protection Sociale". 

-108-


Ministère des Affaires Sociales et de l'Emploi, *Conventions Internationales relatives à l'assistance sociale et médicale*, Bulletin Officiel no 87-15 bis


MORMICHE, Pierre "Pratiques Culturelles, Profession et Consommation Médicale", *Économie et Statistique*, no 189, juin 1986


*Plain Droit*, nos 1 - 4, octobre 1987 - juillet 1988, GISTI


POIRMEUR, Yves, "Accès au droit et communication juridique", *Informations Sociales*, (CNAF), no 2 1987


*Runnymede Trust, Combatting Racism in Europe*, A report to the European Communities, October 1987


-110-
SAYAD, Abdelmayak, " 'Coûts' et 'profits' de l'immigration - Les présupposés politiques d'un débat économique", Actes de la Recherche en Sciences Sociales, no 61, mars 1986

SAYN, Isabelle, "Protection sociale et familles étrangères musulmanes", Revue Européenne des Migrations Internationales, vol 4, nos 1&2, 1er semestre, 1988

SSAE (Service Social d'Aide aux Emigrants), Etrangers en Situation de Précarité, Paris, mars 1986

STEVENS, C., Public Assistance in France, Social Administration Research Trust, 1973

TOWNSEND, Peter, Poverty in the United Kingdom, London, Penguin, 1979


WICKS, M., A Future for All: do we need a welfare state?, London, Pelican, 1987

WITHOL DE WENDEN, Cathérine, "Les immigrés face à l'administration", Pluriel, no 21, 1980

WITHOL DE WENDEN, Cathérine Les Immigrés et la Politique, Presses de la Fondation Nationale des Sciences Politiques, 1988

FEUILLE D'ACCIDENT DU TRAVAIL OU DE MALADIE PROFESSIONNELLE

(articles L 441 5 et 6 - R 441 7 et 8 du code de la Sécurité sociale - Décret du 17 12 1986)

UTILISATION DE L'IMPRIME

1° L'EMPLOYEUR doit :
   a.- au moment de la délivrance de la feuille : mentionner la date de la délivrance, remplir les cadres «décrit lieu, employeur, accident ou maladie professionnelle» et remettre l'imprimé complet à la victime ou à son représentant (1);
   b.- au moment de la reprise du travail, remplir, au recto du volet n°1, le cadre «interruption du travail»;
   c.- en cas de rechute, l'employeur n'a pas qualité pour délivrer la feuille. L'assuré la réclame au Centre de paiement auquel il doit présenter un certificat médical de constatation.

2° LA VICTIME (ou son représentant) doit :
   a.- présenter l'imprimé au praticien à chaque consultation et, le cas échéant, à l'hôpital, à l'auxiliaire médical, ainsi qu'au pharmacien ou au fournisseur chaque fois qu'une ordonnance est exécutée ;
   b.- conserver le volet n°1 jusqu'à la cessation des soins (voir ci-dessous) puis faire remplir le cadre «interruption du travail» par l'employeur et l'adresser ou le remettre au centre de Sécurité sociale;
   c.- remettre :
      — le volet n°2 au praticien qui constate l'accident ou la maladie professionnelle, ou, le cas échéant, à l'établissement hospitalier ;
      — le volet n°3 au pharmacien ou au fournisseur qui exécute la première ordonnance ;
   d.- si le verso du volet n°1 est entièrement rempli avant la fin des soins, l'adresser au centre de Sécurité sociale après avoir rempli le cadre «demande de renouvellement»;
   e.- en cas de rechute, demander une feuille d'accident au service local «Accidents du Travail», l'employeur n'ayant pas qualité pour délivrer la feuille dans ce cas;
   f.- la victime ne doit pas quitter la circonscription de la Caisse primaire sans l'accord préalable de celle-ci. Elle doit respecter les heures de sortie autorisées (de 10 à 12 h. le matin et de 16 à 18 h. l'après-midi).

