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A Marcello et Lorenzo, pour toutes les heures où je ne vous ai pas vus grandir
ABSTRACT

From 1945 onwards, the arrival and settlement of successive migratory waves turned Britain and France, two old nation states, into multiracial societies. While in France a sudden, but not completely unexpected governmental decision closed the borders to new primary immigration in 1974, in Britain successive legislative measures had already introduced a progressive reduction of immigration from Commonwealth countries from the early 1960s. British and French governments' implementation of a discriminatory screening system to select immigrants, (often originating from former colonial territories) according to their “colour”, their “race” or their nationality is studied here in a comparative perspective. The value of this approach is to highlight the particularity of certain regulatory aspects of immigration control in each of the two countries while stressing the values and political principles shared by French and British political elites. The chronological focus of the thesis is the period 1970-1979 in Britain and 1974-1986 in France. The choice of these two critical periods in the development of immigration controls allows comparative analysis of the policies of conservative governments in both countries (those of the Heath government in Britain and the Chirac and Barre governments under Giscard d'Estaing’s presidency in France), followed in each case by periods of left-wing government (the Wilson and Callaghan governments in Britain, the Mauroy and Fabius governments under Mitterrand’s presidency in France). These periods serve to highlight the elements of continuity and of change in policy within each of the two countries and between them. The analysis is set in context by the inclusion of chapters offering a critical survey of the existing literature on French and British immigration policy, a discussion of the methodology of comparative analysis in this field, and a historical analysis of the development of policy in both countries from 1945 to the start of the two periods selected for detailed examination.
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A last word for my husband Fuccio. We had the chance to be doing our thesis at the same time: I learnt about ion implantation, he now knows about British and French immigration policies! We had terrible moments as well as fantastic victories. Certainly, to me, this thesis is one of our victories.
<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>A. Arrete</td>
<td>Arrête</td>
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<tr>
<td>A.N. Assemblee Nationale</td>
<td>Assemblée Nationale</td>
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<tr>
<td>B.O. Bulletin Officiel</td>
<td>Bulletin Officiel</td>
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<tr>
<td>B.O.C. British Overseas Citizen</td>
<td>British Overseas Citizen</td>
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<tr>
<td>C. Circulaire</td>
<td>Conseil d’État</td>
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<td>C.U.K.C. Citizen of United Kingdom and Commonwealth</td>
<td>Citizen of United Kingdom and Commonwealth</td>
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<td>D. Decret</td>
<td>Décret</td>
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<tr>
<td>D.P.M. Direction de la Population et des Migrations</td>
<td>Direction de la Population et des Migrations</td>
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<tr>
<td>D.o.E. Department of Employment</td>
<td>Department of Employment</td>
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<tr>
<td>E.C.O. Entry Clearance Officer</td>
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<tr>
<td>F.A.S Fonds d’Action Sociale pour les travailleurs immigrés et leur famille</td>
<td>Fonds d’Action Sociale pour les travailleurs immigrés et leur famille</td>
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<tr>
<td>F.C.O. Foreign and Commonwealth Office</td>
<td>Foreign and Commonwealth Office</td>
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<tr>
<td>FN Front National</td>
<td>Front National</td>
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<tr>
<td>G.I.S.T.I. Groupement d’Intérêt et de Soutien aux Travailleurs Immigrés</td>
<td>Groupement d’Intérêt et de Soutien aux Travailleurs Immigrés</td>
</tr>
<tr>
<td>H.C. House of Commons</td>
<td>House of Commons</td>
</tr>
<tr>
<td>I.E.A. Institute of Economic Affairs</td>
<td>Institut d’Etudes et de Recherches Economiques</td>
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<tr>
<td>I.N.D. Immigration and Nationality Department</td>
<td>Institut National d’Etudes et de Recherches Economiques</td>
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<tr>
<td>I.N.E.D. Institute National de la Statistique et des Etudes Economiques</td>
<td>Institut National d’Etudes et de Recherches Economiques</td>
</tr>
<tr>
<td>J.C.W.I. Joint Council for the Welfare of Immigrants</td>
<td>Joint Council for the Welfare of Immigrants</td>
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<td>J.O. Journal Officiel</td>
<td>Journal Officiel</td>
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<td>L. Loi</td>
<td>Loi</td>
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<tr>
<td>MRG Mouvement des Radicaux de Gauche</td>
<td>Mouvement des Radicaux de Gauche</td>
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<tr>
<td>NF National Front</td>
<td>National Front</td>
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<tr>
<td>O. Ordonnance</td>
<td>Ordonnance</td>
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<tr>
<td>O.F.P.R.A. Office Français de Protection des Réfugiés et des Apatrides</td>
<td>Office Français de Protection des Réfugiés et des Apatrides</td>
</tr>
<tr>
<td>O.N.I. Office National d’Immigration</td>
<td>Office National d’Immigration</td>
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<tr>
<td>RI Républicains Indépendants</td>
<td>Républicains Indépendants</td>
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<td>RPF Rassemblement du Peuple Français</td>
<td>Rassemblement du Peuple Français</td>
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<tr>
<td>RPR Rassemblement pour la République</td>
<td>Rassemblement pour la République</td>
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<tr>
<td>D.D.T. Direction Départementale du Travail</td>
<td>Direction Départementale du Travail</td>
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<tr>
<td>UDF Union pour la Démocratie Française</td>
<td>Union pour la Démocratie Française</td>
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<tr>
<td>UDR Union pour la Défense de la République, Union des Démocrates de la République</td>
<td>Union pour la Défense de la République, Union des Démocrates de la République</td>
</tr>
<tr>
<td>U.K.I.A.S. United Kingdom Immigrants’ Advisory Service</td>
<td>United Kingdom Immigrants’ Advisory Service</td>
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<td>U.K.P.H. United Kingdom Passport Holder</td>
<td>United Kingdom Passport Holder</td>
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GLOSSARY

Bilateralism: refers to the use of bilateral agreements between the host countries and the sending countries, which involve the collaboration of emigration countries in controlling the rate of departures by their nationals. Can take several forms: informal administrative agreements or more formal bilateral conventions signed by the two partners.

Colony: the word is used here to refer to a variety of French and British overseas possessions which depending on their legal status were either protectorates, trusteeships, condominiums or colonies.

Controls (external): covers all the immigration controls to which foreigners are subjected when wishing to access French or British territory. These can take place in the country of emigration in the form of an entry clearance delivered by an Entry Clearance Officer in the British High Commission, or in the form of a visa delivered by French or British embassies. External controls also include all the controls which take place at ports of entry (airports, ports, railway stations, roads) and which are operated by Immigration officers in Britain and the Police de l’air et des frontières in France.

Controls (internal): Predominantly operated in France as Britain does not have a system of identity cards. These controls can take the form of random identity checks in the streets, but also passport raids in working places which are likely to employ foreign workers.

Entry clearance: document needed prior to any entry into British territory for certain categories of immigrants. Applications are made in the country of origin and involve lengthy interviews (plans, family relationship, links with the sponsor...). Different forms of entry clearance according to the purpose of the entry: single-entry visit, multiple-entry visit, student entry clearance, other long-term purposes for instance. Entry clearance can take the form of a visa for certain visa nationals (list of visa nationals set up by immigration rules).

Illegal immigrant (irregular): irregulars or illegal immigrants, designate immigrants in breach of the immigration laws such as overstayers (those who remain in the host country after their permit has elapsed) and smugglers (those guilty of entering British or French territory either illegally or by deception).

Immigration (primary): “By primary immigration we mean the immigration of persons who enter the UK independently to establish themselves and their families as in the case of U.K.P.Hs (United Kingdom Passport Holders) and those entering with work permits who are later accepted for settlement” (House of Commons 1978: para.90). In the French case this group generally includes workers (except for seasonal workers) and heads of households.

Immigration (secondary): “By secondary immigration we mean the immigration of persons who enter this country to join and become a part of families of heads of household already established here” (House of Commons 1978: para.90). The same definition can apply to the French case. In both countries the admission of family dependants is generally strictly limited to the nuclear family, spouse and children only.

Patrial: The concept of patriality was introduced by the Commonwealth Immigrants Act 1968, defined in the Immigration Act 1971 and later abolished by the British Nationality Act 1981. The status of patrial gave privileged access to the UK: exemption from any entry clearance, possibility of settlement in the UK, exemption from work permits to take up employment, no registration with the police. “A patrial is a citizen of the UK and Colonies or of another Commonwealth country who has a close connection with the UK, either by birth or by descent from an adoption by a parent, or marriage to a husband having such a connection (O.P.C.S. 1979: 2).

Permanent immigrants: term which applies to the French situation. Includes all those who have a residence card delivered for at least a year (as opposed to temporary immigrants like seasonal workers for example).
Primary legislation: designates in both legal systems, texts regulating immigration which have been voted in parliament: ordonnances and lois in the French legal system, statutes in the British system.

Seasonal workers: foreign workers who come on a temporary basis for a maximum stay of 6 months in France, usually employed in the agricultural sector (harvest). No exact equivalent in the British case.

Secondary legislation or delegated legislation: can be described as the vast body of rules, orders and regulations created by subordinate bodies under specific powers delegated to those bodies by parliament. In Britain, the immigration rules are drafted by lawyers in the Home Office. In France, there are three major types of rules on immigration matters: décrets which are issued either by the Prime Minister or the President, circulaires and arrêtés which originate mainly from the ministry of the Interior, ministry of Labour or ministry of Social Affairs. But regulations on immigration can also be drafted by subordinate administrative authorities such as the Préfet or the Maire. In Britain and France problems raised by the validity of these rules stemmed either from ministerial abuse of power by those issuing these rules (French case) or from the way these rules were interpreted (French and British case).

Régime de droit commun: refers to the set of regulations applicable to all foreigners when seeking admission, applying for a work permit or a residence card. These rules were set up in 1945 by the Ordonnance of the 2/11/45 (later modified in 1980 and 1981). By default foreigners are subject to the conditions set up by the 1945 text unless specific texts (such as bilateral conventions or circulaires) provide for other conditions. The régime de droit commun is generally opposed to the multiplicity of régimes particuliers which cover the special cases of refugees, EEC nationals, Maghrebis and sub-Saharan nationals as well as other nationalities whose status is regulated by distinct bilateral conventions.

Right of abode: the second important concept for immigration control in Britain is whether somebody has or does not have the right of abode as it determines those who are free from immigration control and therefore can enter the UK freely even after a long absence while those without any right of abode cannot enter freely nor can they stay in the UK without permission. They are consequently “subject to regulation and control” (S. 1(2) of the Immigration Act 1971). The nationality is the main criterion for determining who has this right.

Settlement: a person who is ordinarily resident in the UK is said to be settled if he has been given indefinite leave to enter and remain in the UK and does not leave the country for longer than two years. No condition is attached to his stay (no time restriction on his sojourn or on his work).

Temporary immigrants: foreigners who remain on British or French territory for a period of more than three months but less than a year: visitors, tourists, businessmen, seasonal workers.
INTRODUCTION

Immigration control is a highly sensitive area of public policy which touches upon questions of national identity, state sovereignty, citizenship, freedom of movement and fundamental civil liberties. For the past 50 years, it has affected the lives of millions of people who have attempted to enter Britain and France to work and/or to gain permanent settlement. It has radically transformed the composition of French and British societies and turned these two old nation states into multiracial societies. It is not, therefore, paradoxical that the political significance of the immigration issue has grown out of proportion to the ever decreasing numbers of immigrants admitted into Britain and France since the early 1970s.

While France became a major immigration country starting at the end of the 19th century, Britain, despite high levels of immigration in the early 1950s, never ceased to be an emigration country. However, obvious parallels can be drawn between the two countries’ immigration experience. Their previous international status as colonial powers and the links they retained with ex-colonial populations, some of which enjoyed a traditional right of free entry, are some of the grounds for analysing the political responses of successive French and British governments to restrict the conditions for admission of foreign newcomers. Few studies have attempted to investigate the French and British records on immigration in a comparative perspective. Major works remain those of Freeman, Immigrant Labor and Racial Conflict in Industrial Societies. The French and British Experience 1945-1975 (1979) and Laurin, Politiques d'immigration comparées de la France et de la Grande Bretagne (1977) whose chronological focus was on the post-war period, with particular attention on the 1960s, although Freeman also studied the early 1970s.

This thesis is not just the continuation of the two works cited above. Instead it seeks to address the conception and implementation of British and French governments’ policies to control the admission of immigrants, who were often from former colonial territories, for
work and/or settlement purposes during the periods 1970-1979 in Britain and 1974-1986 in France. These transitional periods, when alternating right-wing and left-wing governments generated controversies, political debates and regular modifications of policy objectives and their instruments, offer a stimulating field of research in which to investigate the governmental processes of proposing, introducing and implementing a discriminatory screening system to select immigrants according to their "colour", their "race", or their nationality. Hence, the political objectives of successive Conservative and Labour governments in Britain and the governments under the Giscard d'Estaing and Mitterrand presidencies in France are put in parallel to measure the degree of analogy or difference at the different stages of the policy-making process.

Policy on control is illustrative for several reasons and comparative methodology is the fundamental tool of this policy-centred approach for interpreting the French and British immigration experiences. First, the specificity of the historical, socio-economic and cultural background of these two nations emerges through the close parallels established between the French and British experiences. Indeed, the guiding principles underlying the French and British systems of control profoundly reflect these two nations' traditions, the weight of historical developments of the previous period, and their respective sense of responsibility and moral position towards migrant populations. For example, the British preference for a tightly instituted system of control at points of departure (system of entry clearance set up at the end of the 1960s) is contrasted with the traditional French system of internal checks on its territory (by means of identity cards and identity checks for instance). Thus, political discourse during these years offers some illustration of the degree of distaste and mistrust the British had for any system of internal control, while on the other hand the French were keen to reassert their attachment to the principle of la libre circulation and, consequently, were reluctant to set up strict border controls on certain categories of immigrants, family dependants in particular.

More specifically, a comparison of the way the issue of illegal immigration was treated by French and British governments suggests that, beyond some superficial similarities, there
were deep differences which resulted from earlier historical development. Thus, although French and British policy-makers were similarly concerned with containing and fighting illegal immigration, it is important to explain why their views on the best methods to achieve these objectives diverged considerably. While French governments, from a rather early stage (the early 1970s) had been instituting regular checks on employers using an illegal foreign workforce, in 1978-79 British officials were still debating the necessity of instituting similar types of controls.

In addition, this study also seeks to investigate a remarkable coincidence which arose from the rather liberal attitude left-wing politicians had towards irregulars. In 1974 and 1981 in Britain and France respectively, the newly elected left-wing governments decided to launch an operation of political and legal amnesty to erase all the irregularities attached to the legal status of that part of the migrant population. The motives behind this political decision, the consequences it had on irregulars, and the limits of these two operations are but a few of the aspects that need to be appraised comparatively to shed light on a revealing episode of British and French immigration policy.

Second, the role of governmental institutions that use their administrative capacity to bring about radical or subtle changes in immigration policy is evaluated in a comparative perspective. Hence the thesis investigates the motives behind the choice of using a "mixture" of rules with varying degrees of legal authority in both systems of immigration control to curb primary and secondary immigration (statute law, delegated legislation and administrative rules in the British case and ordonnances, lois, décrets, circulaires and notes internes in the French case). Besides taking account of technical legal questions arising from the differences between the two legal systems, the comparison of the body of rules to control immigration will assess the degree of influence and power of the different actors involved. In particular, it intends to demonstrate how the predominant role played by the governments and the administrative authorities in charge of implementing the policy on control did, in fact, undermine the sense of security normally provided by any formal set of legal rules. Many
criteria contained in these regulations infringed fundamental civil liberties and testified to a
great degree of discretionary power in the administrative practice of immigration control. A
blatant example is given by the fluctuation of the right of family reunification in France and
by the several modifications made to the rules for admitting fiancés and husbands in Britain.
Furthermore, it is no coincidence that the French and British parliaments had a limited role in
this area of policy, but it is interesting to examine how their degree of involvement in the
policy-making process differed.

In addition, the parallels established between the two bodies of rules to regulate
admission rates of the different sources of immigration question the effectiveness of the
British and French systems. Some cautious comparisons of the French and British figures on
entry of primary and secondary immigrants illustrate the evolution of the rules in a restrictive
direction. Beyond the statistical evidence produced, the comparison also highlights the limits
and some of the contradictions of the policy objectives.

Third, a close examination of political speeches made by British and French policy-
makers offers the opportunity to compare how recurring rhetorical arguments served to justify
and legitimise policy choices during the whole period. Hence, part of the thesis seeks to
elaborate on the alternative uses of “economic arguments” and of “social arguments”.
Although these arguments could be seen as faithful indicators of the different cultural and
socio-economic backgrounds of the previous periods, their analysis provides a different
interpretation of the meaning and significance of actions in this area of public policy.
Ultimately, the objective is to demonstrate that the British and French political elites shared
less contrasted views on the immigration question than might be thought at first. However, the
research also offers some explanations of the different perceptions that British and French
political actors had of the phenomenon of immigration, its likely evolution and its influence
on society.

In particular, the thesis seeks to assess why, on the one hand, the British perception (in
the sense of the “official perception”) of the immigration question remained rather static with
immigrants being perceived as a "race relations problem", while on the other hand, in France, the perception evolved from a predominantly economic vision to a more socially oriented view. The comparison aims to measure the prevalence of economic or social considerations which in turn cyclically modified policy-makers' views of their society and, consequently, the elaboration of new policy objectives.

The huge volume of literature already produced on immigration and its corollary, race relations, is surveyed in the first chapter. It provided the necessary background knowledge for understanding and interpreting political declarations, parliamentary and party documents and the legal texts on control. The different approaches French and British scholars have adopted to investigate these issues are therefore contrasted to highlight the multidisciplinary aspect of the immigration issue. This is followed by a discussion of the discipline chosen for the present research, the definition of the field of study, the method of comparison used throughout the thesis and the selection of primary sources (Chapter 2).

The second part of the thesis is composed of five chapters covering four distinct periods in chronological sequence, presenting the political debates, the immigration policies and the instruments of those policies. In the first period, simultaneous in both countries, the post-war years are reviewed up to the early 1970s. This historical account of the post-war migratory waves and governmental responses to the sudden or planned arrival of migrant populations presents the political and legal framework of the migratory phenomena in both countries. This chapter also sets out some of the major political principles that guided British and French policy-makers throughout these years in admitting and recruiting immigrants (Chapter 3).

The main chronological focus of the thesis is the period 1970-1979 in Britain and 1974-1986 in France. The choice of two different starting dates is justified by the importance in the British case of the Immigration Act 1971, and in France by the definitive ban on economic migration adopted in 1974. It follows that the chronological structure of the
research is based on the analysis of the policies of successive right-wing and left-wing
governments which alternated in power from then on.

The second period (1970-74 in Britain and 1974-81 in France) concentrates on the
analysis of the electoral commitments put forward by French and British candidates in 1974
and 1970 respectively and on the programmes the new governments intended to implement.
The chapter shows that, on both sides of the Channel, there was a strong political will to come
up with a "new immigration policy" free of the contradictions and limitations of the previous
years. The major objective of restricting the settlement of new migratory flows of primary
immigrants while honouring remaining commitments towards overseas populations and
family dependants encountered several types of constraints with differing outcomes of the
policies (Chapter 4).

The dilemma with which the French and British governments of this second period
were confronted, when their "new immigration policy" was implemented, soon appeared, not
only because a set of external constraints tested governmental policy but also because of
inherent limitations in the policy instruments devised to implement the new policy decisions
on immigration. Rules on immigration control, despite the initial difficulty of putting them in
a comparative perspective because they are part of two different legal systems (the French
civil law system and the British common law system), can be classified according to their
ultimate purpose: the reduction of primary immigration and the containment of secondary
immigration. These regulations, as well as the way they were administered at ports of entry,
are comparatively appraised in Chapter 5, focusing in particular on their impact on
immigrants' fundamental rights, since many rules constituted clear infringements of civil
liberties.

By contrast, the third period investigated (1974-76 in Britain and 1981-83 in France)
was characterised by the more liberal attitudes which the newly elected left-wing governments
adopted towards the whole question of immigration. This liberal phase, which lasted as long
as the "governmental honeymoon" in each country, is explored in Chapter 6. During those
years policy principles on immigration controls that were intended to make a clear break with previous immigration control practices were rapidly formulated. In most cases the new rules and criteria for admission represented a softer approach towards the management of border controls but did not challenge any of the basic regulations elaborated by previous governments. Nevertheless, the policies of the Labour and Socialist governments were particularly lenient towards illegal immigrants and family dependants.

Finally, in Chapter 7 the analysis of the last period (1976-79 in Britain and 1983-86 in France) reveals how the policy-making process was affected by a series of internal and external constraints. The Socialist and Labour governments, faced with the growing electoral success of the far-right and, within the government itself, with the political pressure exerted by some ministers, revised their initial attitude towards entry regulations. The new rules which were in clear contradiction with the policy objectives that had originally been formulated provided stricter criteria for entry, and firm action against illegal immigration. They signalled the end of the liberal and, thus, transitional period observed at the beginning of the Socialist and Labour terms of office. This renewed severity implicitly denoted the existence of determined parameters which hindered governmental action in this area of public policy.

To sum up, the thesis seeks to demonstrate that in both countries, within well-defined chronological boundaries, successive governments on the right and on the left had similar visions of the kind of society they wished to promote. Accordingly, despite the different historical and political circumstances of the two countries, the policy devised throughout the period 1970 to 1986 attested to the central concern of French and British governments to preserve the "integrity" of their society against the threat allegedly posed by additional migratory waves. In consequence, policy-makers adopted a series of rules with differing degrees of legal authority to reduce targeted sources of immigration. These severe control mechanisms testified to the increasing distance that successive Conservative and Labour governments in Britain and the different governments in France sought to establish in relation
to their countries' colonial past and their inherited commitments towards overseas populations. The policies of control devised during those years had long-term consequences for the societal structure of the two nations. More significantly, they prefigured more restrictive measures adopted by successive governments to improve border controls.
1. LITERATURE SURVEY

The huge literature on immigration produced by lawyers, economists, demographers, historians, sociologists and political scientists testifies to the multifaceted character of a phenomenon common to many Western states. Among these, Britain and France have had distinct immigration experiences that have been investigated thoroughly. All these studies have provided different ways of understanding policy and legislation on immigration control in social and political life. The richness of the literature on immigration made necessary a preliminary selection of the vast volume of secondary sources available. Thus, the legal literature on immigration law was used in so far as it gave detailed and technical information on the body of rules controlling entry and describing the legal status of immigrants. Sociological works provided a general background on the evolution of the migrant population in France and Britain (composition and main characteristics) and its impact on the host society (analysis of the set of reactions to the settlement of large groups of immigrants) throughout the period analysed. History books provided chronological support for the whole study and placed the phenomenon of immigration within the wider context of the general history of France and Britain. Finally and most importantly, political studies analysing immigration policies constituted the main empirical groundwork for this study. Most of these studies are themselves interdisciplinary and therefore combine different approaches.

This chapter has a double objective. Firstly, it intends to make a selective review of the main approaches pursued by British, French and American scholars to discuss immigration policy on control but also related areas of immigration. Secondly, the review should also reveal neglected areas which still need further investigation. There are four main developments. (i) A short survey of monographic publications on French and British immigration policies highlights the major characteristics of the secondary material in that area (section 1). (ii) Works which compare either Britain or France with other countries are
presented to show that the comparison between French and British immigration policies was not straightforward for many British and French academics. British studies concentrated on the American experience of immigration and race relations to find applicable solutions for Britain's immigrants' problems. French scholars, on the other hand, analysed immigration as an economic issue and were more inclined to find similarities with other European immigration countries such as Germany, which had set up a scheme for recruiting migrant workers similar to the French one. In addition, a special subsection examines some collective works on European immigration countries which include the French and the British experience (section 2). (iii) The analysis of the few comparative works that put in parallel British and French experience whether by analysing their immigration policies, or their concepts of integration and citizenship, focuses on the issues selected for comparison, on the period of time scholars selected for their investigation and on the comparative methodology they adopted (section 3). (iv) The last section provides a brief presentation of the legal literature on immigration law (section 4).

1.1 Monographic studies on Immigration policies in France and Great Britain

In the post-war era Britain and France experienced successive waves of mass immigration which altered the composition of these old nation states' societies. The demographic, cultural and social transformation that occurred generated a set of political responses and social reaction that academics investigated thoroughly. Although by the mid-seventies primary immigration had been severely cut down and secondary immigration was considerably slowed down over the years, this contentious and controversial area of public policy continued to receive increasing academic, media and political attention. In Britain the vote of three legislative instruments (the Commonwealth Immigrants Acts 1962, 1968 and the Immigration Act 1971) to curb immigration from the New Commonwealth and the adoption of legislation against racial discrimination (Race Relations Acts 1965, 1968, 1976) were external signs of
the growing concern of successive governments to formulate policy objectives and produce effective legislative tools to solve what soon came to be perceived as "the problem of immigration and race relations". Similarly in France the vote of the first major act on immigration (O. n.2645, 2/11/45), followed by a vast amount of secondary legislation up to the early 1980s, testify to the central significance the issue of immigration acquired for successive governments. However, the literature produced on both sides of the Channel is not comparable in quantity and quality. In Britain extensive research on immigration and on its corollary race relations began earlier than in France and consisted mostly of sociological studies. The predominance of the race relations approach influenced a great deal of academic writing to the extent of making immigration and race relations synonyms. By contrast, studies on the French immigration phenomena took off later than in Britain and were predominantly done by economists, demographers and lawyers. Quite interestingly, in both countries historians and political scientists neglected this study area until the early 1980s.

1.1.1 The immigration phenomenon in Britain: the predominance of sociological works on race relations

Sociological works produced in Britain from the mid-fifties onwards dominated other disciplines in the study of the immigration phenomenon. Although most of the research done for this thesis was not drawn from sociological works, it is important nonetheless to briefly present the main characteristics of the literature on immigration in that discipline. Sociological studies with their different schools of thought (see Travers 1999 for an account of the contrasts existing between the different schools of sociologists and also Rich 1986) provided several types of analysis to understand immigration control and its evolution in British society. British sociological studies on immigration have been greatly influenced by the American scholar Robert Park, considered a pioneer in the sociological study of racial and ethnic relations. Through the race relations approach developed in Britain mainly during the 1950s, social problems arising from immigration from the New Commonwealth were
perceived in terms of race relations. This analysis of the immigration phenomenon in Great Britain stemmed from an overall perception of the immigrant population in Britain as "coloureds" and thus, ignored the diversity of nationalities, ethnic origins, languages spoken, and religious affiliation of the various groups. In addition, racism and discrimination experienced by immigrants were regarded as the determinants of immigrants' social position (Davidson 1966; Rex and Moore 1967; Patterson 1969; Deakin 1970; Hiro 1971; Charlot 1972; Banton 1977; Miles and Phizacklea 1977; Rex 1977; Phizacklea and Miles 1980; Solomos 1989).

An important sociological book, based on case studies of immigrants experiencing the harshness of the British system of control, was written by Moore and Wallace (1975) to criticise the way the Conservative government (1970-1974) and its civil servants administered immigration controls abroad during the Ugandan crisis. The contribution of these two scholars, beyond their intention of drawing the public's attention to the increased severity of a system of control often presented as "firm but fair", was not exempted from bias. Their testimony thus rendered a one-sided account of the experience of migrants excluded from Britain and separated from their families, without a thorough analysis of the policy objectives of the Heath government. However they did show, through numerous cases, the daily practice of immigration control beyond the rhetorical arguments of policy-makers.

By contrast, scholars with a Marxist understanding of the immigration issue like Castles and Kosack (1973) and Sivanandan (1978, 1982) argued that immigrant minorities in Britain, similarly to other immigrant groups in Western Europe, constituted a reserve of cheap labour easily exploitable to serve the needs of capital. They therefore explained the problems connected with immigration in terms of the socio-economic function performed by Blacks and Asians in Britain. Their criticism of the race relations approach showed that racism derived principally from the function immigrants had in the socio-economic structure. Finally, as Castles and Kosack (1973) rightly observed, the predominance of the race relations approach prevented British scholars from comparing the immigration question in Britain with similar
phenomena occurring in other European immigration countries (see for an opposite view McFerson 1979).

British economic literature has paid little attention to the contribution and impact of foreign workers on the domestic labour market. Menski (1994) explained that the scant interest showed by economists in the immigration question derived primarily from the preponderance of the race relations analysis. The lack of extensive studies on the economics of the migration process and on the economic role of immigrants merely reflected official policy-makers' attitude, who (with few exceptions) did not consider the immigration issue in its economic dimension and failed to acknowledge the contribution the foreign workforce brought to the domestic economy. Instead, official political discourse on immigration, which often emphasised the racial and social disadvantages of immigrants, supported the calls for more restrictive policies. Spencer (1997) strongly denounced the lack of "official" publications as well as the lack of thorough academic research on the economic input of Asian immigration to emphasise that this contributed to reinforcing discrimination and intolerance towards Asian workers.