3° LE PRATICIEN ET LE PHARMACIEN doivent :
   a.- remplir le recto du volet qui leur est respectivement destiné et, au verso, inscrire le décompte des actes médicaux ou des fournitures ;
   b.- pour le règlement des honoraires, adresser à l'organisme ou à l'entreprise autonome à gérer le risque accidents du travail, ce volet, ou à défaut, une note d'honoraires qui en reproduit toutes les indications.
   c.- en outre, le praticien est tenu d'établir, en double exemplaire :
      — d'une part, un certificat médical initial, S 6902, indiquant l'état de la victime et la durée probable de l'incapacité temporaire;
      — d'autre part, un certificat médical de guérison ou de consolidation, S. 6903, indiquant les conséquences définitives de l'accident.

Dans les 24 heures, l'un des exemplaires sera remis à la victime, l'autre sera adressé à l'organisme gestionnaire.

Dispositions particulières aux maladies professionnelles (voir au verso)

(1) Cette formalité ne dispense pas l'employeur de l'envoi à la Caisse primaire d'assurance maladie ou à l'organisme dont relève la victime, des trois exemplaires de la déclaration d'accident (S 6200 c), prévue aux articles L.441.1.23 et R.441.2.3 du code de S. S., même si un arrêt de travail n'est pas nécessaire

A.T. Feuille d'A T ou de maladie professionnelle. CERFA 80/02246 1 57 CPAM 00 06201 8

112
DISPOSITIONS PARTICULIERES
AUX MALADIES PROFESSIONNELLES

La formalité de la déclaration incombe à la victime elle-même.

Cette déclaration doit être accompagnée de deux exemplaires du certificat médical de constatation.

Le cas échéant, les volets de soins sont délivrés par la Caisse primaire d’assurance maladie et non par l’employeur.
Feuille délivrée le

**VICTIME**

<table>
<thead>
<tr>
<th>Numéro d'immatriculation</th>
<th>Rue</th>
</tr>
</thead>
</table>

**Nom**

(En caractères d'imprimerie)

**Nom de jeune fille**

(5 d'y a lieu)

**Prénoms**

Les consignes A. T. ont été vertes à la C.P. de

**Département**

**EMPLLOYEUR**

<table>
<thead>
<tr>
<th>Numéro d'immatriculation</th>
<th>Nom, raison sociale, adresse de l'entreprise</th>
</tr>
</thead>
</table>

L'entreprise a-t-elle été autorisée à gérer le risque accidents du travail?

**ACCIDENT OU MALADIE PROFESSIONNELLE**

<table>
<thead>
<tr>
<th>Accident du</th>
<th>Heure (0 à 24)</th>
<th>Déclaré le</th>
</tr>
</thead>
</table>

A la C.P. de

<table>
<thead>
<tr>
<th>Maladie professionnelle constatée le</th>
<th>Déclaré le</th>
</tr>
</thead>
</table>

A la C.P. de

**INTERRUPTION DU TRAVAIL**

(A remplir par l'employeur lors de la reprise du travail)

Je soussigné atteste que le travail interrompu le a été repris le le

Signature et cachet de l'employeur.

**DEMANDE DE RENOUVELLEMENT**

(A remplir par la victime si la feuille est entièrement utilisée avant la fin des soins ou du traitement).

Veuillez m'adresser une nouvelle feuille d'accident ou de maladie professionnelle

<table>
<thead>
<tr>
<th>Nom, prénom</th>
<th>Adresse</th>
</tr>
</thead>
</table>

Signature : 

**CPAM** Législation sur les accidents du travail (Code de S.S., art. L 441-5 et 6 - R 4417 et 8)
<table>
<thead>
<tr>
<th>Désignation C Consul V Visite P C ou K survenant nominalement</th>
<th>Date des actes médicaux</th>
<th>Repos</th>
<th>Frais de déplacement</th>
<th>Délivrance d'une ordonnance</th>
<th>Dépassement d'honoraires (1)</th>
<th>Signature du médecin attestant la préstation des actes médicaux</th>
<th>Montant de la facture</th>
<th>Cachet du pharmacien ou du fournisseur</th>
</tr>
</thead>
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</table>

(1) En cas de dépassement des tarifs, les praticiens devront inscrire la lettre "D" dans la colonne "Dépassement d'honoraires".

AVIS TRÈS IMPORTANT: Code de la Sécurité sociale, art L 432-3-3. Les praticiens et auxiliaires médicaux ne peuvent demander d'honoraires à la victime qui présente la feuille d'accident, sauf le cas de dépassement de tarif dans les conditions prévues à l'art L 162-36 Code de S. S., et dans la mesure de ce dépassement.
Feuille délivrée le ____________________________

**VICTIME**

<table>
<thead>
<tr>
<th>Numéro d'immatriculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nom</td>
</tr>
<tr>
<td>Nom de jeune fille</td>
</tr>
<tr>
<td>Prénoms</td>
</tr>
<tr>
<td>Les cotisations A. T. ont été versées à la C. P. de</td>
</tr>
</tbody>
</table>

**EMPLOYEUR**

<table>
<thead>
<tr>
<th>Numéro d'immatriculation</th>
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</thead>
<tbody>
<tr>
<td>Nom, raison sociale, adresse de l'entreprise</td>
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</table>

**ACCIDENT OU MALADIE PROFESSIONNELLE**

<table>
<thead>
<tr>
<th>Accident du ___________ Heure (0 à 24)</th>
<th>Déclaré le ___________</th>
<th>A la C.P. de ___________</th>
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</thead>
<tbody>
<tr>
<td>Maladie professionnelle constatée le</td>
<td>Déclaré le ___________</td>
<td>A la C.P. de ___________</td>
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<table>
<thead>
<tr>
<th>Lésions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nature</td>
</tr>
<tr>
<td>Siège</td>
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</tbody>
</table>

**À REMPLIR PAR LE PRATICIEN**

Je sousigné, déclare que pour l'accident désigné ci-dessus, les actes médicaux indiqués au verso ont été dispensés et que décomptes au tarif ministériel en vigueur en matière d'accidents du travail, ils s'élèvent à la somme globale de F ___________.

(Chacun/signe) ___________ le ___________.

Vos certificats médicaux doivent être adressés chaque mois vos relevés. Adresssez chaque jour les certificats médicaux.
### A remplir par le praticien

<table>
<thead>
<tr>
<th>Date de l'acte médical</th>
<th>Désignation de l'acte médical dispensé</th>
<th>Fréquente de déplacement (nombre de km)</th>
<th>Délivrance d'une ordonnance (o)</th>
<th>Certificat médical</th>
<th>Décompte du médecin</th>
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</table>

**TOTAL**

### A remplir par la caisse (Détail du règlement)

<table>
<thead>
<tr>
<th>Nombre d'actes dispensés</th>
<th>C</th>
<th>V</th>
<th>PC</th>
<th>K</th>
<th>R</th>
<th>KR</th>
<th>D</th>
<th>AM</th>
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<table>
<thead>
<tr>
<th>Quantité</th>
<th>Code</th>
<th>Prix unitaire</th>
<th>Montant</th>
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</table>

**TOTAL**

Numéro d'accident

Prestations non réglées

Nom de l'accidenté

Pour le Directeur: [Signature]

Pour l'Agent comptable: [Signature]

Cachet de contrôle

---

117
Feuille délivrée le ____________________________

**VICTIME**

<table>
<thead>
<tr>
<th>Numéro d'immatriculation</th>
<th>Rue</th>
<th>N°</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nom</td>
<td></td>
<td></td>
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<tr>
<td>(En caractères d'impression)</td>
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<td></td>
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<tr>
<td>Nom de jeune fille</td>
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<tr>
<td>(S'il y a lieu)</td>
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<td></td>
</tr>
<tr>
<td>Prénoms</td>
<td></td>
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</tr>
<tr>
<td>Les cotisations A.T. ont été versées à la C.P. de</td>
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<tr>
<td>Département</td>
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**EMPLOYEUR**