There were, however, works published in 1970 which represented an exception in that study area. The few publications of the Institute of Economic Affairs contributed to the discussion on the history, analysis, costs and benefits of immigration into Britain (Wilson and al. 1970). This series of papers, along with Jones and Smith's studies (1970a, 1970b), traced the economic and social impact of the successive waves of immigrants, their contribution to economic growth and the short and long-term benefits for Britain (See also Jones 1981; Peach 1981 for more developments in the period covered by the thesis).

As for the history of immigration into Britain throughout the twentieth century, British historians, until recently, had failed to acknowledge the importance of the phenomenon of immigration in British history (Dummett and Nicol 1990; Holmes 1988, 1991; Panayi 1994). Consequently, in contrast with other disciplines, in particular with sociology, there have been few general studies showing immigration as a continuing process and discussing details of the
emigration and settlement of the various immigrant groups present in Britain. However, despite the few comprehensive studies on the history of immigration, there has been much more research done to recover the history of specific immigrant communities which settled in Britain starting at the end of the 19th century: Jews, Irish, Italians, Germans and Black people in particular (see for example journals such as Immigrants and Minorities and Ethnic and Racial Studies, Race and Class, Jewish Social Studies and Patterns of Prejudice but also Peach 1968; File and Power 1981; Fryer 1984).

Holmes' major work John Bull’s Island (1988) remains a landmark in this field. It covers a century of immigration into Britain starting at the end of the 19th century up to the vote of the 1971 Immigration Act. He paved the way for Panayi's study (1994), which covered more than a century of history of immigrant communities who had been settling in Britain since the early 19th century (1815-1945). However, while Holmes produced an empirical survey of British immigration through a strictly chronological structure, Panayi adopted a thematic approach to present the reasons for migration, the structure of the immigrant communities, problems of ethnicity and finally, the reactions that newcomers faced when they arrived. Through the several periods Holmes identified (1871-1914, 1914-1919, 1919-1939, 1939-1945 and 1945-1971), he focused on similar themes to those of Panayi: the composition of the different migration waves coming to Britain and the reasons behind individual choices to migrate, the economic and social history of these immigrant groups and their impact upon British society.

Similarly to the French case (see infra), historical investigation on British immigration which reconstructed the main features of the different immigrant waves has served to challenge popular assertions that immigration and, more importantly, hostility experienced by Blacks and Asians during the post-war period were one of the legacies of the colonial era (Holmes 1991). Historians' contributions questioned Britain's liberal traditions of welcoming foreigners and refugees, by revealing episodes of intolerance and hostility towards foreigners (Panayi 1994).
Traditionally, political scientists have inevitably linked British immigration policies with the race relations question. Very few titles in British politics which investigate immigration policies, do not include words like “race, racism, racial, coloured, black, ethnic minorities, etc.”. Hence, scholars have implicitly subscribed to a dominant “official view” which has repeatedly asserted that strict immigration controls were the necessary corollary of the improvement of racial harmony. The two questions, although they can be treated separately, have often been developed together.

Most of the research investigating British immigration policies from the 1970s onwards, has been published in journals (see Parliamentary Affairs, Race Today, Ethnic and Racial Studies, New Community, Political Quarterly, British Journal of Political Science, to quote the main ones). The resulting picture remains patchy but all of these contributions, even those only touching upon connected areas of immigration control, are necessary to reconstruct the evolution of the political responses and social reaction to New Commonwealth immigration. An important part of the research in that area was dedicated to the genesis of the Immigration Act 1971 and to its long term consequences as well as other instruments of the policies elaborated by the Conservative and Labour governments for the period 1970-79 (Hindel 1969; Gibson 1971; Ward 1972; Rose 1972a, 1972c, 1973a, 1973b; Grant and Pierce 1973; Norton 1976; Harley 1980; Himmelfarb 1980). Common to these articles is their analysis of immigration policy as part of the wider branch of public policy, with sometimes, less emphasis on the race relations aspect of the immigration phenomenon in Britain, than what is usually seen in the sociological field. Publications analysing the link between public opinion and specific immigration aspects were also particularly useful since they investigated the role and pressure of public opinion in influencing policy-makers’ attitudes and eventually modifying their policy objectives (Kohler 1973; Miller 1980; Studlar 1980). Research on immigration has also touched upon the analysis of the role of the media in contributing to build a certain “reality” of immigration and race relations issues (Bagley 1973; Hartmann and Husband 1974). Electoral studies which investigated the weight of immigration and race
relations issues on the outcome of general elections also focused on the electoral and political weight of ethnic minorities to study the evolution of the major parties' strategies to attract minorities' electoral support (Abrams 1970; Deakin and Bourne 1970; Fox 1975; Johnson and Schoen 1976; Studlar 1978). Finally, research on the current thinking of major parties on immigration has been also published in articles disseminated in several journals. Their importance lies in the fact that these publications are particularly relevant for measuring the role and weight of political parties in the definition of immigration policy objectives during the period considered in this research (Hanson 1970; Kornberg and Frasure 1971; Layton-Henry 1978, 1979, 1980; Taylor 1978; Miller 1980; Joshi and Carter 1984; Messina 1985).

To conclude briefly this section on political science articles, the "extraction of information" on immigration policy and its instruments has a rather piecemeal aspect. The lack of comprehensive studies on British immigration policy over the last decades might seem to be a paradox given that "race and migration have been among the most hotly contested issues in British society since 1945" (Paul 1997: xi). The predominance of research on race relations meant that research on immigration policy was not separated from the studies on "race", often commonly, but mistakenly, used as a synonym for immigration. An additional motive that may explain the few publications on British governmental immigration policy comes from the unavailability of certain kinds of documentary evidence. Hence, unlike France where scholars have wide access to public records of very recent events (cf. Weil 1991; Viet 1996, 1998; Caudron 1997), British official papers for the period covered by the thesis are still shielded from public inspection. In addition the fact that British governments, especially when the Conservatives were in office, have been highly secretive accounts for the difficulty in obtaining access to internal documents, such as minutes of meetings or recommendations about policy to ministers, invaluable to any scholar studying public policies (Kavanagh 1987; Travers 1999). This means that the records of parliamentary debates, parliamentary committees' reports, parties' publications and newspaper articles that have been used for this research consist of the "public" primary sources.
For the period immediately preceding the years covered by this thesis, works published by Paul (1997) and Spencer (1997) are of great value in providing an important source of background data, necessary for a more comprehensive vision of the evolution of the history of immigration control. They represent the first studies drawn from material finally released under the thirty years rule since they investigated the 1950s and 1960s for which public records were made accessible. Spencer's study, which covered British immigration policies since 1939, sought to answer how British immigration policies towards Blacks and Asians were elaborated and implemented and to demonstrate how these restrictive policies to limit "coloured" immigration provided the basis for a multiracial Britain. Paul instead, presented thematically migration policies implemented by successive British governments in the post-war period. She examined the different political strategies towards four main groups of immigrants and emigrants during the post-war era: emigrating UK residents, immigrating European aliens, migrating citizens of Ireland and migrating subjects and citizens from the colonies and Commonwealth. Both authors benefited from access to ministerial archives and governmental papers under the thirty years rules, which enabled them to supply the debate with new elements. Their studies challenged current assertions which had up to then viewed British policy-makers in the crucial years of the Commonwealth Immigrants Acts as "a liberal elite forced by an illiberal public" to set up restrictive legislation on coloured immigration (Paul 1997: xi). Spencer investigated the set of administrative measures to limit the arrival of coloured immigrants from the Indian sub-continent and the West Indies (1945-1955) arguing that their extensive (often discriminatory) use shifted the burden of responsibility of implementing immigration controls onto Commonwealth governments at points of departure. It allowed Britain to keep its hands clean and still claim to practise an open-door policy. The recourse in 1962 to legislative methods to control coloured immigration resulted mainly from the failure of previous systems to implement effective administrative tools to control the increasing number of new arrivals. Spencer denied accordingly that the introduction of the first Commonwealth Immigrants Act was due to the decrease of labour demand in the early
1960s. Paul's main argument outlined the active role British governments took in creating and manipulating British nationality and immigration policies to further larger political objectives. In particular, she emphasised that the different policies towards the groups she individuated were designed to promote a certain conception of "Britishness" to strengthen Britain's position as an imperial power. These two studies contributed to demonstrating the main political and moral principles which guided British elites for the period immediately preceding the years covered by this study.

Layton-Henry's work (1992) concentrated on the recent period (although the post-war era was presented) to cover the main historical and political events characterising British policies on immigration and race relations up to the 1990s. His thematic approach investigated the transformation of British society from an emigration country to a multiracial society. Public opinion and policy-makers' reactions to New Commonwealth immigration were examined to bring out the general tendency of ignoring the contribution of the immigrant population. Drawing largely upon parliamentary material, media archives and parties' publications, Layton-Henry's work sought to present the various responses that ethnic groups, Labour and Conservative governments formulated to the definitive transformation of Britain into a multicultural country. As the title, *The Politics of Immigration. Immigration 'Race' and 'Race' Relations in Post-war Britain*, suggests, the aim of the book was to cover the politics of immigration in its multiple dimension, with a particular focus on the "race" aspect. Because of its very wide coverage, this study represented a major account of the history of British policies on immigration and race relations. It did not however investigate in depth the notion of control, the policy objectives of the Conservatives and Labour to limit primary and secondary immigration.

For the period covered by this thesis, there have been noticeable gaps in the data available still to investigate: the evolution of immigration control after the vote of the 1971 Immigration Act, the different policy objectives the Conservative and then Labour governments carried out to fulfil electoral commitments or to respond to public pressure, the
weight of constraints of sudden and unexpected migratory flows (1972 Ugandan crisis, 1976 Malawian crisis), or the economic situation over the governmental priorities. This thesis intends to reconstruct the chronological evolution of the policy process to devise short and long-term objectives for controlling New Commonwealth immigration for the period 1970-1979. It also seeks to provide, from a non-legal, hence less technical point of view, a detailed and comprehensive examination of the main characteristics of the instruments of the Conservative and Labour policies to restrict specific sources of primary and secondary immigration after the 1971 Act.

1.1.2 The immigration phenomenon in France: belated recognition of its historical dimension

Although France can be considered as a major immigration country, given the size of its immigration population, the long history of mass immigration waves and the role the French state played especially after 1945, to attract further immigrants, studies on the phenomenon of immigration started relatively late compared to Britain. The interest shown by various research disciplines in the issue of immigration reflects the evolution of perception of the immigration phenomenon. Thus, up to the end of the 1970s there was a net imbalance in the literature produced on immigration (Anstett 1986). Economists, demographers and lawyers were certainly the most active while immigration was not perceived as an autonomous valid field of study for historians and consequently, the immigration phenomenon was rarely included or even mentioned in any book on French History (Noiriel 1985). Likewise, few political scientists investigated that area until the early 1980s when immigration policies started to be examined like any other branch of public policy and a general awareness arose that immigrants were not merely temporary migrant workers but potential political actors able to influence the outcome of governmental immigration policies.

Similarly to the British case, where historians “discovered” immigration as an interesting field of investigation at a rather late stage, official historiography was silent on the
immigration issue in France until the beginning of the 1980s. According to Noiriel's major study (1988) of the history of immigration in modern France (19th and 20th century) and other scholars (Dignan 1981; Gaspard 1984; Silverman 1992), this "official silence" on the phenomenon of immigration in the post-war era denoted a biased use of history in that particular area (Limousin 1988; Costa-Lascoux 1989a). However, Green (1991) and Dignan argued that prior to that period some French historians had already started to reflect upon the history of French immigration in the early 1970s. However there were still important omissions, further reinforced by the absence of general studies on the history of immigration in France.

Most of the writing published prior to the 1980s consisted of specific studies on certain groups of immigrants (mainly the major ones present in France): Italians (Girard and Stoetzel 1947, 1953; Girard 1954), Spaniards (Hermet 1967), Poles and also Algerians (Girard 1954; Belloula 1965). The absence of a wider and more comprehensive picture of the immigration process in France throughout the 20th century seemed paradoxical, given the centrality of the issue of immigration and the intense political activity of successive governments around it.

However, towards the end of the 1980s, the history of immigration began to be better served by historians who reconstructed the chronology of the different waves of immigration in France from the 19th century and throughout the 20th century (Lequin 1988; Noiriel 1988; Amar and Milza 1990; Schor 1996). Their accounts analysed and compared the impact of the successive migratory flows to France, the governmental policies and legislative tools to regulate the rate of admission over the different periods individuated. Their main assumption, that France has been a major Western immigration country, served to demonstrate that, contrary to popular belief, each immigrant group has contributed to shaping the French nation.

Lloyd (1991) and Milza (1985) argued that the significance of these first historical studies on the immigration phenomenon in France throughout the 20th century, lies in their

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challenging the assertions of the extreme right that immigration in France is a recent phenomenon in French society. They contributed to the current debate on the present immigrant population and challenged the extreme right’s thesis about the impossibility of “assimilating” certain immigrant groups, namely North Africans. Putting in parallel several waves of immigration (those at the turn of the century, in the thirties and the most recent ones) and the xenophobic and often very violent reactions that Poles and Italians faced at the turn of the century when they arrived in France, Milza and Lloyd intended to demonstrate that the creuset français – the French melting-pot – had worked for these nationalities and would work for the present and future waves of immigrants.

Apart from the somewhat neglected historical field, demographers, economists and lawyers have been particularly busy (see infra for this last discipline) from a rather early stage. In contrast with the unexplored economic dimension of the immigration issue in Britain, French economists have certainly been among the most active scholars to carry out research in this area. Up to the early 1970s, the phenomenon of immigration was principally perceived through its economic dimension (see journals such as the Revue éconómique 1965; Revue internationale du travail 1968; L'Information géographique 1964, 1969; Bideberry 1969; Calame and Calame 1972; Le Pors 1976; Wihtol de Wenden 1976). For Schnapper (1992) up to the 1990s economic analysis of the immigration phenomenon was predominant. Economists stressed in their explanation – often from a Marxist point of view – the “push and pull factors” behind the decisions to migrate. They also analysed the presence of the immigrant workforce in various job sectors, its contribution and impact on the labour market.

The interest of demographers in this field reflected the political choices made in the immediate post-war era, when governments of the day, had devised clear policy objectives to attract certain categories of foreign population in order to repopulate French territory. This drew them to the study of the profound and long-term consequences of the presence of various immigrant groups in French society. Hence, throughout the 1960s, demographic studies analysed the respective size of the different nationalities present in France, their
origin, the birth rates of the various groups, as well as their impact on local population according to the area of settlement (see numerous articles in *Revue de LINED*; *Population* 1961, 1964, 1965, 1971, 1974; Bastide and Girard 1966; Hemery and Rabut 1973; Tapinos 1971, 1975; Gokalp 1974; Lebon 1976, 1980). More recently, large-scale investigations which involved the collection of extensive statistical information on the economic contribution of migrant workers (job sectors, occupational activity), the migratory patterns of the different national groups, family models (birth rates, marriages, immigrant women’s education...) contributed to update the state of knowledge on the immigration issue. These studies also challenged the current mode of thinking on immigration which often served the purposes of the far right. In particular, Tribalat pointed out the growing number of “Franco-foreign” marriages, the successful rate of integration of the so-called second generation of immigrants, the improvement of immigrants’ education. Her conclusions aimed to counterbalance popular negative views that recent migrant groups are unable to live in harmony with the rest of society (Tribalat 1991, 1995).

Finally, despite its relatively late start as a field of study in comparison with other disciplines, scholars in political science are now engaged in detailed enquiries placing considerable emphasis on the defining of immigration policies throughout the last decades. Some of these studies have focused on specific aspects of immigration policies: the political role of immigrants and how they interacted with policy-makers (Wihtol de Wenden 1988a), repatriation policies (Baudet-Caille 1990), the respective role of the different administrative structures involved in the policy-making process of immigration (Viet 1996, 1998), the policy management of illegal immigration during the Mitterrand years (Caudron 1997). These studies benefited from wide and privileged access to public and private ministerial archives, government papers and ministers’ personal papers, enabling these scholars to produce extremely valuable and detailed analysis of the public policies that were carried out over the period in question.
Two studies which represented landmarks in that area were those of Wihtol de Wenden (1988a) and Weil (1995a); both resulted from doctoral research that for the first time showed the interest of political scientists in an area dominated by other disciplines. They produced remarkably well-documented groundwork studies (interviews with politicians, ministerial archives and government papers) that followed a chronological approach of the various stages of the immigration process in France throughout the 20th century. While Wihtol de Wenden’s study traced back the first important migratory waves to the end of the 19th century, Weil’s analysis of public policies on immigration covered the immediate pre-war period (1938) up to the mid-eighties. The chronological presentation enabled them to identify distinct periods and phases in the immigration policies of successive governments. For the period of interest of this study, their work, especially Weil’s thesis, provided a fundamental source of data on the genealogy of public choices in the area of immigration. Wihtol de Wenden’s research focused on the relationship between immigrants and public policy bodies outlining the development of the role of immigrants as political actors. She argued that such a role over the years (and in particular from the mid-seventies onwards) had increasing significance on the development of immigration policies. Weil instead concentrated on the governmental side of immigration policies and asserted that France had defined most of its immigration principles in the immediate post-war period. These principles had gradually been accepted by the major political parties (with the exception of the far right) and had been embodied in several legislative acts and secondary legislation produced by the governments of the Fifth Republic.

As in the British case, besides the general studies mentioned above, there existed a multitude of articles or parts of specific studies on some aspects of immigration in France. All these writings, whether they synthesised the implementation of governmental policies over a certain period, or analysed more extensively specific aspects of immigration control, completed the state of research. From a general point of view, research investigating governmental policies and the regulatory instruments of these policies to control the
admission of foreigners represent the bulk of publications (Verbunt 1973, 1980; Lochak 1976; Beyler 1978; Wisniewscki 1978; Sayad 1979, 1986; Deley 1983; Weidert and Schlegel 1984; Schain 1985; Hochet 1988; Hollifield 1990, 1992; Wihtol de Wenden 1991; Weil 1995a, 1995b; Moreau 1997;). There were some more specialised articles on the immediate consequences for foreign workers of the 1974 decision to close French borders to the foreign workforce (Apostolo 1976; Benoit 1976; Kennedy-Brenner 1979; Singer-Kerel 1979; Beauge and Oriol 1980). There were also publications examining the parties’ attitude to immigration, their programmes and their policy objectives (Vieuguet 1975; Ambler 1985; Schain 1988). The emergence of the extreme-right in the mid-eighties favoured the multiplication of analyses on the FN (Front National) propaganda on immigration matters (Cocatre-Zilgien 1983; Lancelot 1984; Schain 1987; Taguieff 1989; Husbands 1991; Fysh and Wolfreys 1992; Hainsworth 1992 to quote but few of them). More specific studies have dealt either with particular immigrant groups such as Algerians (Sayad 1977; Costa-Lascoux and Temime 1983; Hargreaves 1990; Hifi 1985), or those whose legal status raised important political and moral questions – the irregulars – (Power 1979; Costa-Lascoux and Wihtol de Wenden 1982; Verbunt 1982; Dinand 1986; Marie 1988). Finally, areas related to immigration have been those dealing with questions on multiculturalism, theoretical concepts of integration and policy objectives to improve national cohesion; curiously enough these topics have been investigated mainly by Anglo-Saxon authors who have specialised in the cultural studies’ area (Safran 1985; Silverman 1990; Lapeyronnie 1991, 1992; Vichniac 1991; Crowley 1993; Schain 1993; Hargreaves 1995a, 1997).

For the past two decades, the immigration question in France has been thoroughly studied from various perspectives. The several comprehensive studies and the multitude of articles on French immigration make it difficult, at first sight, to uncover new data. However, the abundance of secondary material is a ready-to-use source of data upon which this research drew largely. Relevant primary material was incorporated into this important groundwork laid down by other authors. This enabled the author to produce innovative arguments on the
immigration policies on control. Firstly, the period of time covered by the thesis, with well-defined chronological limits (1974-1986) represents a rather short span of time which could be explored in detail. This contrasts with more general studies such as those of Lequin (1998), Amar and Milza (1990) or Schor (1996), whose coverage of the entire twentieth century aimed at tracing a continuous process of entry into France. It also contrasts with articles published regularly on certain aspects of immigration control that tend to concentrate on rather short periods of time, whereas the examination of a decade of immigration policies can be considered as a sufficiently long period to observe a well-defined cycle.

Secondly, policy on control on entry has often been investigated by lawyers from a very technical point of view. Here the study focused on the evolution of the policy objectives to control at entry the major source of immigration – primary immigration – while attempting to limit the volume of secondary immigration to a greater or lesser extent. The focus on the development of governmental policies, to trace the genealogy of the policy-making process, as well as to observe critically the set of instruments adopted made possible a greater degree of insight. Finally, the comparison with the British case was a fundamental tool, not only to illustrate the specificity of the French case but also to point out policy developments not fully investigated elsewhere.

1.2 Comparative studies

The second strand of literature presented in this section deals with comparative works investigating French or British immigration phenomena in relation to other host countries' experience. These comparative studies contributed to a better understanding of the variety of socio-political responses to French and British immigration since they showed that despite the specificity of historical, cultural and political circumstances, similar trends can be observed.

Although comparative publications involving one of the two countries were not directly related to the central topic of the thesis, it was nonetheless interesting to examine that
part of the literature on immigration for two main reasons. First, from a methodological point of view, the comparative techniques adopted were assessed to determine the relevance of the conclusions drawn by these works. Second, it was interesting to note that the comparison between the French and British immigration experience seemed to be rather uncommon. Instead, the British and French cases have often been put in parallel either with the other major Western immigration country – the United States – or with Germany, because of its importance as one of the most important receivers of mass migration in Europe during the post-war era. Thus, the abundant literature comparing Britain or France with the United States or Germany contrasts with the lack of thorough and detailed analysis of comparative works on French and British immigration policy. This in turn legitimises the choice of selecting British and French immigration policies on control, as units of comparison, to fill a gap in that area of research.

1.2.1 The common reference to the United States

The grounds for comparison between Britain and the United States have not been based on the importance of the migratory trends, since Britain has been an emigration country and did not receive or seek to attract for economic and settlement purposes important groups of immigrants like the United States did. Rather, the comparison stemmed from the observation of similar characteristics in the composition of British and American immigrant populations, that is the predominance of “coloureds” and the declared political need to preserve harmonious race relations. Thus, the American race relations experience was used as a common denominator, a starting basis of comparison for sociological and political science research.

In the sociological area, largely influenced by the American pioneer Robert Park (cf. supra), the American situation was perceived as being at a more advanced stage than the British one. This time-lag was thought to be helpful for understanding current British
difficulties and foreseeing future problems. In the 1950s and 1960s, the United States and Great Britain were the scene of several crises revealing the increase of racial tension; the development of civil rights movements in American cities was put in parallel with the first race riots which broke out in 1958 in Nottingham and Notting Hill. Britain’s attention was directed across the ocean to try to find in the American situation either some “lessons” which could be used to solve internal difficulties, or, for some, confirmation of the inevitable problems that any multiethnic society faces (unemployment, violence and crime, urban ghettos...). The British public was furthermore influenced because British media covered the “race” riots in the United States extensively. Hartmann and Husbands (1974) showed in their study on the treatment of race in the British national press between 1963 and 1970, that the situation in the United States with violent race riots and inter-racial hostility was presented to the British public as a possible future for British society when “black” and “white” live together.  

The bases for comparison have been multiple, ranging from historical arguments (tradition of slavery in the United States put in parallel with the British imperial past) (Rose 1969) to socio-economic factors (inner-city problems, unemployment, racial disturbances, class structure (Bell 1969; Vanneman and Pettigrew 1972). Others based their comparison on legal arguments contrasting the different sets of legislative measures on anti-discrimination laws (Denton 1967; Bonham Carter 1967). A comparative study published by the Minority Rights Group investigated the effectiveness of anti-discrimination laws in the United States and Britain and it was emphasised that in both countries race attitudes have been shaped by common traditions and memories (Clairbone 1974). However while American society soon accustomed itself to a domestic black population (slavery) Britain, on the contrary, did not experience any large coexistence with a black population before the mid-fifties.

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2 Political debate in Britain was also influenced by the American situation. When the Commonwealth Immigrants Act 1968 and the second Race Relations Act 1968 were passed, the American experience was referred to in debates in the House of Commons and in the literature.
During the same period, the Runnymede Trust published several memoranda on American immigration at the request of the House of Commons Select Committee on Race Relations and Immigration. The idea behind these essays was to investigate the present situation of immigration in the United States and to “point to a few possible lessons for Britain” (Rees 1974; Pollack 1974; Stephen 1975a). For example, Stephen’s concluding remarks pointed out how Americans had tackled race problems, which could be a leading example for Britain in solving its internal race relations problem.

Towards the mid-seventies an opposite theory was developed by scholars who criticised a common tendency among scholars and politicians to “read American lessons into British experience” (Rex 1979: 72; Banton 1979). Rex and Banton’s analyses (from a left-wing point of view) intended to highlight that the British and American experiences should not be oversimplified and that it was thus necessary to analyse the relationship between immigrant ethnic minorities in Britain and the existing class structure within the domestic socio-political environment. Similarly, Castles and Kosack (1975) outlined that the dominance of the race relations approach in British studies had created a false assumption that the majority of immigrants were coloured (when nearly 2/3 of the immigrant population were white) thereby systematising the comparison with the United States. Quentin Hogg, Conservative MP (1970) also denounced the alleged American analogy to deny that the origin of racial problems in the United States (slavery of the Negro community) could be a valid ground of comparison between British and American race relations experiences. He asserted that most commentators had failed to take into account the existence of the welfare state in Britain which made the emergence of race riots on the scale of those that had occurred in America far more unlikely. More recently, Joppke (1999) denounced the false equation British commentators made between Britain’s race problem and the American case. The comparison of coloured minorities in Britain with the American black group failed to acknowledge a fundamental difference. While America was still haunted by the legacy of slavery and therefore considered as owing a debt to its black population, Britain on the contrary, because of the voluntary...
aspect of coloured immigration, never considered granting affirmative action privileges to its coloured minorities.

Grounds for comparing French and American immigration have been very different from those usually selected for the couple Britain/United States. Here, it is the large-scale character of the immigration phenomenon that both France and the United States sustained from the end of the 19th century that drew the attention of scholars to investigate the causes, effects and consequences of comparable migratory patterns. Many authors went beyond this likely similarity to point out the differences that transpired from a less superficial analysis of the two countries’ immigration experiences (Wihtol de Wenden and Costa-Lascoux 1984). Other scholars used the parallels with the American case to feed the debate on French immigration (Pinto 1988; Dubet 1989; Ullmo 1994; Weil 1994).

Noiriel’s (1988) and Green’s analyses of the French and American literature on immigration reached different conclusions. The first highlighted that the absence of official historiography in France on immigration contrasted with the development of research on immigration in the United States. This, according to him, constituted a paradox given that both countries could claim to be major immigration nations. Green showed that French and American publications omitted important aspects of the history of immigration. She emphasised that contrary to popular belief and despite the recent closure of French borders in 1974, France had been an open-door country while the United States, though often pictured as an open-door country, had implemented a restrictive policy at a very early stage in its immigration history.

A fundamental difference that emerged from a close comparative look at the evolution of the history of immigration of the two countries lies in the contribution immigration made to these nations. While immigration in the United States was perceived as the key element which shaped the American nation, in France the immigration phenomenon has been perceived as an external factor, a temporary trend in the history of France. Horowitz and Noiriel (1992) noted that these differences relied more on assumptions about immigration rather than on the
practical experience of immigration itself. These differences implied the setting up of different institutions to manage immigration controls as well as different concepts of state, society, identity, ethnicity and belonging to the nation.

Wacquant (1992) commented on the “moral panic” which emerged in the 1980s and throughout the 1990s in France over the rising number of violent episodes in inner-city areas. He compared the spread of racial tension in French banlieues to the so-called American ghettos and concluded that the comparison with the American situation was based on false assumptions widely conveyed by the media and political circles. He denied that the level of violence and poverty in French inner-city areas could be put on the same scale as those existing in the United States. His argument was based on a marked difference between American ghettos and French banlieues. Whereas the first derived from racial segregation, the second had developed as distinctive areas of segregation as a result of class structure problems and not from colour-line boundaries.

Beyond the differences noted above, the two societies labelled as “ethnic melting pots” underwent rapid and rather drastic transformation in the name of similar demographic and economic motives for massively attracting immigrants for settlement (Dignan 1981). As a result of an open-door policy combined with their traditional acceptance of refugees, France and the United States have had the highest rates of immigration among Western immigration countries (including Australia). However these official policies have contrasted with the strong feeling of rejection shown by local populations towards newcomers (Green 1991). This view was also supported by Horowitz and Noiriel (1992) who explained that the racial tension observed in both countries derived in part from the uneven distribution of the immigrant population throughout the land and in part from the religious heterogeneity of an immigrant population that was difficult to accommodate.

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4 See Bruschi (1985) for an opposite view.
In a connected area of immigration policies, Pinto (1988) adopting a more sociological stance, put in parallel the currently practised French and American models of integration of immigration. She described the American model in which society had constructed its identity on the basis of the contribution of various ethnic groups; such a model presupposed the official recognition of the cultural specificity of minority groups. By contrast, the traditional French model systematically denied any specific identity and culture to immigrant groups and implied that immigrants were “assimilated” under a common allegiance to French laws and customs. Although the American model had been rejected by many right-wing and left-wing French policy-makers, Pinto argued, on the basis of work done by the Commission de la Nationalité, that the American influence had been more relevant than is usually thought. Her claims were also supported by the role of the increasing number of immigrants’ associations which had simultaneously claimed to express their own cultural identity and to exercise political rights, such as the right to vote. Her final comments pointed out that the existence of gaps between the French and American theoretical models were greatly reduced in the daily practice of integration in France.

Some final remarks, which also apply to the British case, concern the French and American current terminology to designate immigrants. Authors like Green, Ullmo, Lochak (1985) and Bonnafous (1994) rightly observed that each term could refer to different concepts. Hence for example, Green pointed out that the French terms “émigrant/immigrant/étranger/travailleur immigré” and “immigré” do not have the same connotations as the American use of the words “foreigner”, “stranger” or “alien”. Ullmo also noticed that legal and administrative terminology distinguishes between “immigrants”, “ethnic groups” and “minorities” and that these were broad concepts which included an ill-defined concept of race. These differences, which were also relevant in the British case, justify the small glossary at the beginning of this thesis, as well as the choice of avoiding systematic translation of specific French terms and concepts which have no real equivalent in English.
To conclude, the comparisons scholars established between France and the United States on the one hand, Britain and the United States on the other, were not based on the same grounds. While the Britain/United States link has its roots principally in the predominance of the "race relations problematic" (Banton 1991) over most of the research conducted in that area, studies on French and American immigration stemmed from the observation of similar migratory patterns and a traditional open-door policy. The relevance of this source of literature consisted in its contribution to the more general field of comparative work for it highlighted aspects of the French or British immigration experience which were not always explored in comparative works dealing exclusively with the two countries. Hence, the race relations aspect that has been predominant in confronting the British and American experiences, is certainly a very prominent aspect of the British case which, at least for the period concerned in the thesis, was not a central characteristic of French immigration. It, thus partly explained the preference of British scholars to look at the other side of the Atlantic rather than at the other side of the Channel. It also meant that, for the purpose of this thesis, it was necessary to disentangle the British immigration issue from the pure race relations question and examine it in a wider perspective, that might, up to now, have escaped authors in the field of political science.

1.2.2 Britain and France compared with other European immigration countries: the German case

It seems a paradox that the predominance of the race relations approach determined most of the comparisons between Britain and the United States given that Britain is much closer geographically, historically and culturally to other European immigration countries. However, after Great Britain's entry into the European Community, and more generally from the mid-seventies onwards, scholars started to reconsider British immigration within a European context (Böhning 1972b; Castles and Kosack 1975; Yannopoulos 1976).
The economic study of the impact of migration on the British economy was often done by Marxist writers such as Castles and Kosack. Their analysis of British immigration in terms of class structure implicitly rejected the race relations approach as the only valid analytical framework to explain immigrants' difficulties. They claimed instead that, in all Western capitalist countries, a "lower stratum" of society existed that was employed in the worst jobs and lived in less desirable social conditions – coloured immigrants in the British case. Thus, they argued that problems encountered by the British immigrant population were similar to those of millions of immigrant workers in the main European immigration countries. At the root of exploitation and discrimination were the migrant workers' position and impact upon the host society rather than their colour and race.

Like Castles and Kosack, Yannopoulos' study on migrant workforces in Europe innovated, for he compared the different composition of the immigrant population in Great Britain and in other EEC countries. Traditionally Britain had relied on overseas workers originating from its former colonies or dependent territories rather than on a southern European workforce as most of the European immigration countries had done. This had led continental and British scholars to "exclude" Britain from their "samples" because of the different composition of the immigrant population. Additionally, the dominance of the race relations issue had been determinant for many academics who had therefore directed their attention across the Atlantic rather than to the other side of the Channel.

Within the group of European host countries, Britain has often been compared to Germany, even though the arguments justifying the comparison are far from persuasive. Böhning (1972b) examined the economic prospects Britain's entry into the EEC would have for the domestic labour market. His comparison with Germany was based purely on economic indicators such as productivity in industrial and agricultural sectors, export rates and wage levels. More recently in 1994 the Anglo-German Foundation for the Study of Industrial Society published a report in 1994 on the economic impact of immigration in Great Britain and Germany (Mensky 1994). Because of the absence of economic data on immigration flows
scholars inferred that British official discourse on immigration had not been constructed as an economic debate (for example, exclusion of trade unions as well as the Confederation of British Industry (CBI) from government consultation processes). This contrasted heavily with the French case where the economic dimension of immigration had been prevalent for many years. Thus, contributors to the report doubted whether Britain correctly assessed the economic benefits of Commonwealth immigration. Indeed they argued that this had led Britain, compared to other developed countries, to follow a more restrictive approach to immigration, which ignored immigrants' potential economic contribution. Hence, the main objective of the report was to "learn from each other's approach to policy making", so that German research developed around the links between immigration and economic growth and the impact of immigration on native employment prospects could constitute central issues shaping the debates on future immigration policies in Great Britain (Mensky 1994: ii).

Booth (1992) and Piper (1998) based their comparison of British and German immigration policies on similar economic and demographic factors despite the specificity of historical circumstances. In both cases post-war mass migration was severely curtailed by legislative instruments, which in turn accelerated the settlement rate of migrant families. Booth's study discussed the relevance of economic and political factors in the migration patterns of entrants to the two countries. The demographic characteristics of immigrants, the timing of their migration and their relationship to earlier immigrants confirmed the validity of the comparison. Piper's research focused on the socio-political responses to post-war labour migration. She investigated the different theoretical concepts of citizenship and nationhood behind the policies carried out by the British and the Germans to point out the major differences. Whereas in Britain most Commonwealth immigrants were regarded as permanent immigrants, in Germany by contrast guestworkers (Gastarbeiter) had no access to a permanent status. However, she claimed that in both countries there have been similar trends with regard to the citizenship status of permanent non-European immigrants.
France too, has often been compared with Germany since both countries' labour market relied heavily on a foreign workforce coming on a rota basis. The economic expansion of the two countries was served by this additional workforce which was recruited abroad through the bilateral agreements that France and Germany concluded with labour-exporting countries. Most of the comparative works on immigration into France and Germany have been based on this common characteristic since they received by far the largest number of immigrant workers among all European immigration countries (Rist 1979; Edye 1987; Hollifield 1986; Falga, Wihtol de Wenden and Leggewie 1994).

Edye's comparative study was based on an economic analysis of the situation of foreign labour in France and Germany (1983). He rejected the Marxist notion of the foreign labour force as a "reserve army of labour" and instead claimed that in both countries migrant workers played a decisive political role in shaping governmental policies (1983: 7). He identified and compared two major objectives of French and German policy-makers; the maintaining of social and industrial order and the regulation of the labour market. In practice, the French and German governments introduced measures to restrict entry and recruitment and tried to implement programmes to improve the integration of long-term resident immigrants. He concluded that despite existing similarities in the governmental objectives, the implementation showed many divergences. While in Germany the process of introducing stricter measures on entry was carried out in consultation with interested parties, in France on the contrary, bans on future immigration were essentially decided by the government without prior consultation with other political actors. This gave rise to many confrontations between the government and the courts as well as with associations defending immigrants' rights.

Falga, Wihtol de Wenden and Leggewie (1994) observed migratory patterns to Germany and France from different perspectives. Geographically, Germany has received people from the East while France has hosted immigrants from the South of Europe. Historically, since 1945 mass migration of immigrant workers and their families provoked an identity crisis which in turn was transformed into nationalistic attitudes and contributed to the
emergence of extreme right-wing movements. However, beyond the specificity of national contexts, Falga argued that in order to overcome old stereotypes it was necessary to investigate a new “convergence” which had not yet been fully researched – the modification of the nationality law in France and Germany, asylum rights, economic migration and adequate political responses to future migratory trends of immigrant workers (quotas, restricted access), questions of integration of the Muslim religion in both countries and more generally integration policy at national and local levels.

Hollifield (1986) sought to compare the similarities of objectives of French and German immigration policies to explain the gaps between outputs (policies devised by German and French post-war governments especially after the closure of borders in the mid-seventies) and outcomes (results obtained from the policies). He stressed that these objectives were primarily economic for recruiting migrant workers (demographic objectives should be added in the French case) while political and social considerations had dictated a radical ban on entry of foreign workers from the early 1970s onwards. He argued that the failure of German and French immigration policies to implement their initial objectives implied that immigration was a permanent phenomenon of Western societies with long-term political, economic and, above all, social consequences that any democratic society had to face. This, in turn, gave an unacceptable character to the expulsions of foreign workers and their families, that had occurred in both countries.

Brubaker’s study on the traditions of citizenship and nationhood in France and Germany was connected to the recent transformation of the two nation-states affected by large-scale immigration (1992). In his historical approach, he opposed the French concept of citizenship which transformed second-generation immigrants automatically into citizens (birth and residence) to German citizenship which was restricted to German ethnic minorities from Eastern Europe and the former Soviet Union, thus refusing access to German citizenship for the large Turkish community. His analysis contrasted the genesis and development of the institution of citizenship in France and Germany to demonstrate how distinctive and deeply...
rooted concepts of nationhood produced such differing definitions of citizenship, naturalisation policies and civic incorporation.

The comparisons between Germany and Britain have been based on economic indicators or demographic patterns. While it can be argued that migrant populations in both countries have many characteristics in common and that both are multiethnic societies, the studies mentioned above do not emphasise the specificity of historical developments enough (colonial links vs. recruited workforce) nor the system of citizenship linked with the length of residence (permanent status vs. guestworker system) which are all obstacles to a well grounded comparative analysis. The parallels between France and Germany seem far more convincing than those drawn between Britain and Germany. The type of immigrant population that they attracted, the policies implemented and the instruments of these policies (importance of bilateral agreements), the rise of intolerance and xenophobic feelings with the growing influence of far-right political movements, are but a few of the starting points of comparative analysis between the French and German cases. The merit of these studies has been to point out the most salient characteristics of the phenomenon of immigration in France and to suggest responses to the different evolution of the German and French immigration policies.

1.2.3 Collective comparative studies

In recent years academic research has turned its attention to the comparison of the immigration experience of European countries (Hammar 1985; Dummett 1986; Costa-Lascoux 1989b; Lemay 1989; Turpin 1989; Layton-Henry 1990; Costa-Lascoux and Weil 1992; Schnapper 1992; Blanc, Didier and Flye Sainte Marie 1996; Joppke 1999). In addition, European scholars extended their research to immigration policies of overseas countries, in particular Australia (Tobin 1989; Vasta 1995), but also Japan (Postel-Vinay 1992; Cornelius, Martin and Hollifield 1994), South America (Hellinger 1989) and Israel (Carmon 1998).
Lastly, many comparative studies now include recent immigration countries that were previously emigration countries such, as Italy (Costa-Lascoux 1989b; Bernardi 1989; Bastenier and Felice 1990; Rellini 1992; Cornelius, Martin and Hollifield 1994; Balbo 1995; Guild 1999) and Spain (Moderne 1989; Garcia Corredera and Cano Diez 1992; Cornelius, Martin and Hollifield 1994). Some of these works are presented briefly to examine the validity of the comparative methodology adopted and the grounds of comparison.

These studies run parallels between several Western immigration countries by investigating their immigration policies and legal instruments to regulate the rate of admission of new entrants, to control the settlement and the working conditions of immigrants, but also related topics such as nationality and citizenship, integration and multiculturalism. Most of these collective works follow the same pattern, consisting of a section divided into several monographs, each dealing with one country's immigration policy, and another section dedicated to a thematic comparison of these policies. The value of these works often depends on the level of the comparative analysis. Broadly speaking they fall into two categories: some, despite their claim of being comparative, lack any thorough comparative perspective of the immigration legislation or policies under study. Mostly descriptive, these studies only include a brief comparative presentation of each country's experience – often in the introduction or in a short conclusion at the end of the book (Lemay 1989; Lapeyronnie 1991, 1992; Neveu 1995). Other comparative studies, however, attempt to synthesise the patterns immigration policies follow and classify the different policies presented according to certain criteria to outline domestic specificity and connect each country's experience (Thomas 1982; Hammar 1985). Finally, Schnapper (1992) and Joppke's works (1999) are to be mentioned separately because these two scholars produced synthetic studies comparing the post-war politics of immigration control.

*The Gatekeepers. Comparative Immigration Policy* (Lemay 1989) contains only monographs on the immigration policies of several countries from all over the world (the United States, Venezuela, Germany, Great Britain, Australia and Israel). Each contributor
presents the different approaches towards immigration: recruitment of guest-workers, post-colonial immigration for settlement or family reunification. Similarly, Nations, frontières et immigration en Europe (Neveu 1995) is a collective work that provides some comparisons on the issues of cultural pluralism, race and nations in Europe. Both editors present the authors’ contributions in the preface or in the general introduction, rapidly summarising the content of each chapter and indicating the unifying threads that form the basis of the work. The comparisons lie in the selection of certain agreed topics: large-scale immigration, halt to any labour recruitment in the early 1970s, increasingly restrictive measures to control immigration flow, but also numerous improvements in social and cultural areas for immigrants in the host countries. Lemay’s title suggests a comparative analysis of the policy of control on entry in several immigration countries. Certainly all the chapters are constructed following the same pattern: the history of immigration policies, an analysis of the evolution of immigration policies and the impact of migration policies on migratory flows. Some contributors even tackle the same issues, such as illegal immigration in the United States and Venezuela or the question of race relations in Great Britain and in Australia. However, apart from similar analytical frameworks, the monographs are not related to each other.

Similar criticisms can be addressed to the second work quoted (Neveu 1995). Each chapter, written independently, presents, within the broader context of the domestic immigration policies of Italy, Belgium, Australia, and Netherlands, the prevalence of multiculturalism and ethnicity and the differences in terms of rights between the concepts of nationality and citizenship. Consequently, although the writers keep an agreed and common presentation, these studies fail to adopt any comparative methodology for their analysis of the data. Their contribution to shaping the general debate on European immigration policies is to give a broad and up-to-date presentation of the several types of immigration policies that have been applied in the countries examined.

By contrast, the studies edited by Hammar (1985) and Thomas (1982) follow more strictly a proper comparative methodology and succeed in integrating the data on immigration
in these collective studies by an in-depth comparative synthesis of the immigration policies under review. Thomas concentrates more on the economic aspect of immigration policies, analysing the place and role of immigrants within the economic structure of the host country and finally produces a synthesis appraising the place migrant workers were assigned by each state. Hammar's study on the connection between economy and ideology consists of two parts. The first is dedicated to the six monographs on Swedish, British, French, German, Dutch and Swiss immigration policy, while the second deals with the comparative analysis of some major issues: the connection between economy and ideology on the immigration issue, the impact of immigration regulation and the control of aliens, immigrant policy and the policy-making process. He concludes by outlining the major points of convergence between European immigration policies. Both editors exploit the "material" from each national study to build their own comparative synthesis. Following the pattern already adopted for each chapter, they successively present the main points of convergence and divergence of these immigration policies. The thematic comparison provides a comprehensive history of immigration regulations as well as their impact on various migratory waves since 1945. In their demonstration Hammar and Thomas also relate the various instruments of European countries' immigration policies to show that the objectives of these regulations converged to the point of strengthening the control on migratory flows in Europe as much as possible.

L'Europe des immigrés. Essai sur les politiques d'immigration (Schnapper 1992) is a sociological work questioning the meaning and limits of the immigration policies of the countries chosen for the study: France, Germany, Switzerland, Great Britain and Sweden but also with some references to immigration policies on other continents: the United States, Canada, Japan, Australia. Rather than a descriptive work, it provides a broad general picture of immigration policies in Europe. Schnapper notes that the abundance of regulatory instruments on immigration control prevents an accurate presentation of them all. She tackles some key issues such as the explicit and implicit intentions of policy-makers behind new immigration policies and exposes the different kinds of constraints influencing the
formulation and the implementation of immigration policies through the enactment of their immigration laws.

Finally, Joppke’s study on British, American and German immigration policy compares the post-war experience of these three countries to investigate the impact of immigration on the states’ sovereignty and citizenship. He argues that states’ sovereignty had been self-limiting, in particular because of the autonomy of the legal systems and owing to moral obligations towards some immigrant groups. His thesis is opposed to current thinking which attributes the ability to diminish nation-states’ power to external forces of globalisation. As for citizenship, the second principle of the nation-state, he asserts that national citizenship has proved successful for integrating immigrants, albeit with different degrees of immigrant integration depending on the national scheme of multiculturalism. In the first part of his study he defines immigration policy “which deals with the admission and exclusion of non-members of a state” (Joppke 1999: 17) and presents the American, German and British policies separately. He argues that British immigration policy making Britain “the zero-immigration country” differed from the German one in the degree of realisation of its primary objective, namely to keep out immigrants. Thus, a partial explanation of Britain’s better score in realising its objectives lies in its legal system and the absence of judicial court protection of immigrants’ rights. Germany by contrast had a legal-constitutional system which protected immigrant’s rights and consequently undermined the efficiency of the policies. In the second part of his book he compares the issue of multicultural integration and studies state responses to the multiplication of membership statuses. Again he investigates the experience of the three countries separately to highlight similarities and differences. He concludes by outlining the immigration challenge to the nation-state with respect to states’ sovereignty and citizenship.

These comparative works which involved one of the two countries examined in this thesis were particularly illustrative for two main reasons. For the type of methodology they adopted, some of these studies (Thomas 1982; Hammar 1985; Schnapper 1992; Joppke 1999) revealed the degree of integration of different data that can be successfully achieved in a
comparative work. On the other hand, the first set of studies presented (Lemay 1989; Neveu 1995) also demonstrated that a similar analytical framework to present different immigration countries' experiences does not imply real comparative analysis and relevant conclusions. Secondly, the questions presented, which covered a wide range of topics and were more or less directly related to the central issue of immigration control, revealed the existence of a broad but firm basis of comparison that can be used for the British/French parallels: the existence of similar historical patterns in the post-war history of immigration, the comparable policy-makers' objectives to limit certain sources of immigration at a given point in their history, the weight of internal and external constraints upon the formulation of these objectives and their implementation, the comparable sets of regulatory instruments to limit the rate of admission of new entrants... to quote but a few of the grounds of comparison which will be investigated in this thesis.

1.3 Comparative studies on French and British immigration policies

Comparative studies on French and British immigration policies are relatively few in contrast with the mass of publications on immigration. These works have been mainly the object of doctoral research (Laurin 1977; Freeman 1979; Neveu 1991) but are also to be found in some articles (Lloyd 1991; Crowley 1993; Weil and Crowley 1994; Hargreaves 1995b) and a collaborative study led by Didier Lapeyronnie (1993) on local policies in Britain and France to improve the integration of ethnic minorities. Laurin and Freeman's works are reviewed in greater length than others since their central topic deals with immigration policies and questions of control while the others studies discuss questions of integration and aspects of the immigration question related to the area of sociology rather than to political science.

1.3.1 Basis of comparison

Britain and France have been considered as "less divergent societies rather than highly divergent ones" since both are highly advanced industrial societies governed by democratic
political systems (Freeman 1979: 15). Beyond this rather general observation, grounds for comparing French and British immigration policies are multiple. There are those based on similar historical conditions with a clear emphasis on the legacy of the colonial past; other works based their comparative analysis on the existing similarities between the British and French political systems or their social structure.

Britain's imperial past and the historic links forged between the "mother country" and its colonies have often been contrasted with the French colonial experience (Smith 1978; La Serre, Leruez and Wallace 1990). Hence France and Great Britain, which retained special relationships with territories under colonial rules, inherited some responsibilities towards overseas populations from the developing world that are nowadays the major countries of emigration. Laurin and Freeman argued that the colonial experience shaped the political attitudes successive French and British governments have had towards their domestic immigrant population and influenced the issues of race and immigration. Laurin even asserted that immigration policies carried out from the end of the 1960s had their direct origin in the process of decolonisation. Certainly the weight of the colonial heritage should not be underestimated for these years, nevertheless Laurin, in his analysis of the shift operated between decolonisation policy to immigration policy, failed to point out the dilemma successive British and French governments were faced with when elaborating their objectives on immigration control. It is one of the objectives of this research to give primary attention to the hesitation of French and British policy-makers throughout the 1970s when elaborating policy on control, to respect on the one hand, moral, political and economical obligations towards emigration countries (previously under colonial rule) and on the other hand, to free their nation from past commitments and to preserve it from a further influx of immigrants.

Related comparative works on French and British immigration were those of Neveu (1991), Lloyd (1991), Lapeyronnie (1993) and Weil and Crowley (1994). Here central to the comparative analysis were questions of integration, theoretical models and day-to-day practice of integrating immigrant communities in Britain and France. Neveu based her
comparison on the societal framework of the two countries and observed that France and Britain are old nation-states with root concepts (such as the feeling of being a homogeneous community) which hindered immigrants from finding their place in society. In a similar way Weil and Crowley (1994) and Lloyd (1991) contrasted the theoretical models, the politics and practice of integration in France and Britain. Lloyd (1991) recalled the incomprehension on either side of the Channel in dealing with the spread of racism, intolerance and difficulties of integration. Weil and Crowley’s comparison, based on the influence of colonial and post-colonial policies over debates about the place of immigrants in national societies, highlighted the existence of deep differences between the two countries due to different historical developments and cultural traditions. Although the outcome of these policies was largely affected by different historical traditions and theoretical differences (French theoretical concepts of assimilation into the “republican society” vs. British model of community-based integration), they asserted that the practice revealed that the gap between the two should not be overestimated. They concluded that integration in France and Britain depended on the real equality granted to those most likely to suffer from inequality and that only adequate “active and successful social policies” would ensure that aim (Weil and Crowley 1994: 124).

Lapeyronnie’s study investigated the relationship that had been established between local communities in charge of improving immigrants’ integration and the immigrant population. He also analysed the objectives of integration policies in both countries and through the use of cross comparison evaluated these policies in nine British and French cities. Although it is not directly related to the central topic of this research, this field of literature, which is more related to the discipline of sociology, provided interesting grounds of comparison between the French and British experiences. Hence it provided general background knowledge on an aspect of the immigration question, the integration of an immigrant population which derived in part from wider political objectives to control immigration.
To conclude on these comparative studies, the race relations dimension of British immigration has not been used as exclusive grounds of comparison, as was the case for studies on British and American immigration. Hence parallels have been placed into a wider perspective. Similarly, still in relation to the American experience, scholars stressed that in Britain and France there was a general failure to acknowledge the place and the importance of the immigrant population as a constitutive element of the nation as was done in the United States.

1.3.2 Period under study
Laurin and Freeman based their research on the immediate post-war era, focusing in particular on the 1960s and the early 1970s. Over that period the decolonisation process accelerated with spectacular developments in the area of immigration law (especially in the British case) and rapid evolution from quite liberal and “laissez faire” policies to increasingly strict policies imposed by an interventionist State. Thus, Laurin considered the 1960s a “key” period which signalled the beginning of a new era for immigration policies. Similarly Freeman’s research concentrated on immigration developments for the period running from 1958 to 1972 in Britain, namely, from just before the first legislative act on immigration control up to the 1971 Immigration Act. Since he argued that, in the French case, it was more difficult to set exact time limits, he investigated predominantly the immediate post-war years, the Algerian crisis and the early 1970s.

With respect to Laurin’s and Freeman’s studies, the period of time covered by this thesis has not yet been fully investigated from a comparative point of view. The comparison will extend to the entire decade of the 1970s to analyse the records of the Conservatives and Labour on immigration, while for France events will be treated up to the mid-eighties. Even for the early years of the study (the beginning of the 1970s) that both Freeman and Laurin examined, their perspective differed from mine. These final years were the end of their period
of observation and were merely “the outgrowth of earlier periods” as Freeman noted (1979: 18). Here, by contrast, the early 1970s correspond to the starting point of the comparative analysis. In particular it is argued that the first period observed, 1970-74 in Britain and 1974-81 in France, represented fundamental years for the definition of the policies on control and the setting up of particular instruments to limit immigration. These years served as a basis to contrast successive French and British governmental policies and their regulatory instruments over the following two periods individuated (1974-76 in Britain compared with 1981-1983 in France and 1976-79 in Britain with 1983-86 in France).

Freeman adopted an historical approach to cover this thirty year period. In contrast, Laurin adopted a strictly chronological approach, a “simultaneous approach”, in order to study step by step French and British immigration policies, their evolution, changes, etc... Thereby he made political decisions on immigration as well as legislative instruments and governmental measures coincide to find a common unifying thread linking French and British experience. To him, 1968 was a landmark year for both immigration policies. In Britain the second Commonwealth Immigrants Act was adopted while in France the Pompidou government sought to regain control over illegal immigration and Algerian immigration. The simultaneity is somehow artificial in both cases. In Britain, the Commonwealth Immigrant Act 1968 was voted in the course of a political process and a set of legal measures that had started in 1962 when the first Commonwealth Immigrant Act 1962 was passed. In addition, it shadowed the 1971 Immigration Act. In France, the circular of July 1968 and the bilateral agreement on Algerian workers concerned only part of the immigrant population and cannot be perceived as the “essence” of political decisions about immigration at the time. As in the British case, the 1968 policy announced later decisions to ban permanent immigration.

As regards the chronological presentation of data on French and British cases, this study will combine thematic and chronological approaches by analysing step by step the policy-making process of firstly, right-wing governments and secondly of left-wing governments to control immigration. This contrasts with Laurin’s strict chronological study.
and with Freeman’s approach, which is thematic throughout the work apart from an introductory chapter on the evolution of British and French policies. The slight time-lag existing between the two countries, since the Conservative government (1970-1974) is compared with the Giscard d'Estaing presidency (1974-1981) and the early years of the Mitterrand presidency (1981-1986) are put in parallel with the Labour period in office (1974-1979), should not be considered as an obstacle to a close chronological observation of the evolution of policies and instruments of policies carried out for these periods. It should not be inferred that this time-lag implied that the British experience was at a more advanced stage than the French one. As Neveu rightly pointed out, this would be a simplistic approach failing to take into account different histories and different cultures. British and French immigration policies have merely evolved differently due to different conjunctures as well as diverging historical traditions and different political institutions.

1.3.3 The process of comparison

The methodological framework to comparatively analyse the British and French cases is the last point examined in a critical presentation of the method scholars used to analyse their data and draw their conclusions. Thus, Laurin’s thesis lacked any true analytical comparison of French and British experiences because he adopted a rather simple scheme to present successively the British and French cases. Under common headings, he placed historical trends, legislative instruments, as well as policies of the period he analysed side by side, and rather briefly highlighted successive points of divergence or convergence. Although he did not follow a proper comparative methodology, he nevertheless pointed out relevant similarities or divergences which would have deserved more in-depth discussion.

By contrast, Freeman’s study was organised on a thematic basis following a “most similar approach” for his comparative analysis, to highlight how the two systems responded to race and immigration problems. His two levels of analysis enabled him to concentrate first of
all on the outcomes of immigration policies devised by French and British governments and next, to present the different schools of thought which developed over the immigration question. For the level of analysis, the degree of coverage and the comparative methodology, this work is a pioneering study, which has remained, so far, unrivalled.

Neveu’s comparative methodology was also very interesting to analyse because she darted a “French glance” at British samples instead of following the classical comparative method traditional in the political science field (1991: 4). In contrast with Freeman’s “most similar approach”, she adopted “a most different approach” where the units of comparison were constituted by the existing connections between nationality and citizenship and the derived voting rights granted to immigrant populations. As the situation in those fields was diametrically opposed in the two countries, she studied the British situation to improve her comprehension of the French case. What was at the beginning a simple “glance” at the British situation was transformed into an analytical view of the French situation.

The examination of the different methodological approaches allowed me to position my own methodology (fully developed in the next chapter). To achieve relevant conclusions it was necessary for this research to either adopt a “most similar approach” or a “most different approach”, depending on the units of comparison. In addition, in order to integrate as much data as possible on French and British policies, without however giving a sense of confusing mélange, developments in one country were presented as a reference to which developments in the second country could be compared and followed by a synthesis linking the two countries’ data.