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<th>Numéro d'immatriculation</th>
<th>Nom, raison sociale, adresse de l'entreprise</th>
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<tr>
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<td>SPAE</td>
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</table>

L'entreprise a-t-elle été autorisée à gérer les risques accidents du travail ?

**ACCIDENT OU MALADIE PROFESSIONNELLE**

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<thead>
<tr>
<th>Accident du ______ Heure (0 à 24)</th>
<th>Déclaré le</th>
<th>A la C.P de</th>
<th>Déclaré le</th>
<th>A la C.P. de</th>
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<tr>
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<td></td>
</tr>
<tr>
<td>Lésions</td>
<td>Nature</td>
<td>Siège</td>
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</tbody>
</table>

**A REMPLIR PAR LE PHARMACIEN OU LE FOURNISSEUR**

Je soussigné déclare que pour l'accident désigné ci-dessus les fournitures prescrites par les ordonnances ci-jointes ont été délivrées, en que décomptées au tarif ministériel en vigueur en matière d'accidents du travail, elles s'élèvent à la somme globale de F ________

\( \times \) Cachet du pharmacien ou du fournisseur

Signé à __________________ le ____________________

Le pharmacien ou fournisseur appelé à intervenir auprès de la victime adresse les factures à la Caisse dans la consommation de laquelle sont donnés les soins

AVIS TRES IMPORTANT. — Les places annexées doivent, sous peine de rejet, indiquer habilement les nom, prénom, adresse et numéro matricule de la victime. Le règlement rapide est lié à la bonne présentation des notes de frais.

Adressez chaque mois vos relevés.
**A remplir par le pharmacien ou le fournisseur**

<table>
<thead>
<tr>
<th>Ordonnance du</th>
<th>Exécutée le</th>
<th>Montant</th>
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</table>

TOTAL ..

Les fournitures effectuées doivent être détaillées si les ordonnances ne sont pas jointes.

---

**A remplir par la caisse (Détail du règlement)**

<table>
<thead>
<tr>
<th>Code</th>
<th>Nature des prestations</th>
<th>Montant</th>
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</table>

TOTAL ..

Numéro d'accident

Prestations non réglées

Nom de l'accident

Pour le Directeur | Pour l'Agent Comptable | Cachet de contrôle
FEUILLE D'EXAMEN PRENATAL

2° EXAMEN

Quand devez-vous l'utiliser ?
Au cours du 6° mois de votre grossesse.

Que devez-vous en faire ?
Si l'examen a été subi chez un praticien particulier,
présentez ou envoyez cette feuille
A VOTRE CENTRE DE SÉCURITÉ SOCIALE

VOIR AU DOS
### RÉSERVÉ AUX PRATICIENS

#### PRESTATION DES ACTES

<table>
<thead>
<tr>
<th>Identification du médecin, de la sage-femme, de l'établissement ou du centre de P.M.I.</th>
<th>Date des actes</th>
<th>Désignation des actes suivant nomclature</th>
<th>Signature attestant prestations des actes</th>
<th>Montant (en francs) des honoraires perçus</th>
<th>Frais de déplacement perçus par le médecin</th>
<th>Montant</th>
<th>Signature attestant le paiement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Examen pulmonaire radiographique ou radiophonographique</td>
<td></td>
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</table>

#### PAIEMENT DES ACTES

<table>
<thead>
<tr>
<th>Délivrance d'une ordonnance (1)</th>
</tr>
</thead>
</table>

#### RÉSERVÉ AU LABORATOIRE

<table>
<thead>
<tr>
<th>Albuminurie, Glycosurie, Anticorps d'iso-immunisation</th>
</tr>
</thead>
</table>

N'oubliez pas de joindre les prescriptions concernant les examens de laboratoire.

L'examen relatif à la recherche et au titrage des anticorps d'iso-immunisation est obligatoire si la future mère a été reconnue Rhésus négatif, soit en cas de première grossesse, soit au cours d'une précédente grossesse.

---

(1) Si une ordonnance a été délivrée la tarification en sera reportée par le pharmacien sur un volet de facturation à joindre au présent feuillet et le remboursement des frais pharmaceutiques sera effectué aux conditions de l'assurance maladie.

(2) A l'exclusion de tout examen radioscopique, et seulement dans le cas où les indications particulières le justifient.
Objet : INSTITUTION D'UNE ALLOCATION AU JEUNE ENFANT

En application de la Loi n° 85-17 du 4 janvier 1985, relative aux mesures en faveur des jeunes f amilles et des familles nombreuses, il a été institué une allocation au jeune enfant qui remplace les allocations pré et postnatales ainsi que les primes d'allaitement et bons de lait.

L'allocation au jeune enfant est versée tous les mois à partir du 4ème mois de grossesse jusqu'au 3ème mois de l'enfant pour toutes les mères et jusqu'à 3 ans si les ressources sont inférieures à un certain plafond.

Le carnet de maternité qui vient de vous être remis ne comporte pas encore les nouveaux feuillets consécutifs à ce changement.

**EN CONSÉQUENCE :**

- **Il convient de lire :**
  
  *"ALLOCATION AU JEUNE ENFANT" au lieu de "allocations prénatales" ou "allocations postnatales" sur les feuillets numérotés 3, 5, 6 (feuilles d'examen prénatal), 8 (fiche familiale d'état-civil), 11, 26, 28 (feuilles de surveillance médicale de l'enfant) et 9 et 11 de la notice d'information jaune.*

- **En outre,** il n'est plus nécessaire de faire établir un *CERTIFICAT D'ALLAITEMENT*, comme indiqué sur les feuilles de surveillance médicale de l'enfant numérotées 14, 17, 19, 21 et à la page 11 de la notice d'information jaune.

  De ce fait, les certificats d'allaitement correspondant aux pages 15, 18, 20 et 22 ont été extrait du présent carnet.
FEUILLE
D'EXAMEN PRENATAL

2° EXAMEN

Quand devez-vous l'utiliser ?

Au cours du 6° mois de votre grossesse.
N'oubliez pas de compléter le verso de cette feuille.

Que devez-vous en faire ?

Envoyez cette feuille dès que l'examen a été subi et au plus tard dans les 15 jours suivant la fin du 6° mois de votre grossesse, à votre CAISSE OU ORGANISME D'ALLOCATIONS FAMILIALES.

Son envoi conditionne le versement des mensualités d'ALLOCATIONS PRENATALES correspondant à cet examen.

VOIR AU DOS
### RÉSERVÉ AUX PRATICIENS

Identification du médecin, de la sage-femme, de l'établissement ou du centre de PMI.

<table>
<thead>
<tr>
<th>DATE DE L'ACTE</th>
<th>Signature du praticien attestant la prestation de l'acte</th>
</tr>
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<tbody>
<tr>
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</table>

Une radiographie (1) A ÉTÉ - N'À PAS ÉTÉ prescrite

Date __________________________

Signature

(1) Rayez la mention mutile

Examen pulmonaire radiographique ou radiographique

### RÉSERVÉ AU LABORATOIRE

Albuminurie, Glycosurie, Anticorps d'iso-immunisation

L'examen relatif à la recherche et au titrage des anticorps d'iso-immunisation est obligatoire si la future mère a été reconnue Rhésus négatif, soit en cas de première grossesse, soit au cours d'une précédente grossesse.