To rapidly conclude this important source of literature, three major points were presented: the grounds for comparing British and French immigration experiences, the period of time scholars chose for their investigation and the method of comparison they adopted for their study. This thesis innovates on these different aspects. First, the selection as units of

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5 To justify his methodological framework, he quotes the work of Lijphart.
comparison of immigration policy to control primary and secondary immigration represents a novelty in a study area which has up to now privileged discussions on related topics such as theoretical concepts of integration and the practice of assimilation (Lloyd 1991; Neveu 1991, Weil and Crowley 1994). Even less recent studies, such as those of Freeman and Laurin which remained pioneering studies in that area and investigated the question of immigration policy, compared the responses formulated by the major social groups to the main developments in immigration in relation to the race question. Second, the years investigated in this thesis — the 1970s up to the mid-eighties — have not yet been covered from a comparative perspective nor have there been any attempts to match the governmental practices of French and British right-wing governments on the one hand, and on the other hand to assess for comparative purposes the records of Labour and Socialists on immigration control. Third, the comparative methodology adopted served at a first level to analyse in a comparative perspective the data and at a second level to confirm hypotheses and to draw relevant conclusions.

1.4 Studies on Immigration law

Studies on immigration law started relatively early in France and were included in the more general area of private international law while in Britain immigration law was generally presented within the study of public law or constitutional law.6 In both countries, the legal framework of immigration control has seen significant developments over the past thirty years. The intense legislative activity on immigration control and the considerable number of judicial cases have “legitimised” the independence of this new branch of law. In Britain, this

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6 See Girard (1954) who gives a chronological list of publications on immigration since 1900 (thesis, articles, books by economists, lawyers and demographers). Although it is not a comprehensive list, it does give a fairly good account of the literature on immigration for the first half of the 20th century. Nguyen Van Yen (1986) and Guimezanes (1991) also provide a list of early legal studies on the phenomenon of immigration which started at the end of the 19th century (1885).
branch even has its specialised courts and body of precedent. Thus, French and British immigration laws have now become a highly technical and specialised area of study.

French and British legal literature on immigration law can be broadly subdivided into two categories: the first category is reserved mainly for specialists (practising lawyers) and covers up-dated studies presenting the latest developments in that area, while the second category of publications not only sets out the rules in force but also investigates the policies behind the rules and questions the implications of new laws on immigrants' rights. Both kinds of legal works have been used to gain a basic knowledge of the rules to control admission of new entrants into Britain and France.

1.4.1 Immigration law and practice

Technical literature on immigration law concentrates almost exclusively on an accurate and up-dated presentation of the legislation in force (Macdonald 1969, 1972; Macdonald and Blake 1995; Supperstone and O'Dempsey 1994; Richer 1986; Guimezanes 1987a to quote only a few). These studies do not adopt any historical perspective and therefore there are very few developments in the evolution of immigration control legislation. Generally, a brief survey of the history of immigration control legislation serves to introduce some developments in the scope of immigration control. This general background, more or less developed and presented in the first chapter, is the closest to studies on immigration policies, although it is far less developed.

The central concept of immigration law is the notion of control at different stages of the immigration process: control before entry operated in the country of emigration, control at ports of entry on arrival, control during the stay and finally control at departure (these books often follow this pattern). Most authors also examine the way controls are administered and discuss the technical means and staff. For entry purposes, both legal systems adopt similar classification of entrants; hence British and French textbooks on immigration law devote a
chapter or less to an analysis of the rules applicable to each category of immigrant (visitors, workers, family dependants, students, self employed, businesspersons...). In political science studies by contrast, entrants were broadly subdivided into primary and secondary immigration. This classification is adopted for this research for two main reasons. Firstly it is the easiest way to comprehend the various sources of immigration and secondly, since this is not a comparative work on legal rules, it would have been beyond my competence and the general scope of the research to present the different kinds of rules usually adopted by legal works for each category of entrants.

It must also be noted that some authors devoted a large part of their study to the analysis of the latest regulations on family reunification. For the past twenty years, the rules governing the entry and admission of family members have been substantially modified on several occasions. The increasingly restrictive conditions governing entry and settlement have led to the serious erosion of family members' rights (Sachdeva 1993; Macdonald and Blake 1995; Supperstone and O'Dempsey 1996). This evolution of the rules of the admission of secondary immigration constituted a fundamental aspect of the policies devised during the period covered by this thesis, requiring specialised comments on the implications for immigrants' rights (G.I.S.T.I. 1976a; Lochak 1976; Bonnechère 1979, 1983; Bonnetête 1979; Hartley 1980; Baldwin and Houghton 1986; Sachdeva 1993).

More recently, the crisis concerning the increase in applications for refugee status has brought many changes to the legislation on asylum rights. Consequently, scholars have discussed British records on asylum applications thoroughly, commenting on the refugee law and its connection with immigration law (Macdonald and Blake 1995; Supperstone and O'Dempsey 1996). However, refugee law is not tackled within the context of French immigration law but treated separately as an independent branch of law (Richer 1986; Guimezanes 1987a; Théron 1995). There also have been significant developments in the issue of illegal immigration, although scholars had already started to investigate this specific aspect of immigration law for the period covered by the thesis (Leacock 1974; Mourgeon 1980;

The main difference between French and British immigration law textbooks lies in the space devoted to case law to measure the judicial interpretation of immigration law and its application. This is due principally to the different legal systems. British studies have concentrated on the role of the courts and on the infringement of judicial decisions upon immigrants' rights over recent years (a vast body of case law from the Immigration Appeal Tribunal and the High Court) (J. Evans 1983). On the other hand French legal books only review the most important cases which have led to substantial modifications of the rules.

In conclusion, most of these books are highly technical for non specialised readers. Their main purpose is only "to state the immigration law as of the date of publication" in a very descriptive style (Macdonald 1969, 1972; Nguyen Van Yen 1986; Guimezanes 1987a; Macdonald and Blake 1995; Anthony 1996; Supperstone and O'Dempsey 1996). However, some of these studies do adopt critical positions as to the implications of legislation (Nguyen Van Yen 1986; Macdonald and Blake 1995).

One of the major difficulties in this area of law - common however to other branches of law - concerns the necessity of keeping an up-dated account of the legislation in force. Immigration law is a fast-moving field, often subject to many subtle or less subtle changes brought into force quite rapidly. Hence the need for those specialised in this area to follow the latest significant developments accurately. Books cannot generally keep pace with these developments. Therefore comments on the latest judicial cases and legal rules on immigration are to be found in some specialised journals (Lamy droit de l'immigration; Juris Classeur Périodique Ed. Générale; Juris Classeur Périodique Ed. Droit International; Tolley's Immigration and Nationality; Immigration Law Practitioners Association Case Digest).

Other sources of information on current immigration law can be found in the publications of independent voluntary organisations working in the area of immigration and nationality: in Britain the Joint Council for the Welfare of Immigrants and the Immigration
Advisory Service, in France the Groupement d'Intérêt et de Soutien aux Travailleurs Immigrés to name the major ones. Their main role is to give information on immigration matters, and to advise and represent immigrants in court. By campaigning vigorously, they also play a significant role in amending legislation or proposed legislation on immigration and have even managed to obtain the judicial review of some circulaires. They often have access to unpublished or not yet published sources. Their journals and pamphlets give very valuable practical information but also contain reports, tables, flow charts often referred to by scholars (Macdonald 1995: 2). However, their comments tend to be biased since they act in defence of immigrants and present only one side of the argument.

1.4.2 Academic studies on immigration law

This second area of literature on immigration law, more dedicated to the academic world, provides reflection on the legal status of immigrants and the legal rules applied to them (J. Evans 1983; Bevan 1986; Nguyen Van Yen 1986; Jackson 1996; Juss 1996). Like the first set of publications, these studies set out the legal framework and explain the applicable rules governing control on entry as well as all the different steps of immigration control. However, beyond the simple description of the legal rules governing control on entry, these works contribute to shaping the debate on the way these controls are administered, their implications for immigrants' rights and more generally their infringement of civil liberties.

Some British scholars provide an explanation of the law in its historical setting adopting a chronological approach which presents and explains the building of the legal framework of immigration control. They outline the close connection of this area of law with the ever-changing nature of British policies and the fundamental link with nationality law (J. Evans 1983; Bevan 1986; Dummett and Nicol 1990; Juss 1996). In their study, Dummett and

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7 In the mid-seventies, the G.I.S.T.I. brought before the Conseil d'Etat some ministerial circulaires infringing immigrants' rights for judicial review. They were subsequently invalidated. Similarly during the parliamentary debates on the immigration bill in 1970 the J.C.W.I. played an active role by submitting memoranda to parliamentary committees.
Nicol provide a comprehensive vision of the parallel evolution of immigration law and nationality law and discuss, in the wider context of international and historical events, changing ideas about essential concepts such as the British nation and the body politic in British history.

By contrast, the French system does not have such a complex set of citizenships but over the years immigration legislation implicitly "categorised" the various national groups of immigrants in terms of entry rights. This evolution of French rules has been outlined by many scholars who pointed out that French nationality law was at the heart of immigration control and that immigration regulations contributed to the setting up of a hierarchy among immigrant nationalities (Nguyen Van Yen 1986; Richer 1986; Guimezanes 1987a).

Finally, French and British immigration law textbooks reflect a major difference between the Civil Law system and the Common Law system; hence two different approaches. French academics insist upon the variety of sources of immigration law (Nguyen Van Yen 1986; Richer 1986; Guimezanes 1987a; Juris Classeur Périodique 1988; Meijas de Haro 1995) to stress the evolution of these sources from non-statutory norms in the 1960s and throughout the 1970s to a multiplication of statutes from the 1980s onwards. British scholars on the other hand generally give a rapid overview of the sources of British immigration law in a brief historical background within the introductory chapter on current legislation (J. Evans 1983; Supperstone 1996). Some do not even mention them (Macdonald 1969, 1972) and concentrate on the current legislation in force.

This specificity of each legal system has had direct implications on the kind of regulatory instruments that both legislations adopted to control admission of new entrants.

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8 As for other branches of law, British and French immigration law is made up of different legal norms of various origins subdivided for clarification purposes into domestic sources and international sources — a distinction which reflects a French legal point of view more than a British one. Thus, a distinctive feature of the French legal system under the 1958 Constitution is the rigid hierarchy of legal sources whereby different legal norms (from the highest norms — international conventions — to the lowest ones — administrative guidelines) are assigned a different legal authority. In Britain due to the absence of a "codified" written constitution in the British legal system, there is no formally defined hierarchy of different legal sources.
Comments on the various types of rules with differing degrees of legal authority have stressed how this has affected the discretionary character of immigration control. In particular, scholars have discussed at length ministerial discretion exercised by the Home Secretary under the immigration rules to show the extent of discretion existing in that area of law (Gibson 1971; Grant and Pierce 1973; Williams 1974; Costa 1976; Bonnechère 1979; Morange 1981; Turpin 1982; Baldwin and Houghton 1986; Marrington 1986; Nguyen Van Yen 1986; Ganz 1987; Vicenzi 1992; Vicenzi and Marrington 1992; Jackson 1996; Juss 1996; Genevois 1998).

In the field of comparative law few studies have compared directly British and French legal systems (David 1980; David and Brierley 1985). However, there are some articles comparing British and French rules on immigration matters. Crouzatier (1978) and Mourgeon (1978) discuss the implications of the French and British rules on entry and deportation for immigrants' rights. Body-Gendrot, d'Hellencourt and Rancoule (1989) situate the French and British systems in a wider context and draw parallels with the American legislation to highlight similarities and differences in the rules governing access to these countries, the granting of work permits and the delivery of residence cards. Similarly, but over an earlier period (early 1970s), Lyon-Caen (1975) contrasts the different European systems to control the entry, the settlement and the working conditions of migrant workers. He examines the different statuses of migrant workers according to the legislation existing in Germany, France, Britain and the United States.

Immigration law was once defined as "a complex body of law and an instructive microcosm of some important issues of law, government and politics" (J. Evans 1983: 1). Its relation to general studies on immigration policies and sociological works on immigration matters is fundamental in presenting a more comprehensive picture of policy evolution and policy instruments from the 1970s and up to the 1980s.
1.5 Conclusion

The literature survey presented in this chapter gives an example of the interdisciplinary aspect of the immigration question. It outlines some of the gaps in the existing literature on immigration control that still need to be investigated. Studies on British immigration policies, dominated for decades by the race relations approach, have not fully analysed public policies to control New Commonwealth immigration. In the French case, political scientists have been busy in that study area to examine, analyse and dissect public choices to limit primary and secondary immigration from the early 1970s onwards. As for comparative works on the British and French immigration experience, there have been few recent developments in that area, since the last works date from the mid-seventies (Laurin 1977; Freeman 1979). In a related area such as sociology, research on British and French immigration issues, presented here, concentrates mostly on theoretical concepts of integration, assimilation and multiculturalism in relation to day-to-day practice. There is therefore an unexplored field that this research intends to address. The major innovative aspects of this study are the period of time covered by the research, starting in the early 1970s up to the mid-eighties, the basis of comparison, that is, the policies on immigration control at entry and their regulatory instruments, and the method of comparison, a close matching of data analysed comparatively to produce relevant conclusions.
2. COMPARATIVE METHODOLOGY

"To compare is to estimate the extent of similarity or difference between one thing and another" (Hague 1985: 26). This plain and very explicit definition of comparative methodology masks the many difficulties that have to be solved throughout the process of comparison. Prior to any discussion of the method of comparison adopted in this thesis it is necessary to determine the research discipline used, since, as we have seen in the previous chapter, immigration policies and more generally immigration matters have been studied from a variety of angles and often from multidisciplinary points of view (section 1). Once this preliminary choice has been made, the field of study and the temporal context are presented to set the contextual and chronological boundaries of the research (section 2). Then, a rigorous and explicit comparative methodology is set out as a basis for investigating the issues at stake in order to improve our comprehension of British and French immigration phenomena (section 3). Finally, a short section is devoted to the presentation of the main primary sources employed for the research (section 4).

2.1 Discipline of research and definitions

Immigration policy as part of the broad field of “public policy” is a comprehensive construct which covers several aspects of the migratory process: the management of legal migration through the adoption of criteria of selection (visa requirements, medical checks), the control of illegal immigration and detection of overstayers (border controls, controls in the emigration countries), the processing of applications for residence cards and work permits... to quote only a few regulatory aspects of this policy. Political scientists who defined the concept of public policy have observed that public policies are “composed of a mixture of actions and non-actions that governmental actors decide to take or not take” which all assume significance in determined circumstances (Viet 1996: 453). More precisely Meny and Thoenig define
public policies as "the product of activities carried out by an authority invested with public powers and governmental approval" (1989: 129).

In the present study the concept of "immigration policy" is used to cover the sets of decisions and actions that French and British governments have adopted when seeking to regulate migration across their borders and control migrants inside their national territories. It is a broad definition which focuses at a first level on the governmental priorities set by the French and British for controlling their borders and at a second level on the way the governmental agenda was implemented through a set of legal and sometimes non-legal (as opposed to illegal) policy instruments. Such an approach implied considering government ministers as the main political actors in charge of the formulation and implementation of immigration policy. This emphasis does not mean underplaying the importance of other political actors such as the opposition, pressure groups or public opinion but it was assumed that they were perceived as external forces to the governmental sphere and therefore that their role should be examined as part of a set of constraints imposed on the governmental agenda.

As a preliminary and fundamental stage of the research the selection of the discipline represented a major step for the treatment of data within a specific analytical framework. Thus, historians through a chronological framework seek to assess the tangibility of facts, discourses and actions in relation with general historical developments. On the other hand, political scientists often analyse policies over quite a short period of time or at a determined point of history with a more theoretical approach. Thus, while political scientists often define public policy outside any chronological context, seeking to characterise its main features, causes and consequences, historians analyse public policy within a chronological framework to show how it results from a complex set of factors and derives from a constant compromise between political principles and external circumstances (Pierson 1993; Viet 1996). Here, for the purpose of the study a combination of these two disciplines will serve the comparative analysis. Firstly, French and British immigration policies are chronologically circumscribed within a well-defined period of time justified by start and end dates as well as being internally
divided into sequential phases. Secondly, these policies are evaluated through the political process followed by British and French governments to formulate and implement new provisions on immigration control.

2.2 The field of study and the chronology

2.2.1 The issues under investigation

The analysis of the public policies implemented by the British and French governments is done by investigating the various steps of the decision-making process. French and British immigration policies are explored following a stagist approach according to Jones' classical model of public policy analysis (1970). This simple analytical framework makes it easier to sort out the difficult intricacy of decision making, effects and causes. In addition, it also means that public policies are not only perceived as originating from legal institutions but from a well-determined political process involving several actors (Muller and Surel 1998).

The first step representing the onset of public action is the setting of an agenda when political actors identify and/or define a problem to solve. Thus, for example, the parties' programmes (their electoral pledges, their conference resolutions) provide significant information on the way political actors perceive the whole issue of immigration and intend responding to it. The second step is the policy formulation stage where policy-makers produce viable solutions or propose alternatives to find adequate objectives to solve the problems already identified, followed by the implementation of the policy objectives. Logically, this phase of the policy process leads to the examination of the relevant political and socio-economic context behind the set of decisions and policies that have been carried out. It is also of particular interest to examine the arguments brought forward by the political elites to justify the policies adopted. The last phase, the policy evaluation stage, questions the impact of the programmes implemented and whether it appears necessary to modify them and at what stage (policy formulation or policy implementation). Jones' model implicitly meant considering the policy
process as a cyclical process where the last phase of policy evaluation can be immediately followed by a new reappraisal of the problems that have emerged from the implementation of the policies and consequently the setting up of a new agenda.¹

In the French and British cases the perceptions of successive governments as to how to control immigration and the responses they have formulated are particularly interesting to compare because of the alternation of right-wing and left-wing governments. In practice this framework is not always strictly applied since on some occasions it emerges that stages do not follow that order but appear in a much more chaotic way. However it serves as a guiding framework for the analysis of French and British policies in order to go beyond a mere observation of facts and events.

The French and British legal frameworks governing control on entry are presented comparatively as the instruments of the governments’ policies. Immigration law, like other branches of law, cannot be detached from its economic, social and political contexts. The legislation on immigration control covers here all the legal and sometimes non-legal texts adopted by the British and French governments to control immigrants at ports of entry and on their territory. From the comparative analysis of French and British instruments of policy can be drawn two interesting conclusions. Firstly, legal instruments to control migratory waves are indicative of the capacity of states to regulate their immigration (Hollifield 1990, 1992). Therefore, the analysis of this set of legal measures should enable us to measure the real scope of governmental decisions and assess the consequences of these public policies on immigrants’ rights. Secondly, the comparison of different policy instruments that French and British policy-makers adopted to achieve similar goals, can reveal if the use of different instruments have similar or different political consequences (Pierson 1993).

Finally, it should be noted that although the emphasis is put on the analysis of policies and the set of rules controlling entry, other related aspects of these policies are investigated

¹ See also Smith (1968) for a theoretical discussion of the policy-making process.
(although in less depth) such as policies which aim at restricting the length of stay and encouraging or forcing the departure of immigrants. Dealing exclusively with control on entry means leaving to one side matters of immigration policy which are not directly and closely related to the main focus of the research: policy on integration and assimilation of immigrants, policy on work permits, social policy dealing with housing, "race relations" and anti-discrimination laws, education, associative rights, or policy on political rights (voting rights). It also implies leaving aside the question of refugees. Even though throughout the 1970s, Britain and France received a large number of refugees: Chileans, Cypriots, Laotians and Vietnamese, to quote the main mass movements of refugees, the policies applied to them and the sets of laws governing their admission and settlement, differed from the policies and rules on entry for other categories of foreigners. This partly derives from the different dynamic behind the process of migrating to the receiving country and more generally from a different political attitude towards refugees.

2.2.2 The question of chronology


Comparative methodology distinguishes two types of comparisons in time, the historical approach when comparison is done across different periods of time and the
simultaneous approach, adopted for the purpose of this study, which compares at common
times of their history French and British immigration policies and their legal framework on
limits would lead to difficulties, it is necessary to go beyond the dates to analyse these years
in a diachronic perspective by referring to previous events but also considering future
developments in that area. The period covered by the research constitutes for many reasons a
distinctive phase in French and British immigration policies. What results from the analysis of
these years is the emergence of new principles guiding these policies which are a clear break
from the previous period, but there is also continuation of some of the border control
regulations formerly defined in the post-war era.

Thus, the post-war era in France and Britain was characterised by mass migration
which, in Britain, was stopped at an early stage with the vote of the first Commonwealth
Immigrants Act (1962) while in France the first signs of the state recovering control over
immigration were not felt before the end of the 1960s. Although in the previous period
immigration controls were not introduced at the same time nor in the same way, the
Conservative decision to introduce a permanent scheme of immigration control banning future
primary immigration from the New Commonwealth coincided with the French ban on migrant
workers in the early 1970s and the similarities observed in the long-term effects are
comparable. These decisions and the framework subsequently implemented to manage
immigration control at borders signalled the start of a new period for French and British
policies on immigration.

In the British case although it has been argued that the 1971 Immigration Act
constituted the climax of the immigration control system which had its origins in the first
Commonwealth Immigrants Act (1962) and therefore, in that perspective, the 1971 Act is
perceived as the culmination of a political process aimed at restricting Commonwealth
immigration (Laurin 1977; Spencer 1997), it must be noted that the significance of the 1971
Act lies not only in its current validity but above all in the removal of any privileged treatment
for non-white Commonwealth immigrants migrating permanently to Britain (Bindman and Evans 1971). It gave the government complete control over “coloured” immigration through the concept of patriality. It has constituted the basis of all the controls implemented in Britain for the past 25 years and was conceived as a “single code of permanent legislation” for immigration controls since the Aliens Act 1905. It has aligned the position of Commonwealth citizens with aliens legislation ending the fundamental distinction of separate immigration controls for aliens and Commonwealth citizens. Finally, it gave the government important powers for the practical implementation of controls since most of the details of this single piece of legislation were to be implemented through immigration rules. In that respect it represented a formal recognition of the Home Office’s and the Foreign Office’s powers (often discretionary) to regulate movements of immigrants into Britain.

In France the 1974 ban was certainly anticipated by the set of measures which were adopted from 1968 onwards by the government to regain some control over migratory flows which had developed in a chaotic way, but as in the British case it denoted a firm political decision which intended to remedy a situation perceived as intolerable which could not last any longer. At the time the measure was said to be dictated by economic considerations and was implemented by way of governmental circulars. There were, however, other hidden political and social reasons behind this major decision for a country which had relied on a foreign recruited workforce for its economy since 1945. On a long-term basis the suspension heavily affected the rights of workers and of their family dependants to settle permanently in France. More importantly it signalled the beginning of a new period in French immigration policy characterised principally by the multiplicity of texts for regulating immigration controls with a constant strengthening of the criteria which had to be met to gain access to French territory.

2 A fundamental difference with previous legislation was that the 1971 Act aligned the status of Commonwealth citizens for deportation purposes with the aliens’ position.
In both cases these decisions took place in the context of the end of the decolonisation process which had shaped previous policies on immigration to a greater or lesser extent. Still during that period the concern to maintain political and economic links with ex-colonial territories and therefore to grant privileged treatment to nationals of those countries was constantly outweighed by the clear intention French and British politicians showed to conclude a chapter of their country’s history. This period was thus characterised by the constant hesitation between the legacy of the past and the vision they had of a harmonious society which could not possibly be based on larger immigrant communities. Both had become multiracial societies that were reluctant to accept their commitments towards overseas populations still linked to the mother country.

From then on British immigration policy oscillated between openly discriminatory or racist measures and more liberal policies such as the raising of entry quotas for UK passport holders in June 1974 and the lifting of restrictions on the admission of husbands and prospective spouses in 1975. But British governments never challenged the existence of controls and called on the contrary, for stricter measures in the name of better assimilation of immigrant communities already settled in Britain. Britain’s international position had also changed as it moved away from the Commonwealth to be more closely associated with Europe with its entry into the European Economic Community – although this was repeatedly denied by the government.

In France the last phase of the process of decolonisation had ended with the trauma of the Algerian war and had left bitter feelings on both sides of the Mediterranean sea which were evident in the special treatment to which Algerian migrants were subjected. Less traumatically, nationals from sub-Saharan countries also saw their privileged access to France slowly restricted. As in the British case, restrictive and liberal provisions alternated according to the conjuncture and the good will of the successive governments, but no return to the previous “laissez-faire” policy was ever envisaged by French policy-makers. Additionally, the
decision to close French frontiers to several categories of immigrants has never been questioned by any subsequent government.

As for the end point of the research, this was set at the end of the Labour government in 1979 and in 1986 in the French case, before parliamentary elections were won by the opposition parties in both cases. The policies carried out by the left-wing governments in Britain and France concluded a well-defined cycle which had seen the alternation of right-wing and left-wing governments carrying immigration policies with similar features within comparable political, social and economic conjunctures. British and French policies that were formulated and implemented after the period studied in the thesis, continued to follow some of the principles elaborated during the previous period.

However, the mid-eighties were characterised by the emergence of two major issues. Thus, the French and British governments, on the one hand, were confronted with the rise of illegal immigrants and on the other hand, had to adapt their policy to manage the growing number of applications from asylum seekers (Layton-Henry 1994; Travers 1999). These phenomena had been shadowed to a certain extent by the 1981 Socialist decision in France to amnesty illegal immigrants, which had revealed the new government’s concern over the issue of illegal immigration, but in the early 1980s, French and British policy-makers were not yet ready to adjust their policies to the sudden and unexpected rise of asylum seekers (figures increased from 25,800 in 1985 to 56,053 in 1990 for France while in Britain figures for the same years showed a total of 5,450 rising to 30,000). Many argued that the sudden upsurge of asylum seekers derived directly from European host countries’ policies which shut down most of the legal routes of entry (in particular for economic migrants) and therefore the recourse to asylum had become one of the principal “techniques” of access for those forbidden entry to either France or Britain. As a result public debates about immigration have shifted to the

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3 Source: HCR Bureau régional pour les affaires européennes, Bruxelles. Quoted in Théron (1995). In the French case from 1983 to 1988 it has been estimated that the number of foreigners increased annually by an average of 140,000 with at least 25,000 asylum requests (20,000 students, 5,000 workers, 20,000 family dependants and 70,000 born in France), showing therefore that asylum had become the first source of immigration in France (Norek and Doumic-Doulet 1989: 98).
problems raised by asylum seekers (Joly and Cohen 1989; Norek and Doumic-Doublet 1989; Freeman 1994b, 1997; Séguir 1997; Viet 1998). This phenomenon led France and Britain (as well as their European neighbours) to enforce their legislation on illegal immigration with renewed vigour since most of the asylum seekers were perceived as bogus. Hence in the name of intensive action against “fake immigrants” (from whatever categories they belonged to: “fake asylum seekers”, overstayers, illegal entrants, male immigrants seeking entry by way of marriages of convenience) both French and British governments showed a growing concern for the “problem of irregulars” and accordingly devised policies aiming at eradicating these phenomena: primary purpose rule for the admission of prospective spouses and husbands (1980), Asylum and Immigration Appeals Act (1993), Asylum and Immigration Act (1996), Lois Pasqua (1993, 1996) (Koser 1996).

Finally, this period was also characterised by the beginning of intense co-operation between Member States of the European Union at intergovernmental level to devise a policy on immigration matters and related issues (such as action against racism and xenophobia). The Twelve adopted the Dublin Convention which determined the state responsible for examining applications for asylum lodged in one of the member states of the European Community. Thus, from the mid-eighties onwards European member states started to elaborate an integrated and coherent immigration policy despite their traditional reluctance to abandon part of their sovereignty in these highly sensitive areas (O’Keefe 1995).

2.3 Method of comparison

Comparative works in politics distinguish two methodological approaches to select the units of comparison: the most similar approach and the most different approach. The first one involves the selection of “samples” similar in their attributes to detect and investigate the existing differences. With the second approach, however, the basis of the comparison is on very different samples which nevertheless reveal some similarities to be analysed (Roberts
1978). Both approaches are adopted in this thesis depending on the units of comparison selected.

A major difficulty to be overcome is to avoid producing two separate detailed analyses of British and French immigration presented successively under common headings. Despite its value as a well-documented and descriptive study, it would not meet the purpose of comparative works and instead would be very uncritical, not only because of missing true analysis of the differences and the similarities but also for the lack of any constructive discussions and relevant conclusions (Hague, Harrop and Breslin 1992).

The cross-system comparison is principally based on the observation of similar political and historical contexts surrounding British and French policies on immigration control, and to a lesser extent on potential parallels between the political structures. Thus, assuming that the Conservatives in Britain and the UDF in France belong to the same ideological family of moderate right-wing movements, Conservative policies (1970-1974) are directly put in parallel with the governmental policies elaborated under the presidency of Valéry Giscard d'Estaing. Similarly the Labour governments' records are compared with the Socialists' achievements of the early 1980s.

In an historical perspective, as ex-colonial powers, French and British governments attempted to maintain special economic and political links with their ex-territories. This in turn, profoundly shaped their perception of immigration and consequently their policies in that area and the regulatory instruments implemented. In both cases the "problem of immigration" as it was felt by political elites arose in connection with that part of their immigrant population originating from territories previously under colonial rule. In those cases where units of comparison were similar in their attributes, the "principle of functionality" where comparable things are only those fulfilling the same function, served to highlight the extent of similarity between French and British policy (Zweigert and Kötz 1992). As an illustration, the set of rules which derived from the policies of voluntary repatriation (designed to encourage immigrants to return definitively to their country of origin) were evaluated to produce a
comparative appraisal of the governmental programmes on repatriation, their causes and effects and their impact.

Despite these similarities there are also many differences which should not be overlooked and instead required a “most different approach” to find some similarities to be analysed. Some of these fundamental differences can be mentioned briefly. Thus, whereas France has been a major immigration country from the beginning of the 20th century, Britain despite the fact that it experienced several waves of immigration during the same period, was never an immigration country. On the contrary, it was a net exporter of people (apart from a few years which showed a net population gain from migration: 1962, 1972 and 1983 to 1985) (Evans 1973; Demuth 1978; Coleman 1984; Furnham 1986; Layton-Henry 1992; Paul 1997). Despite the fact that substantial outward flow exceeded inward flow, fierce political controversies were aroused over New Commonwealth immigrants, their number and the system of controls applied to them. In parallel in France despite the volume of its immigrant population, political debates on the immigration issue, for the period under study, were not as passionate as in Britain. Nor did the composition of the immigrant population present in Britain and France always coincide. In France the initial waves of male workers coming on a rota basis were succeeded by the arrival of family dependants who eventually settled permanently (Sayad 1977), while in Britain a great number of immigrants from the New Commonwealth were determined to settle with their family dependants from the beginning. Most of these differences lie in the British system of citizenship (traditional right of entry for Commonwealth citizens) as well as in the last consequences of the process of decolonisation (Kenyan and Ugandan crises, Malawian Asians crisis).

Finally, a major difference lies in their system of controls: whereas immigration controls in Britain were introduced progressively from 1962 until 1970 through statutes with ample parliamentary debates, the French government suddenly imposed a ban on immigration by way of circulars in July 1974 with no parliamentary consultation. Besides, the two legal systems belong to opposite legal families, the civil law system and the common law system.
which are clearly reflected in the respective legal frameworks of immigration control (David and Jauffret-Spinosi 1992).

Lastly, comparative measurements cannot be used on some occasions where it emerges that the specificity of the national context prevails over common trends. Hence the impossibility of drawing valid parallels, which is also investigated. For example, Britain adopted a series of rules to admit prospective spouses and husbands of British or foreign women settled in the UK which had absolutely no equivalent in the French system regulating the entry of male migrants.

To conclude on the question of chronology and on the comparative methodology adopted for this research, the central issue which served as a starting point for the comparative analysis is the political decision observed in both countries to stop primary immigration and to restrict secondary immigration as much as possible. These decisions on immigration control were introduced by newly elected governments albeit with different legal techniques. The significance of these measures lies in the fact that the ban on immigration was maintained throughout these years and was never subsequently challenged by successive governments in office, even those belonging to opposite ideological families. Instead, a broad consensus on the major orientations of the policy on immigration control emerged among the main political actors in power throughout these years. In practice it meant constant strengthening of the conditions to be fulfilled for entry purposes and a consequent decrease in the numbers of immigrants allowed to enter and settle permanently. The French and British legal frameworks reflect these stringent attitudes towards newcomers since the use of specific legislative techniques as well as the way immigration controls were administered showed how policy-makers intended to achieve a net reduction of the numbers while weakening immigrants' status as far as their entry rights were concerned.
2.4 The data

In addition to the vast volume of secondary sources available, this research draws largely upon primary material. The kind of data used for this research is based on "public discussion" of immigration questions taking place in the media and in parliament. Immigration, like any other political issue, has undoubtedly a parallel "private world" which is not addressed because of the difficulty of obtaining specific information about the behind-the-scenes policy-making process. It was already emphasised in the previous chapter that in Britain it is rather difficult to obtain documentary information such as minutes of meetings or recommendations about policy to ministers, which are more easily available in France. Hence, the analysis of the governmental objectives on control on entry focuses principally on the "public" policies carried out by successive governments. It is a question of investigating that aspect of immigration policies for which ample information is available, in short the emerging part of the iceberg, while knowing that a remaining important part exists, but is not yet fully accessible.

2.4.1 The legislation on immigration control

Legislation on immigration and texts of court rules represent the first of the three categories of primary sources that are used. The body of rules which determines the right of entry and settlement of immigrants is distinct from other branches of law. This body of legislation defining the legal status of the immigrant population is made up of a great number of texts which have evolved quite substantially over the years and determines the conditions of entry and settlement, as well as criteria for obtaining work permits and extension of leave to remain longer.

Both legal frameworks on immigration control consist of multiple sources classified into international sources (international conventions to which France and Britain are parties and bilateral agreements concluded by French governments with emigration countries) and domestic sources. This second category constitutes the main reservoir of texts applicable to
regulate entry and settlement and is to be further subdivided into two groups according to the nature and the function of these texts. Primary legislation includes the legislation debated and voted for in parliament; for Britain the two Commonwealth Immigrants Acts (1962 and 1968) and the 1971 Immigration Act; in the French case the authoritative text is the *Ordonnance n.* 26-45 (1945) as well as the subsequent acts modifying it (in particular *L. n.* 80-9 in 1980 and *L. n.* 81-973 in 1981). These texts set the fundamental criteria regulating entry, length of stay and deportation of immigrants. Secondary legislation mainly includes immigration rules made and published by the Home Secretary to implement details of the legislation, and *circulaires* issued by French ministers to administrative authorities. This second set of provisions to regulate British and French immigration policies has acquired growing importance not only because of the lack of parliamentary control upon them but also because of their growing number and their legal implications in terms of rights for the immigrants to whom they are applied. One of the difficulties with some of these *circulaires* was to trace them since not all of them have been published in the *Journal Officiel*.

2.4.2 Statistics on immigration

Statistical information on immigration in the UK and France is, more than any other source of data used for this research, treated carefully for many reasons. Statistics are used in so far as they are helpful indicators of migratory trends for each country concerned over the period investigated. It would be, therefore, beyond my scope and my knowledge to even attempt to compare French and British data on entry rates or settlement rates for example. Such comparative analysis would only have scientific value if the same statistical methods had been used in both countries (collection of data and the purpose they served) (Roberts 1978; Coleman 1984; Lebon 1988; Haskey 1992). The basic criterion of nationality, as it is currently adopted in most countries, is a classic example of these fundamental differences between the French and British way of collecting statistics. It serves to distinguish between "aliens" and nationals and suits the French case perfectly but is not adaptable to the British one (Cf.
Lochak 1985; Nguyen Van Yen 1986; Guimezanes 1991 for a legal definition of the term "étranger"). Hence, the lack of clear-cut nationality in the British case is largely a product of the history of British nationality, conditioned by the historical developments of immigration law over the past decades (Dummett and Nicol 1990).

In France, as in Britain, statistical information on immigration comes from different sources. It must be noted that in France there is no general register of population such as exists in other European countries (like Britain for example) which makes it highly difficult to evaluate the number of people who have left France definitively (except in the case of deportation or registered exit for administrative purposes) or to assess the net migration rate. For the foreign population living in France on a long-term basis, the two main sources of information are to be found in the general censuses on population made by the I.N.S.E.E and the annual figures on residence cards produced by the Ministry of the Interior (see Lacroix and Thave 1997 for a chronological account of the general censuses in France). Errors originating from this source of data are multiple: residence cards which have not yet expired are counted even if the bearer returned to his country of origin, second-generation children with French nationality whose parents are foreigners are often included (Samman 1978). As for the general censuses on the population, they give precious indications as to the evolution of the foreign population throughout the century. However, since these are done on a ten year basis, the gap between one census and the next is too wide to make reliable estimates on a short-term basis. Thus, the absence of unified criteria to gather statistical information implies that it is quite difficult to have an overall picture of the composition of migratory waves in France. The O.N.I. records the entry of foreign salaried workers including their families but does not take into account Algerian workers and African nationals. From 1960 until 1973, the ministry of the Interior recorded the entry of Algerian workers and their families at ports and
airports of entry with their landing cards. As far as net migration is concerned, the I.N.S.E.E publishes its annual estimates in its *Bulletin mensuel de Statistique* (January edition).

In Britain figures on immigration have been a major source of political controversy since the 1950s when attention concentrated on immigration from the New Commonwealth. The structure and sources of statistics are quite complex because of the multiplication of categories of immigrants and the successive extension of immigration control throughout the period studied (Coleman 1984). Without recalling the successive developments of 19th and 20th century immigration control and statistics (see the excellent article by Coleman (1984)), it can be said that the three immigration acts (1962, 1968 and 1971) transformed the way statistics on Commonwealth immigration were collected. In 1961 a voluntary sample survey was set up by the Board of Trade under the title of International Passenger Survey (I.P.S.). I.P.S. provides a sample of intended immigrants and emigrants of all nationalities who arrive at and depart from the main UK air and sea ports (however, the I.P.S. does not cover routes between the Irish Republic and the UK). The limitations of such a survey derive from sampling errors (since immigrants represent only a tiny part of traffic flow) and inflated estimates which on several occasions revealed serious statistical errors (in 1976 and 1982 in particular). The second main source of data comes from the Home Office in the form of statistics gathered and published in the annual *Control of Immigration. Statistics*. The Office of Population, Censuses and Surveys also registers movements of population in and out of the country without differentiating between nationals and aliens (O.P.C.S. 1979). The quite complicated system of nationalities in Britain renders the situation even more complex. These statistics do not include emigration nor the entry of people with the right of abode.

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4 It is only since the 1968 Franco-Algerian Agreement, that the real numbers on "first" entry into France of Algerian nationals have been known. Before then, the statistics did not distinguish between entry and re-entry in France. See Tapinos (1975).
2.4.3 Reports on parliamentary and governmental activity

Records of French and British parliamentary activity reported respectively by the *Journal Officiel de l'Assemblée Nationale* (J.O., A.N., Lois et débats) and by Hansard were consulted for the debates on immigration bills that were held throughout the decade. In addition, in the British case general debates on immigration or on the vote of specific immigration rules constituted significant material to map out the importance of the immigration phenomenon in Britain for these years. Besides general debates, governmental answers to oral and written questions provided relevant information to support tendencies or hypotheses on the evolution of immigration policies (1970-1980 for Britain and 1974-1986 for France). Several bills on the immigration issue supported by MPs were also examined.


As for party publications, reports from annual conferences of the Conservative Party and Labour Party gave precious indications as to party policy while the manifestos (general elections of 1970, 1974 (February) and 1974 (October) confirmed the general tendencies of the parties on specific issues. In the French case the absence or quasi-absence of formally drafted manifestos meant that parties' positions had to be traced back in conference reports and newspaper articles reporting politicians' declarations. Some additional information was
found in the electoral pledges of the candidates for the 1974 and 1981 presidential elections and for the 1978 parliamentary election.
3. POST-WAR IMMIGRATION IN BRITAIN AND FRANCE (1945-1974)

After the Second World War France and Britain experienced substantial immigration attracted by economic prospects as these two countries (as well as other European countries) needed to rebuild their shattered infrastructures and were short of labour. Migrant workers came principally from southern Europe but also from more distant countries which were or had been part of the British or the French Empire. Migrants from Third World territories could come to Britain and France easily thanks to their right of free entry (British subjects and Français Musulmans d’Algérie) or settlement was favoured in the name of special ties linking colonial populations to the mother country.

The years covered by this chapter (1945-1974) provide a brief historical background for the transformation of these two old nation states into multiracial societies today composed of substantial ethnic minorities. Political leaders had mixed responses towards the arrival of these populations and the policies they devised reflected the constant dilemma in dealing with what soon became perceived as the “problem of immigration”. It is during this period that many policy principles which later guided French and British policy-makers in the 1970s and the 1980s were formulated. Some of the main orientations of the policies adopted by post-war governments bear some continuity in later provisions on immigration control.

The first two sections are concerned with the general outlines of migration flows to Britain and France during the post-war period and also present the political debates on immigration and the policies adopted by the French and British governments. The last section intends to underline differences and similarities between French and British immigration policies which are relevant to understanding the general context of the following chapters.
3.1 British Immigration policies (1945-1970)

In 1945, Britain needed more workers for reconstruction than were readily available within the domestic active population. Principally attracted for economic reasons, immigrants who came to Britain during those years often returned home after a few years, but some eventually settled. The growth of immigration was slowed with the first legislative controls on Commonwealth citizens in 1962 but not totally stopped. In parallel, successive governments attempted to favour emigration on a large-scale to maintain British preponderance overseas (Booth 1978; Paul 1997). As Booth remarked, this constituted a paradox by the simple fact that in the immediate post-war years, the departure of many young Britons towards several parts of the Commonwealth was not beneficial for Britain itself (labour shortages, ageing population, falling birth rates..). Despite early controls British society had turned into a multiracial society by the early 1970s. These migratory waves and the debates they provoked took place within the context of decolonisation and the retreat from Empire, which weakened the international status of Great Britain. Political debates and policies on immigration were greatly influenced by all these factors.

This long period will be divided into two unequal phases: from 1945 to 1961 before controls on Commonwealth citizens were introduced and from 1962 to 1970 on the eve of the 1970 general election. This chronological division, traditionally adopted by many scholars, is justified by the introduction of the first legislative controls on Commonwealth immigrants which represented a significant step in the political and legislative process to control entry of Commonwealth citizens and more precisely “coloured” immigrants from the so-called New Commonwealth countries. In addition, these controls had a decisive impact on the rate and composition of immigration into Britain and soon became the subject of the most controversial political issue of that period.
3.1.1 Migratory increase and absence of any legislative control (1945-1961)

During the early post-war years Britain’s economic context was characterised by severe labour shortages which hindered the important task of reconstructing the country.¹ Hence the decision of the ministry of Labour to look for other sources to constitute the workforce to respond to the great demands of the British labour market (Joshi and Carter 1984; Dean 1987, 1992; Layton-Henry 1992; Paul 1997). One of the first groups that were encouraged to remain consisted of Polish exiles. The success of this first scheme led the Labour government (1945-51) to enter quite reluctantly into a programme of recruitment from other sources of continental workers mainly from the South and the West of Europe. These employment schemes, under strict control of the ministry of Labour, selected skilled and semi-skilled workers from Germany, Italy, Austria and Spain to fill jobs in all sectors of the British economy. Most of them returned home at the end of their contract except for the Italians who often decided instead to settle in Britain and called for their families.² Thus, the Italian minority expanded from 38,427 in 1951 to 108,985 in 1971 (Holmes 1988: 214; Layton-Henry 1992).

Meanwhile, discussions arose on the need to organise other official schemes for recruiting a colonial labour force. This led to the setting up of a working party in 1948 entrusted with the task of enquiring into British labour market needs for employing surplus colonial labour (Layton-Henry 1992: 12,28). The Colonial Office alone seems to have wished to set up some of these schemes in particular with the West Indies, to avoid uncontrolled immigration and to import skilled workers who could fill particular vacancies (Dean 1987: 315). Otherwise, official attitudes were very negative and there was no desire to encourage

¹ National service was still imposing demands on the British labour force while young people were extending their education (Dean 1987: 314). Britain was also maintaining military contingents throughout the world (Stone 1970: 123). In addition the British government was still encouraging emigration (Layton-Henry 1992: 2; Paul 1997).

² This trend slowed down after the 1960s and was reversed in 1969 because Italian workers who originated mainly from the southern parts of Italy started to migrate internally towards the industrialised north of Italy or went to Switzerland and West Germany because of better economic prospects.
any "coloured" colonial immigration into Britain. This in turn explained the priority given to programmes for recruiting workers of European descent.

Despite British officials’ preference for "white" workers to come and work in Britain, immigrants who arrived in the early post-war years and throughout the 1950s and the 1960s were in majority "coloured", originating from colonial territories and newly independent Commonwealth countries. Legislation was in their favour as they enjoyed as British subjects – since the British Nationality Act 1948 – the right of free entry and settlement in the mother country. This right had been devised on the principle that all British subjects had to be treated equally, all being equal subjects of the Crown without any distinction on grounds of race or colour. This contrasted with the legislation controlling entry and settlement of aliens into Britain.

To characterise the major groups of migrants arriving in Britain during that period, a broad division has often been made between "white" immigrants originating from the European continent and "non-white" or "coloured" immigrants coming from Asia, Africa and the West Indies. The term "coloured" or "white" immigrants ignores differences of origin, nationality, religion, etc. and makes this binary division inaccurate (Spencer 1997). As Patterson put it:

There has been a misleading and meaningless tendency to lump these newcomers together under the description "coloured immigrants". In fact the various "coloured" immigrant groups differ at least as much as the Irish do from the Jews or the Poles from the Italians or Germans. They differ not only in demographic and occupational composition but also in social organisation, socio-economic and cultural background, and in their motives for migration and expectations of the host society. (Patterson 1969: 6)

The arrival and size of the different migrant groups varied from one group to another. Furthermore, the documentation on the arrival of West Indians, Indians and Pakistanis is more extensive than the literature on the migration of people of European descent. In addition, it must be noted that many difficulties in correctly quantifying the movements of the different groups are due to the unreliability of official statistics (Holmes 1988).
West Indians were among the first “non-white” immigrants to arrive in Britain in the early post-war period. A symbolic date stressed by many authors as the starting point of the immigration of Caribbeans is the departure of a ship, the SS *Empire Windrush*, on 8 June 1948 with some 492 passengers bound for the mother country. However this migration had its origins during the war period when many West Indians had served in the Allied forces or had been recruited to work in munitions factories and services (Rich 1986; Layton-Henry 1992; Paul 1997; Spencer 1997). Some of these workers had decided to settle in Britain and had had little difficulty in finding employment, given the shortage of labour and the great needs of reconstruction. This migration occurred mainly for economic reasons and was facilitated by the right of free entry Caribbeans enjoyed since the British Nationality Act 1948. In parallel, since 1952 their emigration to the United States had been limited when the McCarran-Walter Act 1952 had restricted to an annual quota of 100 workers the number of those admitted for settlement. The early Caribbean immigrants arriving in Britain attracted friends and relatives through a process of chain migration. The growth rate of this migration reflects the employment situation in Britain until the early 1960s (Peach 1968: 74-81) but remained largely voluntary and unorganised despite some recruitment schemes. Thus, the London Transport Executive and the British Hotels and Restaurants Association recruited some of these workers directly in the West Indies. West Indian migration reached its peak in the 1950s.

Migration from the Indian sub-continent started in the 1950s and increased steadily until the early 1960s. Those coming from eastern Punjab were in majority Sikhs whereas those coming from Gujarat were Hindus. Faced with economic pressure in India, the Sikhs, generally with professional or business backgrounds, came to England to restore part of their wealth. In contrast, those coming from Pakistan were all Muslims of a more rural background and with a low level of literacy. As for the Indians, motives behind their decision to migrate were predominantly economic due to the poor prospects they had at home.
The Kenyan Asians who arrived in the late 1960s constituted the third major group of immigrants for that period. As opposed to the previous waves, their migration to Britain stemmed from political events, the Africanisation policies of the Kenyan government, which forced them to leave East Africa. Originally, their parents or grand-parents came from India (in particular from Gujarat) and unlike other migrant groups, the Pakistanis in particular, their good command of the English language as well as better education assisted their adaptation to British society as well as their integration into the British economy (Patterson 1969: 1-11).

Additionally, another major group of immigrants which need to be mentioned are the Irish who were by far, and still are, the largest and above all the historically oldest immigrant minority present in Britain. Since most of the legislative controls introduced throughout that period did not affect their entry rights nor hinder settlement, they have often not been included in the description of the several migratory waves arriving during the post-war period as their migration was not perceived as constitutive of the "immigration problem" (Freeman 1979; Dummett and Nicol 1990).

To conclude, the major groups of immigrants from the New Commonwealth who arrived after 1945 were mainly attracted to Britain for economic reasons. They filled the semi-skilled and unskilled jobs available to them due to the acute labour shortage (Patterson 1967; Dean 1992). From the start British policy-makers demonstrated their preference for European workers and were determined not to encourage the arrival of additional migrants from overseas territories. Political debates which preceded the vote of the 1962 Act further confirmed the government's concern over increasing "coloured" migration, but also their reluctance to introduce controls which would have undermined Britain's relations with newly independent countries.

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3 Irish immigration to Britain dates back to the 19th century. The Irish have always been granted unrestricted access to British territory despite part of Ireland becoming independent in the 1920s. The movement of the Irish to Britain was due to a combination of factors: the increase of British labour needs and the lack of work opportunities in Ireland. The 1951 census recorded 716,028 Irish living in Britain while they were 957,830 in 1971 constituting fewer than 2% of the total population (Holmes 1988: 216).
Throughout this period much of the discussion which took place in the Cabinet and more generally between the governmental departments concerned (Home Office, Foreign and Commonwealth Office and to a lesser extent the Treasury) focused on the need and the timing of the introduction of immigration controls on "coloured" immigration. Scholars have widely reported the intense political debates held on that issue, noticing, in particular, that the official interest in immigration varied according to the conjuncture, but mostly depended on the perception of increasing numbers of "coloured" immigrants entering Britain over these years (Patterson 1969; Deakin 1970; Layton-Henry 1987; Dean 1992). More recently Paul (1997) and Spencer (1997), thanks to the thirty years rule, were able to investigate the two decades (1945-1965) which constituted crucial years for British immigration policy in greater depth: how its main principles were elaborated and formulated within the private spheres of government and how these guidelines for controlling entry of "coloured" British subjects pervaded the whole political debate on immigration up to the 1971 Act.

The Inter-departmental Working Parties, which were set up in October 1948, January 1953 and January 1954 published reports on the consequences of the introduction of immigration controls on Commonwealth citizens. In addition, further official documents were circulated by the Commonwealth and Colonial Secretaries in February 1955 and by a Committee of Ministers in June 1956. Reports by the Inter-departmental parties enquired into the possible economic and social repercussions of the presence of large groups of "coloured" immigrants in British society. Firstly, these reports recommended that "coloured" male immigration should not be encouraged despite the labour shortage that the British economy was experiencing at the time. Secondly, it was suggested that the co-operation of Commonwealth governments should be sought in order to avoid resorting to legislative controls. Such co-operation could take the form of discouraging warnings to prospective immigrants (difficulties in finding jobs, suitable accommodation, cold weather...) as well as recommendations urging the governments to reduce the issue of passports and travel documents, to slow down the process of emigration to Britain (Paul 1997; Spencer 1997).
A major obstacle facing the Inter-departmental Working Party was to find suitable justification for the introduction of discriminatory controls on “coloured” British subjects since that would have caused great embarrassment on the international scene and would have been resented by overseas governments. Hence, the Inter-departmental Working Party restricted its recommendations to the introduction of legislative measures for deportation purposes exclusively but insisted that immigration officers should be given more powers to refuse undesirable Commonwealth citizens. This was thought to be, by far, the best way of reducing the number of “coloured” workers seeking employment in Britain instead of setting up restrictions on employment or on the right of entry.

Following some of these recommendations the Labour government acknowledged that the time had not yet come for implementing controls on “coloured” workers, for the many disadvantages would have outweighed the advantages. Major restrictions on entry of “coloured” immigrants would have been detrimental to British foreign policy and would have weakened its still fragile relationship with newly independent Commonwealth governments. As for one of the report’s recommendations, linking the right of entry to the possession of approved employment, the British government estimated at that stage that limitation on employment would be costly and unnecessary. Furthermore, at that time the largest group of immigrants was still constituted by the Irish.

Papers issued over the following years at the request of the Cabinet by the Commonwealth and Colonial secretaries in February 1955 and by a Committee of Ministers in June 1956 studied the connections between the rise of immigration and the employment situation. Again, the main purpose of these studies was to find out whether the introduction of controls on Commonwealth immigrants could be justified on economic grounds. The first paper concluded that if controls had to be introduced, they should not discriminate on racial grounds and should therefore cover all Commonwealth citizens, Irish and C.U.K.Cs. In a similar way the second document stressed that legislation controlling immigration would be justified in case of economic recession but that at the present moment, controls would bring
too many disadvantages. The Cabinet took into account these recommendations and decided to keep the situation under review without any further action for the time being. These reports brought to the government’s attention the potential problems British society could face in case of rising numbers of “coloured” immigrants. Official action was only delayed until the early 1960s because of the political, economic and social problems these controls would have caused (Layton-Henry 1987; Spencer 1997).

Many reasons have been put forward to explain why limitations on “coloured” immigration were delayed until 1962: the success of co-operative arrangements between emigration countries and Great Britain to limit migrant departure, the labour shortage and Britain’s economic needs, the influence of the process of decolonisation and Britain’s position within the Commonwealth. During this period decolonisation was continued as the Attlee government successfully granted independence to India and Pakistan (1947) and Burma (1948). The Colonial and Commonwealth Offices put heavy pressure on the Cabinet not to restrict entry of British subjects from those newly independent countries. It was a matter of intense debate between these governmental departments as they adopted a policy focused on the need to maintain economic and political links between Britain and the newly independent nations. There would have been an obvious contradiction if Britain, which saw itself as the tolerant leader of a multiracial Commonwealth, had adopted a domestic policy clearly opposed to this ideal. The introduction of openly discriminatory legislative controls on “coloured” immigrants would have jeopardised Britain’s relationship with the newly independent countries (Deakin 1970; Freeman 1979; Holmes 1988; Layton-Henry 1984; 1992; Dean 1992; Paul 1997; Spencer 1997).

It was also argued that the British economy needed a colonial and ex-colonial workforce for its vast programme of reconstruction and continuous expansion. In that respect the Treasury had made clear that “coloured” immigrants were benefiting the economy and had

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4 Concerns over the rise of immigration during this period and consequences for the labour market were also shared by the Labour Party. During 1954 informal meetings were held between Labour and Conservatives on the need to introduce immigration controls (Layton-Henry 1987; Spencer 1997).
also predicted that to cut this supply of labour would be detrimental to the British economy in terms of cost (Deakin 1970; Holmes 1988; Spencer 1997). This was further supported by evidence which demonstrated that compared to its European neighbours the British economy grew at a relatively slow rate during that period because of the early controls which stopped the influx of migrant workers into the British labour market.

Finally, bilateralism, whereby emigration countries co-operated with Britain to control the departure of their nationals, had been implemented for some years. Thus, administrative arrangements had been concluded in particular with India and Pakistan to restrict the issue of travel documents to potential immigrants. The Caribbean governments had been asked by Britain to enforce similar restrictions on the right to travel but had not been as co-operative as the governments in the Indian sub-continent. Spencer has reported that:

There is some convincing evidence from the late 1950s that when a vigorous attempt was made to restrict passport issue in both India and Pakistan, numbers of immigrants from those countries dropped appreciably. Officials in the Commonwealth Relations Office were certainly convinced of their effectiveness. When the system broke down in 1959-60 the recourse to legislation was swift. (Spencer 1997: 37-38)

At the end of the 1950s when the first signs that bilateralism was no longer working appeared, the British government made a last vain attempt to resuscitate the bilateral agreements (Deakin 1970). Concern in government about the issue of controls grew rapidly from 1958 to 1962. The 1958 riots in Notting Hill and the sudden upsurge of arrivals from India and Pakistan alarmed the Home Office and the Commonwealth Office which again contemplated the possibility of introducing controls by way of legislation. In May 1961, the Cabinet discussed the problem of West Indian migration at length and the prospect of legislating was agreed (Deakin 1975).

The 1962 act introduced a system of vouchers, which for the first time limited the entry of Commonwealth citizens. The three categories of vouchers it created (A: those holding a voucher for a specific job, B: those whose skills and expertise would benefit the British economy and C: unskilled workers whose number was to be decided on a regular basis) had a
major effect on the volume of primary immigration which was reduced substantially within
the next few years. Furthermore, the Act defined a class of British subject who belonged to
the UK and therefore was not subject to immigration controls: those born in the UK or whose
passport had been issued on behalf of the UK. It also gave immigration officers great
discretionary powers to refuse entry to undesired immigrants. The Labour Party attacked the
1962 Bill vigorously, they stressed that it was ambiguous, unilateral and constituted a betrayal
of Britain's colonial obligations (Paul 1997).

The vote of the 1962 legislation resulted from a combination of factors. In the
immediate years preceding the vote of the Act the rising number of immigrants entering and
settling in Britain had been brought to the attention of the Cabinet on several occasions
(Spencer 1997). The Conservative government pushed by its more extreme supporters, was
faced with considerable pressure to introduce controls. Britain's international position was
gradually changing with a net retreat from its obligation towards the disappearing Empire and
therefore fewer commitments towards Commonwealth populations. At the same time it was
trying to join the European Economic Community to become an integral part of Europe
(Horowitz 1970).

Other social and economic factors influenced and speeded up the debate. Major
importance had been attributed to the 1958 riots for indicating "white" natives' hostility
towards the presence of "coloured" immigrants and in turn the politicians' response with the
launching of legislative controls (Deakin 1968). Paul (1997) however, has argued that the riots
were not directly responsible for the introduction of legislation but brought the various aspects
of the debate over immigration control of "coloured" immigrants into the spotlight. Besides,

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5 In the first six months of the 1962 Act the number of voucher holders fell from 51,000 to under 13,000 in 1965
(Paul 1997: 166).