### RÉSERVÉ À L'ALLOCATAIRE

N° d'Allocataire de votre famille à la caisse ou à l'Organisme d'Allocations Familiales :

Désignation de l'Organisme ayant versé la 1ère fraction de l'allocation prénatale

Si le Chef de Famille est salarié : Profession

Nom et adresse de l'employeur actuel :
QUESTIONNAIRE SUR L'ACCÈS DES MINORITÉS ÉTHNIQUES À LA PROTECTION SOCIALE

Cette questionnaire fait partie du programme de recherches universitaires (Loughborough University of Technology - Angleterre) sur l'accès des minorités ethniques à la protection sociale.

Caisse d'Allocations Familiales de ________________

1) Est-ce que votre Caisse utilise des interprètes?

[ ] Non  [ ] Oui

[ ] Est-ce que vous assurez des permanences réguliers?

[ ] Non  [ ] Oui

Dans quelles circonstances employez-vous un interprète?

a) La/les langue(s)

b) La fréquence

c) Le lieu des permanences

d) Comment vous avertissez le public

2) Est-ce que vous faites traduire en langue étrangère les dépliants destinés au public?

[ ] Non  [ ] Oui

Précisez s.v.p.

Le(s) dépliant(s)  Traduits en quelle(s) langues

a) ____________________________  ____________________________

b) ____________________________  ____________________________

c) ____________________________  ____________________________

Voir au verso......
(3) Est-ce que vous prenez d'autres mesures pour aider les étrangers et leurs familles à comprendre leurs droits aux prestations familiales?

Merci de votre coopération.
NOTICE D'INFORMATION

Le repos prénatal débute 6 semaines, soit 42 jours, avant la date prévue de votre accouchement.

Toutefois, une période supplémentaire de repos d'une durée MAXIMUM DE 2 SEMAINES peut être attribuée avant l'accouchement en cas d'état pathologique RÉSULTANT DE VOTRE GROSSESSE.

Cette période doit faire l'objet d'une prescription de votre médecin et peut débuter dès la déclaration de grossesse.

Si, lors de votre ou de vos arrêt(s) de travail, vous exercez une activité salariée (ou si vous êtes en situation de maladie, accident du travail, chômage constaté, licenciement, congés payés, etc) vous pouvez solliciter l'attribution d'indemnités journalières. Pour cela il vous faut satisfaire à certaines conditions, à savoir n'avoir pas perdu la qualité d'assuré social depuis plus de 12 mois,

justifier
- de 200 h de travail salarié ou assimilé au cours du trimestre civil ou des 3 mois de date à date précédant soit la date présumée de la conception, le 42ème jour précédant la date présumée de l'accouchement, la date réelle de l'accouchement, en cas d'accouchement prématuré survenant avant le 42ème jour (début du repos prénatal)

ou
- avoir cotisé (cotisation ouvrée maladie, maternité, invalidité et décès) sur un salaire au moins égal à 1 040 fois le SMIC horaire au cours des 6 mois civils précédant la date retenue pour l'examen des droits aux prestations en espèces, être immatriculée depuis au moins 10 mois à la date prévue de votre accouchement.

Si vous êtes salariée à la date de conception et que vous cessez votre travail avant le début du repos prénatal, sans vous trouver dans une situation assimilée à du travail salarié, renseignez-vous auprès de votre Centre de Sécurité Sociale pour connaître les conditions particulières vous concernant.

ATTENTION

1. L'indemnisation légale, au titre de l'assurance maternité, est accordée, dès l'arrêt de travail, mais sans pouvoir être attribuée avant le début du repos prénatal tel que défini ci-dessus, sauf si l'accouchement a lieu antérieurement à cette date, ou si une période supplémentaire de repos a été prescrite.

2. Les indemnités journalières sont dues à condition de cesser toute activité professionnelle pendant au moins 8 semaines. Dans le cas contraire, vous n'avez pas droit aux indemnités journalières.