6 In particular Sir Cyrill Osborne had been actively campaigning from the early 1950s against "coloured"
immigration. In December 1968 he moved a private member's motion calling for immigration control on
"coloured" Commonwealth citizens. In addition, a group of Conservative backbenchers (all from the Midlands,
immigrant areas) had indicated to the government several ways of introducing controls on new immigrants (Foot
1965; Deakin 1968).
the worsening of the economic situation and the prospective crisis led many politicians to think that it was time to introduce some controls on the movement of labour as future employment prospects were becoming increasingly uncertain. Thus, the Conservative leader Butler made it clear during the 1961 annual Conservative conference that he was concerned over the economic capacity of Britain: “If immigration outruns the economic capacity to absorb at some stage, we might be faced with real concentrated difficulties in certain areas, both from the social and employment angle” (quoted by Foot 1965: 138).

Commonwealth immigration was curbed by the 1962 Act but it affected the several groups of migrants differently. Primary immigration of Caribbean origin was affected by the new legislative restrictions more, whereas immigrants from the Indian sub-continent continued to arrive throughout the 1960s. A voucher scheme was implemented for skilled and professional workers who replaced unskilled workers of the previous waves. In addition, the Act speeded up the process of family reunification, as many workers were joined by their dependants before new restrictions were set up. Similarly, those who had already contemplated settling in the UK did it just before the Act entered into force. This was characterised as the “beat-the-ban rush” (Patterson 1969; Holmes 1988; Spencer 1997).

Recent work on this period which has analysed public records has emphasised the active role British policy-makers undertook to preserve Britain’s international position within the Commonwealth while limiting the entry of some categories of immigrants. Most of the migrants seeking settlement in the mother country had been coming on a voluntary basis, thanks to their right of free entry. The introduction of the first legislative controls, which had been delayed for over a decade, had unwanted effects on the volume of entries during the years just after 1962, since it did not stop “coloured” immigration (although it did slow it down considerably). It created a clear distinction, which was racially discriminatory, between British subjects who “belonged” and those who did not, thus prefiguring the 1971 concept of

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7 Thus, the 1961 Conference carried the following motion on immigration “That this Conference expresses its concern at the very serious problems being created by the uncontrolled number of immigrants flowing into the United Kingdom. It asks Her Majesty’s Government to take action quickly on this matter”. 87
patriality. Racial prejudice eventually dominated the political debates on the need to introduce immigration controls despite economic needs and the negative consequences these controls had on international relations.

3.1.2 The regulation of immigration in Britain (1962-1970)

The heavy limitations brought on primary immigration by the 1962 Act did not end the opposition towards immigrants nor the increasing demand for tougher measures on immigration control. During the following years political pressure from both Conservative and Labour politicians grew, demanding more stringent measures. Although the Labour Party under Gaitskell's leadership had been united in opposing the Commonwealth Bill in 1961, within a few years the Labour Party aligned its position with the Conservatives. In November 1963, Harold Wilson, the new Labour Party leader had already declared that his party no longer opposed controls on Commonwealth immigration. There have been divergent explanations of the impact of the immigration issue on electoral behaviour in the 1964 and 1966 General elections. Some have argued that the immigration issue apparently had no real impact on electoral choices because of the few differences between the Labour and Conservative positions on the question of immigration control (Studlar 1978). On the other hand, others asserted that the Labour realignment with Conservative positions was due to their fear of losing votes. In particular the defeat of the labourite Patrick Gordon Walker by an active, overtly racist opponent was analysed as a clear sign that the "exploitation of racism could reap electoral dividends" (Layton-Henry 1992: 78; Paul 1997).

Soon after taking office, the Labour government announced its intention to send a mission to Commonwealth countries to try to revive the administrative agreements Britain had had for some time with colonial governments (Deakin 1968). The Mountbatten mission failed and bilateralism was never used again.
Most importantly, in August 1965, Labour's new attitude was given concrete expression through their White Paper *Immigration from the Commonwealth*, which called for tightening of existing controls. Divided into three parts, Labour's paper assessed, in the first part the situation of immigration before and after 1962, while in the second part it urged the continuation of more severe immigration controls. It was argued that the reduction of the number of vouchers available had become necessary because of the evidence that considerable evasion of controls was taking place.\(^8\) The new proposals also included the possibility of sanitary controls at departure and entry points as well as repatriation powers for the Home Secretary for deporting immigrants who had resided in Britain for less than five years. The third part, which proved to be quite modest, recommended more positive measures to ensure integration.\(^9\)

Officially, the new policy proposals were justified on the grounds that they would benefit newly arrived "coloured minorities" by ensuring an effective implementation of integration programmes. As Freeman noted "the focus, then, was intended to be shifted from immigration (now safely in hand in a policy agreed to by both parties) to integration" (1979: 56). Heavily criticised, the White Paper showed that by 1965 the Labour Party had opted for the necessity of tougher immigration controls on "coloured" immigrants, therefore following the Conservative approach (Patterson 1969; Deakin 1970; Layton-Henry 1992). It has been argued that economic considerations did not dictate the content of the White Paper, in particular regarding the reduction of vouchers, as much as could be thought. Rather it was related to political considerations, in particular the fear of losing votes on that issue (Freeman 1979; Layton-Henry 1992). The Labour government felt that it would be forced quite rapidly

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\(^{8}\) "C" category vouchers were discontinued "A" and "B" categories were considerably reduced to 8,500 per year (with 1,000 reserved for Malta).

\(^{9}\) Part III of the White Paper contained measures on housing, education, employment, health and financial assistance designed to help integration into British society.
into a new general election and was willing to show it was addressing the question. It was widely felt that to ignore the issue would be a mistake and would exacerbate social tensions.

The White Paper had made the official position that the political elite had adopted towards future “coloured” migrants clear once and for all. Existing legislation was deemed insufficient to keep out “coloureds” but in parallel it was also necessary to ensure the integration of those minorities who had been settling throughout the years. The Wilson government introduced, in that respect, the first Race Relations Act to combat racial discrimination. Thus, since he had been appointed Home Secretary in 1966, Roy Jenkins had declared he intended to implement an effective integration policy to guarantee that progress in race relations could be made. To him, the issues of race relations and control were interdependent for he had declared that that the regulation of controls depended on intake:

The intake is not put so high as to create a widespread resistance to effective integration policies. Equally it must not be so unreasonably low as to create an embittered sense of apartness in the immigrant community itself. But this will depend, in my view, not only on the numerical decisions but on the way these decisions are administered. (Quoted by Patterson 1969: 62-63)

Although the new Act attempted to prohibit discrimination based on race, ethnicity or nationality in public places it did not extend to important areas where racial discrimination was the most virulent: housing and employment. Its limited impact as well as the absence of any criminal sanction seemed to confirm the government’s intent to act more on controls than integration.

Other events precipitated the Labour government into having recourse to legislation to stop a sudden and massive influx of Asians following the Africanisation policies in Kenya. Potentially, additional migratory waves from the other newly independent East African countries could find their way to Britain. The government rushed into legislation to introduce a bill in February 1968. The second Commonwealth Immigrants Act removed the right of entry to those citizens from the UK and Colonies who lacked a personal connection with the UK. The device, called the “grandfather clause”, was overtly racist and discriminatory and
specifically targeted Kenyan Asians, who as British subjects were in possession of a British passport delivered by a UK High Commissioner and therefore had not been affected by the first Commonwealth Act.

The new legislation clearly constituted an official retreat from Britain's obligations towards those East African Asians to whom a few years earlier it had promised to keep its commitments. In particular it signalled that "holding a British passport was in some ways a technical aspect of far less importance in defining identity than the status of 'Kenyan Asian'" (Paul 1997: 179). The new Act received a hostile welcome and was defined as overtly "racist" (Spencer 1997: 142).

Roy Jenkins made significant efforts to widen the scope of the anti-discrimination legislation of 1965 (especially in the sectors of housing and employment). His official statements to define the concept of integration aimed to show that multiculturalism was a possible way forward for Britain (Jenkins 1967). However he was replaced at the end of 1967 by James Callaghan who had a much stricter approach towards immigration than his predecessor. Nevertheless, a new race relations act was passed in October 1968 which made discrimination on grounds of "race", colour or ethnic origins unlawful in those sectors where they were most blatant; such as housing, employment and commercial services. Along with the Race Relations Board, which was given more powers to investigate complaints of racial discrimination, an advisory body was created: the Community Relations Commission whose task was to "encourage the establishment of harmonious community relations and to coordinate, on a national basis, the measures adopted for that purpose by others and to advise the Secretary of State" (Race Relations Act 1968, S.28). As for the previous race relations act, the 1968 legislation on racial discrimination appeared to be a mere response by ministers who sought to justify the extension of immigration controls on New Commonwealth immigration. In that respect, the two race relations acts constituted a "counterpart" to the harshness of conditions intended to limit entries.
While in opposition, Conservative politicians never stopped asking for more controls despite Labour’s inflexible approach to the issue of controls on Commonwealth citizens. When the Race Relations Bill was published in April 1968, Conservatives found themselves quite divided over the question. Among the most virulent Conservative campaigners calling for tougher measures against “coloured” immigration, Enoch Powell’s position had a far-reaching influence on the general debate on immigration. From 1964 he campaigned on the need to introduce more restrictive controls and urged measures of repatriation for immigrants (Bagley 1973). He tried to draw public attention to the fact that integration in Britain was impossible and he stressed the unbearable difficulties Britain would have in assimilating all its “coloured” immigrant communities and made sinister predictions for Britain’s future: “the tragic and intractable phenomenon which we watch with horror on the other side of the Atlantic might yet become reality in Britain unless no drastic measures are taken” (Race 1968: 99). This speech, best known as the “Rivers of Blood speech”, had a huge impact on the electorate, the Conservative Party and Powell’s career as well. Although he was dismissed by Edward Heath from the Shadow Cabinet, his impact on the policy of the Conservative Party on immigration remained significant. He also received widespread support within the country independently of class and parties.

For the following two years the Conservative Party under Edward Heath’s leadership moved quite close to Enoch Powell’s positions. At the end of 1968 Edward Heath announced that the status of aliens and Commonwealth citizens could be aligned, which implied that the traditional right of Commonwealth citizens to settle permanently would be removed. Conservatives also proposed to grant entry into Britain upon production of a work permit delivered for a specific position for a limited period. On a minor point of Powell’s proposals to create a ministry of repatriation, Heath nevertheless envisaged that “immigrants wishing to return to their own countries should be financially helped to do so” (Race 1968: 99). These significant innovations were finally embodied in the Conservative manifesto for the 1970
general election and testified to the Conservatives promises to bring to an end any further primary immigration on a large scale.

This second period attested to Labour's change on the immigration issue. Conservative and Labour political elites acknowledged that a certain type of immigration, "coloured" immigration, would have detrimental effects on British society. The intense political debates and consequent legislative activity to control immigration proved how complex the issue was. To counterbalance the severity of the new conditions which tightened up criteria for entering and settling in Britain (1965 White Paper and 1968 Act) legislation was passed on racial discrimination without, however, very effective results in combating discrimination. Nevertheless, the importance of these two acts should not be underplayed since they represented, beyond their limited impact, the recognition of the transformation of Britain into a multiracial society. They also signalled the "birth" of a new and long-lasting formula "Without integration, limitation is inexcusable: without limitation, integration is impossible (Roy Hattersley, quoted in Ryssel 1989: 98). The 1968 Act proposed by a Labour government was a clear sign that a broad consensus on the immigration issue had been reached by both parties. However, it did not appease the fear and the demand for more state intervention to restrict immigration.

3.2 France

Post-war immigration in France was initially organised by public bodies created for that purpose. Migrant workers recruited principally for economic motives were selected according to certain criteria, following the conclusion of bilateral agreements between France and emigration countries. Although the immigration policy had been planned on a long-term basis, its implementation soon revealed many failures in the way the system was functioning: increasing numbers of illegal migrants, deteriorating living conditions and unfair working conditions. The 1968 crisis served as a detonator for the French government which for the first time acknowledged the urgency of the crisis. It adopted new measures that constituted a
more decisive approach to regulating migratory flows, even though this new policy could not
prevent the worsening of the migrant workers' social conditions.

3.2.1 The predominance of the economy (1945-1968)

In the early post-war years, policy on immigration in France was devised by economists and
demographers who closely connected French demographic growth to economic expansion:

Le problème de la population représente par conséquent le problème
numéro un de toute la politique économique française, du fait de
l'hypothèse que fait peser sur cette politique économique et sur le
développement de l'économie française l'insuffisance de population.
(quoted by Tapinos 1975: 14)

Thus, in 1945-46 the French government started a planning process to reconstruct all the
different sectors of the French economy that had been destroyed during the war. For the
serious shortage of manpower it was recognised that more workers with different skills had to
be imported to serve the main sectors of the economy: agriculture, the mining industry and the
metallurgical industry.¹⁰ The criteria laid down for this additional workforce (highly mobile,
flexible and coming for a temporary contract) took into account any sudden change in the
economic situation of the labour market since they could be sent back easily.

In parallel, demographers, such as Sauvy and Vincent argued that in order to
repopulate the country it would be necessary to organise permanent large-scale immigration to
France over the following years. This would compensate for poor demographic growth and
estimations varied between 2 and 4 million persons to be admitted over the next 30 years
(Tapinos 1975: 15). Such a policy had the support of Charles de Gaulle who became
convinced that the repopulating of France was one of the key factors for France to regain its

¹⁰ 600,000 soldiers and civilians had been killed during the war and 2.5 million French workers had been
deported to Germany for the S.T.O. (Service du Travail Obligatoire), many of whom had returned unable to
work.
status as an international power (Weil 1995a, 1995b). Several texts were voted in parliament to implement the economic and demographic aspects of the immigration policies devised by the government.

The major text regulating the question of immigration was adopted in November 1945 (O. n.2645, 2/11/45). It created a national state agency, the O.N.I. (Office National d’Immigration), which gave the French state a monopoly over recruitment and entry of foreign workers. The main task of this new body was to carry out the policies on immigration determined by the government to avoid coming back to pre-war solutions when rates of immigration had fluctuated according to the law of supply and demand.

Once it was admitted that the importing of immigrants was vital for the French economy and demography, the next question to arise was selection of the nationalities that should be encouraged to come to France. Northern Europeans (Belgians, Dutch in particular but also Germans) were preferred to many other groups because they were thought to be easily assimilable and therefore could meet both the demographic and economic requirements. Other groups of immigrants who could be “imported” were the Mediterraneans (Spaniards, Portuguese, but above all Italians). Algerians despite their legal right of free entry were not particularly targeted among nationalities welcome to settle in France (Tapinos 1975; Weil 1995b: 79; Viet 1996). Thus, agreements were signed with Italy (1946, 1951), West Germany (1950), Greece (1954), Spain (1961), Morocco, Portugal, Mauritania and Tunisia (1963), and Yugoslavia and Turkey (1965) which set up the conditions of entry, work and the annual quotas of workers. This created a different status for each nationality, which therefore had its

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12 See in particular a series of articles on Italian emigration published by La Documentation Française (18/1/47, n.817). M. Bernard Auffray (Director of the O.N.I.) declared: “Le seul pays qui ne pose pas de problèmes insolubles au sujet de la main d’œuvre est l’Italie. Avec ses 3 millions de chômeurs, elle sera certainement satisfaite de nous envoyer de forts contingents de travailleurs. Nous ferons, en faveur de ces travailleurs, une large et bienfaisante politique d’assimilation".
own rights (for entry purposes, settlement and work regulations). Finally, some sub-Saharan francophone countries enjoyed a very liberal regime as regards their entry and settlement in France: Mali (1963) and Senegal (1964).

The conclusion of these agreements aimed at diversifying the origin of migrants coming to work or settle in France. Throughout this period, the origins of immigrants coming to France changed. Europeans (mainly Italians and Spaniards) came in great numbers until the mid-sixties while North African and African migration reached peaks from the 1960s up to the early 1970s. Among European populations the Portuguese constitute an exception, their number rose sharply: from 50,000 at the time of the 1962 census to 296,000 in the 1968 census (Hargreaves 1995: 10). So from 1946 to 1954 it has been estimated that there was a total of 417,000 people (334,000 permanent workers and 30,000 families making 80,000 people in total) who settled permanently in France. These figures exclude refugees who were estimated at around 60,000 for the years 1948 and 1949 (Viet 1996). These figures are much lower than what had been deemed necessary for demographic reasons by Sauvy. Lack of housing was a major obstacle to successful realisation of the immigration policy as it had been planned by the French. Houses were given, in priority, to homeless nationals and French workers. If they had been given to immigrants it would have created xenophobic and violent reactions (Viet 1996). The economic context dictated the rules and was in the end the main regulator for the introduction of immigrants. In that respect it constituted an obstacle to full accomplishment of the demographic plans.

From a legal and political point of view Algeria was treated differently from other emigration countries. In fact the whole issue of Algerian immigration was under the supervision of the ministry of the Interior and not the ministry of Labour, as was the case for other nationalities. Up to Algeria’s independence, the migration of Algerians was considered as internal migration because of the right of free entry the Français Musulmans d’Algérie, as they were called, enjoyed since the ordonnance of 7/3/44 and the loi of 20/9/47. Viet (1996) stressed that these principles were in clear contradiction with the position of the H.C.P.F.
(Haut Comité à la Population Française) since many French officials did not want to encourage the permanent settlement of Algerian workers and their dependants. They were perceived as totally inassimilable and many in government feared the potential threat constituted by the Algerian demographic situation.

However, in practice, because of the legal rights given to them by the ordonnance of 1944 spontaneous immigration developed quite rapidly. In addition, the lack of co-ordination between the D.M.O. (Direction de la Main d'Oeuvre) in Paris and the Direction du Travail et de la Sécurité Sociale in Algiers had a negative effect on the policy of work contracts. The problem of Algerian workers became more acute during the Algerian war. The war did not put an end to the traditional right of free entry, which was confirmed by the Evian Agreements signed in 1962. By 1962-1963 figures for Algerian migration rose sharply because many were trying to find better economic prospects in France.

To limit the number of entries the French government attempted to resort to new sanitary controls but was faced with official protests from the Algerian government. This led both states to re-open negotiations, which eventually led to the signature of a new Franco-Algerian agreement on 10 April 1964. The agreement set restrictive conditions on the entry of Algerian workers by way of a revisable quota (every three months, by the French government) and satisfaction of sanitary controls for workers selected by the O.N.A.M.O. The first immediate effect of this agreement was to reduce the number of Algerians admitted to France (Weil 1995a).

The objectives of the first economic Plan should have been fulfilled with the introduction of a precise number of workers with required skills under the direct control of the O.N.I. This new way of regulating the influx of immigrant workers contrasted with the pre-war situation where employers were free to recruit their own workforce abroad. However, quite rapidly immigration to France became spontaneous despite the key role assigned to the O.N.I. to co-ordinate migratory waves. Furthermore, the different bilateral conventions with emigration countries, which should have regulated immigration through fixed quotas, were
not an obstacle to the progressive relaxation of state control over immigration. Many immigrants who arrived in France without previous selection and recruitment by the O.N.I. (illegal entry or entry as tourists) had their positions regularised retroactively by the French administration which provided them with the work permits and residence cards that were required to stay and work legally. The process of regularisation culminated in 1968 when 82% of immigrants working in France had been regularised and only 18% had entered through the O.N.I. system (Kennedy-Brenner 1979; Freeman 1979; Cordeiro 1986). 13 Fougier, directeur de la Réglementation (ministry of the Interior) described this phenomenon at the end of the 1960s as follows: "à ce stade, l'exception était devenue la règle et le contrôle des mouvements migratoires échappait pratiquement à l'Administration qui se trouvait placée devant le fait accompli" (quoted by Viet 1996: 240).

As a result of this spontaneous immigration, the level of skills of many workers was very poor. At least the selection operated by the O.N.I. constituted for employers a guarantee of the "quality" of the migrant workforce. Poor levels of expertise implied that most of these foreign workers had to be professionally trained, which eventually increased the costs. Another severe effect of this uncontrolled movement, combined with the precarious conditions in which migrant workers were living, was the deterioration of their health conditions. The situation was so disastrous that in 1967 the French government made employers have their "regularised" migrant workers go for a medical check-up.

Government control over immigration had led to "a laissez-faire approach" due to a combination of factors: in part, the way the O.N.I. was structured and functioned, in part the predominance of economic interests over immigrants' welfare (Freeman 1979: 73). Another major factor was the undeclared desire of French officials to slow down Algerian migration. Most writers on the subject have pointed out the contradictions of the immigration policy set up in 1945 to explain how the post-war governments rapidly lost control over immigration.

13 Figures on the rates of regularisation over a longer period: "En trente-trois ans, de 1948 à 1981 sur un total d'environ 2,35 millions de primo-migrants actifs, plus de 1,4 millions ont ainsi été régularisés, soit une proportion de 60%" (Viet 1996: 240-41).
Firstly, it has been suggested that the O.N.I. was unable to process sufficient applications to meet the increasing demand from employers. During the 1950s France found itself in competition with other European countries which were pursuing an expansionist economic policy. Thus, Belgium and Holland but above all Switzerland and Germany organised the recruitment of many southern European workers who had come to France previously.

Soon the O.N.I. apparatus which organised entry and recruitment of migrant workers became inadequate for the size of workforce needed for the expansion of the French economy (Kennedy-Brenner 1979; Costa-Lascoux 1989a). From the employers’ point of view two reasons seemed to have determined their reluctance to use the state agency: the high fees that employers had to pay to the O.N.I. were deterrent enough to discourage them from using regular channels of recruitment and the reluctance of many employers to trust the director of the O.N.I. at the time, a member of the Communist party (Cordeiro 1986). Consequently from the mid-fifties onwards, employers’ preference for recruiting directly migrant workers dominated over the O.N.I. system and progressively reduced its role (Freeman 1979; Cordeiro 1986; Silverman 1992; Weil 1995a). For employers, the parallel channels of recruitment meant the possibility of employing a “docile” workforce, “a reserve army” (Freeman 1979: 73; Cordeiro 1986).

As has been said above, Algerians like other nationals whose countries had special colonial connections with France, benefited from a particular regime as regards their entry and settlement. They were not introduced through O.N.I. channels since they were considered French nationals. From 1947 to 1955 the total number of Algerians increased by 240,000 although the total number of entries for that period could be 400,000 (Viet 1996). While attempting to slow down Algerian migration, French officials tried in parallel to encourage the migration of other nationalities; Italians, Spaniards and German workers in the 1950s, and later at the end of the 1960s, Portuguese. This tendency increased furthermore after the

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14 See, for an alternative opinion, Viet (1996) who denies that the inadequacy of the O.N.I. to meet the economic demand can explain the loss of governmental control on immigration.
independence of Algeria. The French state and employers were not willing to depend too heavily on Algerian workers despite the increasing demand for a larger workforce (Cordeiro 1986).

The retroactive regularisations have been analysed as another way of counterbalancing Algerian migration and stemmed from a constant prejudice towards North African nationals who were deemed to be totally inassimilable (Weil 1995a; Viet 1996). In parallel to the rules for Algerians, a multiplicity of regulations governing entry, recruitment and work of the different national groups whose countries had concluded special agreements with France existed. Clearly, these provisions which created as many legal statuses as different national groups, constituted numerous exceptions to the strict regulations set up in 1945 by the Ordonnance. It has been argued that the variety of immigration sources and arrangements governing the recruitment and employment of foreign workers complicated the task of the O.N.I. The multiplicity of legal frameworks made its mission impossible to achieve and led to a lack of co-ordination of French immigration policy (Kennedy-Brenner 1979; Cordeiro 1986; Silverman 1992).

Among all the factors that contributed to the progressive “laissez-faire” of French governments, the economic advantages brought to the French labour market by this unorganised immigration undoubtedly explain France’s attitude to a large extent. Immigration policy became subordinated to the economic needs of the country as the French labour market’s dependence on a foreign workforce increased over the years. After 1955 when the Third Plan (1956-60) was adopted by the French government, immigration became even more vital for the French economy since it was considered as the major source of labour to implement the objectives of the economic plan (Kennedy-Brenner 1979). During the post-war years production and productivity increased steadily and reached a rate of 4 to 5% per year which obviously could not have been achieved without the additional workforce recruited
The contradiction between a liberal economy where the law of supply and demand prevailed and the rigid role the French state wanted to assume as main regulator of immigration was resolved in favour of the economy (Cordeiro 1986; Costa-Lascoux 1989a). The liberalisation of rules was the direct consequence of the economic expansionism adopted by French governments. Consequently, the rate of retroactive regularisation increased with the support of official attitudes towards illegal immigration. On a short-term basis, despite the awful conditions immigrants were living in, the French were willing to accept the negative consequences of this type of immigration policy (Freeman 1979; Cordeiro 1986; Silverman 1992; Weil 1995a; Viet 1996). The few official discussions which took place on the issue of immigration tend to stress that the French government was in favour of this uncontrolled immigration as long as it benefited the economic situation. Too many controls and too much rigidity were seen as reducing those advantages for the French labour market.

In conclusion, for this first period (1945-1968), the immigration policy planned in 1945 had been thoroughly structured so that the French State could rigidly regulate the migratory influxes. In practice, too many objectives had been assigned to the immigration policy: to repopulate the country and encourage the settlement of certain nationalities according to predetermined criteria and to satisfy the need for economic expansion through a rotation system recruiting workers on a temporary basis. There were too many contradictions, which were not resolved, and eventually the labour market needs prevailed. Commenting on the situation at the end of this period and announcing the context of the next four years, Viet declares: “Autant il avait été facile de mener une politique libérale d’immigration dans un cadre rigide mais contournable, autant il devenait difficile de mener une politique restrictive dans un cadre devenu libéral” (1996: 243).

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15 In comparison with the pre-war situation many young French continued their education until the age of 16 (compulsory), while the Algerian conflict monopolised an entire age class. In addition, between 1954 and 1962 there was a massive drift from the land towards French towns reducing the agricultural active population by 1.3 millions people (Cordeiro 1986).

16 Cf. the famous declaration in 1963 by Georges Pompidou: “L’immigration est un moyen de créer une certaine détente sur le marché du travail et de résister à la pression sociale” (Weil 1995a: 103).
3.2.2 The first attempts to regain control over immigration (1968-1974)

Because of its unorganised nature, the situation of immigrants soon deteriorated. Many were victims of their employers who could exploit them as they wished: low wages, bad working conditions, absence of working rights (Kennedy-Brenner 1979). The shortage of housing was another major problem and some landlords acted wrongfully, the so-called *marchands de sommeil*. In May-June 1968 the wave of protests which occurred in France involved among others many immigrant workers. The French government reacted rapidly and brutally removing many immigrants who had been involved in the demonstrations. The minister of the Interior justified these deportations on the grounds that these immigrants constituted a “threat to public security”, even though it seems “that most of the immigrants who were arrested during the events were innocent victims of a situation they could not control” (Freeman 1979: 85; Wihtol de Wenden 1988a).

The 1968 crisis led the government to end the previous non-interventionist policy towards the recruitment and entry of immigrants. A few measures were adopted during the summer of 1968 through a *circulaire* issued by the ministry of Social Affairs which conditioned the issue of a residence permit to the types of jobs available on the job market. It also prohibited the regularisation of semi-skilled and unskilled workers for certain nationalities. This was insufficient to solve the deepest problems and did not constitute a well thought out long-term policy. French officials still believed in the temporary nature of immigration in France and there was no effective programme for creating new accommodation to ensure better social protection for immigrants. As a result the living conditions of immigrants continued to deteriorate at a rapid pace. The deaths of some immigrants during the winter of 1969 because of their poor accommodation created a shock wave among public opinion and politicians. Despite the promises of the Prime Minister, Jacques Chaban-Delmas, to urgently eradicate the *bidonvilles* to improve the situation, many

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17 This prohibition was not applicable in particular to Portuguese who constituted at that time the main group of immigrants arriving in France each month.
immigrants were, on the contrary, left homeless. The social climate worsened during the years 1970-1971. There were racial attacks against immigrants and hunger strikes by immigrants to protest over their situation. As a result the government resorted more frequently to expulsion to remove those felt to be undesirable (Wihtol de Wenden 1988a; Verbunt 1973).

The traditional right of free entry for Algerians was definitively ended, given the peak reached by Algerian immigration during those years. Thus, on 1 July 1968, the French government unilaterally decided to restrict to 1,000 per month the number of Algerian immigrants allowed to enter French territory. This new figure represented a drastic reduction compared to the previous 3,000 monthly entries of Algerians. In response to the Algerian government’s protests a new agreement was signed in December 1968 applicable for the next three years (1969-1971). A special commission was set up to negotiate a predetermined quota of 35,000 Algerian workers per year, which could be modified in case of economic crisis (Tapinos 1975; Freeman 1979; Wihtol de Wenden 1988a; Silverman 1992). During the summer of 1973, repeated racial episodes of violence against foreigners ended with the deaths of some immigrants, among which there were Algerians. This led the Algerian government to temporarily suspend any further emigration to France in September 1973. This was welcomed by the French government, which was considering stopping any new Algerian immigration to pacify the situation.

Debates within parliament recognised that the issue had to be addressed by way of effective legislative measures and not only by way of circulaires issued on an ad hoc basis by ministers. The Calvez report for the Conseil Economique et Social published in February 1969 contained important recommendations for the government to follow stressing that the government should adopt a planned immigration policy and abandon its previous laissez-faire approach to co-ordinate its actions better. It also urged the government to recognise that the issue of immigration should be given priority because of the major contribution immigrant workers were making to the French economy. Finally, the report acknowledged that the nature of immigration to France had changed. There were more non-Europeans than before, these
were mostly non-skilled workers and instead of having a rapid system of rotation many of them were settling permanently. The report’s final conclusions made a distinction between immigrants of European origin who should be encouraged to settle permanently and eventually become French and those of non-European origin, (i.e. mainly from North African countries) who should only be allowed to come and work on a temporary basis but not to settle permanently. Following the same line, Maurice Schumann, minister of Social Affairs, declared that the role of the O.N.I. had to be restored to reduce the scale of unorganised immigration: bilateral agreements were to be concluded with Algeria. He also argued that the government should make more effort to improve its social policy towards the immigrant population (Tapinos 1975; Schumann 1969).

Official reports and declarations stressed the need to restore the effective role of the O.N.I., ending the usual process of retroactive regularisation of immigrants who had entered illegally. Following the Calvez report and other official declarations, which had tackled the difficulties to be dealt with immediately, a number of measures were taken. Early in 1972, the circulaires Marcellin-Fontanet, named after the minister of the Interior and the minister of Labour, linked residence and work permits, which were, from then on, renewable on the same date (C. n. 72-40 (24/1/72) and C. n.1-72 (23/2/72)). Although the purpose of these new measures was to simplify administrative procedures, in practice the police were given more powers to refuse the extension of work or residence permits. In addition, those immigrants who had entered illegally had to prove that they had adequate housing and a work contract to have their situation regularised. This latest provision increased the feeling of insecurity of many workers who were now under pressure to find suitable accommodation (Verbunt 1973).

These two circulaires were severely criticised by the Left opposition, immigrants associations and trade unions. In June 1973, Georges Gorse, the new minister of Labour, tried to soften some aspects of these circulaires. A new set of laws was voted in Parliament

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18 Two circulaires (14/6/73 and 26/9/73) issued by Georges Gorse set up a definitive date for the suspension of regularisation; from 1/11/73 no more regularisation would be granted. Only the official procedure of entry through the O.N.I. was tolerated.
between 1972 and 1973, which aimed at improving the situation of immigrants. Debates in Parliament focused on *l'immigration sauvage* (uncontrolled immigration) and Georges Gorse declared in June 1973: "Il est clair dans le climat d'expansion que connaît la France que l'immigration est une nécessité de la croissance... Mais elle doit être contrôlée et organisée. (...) Nous devons combattre l'immigration clandestine et anarchique" (J.O., A.N., Lois et débats, 14/6/73, p.2161). A statute adopted on 6 June 1973 penalised employers using a foreign illegal workforce as well as landlords who had made a profit out of accommodating immigrants, the so-called *marchands de sommeil* (L. n.73-608, 6/7/73). In addition, for the first time a law combating racial hatred was passed (L. n.72-546, 1/7/72); it outlawed racial discrimination in various sectors (Costa-Lascoux 1976; Cocatre-Zilgien 1983). In April 1974 the death of Georges Pompidou led to new presidential elections.

The 1968-1974 period constituted a key period when the direct results of the previous decades of laissez-faire policies were observed. All the negative aspects of these policies were emphasised even further by increasing public awareness. At the same time, faster rates of immigration with an increase of family settlement and deterioration of migrant workers' social conditions provoked the government into ending its previous non-interventionist approach and regulating certain types of immigration. During this period some of the legislative and governmental measures adopted to remedy the situation prefigure the decisive move to stop immigration in July 1974.

### 3.3 Synthesis

Some points of comparison between the French and the British immigration experiences can be drawn here. As former imperial powers, Britain and France attracted migrants who had connections with the mother country and could easily gain access to the domestic labour market. While the process of decolonisation was going on, French and British governments endeavoured to maintain connections with the newly independent territories or nations through economic links, and cultural and political influence.
Although there are some similarities in the historical contexts, the key factors shaping French and British immigration policies differed considerably. In France, the preponderance of the economy and the importance of demographic factors accounted for most of the political decisions to encourage immigrants to come and work. In Britain by contrast, despite labour shortages similar to those experienced in France, from a rather early stage policy-makers showed their concern over the increase in immigrant populations, “coloured” populations as they were then designated. Instruments of policy reflected the policy objectives that British and French governments devised during this period. The rather late introduction of legislative measures to control immigration in Britain contrasted with the set of measures to regulate migratory flows to France in early 1945. In addition, other differences between the French and British immigration experiences stemmed from the institutional context of the drawing up of these policies.

3.3.1 Key factors which shaped British and French policy objectives on immigration

Whereas the demographic question was of vital importance for the French government after the Second World War, in Britain the recourse to continuous large-scale immigration was, as we have seen, not considered as a desirable solution on a long-term basis and the influence of racial prejudices dominated more immediate considerations. The contrast was therefore quite neat between the two countries. In France, immigration was seen as a positive tool serving demographic needs and fulfilling demographers’ plans to repopulate the country. Britain, on the contrary, despite high levels of emigration, never perceived immigration in terms of demographic benefits for the country. British policy-makers became obsessed with the numbers of immigrants entering and settling and thought about the immigration issue in terms of overcrowding and excessive numbers of people who were a burden on social services. Such concern over the numbers and rate of entry eventually amounted to a paradox. Indeed the difference between the inward flow and the outward flow was a negative one in the period following the introduction of the Commonwealth Act 1962 (1951-61: +12,000 while for the

In both countries, demographic questions were inevitably linked with racial prejudice which eventually dominated other considerations. Hence, in Britain, the few schemes recruiting foreign workers were set up to attract European workers and Irish immigration was never discouraged. Such attitudes corresponded to the recommendations made by the Royal Commission on Population (1949). The Commission’s concern about the “nature” of desirable immigrants can be put in parallel with a similar declaration made by a French official in 1952:

Immigrants should be of good human stock and were not prevented by their religion or race from intermarrying with the host population and becoming merged in it. (Quoted by Booth 1978: 117)

L’expérience indique que sont difficilement assimilables ou peu aptes à exercer les professions manquant en France de titulaires: les asiatiques de race jaune, les asiatiques du Moyen-Orient, les musulmans de toutes origines, les africains de race noire. Les immigrants les plus souhaitables (parmi ceux des pays d’émigration) sont les Hollandais, Italiens, Portuguais, Espagnols et (à n’admettre qu’en quantité très limitée après sélection politique) les Allemands. (Quoted by Viet 1996: 155)

The striking similarity between these official positions emphasised the racial prejudice that dominated the political elites in both countries at the time. Historically conditioned by colonial policies which combined a mixture of benevolent and superior attitudes towards native populations, French and British officials in charge of immigration policy had strong cultural backgrounds with their roots in the process of colonisation. ¹⁹ British perceptions of immigrants as “coloured” did not differ much from the French attitude that separated immigrants not by their “colour” (this was to come later at the end of the 1960s) but by their nationality. In both cases to distinguish between desirable and undesirable groups of immigrants, economists and demographers elaborated pre-determined criteria, which were to

¹⁹ See Weil (1995b) for an account of the debates, during the pre-war years, between politicians and demographers on the selection of the “best nationalities” to attract for settlement purposes.
be taken into account in a pseudo-scientific way and were recommended to policy leaders. So the British "race relations approach" was close to the French concept of "close cultural background" which affected official policy so much during this period. It reflected the predominance of racial prejudice among the political elites in charge of the immigration question.

Despite the similarity of views concerning the "desirability" and in turn the "undesirability" of certain categories of immigrants, French and British objectives diverged because of the difference in long- and short-range economic objectives assigned to immigration policy. From the beginning, French immigration policy was subordinated to the economy, which implied that migrant workers had to serve labour market needs at whatever cost. In contrast, in Britain, although there were similar labour shortages to those existing in France, governments chose to enter quite slowly and carefully into programmes of recruitment. Whereas in the French case recruitment schemes were necessary to supply the French economy with the required workforce, in Britain these governmental schemes played a minor role in increasing the immigrant population in the national labour market. The only possible parallel between the French and British experiences was that in both countries categories of migrants coming for short-term purposes had to fulfil similar criteria: being mobile and flexible and easily replaceable in case of unexpected economic changes (Booth 1978; Viet 1996).

Many debates, not yet concluded, have been held over the contribution of immigrants to the British economy (Jones and Smith 1970a, 1970b; Peston 1971; Department of Employment 1977; Mayhew 1978). Certainly, when controls were introduced, appraisals of the advantages that immigrants had brought to the British economy, or how much they had contributed to its expansion were ignored (Freeman 1994b). It has been stressed elsewhere that, compared to its European neighbours, Britain's economy grew at a relatively slow rate because of those early controls (Yannopoulos 1976; Freeman 1979). Thus, in the French case the economy shaped the decisions taken in that area, whereas in Britain the economic
approach to Commonwealth immigration exerted a more modest influence over policy-
makers’ decisions.

3.3.2 Instruments of policy: the importance of institutional structures

French and British immigration policies were devised within different institutional structures. In France, apart from the initial text of 1945 which was voted in parliament, the immigrant question remained, for the most part, a governmental matter, almost an internal question. The major aspects of the system of immigration regulation had already been devised by the French administrative "apparatus" by the end of the 1940s. The lack of debate in parliament throughout the 1950s and the 1960s reduced public participation and explains why the whole issue remained within the governmental sphere of influence. More importantly, the process of planning and the predominance of the economy largely relegated the issue of controls to a "technical" question outside the political process.

This contrasted with the British case, where the vote of the two Commonwealth Acts in parliament involved the major political actors of the time and not only the limited circle of governmental officials as happened in France. Hence in Britain the question of control on New Commonwealth immigration became a hotly disputed and controversial political issue in the early post-war years. Debates in parliament over the two Commonwealth Bills put the issue, which was already public, even further into the spotlight. MPs were given an opportunity to express their points of view, even though strong opposition to the bill from the Labour Party was not effective enough to prevent the introduction of legislative controls. The issue was made even more salient through the influence of the media and public opinion, which were minor actors but played an indirect and influential role in colouring the government’s attitude towards the immigration question.

Despite the fact that in both countries the colonial legacy weighed upon the formulation of immigration policy, there were fundamental differences between the French
experience and the British. In addition the major difference between the two systems of
citizenship reinforced such contrasts and in turn determined the type of legislative instruments
that Britain and France adopted to regulate migratory flows. Britain was bound by its complex
system of citizenship which allowed Commonwealth citizens to enter and settle freely up to
1962. Up to that date, the device of bilateralism, that involved the co-operation of the
administrative authorities of countries from the Indian sub-continent and the West Indies to
exert some form of control over their emigrants, contributed to regulate migratory flows to
Britain. When the Indian, Pakistani and West Indian governments either ceased to co-operate
or when bilateralism failed to work properly, British policy-makers were prompted to
introduce controls by other methods. Thus, the vote of the first statute to control New
Commonwealth immigration derived in part from the inadequacy of the system of controls
(1962). Subsequent provisions sought to restrict that right even further because of the out-
dated legislation on nationality (the case of Kenyan Asians holding a UK passport in 1968).

In the French case, co-operation with emigration countries lasted longer. The
conclusion of several bilateral agreements on foreign manpower between France and
emigration countries was one of the main tools to regulate migratory flows. Quotas were set
for each group of foreign workers. Thus, the special connections France retained with
countries or territories previously under colonial rule partly determined the kind of treatment
those nationals received for immigration purposes.

As a further observation on the French and British policies to highlight opposite
caracteristics, in France controls were introduced in 1945 after a well thought out and long
planned policy, with the setting up of a state-run agency and legislative devices to regulate
immigration on a long-term basis. Several bilateral agreements that had set pre-determined
quotas for the different national groups of migrants gave the impression that immigration was
properly regulated and under strict state control, while in reality migratory flows developed in
an anarchic way. In Britain, however, the idea of introducing controls was debated for sixteen
years before the government resorted to it. The very notion of controlling Commonwealth
citizens was perceived as contrary to the values that Britain wanted to export overseas to what remained of the Empire. This explains the rather late introduction of legislative controls on immigration. Once introduced, these control mechanisms proved to be particularly effective in curbing New Commonwealth immigration.

Finally, the discriminatory character of the French and British systems of controls was a direct consequence of the dominant racial prejudice. In Britain, the 1962 system of legislative controls was clearly racially discriminatory towards New Commonwealth immigrants. This was even reinforced in 1968 with the vote of the second act limiting entry rights of those holding a UK passport. In France, while governments were keen to stress, at least officially, that controls were applied equally to foreigners whatever their “colour” or “race”, the various types of regulations attempted to slow down the settlement of certain categories of immigrants which happened to be, as in the British case, “coloured” immigrants: West Indians, Pakistanis, Indians and East African Asians, in Britain while in the French case Algerians, Maghrebi nationals and sub-Saharan nationals were the groups affected. Racial bias did not show up in the same way since the British system of controls was more overtly discriminatory than the French system which claimed to select foreign nationals among those with a close “cultural background”.

3.3.3 Closing remarks

In this chapter I have traced the evolution of British and French immigration since World War II, focusing in particular on the responses that policy-makers formulated to regulate the entry and settlement of successive migratory waves. The instruments of policies devised during these years differed in, on the one hand, the attachment the French placed on the economic importance of the immigration phenomenon for France’s expansion, and on the other hand, in the British concern over race relations issues. In addition the specificity of the French institutional context, the heavy administrative apparatus in charge of the regulation of
immigration, contrasted sharply with the late British introduction of legislative controls to select immigrants wishing to access British territory.

By the beginning of the 1970s, British governments had instituted tightly regulated controls over New Commonwealth immigration that were racially discriminatory. Similarly, after 1968 the French government attempted to control its immigration with stricter provisions to regulate migratory flows, which had developed in a chaotic way. In both cases, the state’s control over migratory flows amounted to highly selective controls based on the “desirability” of entrants. The line was drawn in the British case according to “race” or “colour” and according to nationality in the French case. This was largely the result of the preponderance of racist perceptions in the governmental sphere.

The striking differences between the British and French immigration policies that were devised during these years concern the influence of economic factors and the importance of the “race relations” approach. France’s economy was heavily dependent on the importation of foreign workers who, as the main contributors to the expansion of the economy up to the early 1970s, “were sacrificed” to the law of supply and demand. By contrast, in Britain similar labour shortages to those which had occurred in France, were not fully filled by colonial workforces despite evidence of the contribution immigrants were bringing to the British labour market. “Race relations” problems prevailed over any other consideration and stopped British leaders from considering migrant labour as an essential asset for Britain’s development. Directly deriving from their perception of immigration as a “race relations” problem, the British government attempted to solve race discrimination at a much earlier stage than in France. In France, nothing in terms of “race relations” was really done until the early 1970s. There are several motives to explain the French government’s lack of concern for the slow transformation of society into a multiracial one. First, many politicians failed to understand the long-term implications and the importance of the immigration phenomenon for the transformation of French society. In the early 1970s many French officials still believed in the temporary nature of immigration and perceived it mainly in economic terms.
Second, the French and the British did not have the same theoretical models and integration policies for their immigrant populations. The French tradition of republicanism meant that the French defended the ideal of assimilation, believing that French society was able to absorb large quantities of immigrants (of European origin) and transform them into French people. However, these expectations about the ability of French society to assimilate its immigrants conflicted with reality. As a result, politicians were still divided over the issue of whether economic considerations should predominate over the necessity of tackling the problems created by a multiracial society. On the other hand, in Britain conflict arose between competing models of integration (Weil and Crowley 1994). Fear of the possible implications of the presence of large ethnic communities in its society led British politicians to address the problem in a much broader perspective than in France, where political leaders neglected to take into account the spread of racial discrimination.

At the onset of the 1970s and for most of the following decade, British and French policy-makers' decisions bore the imprint of post-war developments — the economic approach to a foreign workforce, racial selection of certain categories of immigrants and strengthened state border controls.
This chapter presents the public policies on immigration control that were carried out in France and in Britain in the early 1970s. It focuses, in particular on the immigration records of the Heath government (1970-1974) and the governments under Giscard d'Estaing presidency (1974-1981). The policy objectives of these governments originated from the proposals on immigration control put forward by way of manifestos, press declarations and political broadcasts during the 1970 and 1974 electoral campaigns (section 1). The second section intends to investigate the similarities in the decisions British and French policy-makers made to restrain the entry and settlement of specific categories of immigrants, classified according to the reason for which they entered the host country (as workers, heads of households or dependants). It also intends to contrast the set of constraints which tested the French and British governments' policies and had direct or indirect impact on the implementation of these policies. These constraints revealed some of the deep dilemmas underlying the political principles developed during these years.

Among all the instruments that were devised by British and French policy-makers (analysed in the next chapter) a significant comparison of programmes for voluntary repatriation is made to reveal some of the policy limits on immigration during that period (section 3). Finally, the last section analyses the analogies between the main arguments used by French and British politicians to legitimise their policy choices. This is indicative of the guiding principles of immigration policy in full (section 4).

The importance of this period stems from the adoption of new principles to guide immigration policy, which set the basis of French and British policy on control for the decade. Although at a later stage (respectively 1974-1976 in Britain and 1981-1983 in France), successive governments from the opposition attempted initially to devise more liberal policies in reaction to the restrictive practices of their predecessors, both British and French
governments returned to "old recipes" and more precisely to some of the principles which were elaborated during this first period.

4.1 The immigration issue on the political agenda

4.1.1 Britain: the relative significance of the immigration issue for the 1970 general election

In 1970, two years after the vote of the second Commonwealth Immigrants Act, immigration and race relations were still at the centre of political debate in Britain. The vote of the second piece of legislation further restricting immigration from the Commonwealth had not appeased the demand calling for more restrictive controls. On the eve of the 1970 election, since a political consensus on immigration policy between Labour and the Conservatives had emerged during the previous decade, the two main parties subscribed to the idea of implementing a dual policy. Policy leaders had stressed on several occasions that the reduction of immigration from the New Commonwealth was the necessary corollary for improvement of race relations in Britain. The consensus also meant that these issues would not be exploited for purely political purposes (Deakin and Bourne 1970). Thus, the Select Committee on Race Relations and Immigration created on Callaghan's initiative immediately after the 1968 "Rivers of blood" speech was designed to be above party politics. At the time, the Labour government's aim was to set up a committee whose quest for unanimity in producing reports on immigration and race relations would help defuse such a controversial issue (Himmelfarb 1980).¹

Despite the bipartisan approach to these issues, the Conservative and Labour proposals for the 1970 general election were rather different. In the long paragraph they dedicated to the

¹ James Callaghan recalled during the 1971 debates on the immigration bill that, aware of the "inflammatory tinder that lies around both in immigration control and race relations (...) it was in pursuance of that policy that I proposed to set up a Select Committee on Race Relations and Immigration to take under its advice the whole subject of the nature of immigration, the form of controls..." (HC, vol. 813, 8/3/71, col.57).
question of immigration, the Conservatives proposed to introduce a new system of immigration control, which would bring to an end the right of permanent settlement for Commonwealth immigrants:

Good race relations are of immense importance. (...) We will establish a new single system of control over all immigration from overseas. (...) But for the future, work permits will not carry the right of permanent settlement for the holder or his dependants. These policies mean that future immigration will be allowed only in strictly defined special cases. There will be no further large-scale permanent immigration. (Conservative Manifesto, A Better Tomorrow, 1970)

Clearly the promotion of better race relations, although stated in the first instance, was not the main priority for the Conservatives. The Conservatives' decision to introduce a new system unifying the existing set of rules governing the entry of Commonwealth citizens and aliens had already been defended by Edward Heath when he had argued for modification of the legislation on immigration control in 1967 (Dummett 1990: 216). During the Kenyan crisis their Shadow Cabinet had pressed the Labour government to restrict immigration of British Asians. However, the Conservatives' position had been somewhat ambiguous on the question of race relations and immigration. While on the one hand they did not want to exploit the race relations issue for purely political purposes (that is one of the explanations for Powell's dismissal from the Shadow Cabinet) and agreed on the necessity to improve the state of race relations, on the other, repeated statements had confirmed their commitment, through a tough policy of control, to bring coloured immigration to an end.

The Labour Party's proposals focused on the need to improve race relations since they referred implicitly to the previous Labour government's record on race and immigration control (Commonwealth Immigrants Act 1968). Hence, priority was given in their programme to the extension of the Race Relations Board's powers as well as the modification of legislation on citizenship. Labour's manifesto also alluded to the urban programme launched in 1968 where special resources had been devoted to populations with social needs in some areas and urged for its continuation.
There have been controversies over the influence exerted by immigration and race relations issues on the outcome of the 1970 general election. While some have argued that the respective positions of Labour and Conservatives affected voting behaviour quite substantially (Abrams 1970; Johnson and Schoen 1976; Miller 1980) others have contended that the immigration issue was not a powerful factor determining the Conservative victory (Steed 1971; Studlar 1978). Most agree however, on the decisive role played by Powell, even though this role was not acknowledged at the time by Labour and Conservative leaders (Butler and Pinto-Duschinsky 1971; Johnson and Schoen 1976; Miller 1980). According to opinion polls conducted during the electoral campaign, the British electorate was sensitive to the Conservatives’ intention to impose new controls and closely associated Powell’s positions with the Conservative Party’s position on immigration. Powell’s statements on immigration had indirect consequences for the Conservatives’ score and contributed to the Conservative victory despite Heath’s disapproval (Butler and Stoke 1974; Johnson and Schoen 1976; Layton-Henry 1978; Studlar 1978). As for Britain’s application to enter the EEC, neither of the two manifestos commented at length on the significant consequences Britain’s entry would have on immigration law. The failure to realise the full implications was later reflected during the debates on the immigration bill.

4.1.2 France: the immigration issue, a technical question rather than a political topic

In contrast to the climate of the 1970 general election in Britain, where the issues of race relations and immigration had been developed in the Conservative and Labour manifestos, immigration in France was not yet an electoral issue revealing divisions among the candidates for the presidential election. The media and politicians had raised the question of immigrants’ social conditions in France but in 1974 nobody in the political elite advocated the suspension

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2 Thus Heath’s dismissal of Powell from the Shadow Cabinet after his speech on immigration has been explained in part by Heath’s intentions to distance himself and the Conservative Party from Powell’s restrictionist views on immigration (Freeman 1979). More generally the Conservatives were identified as more restrictive on immigration controls than their opponents were.
of immigration as a possible solution for improving the lives of immigrant workers. Immigration, as an economic issue, was recognised as a major asset for the development of the French economy, even if French officials were also aware of the difficult living conditions of the immigrant population. These living conditions were vastly inferior to French standards. Working conditions (most difficult and dangerous tasks, low wages), inadequate accommodation and precarious employment (often illegal jobs) posed a serious social problem which had been vigorously denounced by several associations defending immigrants’ rights as well as by the Left (Buy 1974).

Most of the candidates’ electoral pledges are to be found in political declarations made during the electoral campaign or to the press. As such, the candidates’ profession de foi, the formal documents embodying the politicians’ proposals, did not contain specific provisions on the issue of immigration except in the case of one left-wing candidate.³

The principal candidate of the Right, Valéry Giscard d’Estaing (RI), declared his intention to improve the living conditions of the immigrant population without, however, detailing his future programme on immigration policy: “Un effort particulier sera fait en leur faveur pour améliorer les conditions de leur accueil, leur formation et leur orientation et pour les aider tant par la formation que par le logement à mieux s’insérer dans la vie de notre société” (Le Monde 19-20/5/74). Although he alluded to the possibility of creating a specific ministerial post to manage the immigration question, he was also persuaded of the relatively low significance of the immigration issue, which in terms of electoral gains remained a peripheral matter:

Nous avons parlé de ces sujets de vie quotidienne des Français et naturellement nous n’avons pu les évoquer tous. Je pense à l’un qui ne concerne pas cette élection présidentielle mais dont je voudrais dire un mot, qui est le sort des travailleurs immigrés en France. Vraiment cela ne concerne pas l’élection présidentielle puisqu’ils ne votent pas [emphasis is mine] mais on ne peut imaginer une société fraternelle française, une société de

³ Even the recently created Front National (1972) did not allude to the issue of immigration in its electoral platform.
travailleurs et d'ouvriers dans laquelle la considération morale et matérielle ne s'attacherait pas également au sort des travailleurs immigrés, je tiens à le dire. (Valery Giscard d'Estaing. Extract from a political broadcast recorded by Cotteret 1976: 179)⁴

The position of the Left as to the question of immigrant workers remained unchanged in comparison with the common manifesto the PCF and the PS had elaborated for the 1973 parliamentary elections.⁵ Their proposals in 1972 did not differ much from other major parties, for although they had urged a fuller recognition of immigrants' rights, they still predominantly considered it as an economic question: “Le Plan prévoira le nombre des travailleurs immigrés accueillis chaque année afin de définir les mesures économiques et sociales à prendre” (Programme Commun de Gouvernement de la Gauche, 1972: 49).

François Mitterrand, the main candidate for the Left, put forward proposals to revise working conditions in factories and other measures to modernise the most repetitive tasks. He thus alluded to the possibility of restricting immigration of foreign workers. However, his proposals remained rather broad since they did not specifically target migrant workers but the working class as a whole:

Vaste politique de révision des rémunérations, d'amélioration des conditions de travail, de réduction échelonnée de la durée de travail, d'avancement de l'âge de la retraite pour les travailleurs exerçant les tâches les plus pénibles, de mécanisation accélérée des tâches répétitives, mesures qui d'elles mêmes, limiteront l'immigration. (Le Monde 19-20/5/74)

More importantly, neither Valery Giscard d'Estaing nor François Mitterrand made any allusion in their declarations to the real reasons behind the poor management of the immigration policy at the time. There was no mention of the role of the O.N.I. or the responsibility of employers in using illegal labour for example. Like his main rival, the

⁴ He repeated on another occasion that since immigrant workers did not vote, the presidential election did not concern them directly (Political broadcast recorded by Cotteret et al. 1976: 191).

⁵ This programme initially elaborated and finalised by the PCF and the PS in June 1972 (26-27) had also been signed by the MRG (Mouvement des Radicaux de Gauche) in July.
socialist candidate perceived immigrants as those who did not vote but who needed politicians' protection nonetheless (speech in Marseille, reported in *Le Monde*, 19-20/5/74).

By contrast, the only candidate who clearly included a promise to remedy the situation of migrant workers was a Trotskyist, Alain Krivine, who wrote in his "electoral manifesto":

Nous poursuivrons le combat: pour que les immigrants aient les mêmes droits syndicaux et politiques que les Français sans restrictions et pour que soit aboli tout contrôle policier sur l'immigration, il faudra que la lutte unie des travailleurs français et immigrants continue. (*Profession de foi du candidat du Front Communiste Révolutionnaire*, Alain Krivine)

As Giscard d'Estaing contended, the regulation of immigration and the situation of the immigrant population was not of central concern for policy leaders. Freeman (1979) has argued that a major difference with the British situation, was that because of the different systems of citizenship, immigrants in France were not political actors in the same way as British subjects. However, the absence of voting rights for the immigrant population cannot be the only explanation for the low level of interest shown in the regulation of immigration. As we have seen previously, the management of border controls to regulate migratory flows was essentially a technical question within the governmental arena, which excluded other political forces. It did not have a fundamental social dimension yet, since the immigrant population which was wrongly perceived as being essentially composed of single men staying on a temporary basis, was living on the fringe of French society.\(^6\)

The comparison of the French and British electoral documents illustrates some major differences in the content and in the way policy proposals are put forward. The British preference for detailed and lengthy manifestos contrasted with the vague French *professions de foi* that politicians addressed to their voters.\(^7\) These *professions de foi* often contained very

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\(^6\) For the period 1970-1973 secondary immigration reached an average of 75,000 entries per year and it was estimated that for the period 1965-1973 at least 600,000 persons had entered France for family reunification (Cordeiro 1986: 39).

\(^7\) However the joint programme issued by the PCF and the PS in June 1972 for the 1973 parliamentary elections constituted an exception. The *Programme Commun de gouvernement* constituted a more formal approach to policy formulation and could be said to represent a French equivalent to the British manifestos.
general goals that the candidate wished to promote without however revealing too much on the implementation of the policy. A revealing example is given in the *profession de foi* made by Valéry Giscard d’Estaing for the second round of the presidential election: “Nous conduirons le progrès social dans un pays qui retrouvera le souffle de la fraternité”.

Conversely, the Conservative manifesto for the 1970 election contained an elaborate programme on the likely policies their government intended to implement. This is not to say that British politicians always avoid political cant but, compared to their French counterparts, the 1970 British documents were coherently presented as an itemised programme on immigration which directly generated the future policies adopted by the Conservative government and in turn formed the basis of new legislation. As Kavanagh noted: “A government’s ability to introduce specific measures in the form of laws is far greater than its ability to promote general goals such as ‘peace’, ‘prosperity’ and a ‘fairer society’”(Kavanagh 1981: 22; Rose 1989).

The second important point concerns the content of the political proposals on immigration. British candidates carefully avoided appealing to anti-immigrant feelings to defuse the race relations issue as an electoral issue. We saw that this was part of the broad consensus both parties had reached during the previous decade. By contrast, French politicians addressed the issue but did not regard it as a fundamental political question which needed extensive coverage during their electoral campaign (Schain 1988).

However, what coincided in both countries was a common perception of the immigration issue as a “social problem” that needed to be addressed effectively. Silverman’s argument about France is also valid in Britain’s case: “Immigration is constructed as a ‘social problem’ which warrants a ‘new approach’, soon to become known as *la nouvelle politique*” (1990: 113).

Finally, the immigration issue represented a minor question for the French and British candidates in comparison to other major topics such as the state of the economy. Kavanagh remarked that economic questions had become predominant in British elections, which was
also the case in France: “The parties’ manifesto promises have increasingly dealt with economic matters – inflation, growth, unemployment and prosperity” (1981: 22).

4.2 The policy objectives

4.2.1 Britain

In fulfilment of its electoral promises, the new Conservative government announced that it would introduce a bill on citizenship and immigration for the 1970-71 parliamentary session:

Legislation will be introduced on Commonwealth immigration. More assistance will be provided for areas of special social need, especially those in which large numbers of immigrants have settled. (Queen’s speech, HC, vol.803, 2/7/70, col.48)

The proposal to present a new bill on immigration derived from the Conservative perception of the immigration situation in Britain at the time: crowded housing estates, tense relations within neighbourhood communities, communication difficulties between the police and ethnic minorities, educational difficulties for immigrant children, etc.. The Conservatives chose to address the problem by attempting to cut new migration since this was perceived as a source of further difficulties. Thus, Conservatives attributed the problems to the fact that previous acts had failed to substantially reduce the entry of New Commonwealth immigrants. The close and apparently logical connection between the treatment of race relations and the question of immigration controls led them to propose solutions directed more at avoiding future problems than actually solving the situation in inner-city areas. Hartmann and Husbands argue that:

Race in Britain was portrayed as being concerned with immigration and control of entry of coloured people to the country, with relations between white and coloured groups, discrimination and hostility between groups, with legislation, and with the politician, E. Powell (...). One effect of this emerging news framework has been that the perspective within which coloured people are presented as ordinary members of society has become increasingly overshadowed by a news perspective in which they are presented as a problem. (1974: 144)
Many commentators noted, in that respect, that the press exerted considerable influence over the public, since leading politicians set out the terms in which the issue of immigration was reported and discussed in the media (Dummett 1986).

The Conservative Home Secretary, Reginald Maudling, defended his government’s position on the grounds that the new act would constitute a permanent structure for the future and would avoid annual debates on the immigration question (Expanding Laws Continuance Bill considered in Committee, HC, vol.807, 25/11/70, col.476). Thus, he asserted that to remedy the lack of any coherent structure on immigration control, this single code would determine new parameters to be used by succeeding governments for the definition of future immigration policies. The central concept of patriality created for the purpose of the new act aimed at distinguishing between British subjects who “belong” to the UK and those who do not. While the first category was free of immigration controls, the second was bound to obtain leave to enter or a work permit to be admitted to Britain.

Opposition to the bill did not come only from the parliamentary opposition but also from other prominent personalities; the Church through the voice of the Archbishop of Canterbury and several other bishops condemned the governmental text for the harm it would do to community relations. Accordingly they voted against it. Along the same lines, the Transport and General Workers’ Union also heavily criticised the discriminatory character of the bill (Guardian, 16/7/71).

The significance of the 1971 statute should be judged by comparison with previous acts regulating immigration from the Commonwealth. Hence, since the vote of the first act on immigration control the preparation of the bill could be analysed as a first attempt by a British government to implement a planned immigration policy. Up to then, the vote of the Commonwealth Immigrants Act 1962 and in particular of the 1968 Act had constituted

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8 See Bindman and Evans (1971) for a critical description of the new provisions contained in the 1971 bill.

9 See Burton and Drewry (1971) for a summary of the parliamentary debates on the immigration bill.
official responses to specific migratory waves and had caused much criticism over the British way of regulating immigration: “Legislation on race relations in Britain has been characterised by a series of ad hoc and hasty Government responses to specific and immediate political controversies” (Rose 1973b: 183; J. Evans 1972).

The Conservative bill on immigration previously announced during the electoral campaign was not a sudden governmental decision in reaction to a new migratory crisis. It marked the clear intention of the government to set up, in a long-term perspective, a policy limiting a certain kind of immigration, “coloured” immigration. In that respect it marked the culmination of a process which had started even before 1962 when the first post-war governments had made choices to favour immigration of European descent at the expense of colonial migrants (J. Evans 1972; Paul 1997; Spencer 1997). However, the importance of the 1971 Act does not rest entirely on its link to past policies but rather denotes the strong political consensus which embraced the entire political class (with few exceptions) on the kind of society political leaders intended to preserve, and the determination to define precise guidelines to regulate migratory flows.

Parliamentary debates on the Immigration bill soon revealed several inconsistencies and the fact that the young minister in charge of the bill was insufficiently prepared (Rose 1972c; 1973a). Soon after its vote and even before its implementation, the principles underlying the government’s immigration policy were exposed to several constraints. While the Immigration Bill was discussed in parliament, Britain was in the process of negotiating its accession to the Treaty of Rome. The third attempt by Britain to enter the European Community was made under the personal initiative of Edward Heath, who had a particular interest in the question. Britain’s entry coincided with the application of the Immigration Act 1971 and marked the end of an era, as Britain abandoned its central position within the Commonwealth to reposition itself within the European Community. Strangely enough, the long-term implications of Britain’s entry in relation to immigration law were not foreseen by most officials in government (Stephen 1971; Rose 1972a).
The White Paper issued by the government in July 1971 revealed that officials did not feel that the Community’s regulations on the free movement of workers would have significant consequences for British immigration control. They based their assumption on the fact that:

Inside the Community movement of workers between member countries actually diminished between 1965 and 1969. The movement of labour within an enlarged Community will probably continue to be dominated by economic and social factors rather than by regulations and the position in practice is likely to be similar to that which now prevails. (Home Office 1971b: para.143)

During the debates on the Immigration bill, the government maintained its position on the non-influence of movement of EEC workers on the new regulations for entry of Commonwealth citizens. The opposition, and in particular James Callaghan, persistently asked for more details on the future implications of the principle of free movement of EEC workers and their families for the new rules on immigration. The government constantly denied that provisions to regulate entry of EEC citizens would have to be embodied in the Immigration Act. They asserted on the contrary that a simple readjustment of the immigration rules would be sufficient to include these provisions.

However, the vote of these new immigration rules governing the entry of EEC citizens confirmed that many in Parliament were not yet ready to accept all the privileges Britain’s access to the European Community would have for EEC nationals. In November 1972 the Conservative government suffered a heavy defeat from an unexpected alliance of its own backbenchers and the Labour opposition. This defeat, the “most important governmental defeat in post-war history”, obliged the government to withdraw the proposed rules on the preferential treatment enjoyed by EEC citizens for entry into the UK and showed that part of the Conservative party was still committed to the Commonwealth ideal and to the right of entry for populations from the Old Commonwealth (Norton 1976: 413). The Conservative

10 As a consequence of Britain’s entry into the EEC, EEC nationals could enter the UK and seek employment on production of a valid passport. On the other hand non-patrial Commonwealth citizens were only admitted for an initial period of 12 months for a particular job with a particular employer.
backbenchers, ardent supporters of the Old Commonwealth, were given an opportunity to
manifest their opposition to the governmental policy on Britain’s membership through this
vote.¹¹ This vote also illustrated that, despite the government’s intention to plan a new
immigration policy for the future, freed from past colonial commitments, Britain’s colonial
legacy was still a major constraint for the formulation of this policy.

The Heath government’s management of its immigration policy had to confront an
important and unexpected crisis which forced it to reconsider its strict policy on quotas
regulating the entry of East African Asians.¹² The crisis had its origin in the policy of
Africanisation adopted by General Amin Dada in the early 1970s. On 8 August 1972 General
Amin Dada issued an order forcing all non-Ugandan Asians to leave the country within 90
days while the Ugandan authorities revoked the citizenship of many Ugandans of Asian origin
who consequently became stateless. These Ugandan Asians relied on Britain’s responsibility
towards them, as British nationals, to allow them to enter the UK if they wished. However
these expectations, which had previously been denied by the Commonwealth Immigrants Act
1968, were not met by the Immigration Act 1971 (White 1974). On the contrary, the British
Asians no longer benefited from the necessary “effective link” granting them the right to enter
and settle in the UK. The 1970 Conservative government, faced with a situation similar to its
Labour predecessor’s experience with the influx of Kenyan Asians in 1968, acknowledged the
pressure exerted on it and gave them the right to settle in the UK through a system of
vouchers. Its policy towards Ugandan Asians followed the same lines as those previously
adopted by the Labour government; while reaffirming the right of such U.K.P.Hs to settle in
the UK, it also decided to keep the rate at which that right could be exercised under control.

¹¹ According to Norton (1976), internal battles within the Conservative Party accounted for this defeat. The vote
gave Conservative backbenchers the opportunity to express their dissent against the Prime Minister’s apparent
unwillingness to make concessions or to listen to his backbenchers.

¹² See Jackson (1976) for a theoretical definition of the notion of crisis and Sharma and Wooldridge (1974) for a
detailed chronological account of the Ugandan crisis.
The government defended its policy of allocating annual quotas on the grounds that the scheme would limit annual consequences of immigration, but not the long-term consequences. In addition, the government never revealed the size of the allocation to each country (since many allocations initially went to India for example), in order to maintain, so it claimed, the scheme's flexibility. The government's main fear was that if, for example, a country knew its allocation had been transferred to another country, it might be tempted to expel more people. Therefore the government saw it as a matter of striking a balance between the right of settlement for these British Asians and its perception of the numbers that the country could absorb (House of Commons 1982).

The crisis generated new controversies on the likely numbers of refugees to be admitted and was part of the wider debate on the "numbers game". Speculation was common in political circles (as shown by questions in parliament) and was widely conveyed by the media. From the start of the crisis, British officials made it clear that their moral duty to accept U.K.P.Hs had limits and tried to find other possible routes to share management of the crisis (Ward 1972; Sharma and Wooldridge 1974; Evans 1983).13 Thus, Prime Minister Heath tried to divert the influx of refugees to other Commonwealth countries and his government concluded an agreement with the Australian authorities to receive some of these refugees:

We, in Britain have a long humane tradition and we honour our obligations to those for whom we are responsible. We look to others to do the same. (Daily Express 22/8/72)

The Government had used every means to persuade as many Commonwealth and foreign Governments as possible to give refuge to the expelled Asians. Fifteen governments had already announced their willingness to help. (Guardian 18/9/72)

The government's handling of the crisis caused criticism not only from the opposition but from the more right-wing Conservatives as well. Members of the Monday Club as well as members of the Immigration Control Association protested over the influx of Ugandan Asians

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13 The International Committee for European Migration helped to co-ordinate the efforts of 15 Latin American countries which secured the resettlement of 4,200 expelled Asians (Sharma and Wooldridge 1974: 404).
while Conservative MPs from the West Midlands expressed their growing concern to the government over the arrival of the refugees (*Guardian* 16/8/72).

By contrast Labour's first reaction to the Ugandan crisis seems to have been particularly timid and major party officials were at first quite reluctant to comment on the crisis and on the government's decision regarding the whole question of accepting the refugees. The Labour Shadow Home Secretary, Shirley Williams, eventually issued a draft party policy statement on the Ugandan Asians. The document contained recommendations to allocate substantial sums to the Ugandan Resettlement Board and for dispersal of the refugees in new towns. However reactions to the document stressed that some Labour MPs whose constituencies were likely to receive a great number of the refugees, were anxious about a policy of dispersal being applied (*Guardian*, 12/9/72). Quite significantly, some Labour MPs, whose constituencies were affected by the arrival and settlement of the Ugandan Asians, had similar reactions to Conservatives MPs from the West Midlands, a traditional area where immigrant communities had been settling for the previous twenty years. The fear of being "invaded", overcrowded, the concern to avoid "ghettoisation" of inner-city areas predominantly populated by ethnic minorities led members from both the opposition and the majority to express their dissent over the government's policy.

Again the crisis showed that deep feelings about what should guide immigration policy in Britain were shared by policy elites as a whole. These feelings ranged from mere preoccupation that social services could become overburdened by new demands from the refugees, the worsening of living conditions in some areas, to some more extreme feelings such as violent and xenophobic reactions towards the newcomers. In that respect, Arthur Bottomley's statement (Labour's former Secretary of State for the Commonwealth) was particularly illustrative:

> We shall, as we have always done, make them welcome and try to help them. But that is not the end of the story. (...) We must seriously consider whether we can indefinitely continue to offer asylum to all refugees. With 55 million people on a small island
with limited housing and social services, things could become very
difficult. (Observer, 29/11/72)

Although he was a backbencher at the time of his declaration, party officials pointed out that
Mr Bottomley's concern represented "a genuine concern shared by middle-of-the-road party
members" (Observer, 29/11/72).

Finally, the reaction of the public, revealed through numerous opinion polls, should
also to be mentioned for the role it played (Edelman 1977). In particular Kohler concluded
that public opinion varied over that period, "being by no means static or monolithic" (1973:
197). Thus, Ugandan widows or divorcees or women with an invalid husband who had great
difficulties in proving that they were the heads of households appealed to the United Nations
as well as to other leaders because of the inflexible attitude adopted by the British government
as regards their admission into the UK. On that occasion, the pressure of public opinion made
the British government review its policy towards British wives married to non-British
nationals (Guardian, 13/2/75).14

The Ugandan crisis made plain the dilemma of the Heath government and confirmed
the existence of a broad consensus on the immigration question. The 1972 events have to be
understood in relation to the importance of the Empire as an ideological symbol for most
Conservatives. The colonial Empire was the last guarantee that Britain was a world power
(Gamble 1974). At the beginning of the 1970s Britain's overseas possessions had shrunk
substantially, as well as its international status as a major power. Nonetheless, because of the
inadequacy of the legislation on citizenship, Britain still held commitments towards
populations holding British passports. Thus, the consequences of the legacy of the British
empire manifestly contradicted the Conservatives' intention to protect the domestic
population's future as much as possible by shielding it from other migratory waves.

14 Many persons in Uganda remained stateless when they nominally became Ugandan citizens but never
subsequently renounced their British nationality (within the three months as stated by the law). Consequently
they never in fact became Ugandan citizens but for Britain they were not considered British subjects anymore.
Finally, Enoch Powell’s apocalyptic statements continued to fuel the controversies over government policies. He has been described as the “most articulate and controversial spokesman for the New Right” (Gamble 1974: 115). Besides his favourite and most well-known themes – immigration and Britain’s entry into the Common Market, his political thinking was also very concerned with economic questions, as he advocated a liberal economy where the law of supply and demand should prevail (Gamble 1974). His major interest in Britain’s position in the world and in Europe, and in turn his ideas on immigration and race relations, derived from his concern over British national identity threatened by foreign influx and the preponderance of the EEC. Immigration had been the subject which had led to his disgrace within the Tory party after his 1968 speech. Gamble argued that he was seen “as breaking down consensus politics and establishing the basis for a new popular Conservatism” and therefore constituted a threat to the Heath’s leadership (1974: 121).

As we have seen, his most extreme proposals on immigration did not differ much from the line the Conservative party adopted. Powell’s attacks on the government’s immigration policy did not stop with the vote of the Immigration Act 1971. During the 1972 annual Conservative conference, party unity was seriously challenged by his motion on immigration as it had not been chosen by the agenda committee of the conference (Heffer 1998). The motion received massive support, especially from members of the Monday Club and thus constituted a challenge to Heath’s leadership.15 He heavily criticised the Government’s acceptance of the refugees on the grounds that “our obligation is a moral one which we share no more than equally with all other nations and much less equally with their true home countries, notably India” (Quoted by Heffer 1998: 651).

This motion followed Powell’s virulent reaction to the arrival of Ugandan Asians. From the beginning of the crisis, he had repeatedly made warnings about the future consequences Britain would face if its government admitted this group of refugees (he quoted

15 After the 1970 general election, there were 31 Conservative MPs and 35 Conservatives in the Lords who were members of the Club.
the cases of Tanzania, Kenya, Malawi, Somalia and Aden, the West Indies and Cyprus among others) to attempt to demonstrate that Britain had no special obligation to them as distinct from hundreds of millions of other British subjects or Commonwealth citizens (*Leicester Mercury*, 16/8/72). Habitual themes he developed in a meeting in Wolverhampton were the rapid growth of ethnic minorities who could not possibly be admitted because of their passports, which anyhow “were issued by prerogative and not of right” and did not entitle the Asians to enter Britain (*Leicester Mercury*, 16/8/72).

Powell illustrated his predictions with alleged statistics on the likely numbers of immigrants who would have settled in Britain by the end of the 1980s. He represented himself as the defender of the native English man who had to be warned against the potential dangers of the increase of the immigrant population. Such a catastrophic situation directly stemmed from the inability of successive British governments to effectively master the rate of immigration. As Freeman pointed out, Powell’s position contained dangerous implications for Britain’s responsibility towards overseas populations:

> His immigration proposals, however, created a false perception that the immigration which had already occurred could somehow be undone without doing clearly unacceptable violence to the basic norms of fair play and decency which make up a part of British political culture. (1979: 303)

He played forcefully on the importance of the domestic immigrant population as well as on its future size (natural increase or additional migratory waves) to perpetuate the myth of Britain invaded by an alien population (Rich 1986). This line of reasoning constituted a prelude to subsequent “swamping arguments” developed much later by other Conservatives, including Margaret Thatcher.

To conclude, the Ugandan crisis, like any crisis, is a means of testing the state’s response to unexpected events. It had revealed the deep political unrest which existed among

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16 See House of Commons (1981) on numbers of British Overseas Citizens who do not have the citizenship of the country of residence: Kenya, Tanzania, Zambia, Malawi, Zimbabwe, Malaysia, India, Pakistan to quote the main ones.
the entire British political elite, as well as the limits of government in containing and managing unexpected migratory flows. It was also an episode which illustrated the constant dilemma faced by British policy-makers in the early 1970s: the management of a new policy for the future freed from colonial links versus the constant reminder of Britain's responsibility to populations still holding British passports. Such a dilemma directly resulted from the absence of up-to-date legislation on British citizenship, which was still based on principles devised during an era when British subjects were all equal before the Crown. The remaining commitments towards populations, encouraged by previous British governments to settle in territories under British control, and to maintain colonial administration, was in contradiction with governmental intentions to leave the Commonwealth ideal behind.

In addition, despite Heath's strong position on Europe, Britain's entry into the EEC was less straightforward than its supporters admitted. The government's defeat in November 1972 over the vote on immigration rules regulating entry of EEC citizens provided concrete proof that many in the Conservative ranks were not yet ready to embrace the new European ideal. Britain's accession remained a controversial political issue, not because of the implications of Britain's entry for the movement of migrant workers, but essentially because it was perceived as a threat to Britain's sovereignty over its internal affairs.

4.2.2 France

Traditionally Valery Giscard d'Estaing presidency has often been divided into two periods relating to the two governments in office over these seven years: the first government was led by Jacques Chirac from May 1974 to July 1976, while Raymond Barre became the second Prime Minister of the Giscard d'Estaing presidency from July 1976 to May 1981. These governments also corresponded to two distinctive phases in the policies carried out during that period: up to 1976 the liberal policies pursued by the Chirac government derived from the presidential intention to demonstrate to the electorate as well as to the Left that a new era was
beginning in sharp contrast with the policies adopted by his predecessors.\textsuperscript{17} In that context, a new department within the ministry of Labour, the \textit{secrétariat d'Etat aux travailleurs immigrés}, was formed on his initiative to improve the living conditions of immigrants and to promote their insertion into French society.\textsuperscript{18} By contrast, towards the end of the presidency the third \textit{secrétaire d'Etat} (1977-1981) in charge of immigrant workers, Lionel Stoléru devised a series of harsh measures to decrease the volume of the immigrant population.

Shortly after taking office, the new government led by Jacques Chirac presented its programme of reforms and announced the introduction of new provisions to improve the situation of foreign workers. The Prime Minister declared in Parliament:

\begin{quote}
L'action gouvernementale se fixe deux objectifs: le premier est de continuer et d'intensifier ce qui a déjà été entrepris en faveur des plus défavorisés, actifs et inactifs de sorte qu'ils soient assurés de conditions de vie répondant aux exigences de la société d'aujourd'hui. Il ne doit plus y avoir de place chez nous pour la pauvreté. C'est dans cet esprit que le gouvernement prendra rapidement des mesures pour améliorer la situation des travailleurs immigrés, notamment pour leur logement et une meilleure insertion dans la société française. Un secrétaire d'Etat sera spécialement chargé de cet important problème. (J.O., A.N., Lois et débats, 5/6/74, p.2495)
\end{quote}

The creation of a new ministerial department specifically in charge of immigrant workers had been promised by Valéry Giscard d'Estaing during his electoral campaign and on that occasion he had put his concern over the problems of women's rights (which needed full recognition) in parallel with the status of migrant workers; both categories being considered as "threatened minorities" with few legal rights (cf. political broadcast recorded by Cotteret 1976: 192).

\textsuperscript{17} During these years the main liberal provisions adopted by the Chirac government were: the vote of an Act authorising divorce by mutual consent, a statute on abortion and the decision to lower the full legal age to eighteen, statutory provisions allowing citizens to have easier access to administrative documents, a law limiting the use of computer technologies to respect fundamental civil liberties and in the branch of criminal law, new provisions to limit short detention in prison (Jestaz 1983).

\textsuperscript{18} It was rather a re-creation as there had been a similar ministerial department in 1938 within the government of the day (Viet 1996).
As in the Queen’s Speech, the specific reference Prime Minister Chirac made to the poor social conditions of immigrants, constituted a starting point for governmental action. In both countries the British and French governments, aware of the urgency of taking new measures to remedy a situation which was deteriorating, decided to address the problem immediately. It was felt in both cases that the difficult living conditions of the immigrant population were a clear obstacle to the improvement of race relations (British case) and to the integration of immigrants into society (French case).

No mention was made in Chirac’s statement of the need to suspend immigration. This coincided fully with one of the President’s declarations when he had stressed that France was proud of not imposing any controls on its foreign workers, as was the case for other immigration countries. 19 Chirac’s speech only mentioned the part of governmental policy on immigration – the implementation of a housing programme – which needed the support of the opposition as it had financial implications for the annual budget submitted to the vote of parliament. In that respect, the control of migratory flows remained a governmental prerogative from which parliament was clearly excluded.

A few days after the Prime Minister’s declaration in parliament, the government announced to the media that its social provisions for migrant populations were to be combined with the temporary closure of borders to specific categories of immigrants: mainly workers but also family dependants. 20 This decision coincided with a similar policy adopted by France’s European neighbours: Germany and Denmark in November 1973, Norway in July 1974, Austria in 1974 (quota of 250,000 workers per annum) and corresponded to a “turning point” for immigration policy in European host countries (Benoit 1976; Hammar 1985; Wihtol de Wenden 1988a, 1988b; Costa-Lascoux 1989; Hollifield 1990). The government

19 Giscard d’Estaing had declared: “Je note d’abord que nous sommes un pays dans lequel les travailleurs entrent librement, alors qu’il existe des pays dans le monde dont les travailleurs ne peuvent pas sortir librement... (Political broadcast recorded by Cotteret 1976: 191).

argued in defence of its decision that the suspension would facilitate the implementation of a social programme specifically designed for the migrant population present in France. The new rules enacting the suspension primarily affected the bulk of the immigrant workforce employed in the main sectors of the labour market which had been disrupted by the economic crisis.

Although the governmental decision was sudden and originated primarily from the analysis which the first secrétaire d'État in charge of migrant workers, André Postel-Vinay, had made of the situation in 1974, it was the logical follow-up to the previous government policies that had been carried out from the end of the 1960s: the restrictive provisions on Algerian immigration in 1968 and on illegal immigration in 1972 (Costa 1976; Weil 1995a). André Postel-Vinay forecast that the economic crisis would have long-term effects on the labour market and the consequent recession would make the recruitment of additional migrant workers unnecessary. In addition, he observed that the immigrant population was evolving from a predominantly male population coming on a rota basis into a settled population composed, to a large extent, of family dependants. From this analysis derived his proposals to temporarily suspend the recruitment of migrant workers and the process of family reunification to implement his housing programme (Weil 1995a).

The realisation of Postel-Vinay’s programme was severely curtailed by the policy of austerity that the Chirac government decided to carry out. As a result he resigned from his post (Le Monde 24/7/74).²¹ His immediate successor, Paul Dijoud, soon presented a new, detailed programme on immigration which included provisions on work permits (improved access to administrative authorities), housing programmes (policy of dispersal of the immigrant population throughout French territory), return to country of origin (financial help), professional training, education and cultural development of migrant communities (Demondion 1976; Dijoud 1976).

²¹ In his resignation letter to the Prime Minister, Postel-Vinay stressed the contradiction of the presidential intention (to improve housing conditions of the migrant population) with the government’s financial decisions. Letter reprinted in Bloch-Lainé 1981)
The right-wing majority, comforted by its victory in the 1978 parliamentary elections, had the necessary support to carry out the more restrictive policies that marked the end of the Giscard d'Estaing presidency. These elections, held in March 1978, saw the victory of the right-wing coalition formed by the UDF (the president's party) and the newly created RPR. Despite considerable progress, the lack of unity between Socialists and Communists contributed to their defeat as the two parties could not manage to produce a common manifesto as they had done in 1972 for the previous parliamentary elections. Part of the electorate may also have feared the political consequences of a left-wing government with a right-wing president (Bréchon 1993).

Following the programme the majority had elaborated prior to the parliamentary election (Programme de Blois, 7/1/78), the government was reorganised to take into account the election results. Along with the worsening of the economic crisis, opinion polls had revealed that people's main concern was for security. The government tried to respond with a more rigid approach to appease popular anxiety. Raymond Barre's government was faced with the gloomy atmosphere of the country as unemployment rose and recession set in. The drawn out economic crisis had a major effect on the tone of political debate in France and the temporary suspension decided in July 1974 became permanent.

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22 For example an ad-hoc Committee of experts appointed by the government to study the implication of a major reform of the Code Penal was disbanded while a statute voted in November 1978 made the application of criminal sentences more severe. Eventually the vote of the 1981 'Loi Sécurité-Liberté' completed the process.

23 On 1 February 1978, the UDF was formed from several small political groups to improve the chances for the 1978 parliamentary elections. It included in particular the new Parti Républicain, previously called RI (Bréchon 1993). As for the RPR it was constituted in December 1976 by Jacques Chirac who claimed that his new party was the only heir of Gaullism (previous RPF). As for the FN, it obtained insignificant results with only 0.5% of the vote which like in 1974 did not exert a strong influence on French political life.

24 The Left gained 49.8% (that is 3.1% more than in 1973) of the votes to 50.5% for the Right and thus lost the majority. The number of candidates elected revealed a much greater difference in terms of MPs elected: 80 MPs more for the Right than for the Left. It is important to note that for the first time since 1936 the Socialists obtained more votes than the Communists did.

25 This had already been forecast in one of the 110 propositions that had been put forward in the Programme de Blois elaborated by Raymond Barre: "Les recommandations du comité d'études sur la violence seront mises en œuvre au cours de la prochaine législature, notamment dans le domaine du renforcement des dispositifs de sécurité dans les villes..."
Debates in parliament and more generally within the political arena focused on new themes: the social cost of immigration, the transformation of the social climate as well as the evolution of French society which had turned into a multiracial society. Results from the 1975 census had revealed that nearly 1.4 million French had been recently registered, that there were approximately 3.4 million foreigners living in France, with at least 25.2% in the age group of 0 to 14 (while in the same age group French children constituted only 22.6% of the population). These figures were an estimation based on the total number of residence cards issued by the ministry of the Interior (Bockel 1991: 68). Since the process of family reunification had been re-authorised in June 1975, the transformation of the migrant population had accelerated even further.

Quite logically, policies on immigration were quite strongly influenced by the general context of this period, but in addition, the personal touch of the third secrétaire d'Etat in charge of immigrants, Lionel Stoléru, accounted for more restrictive measures towards the immigrant population. It has been argued that the policy he devised from 1977 to 1981 originated from personal instructions given by the President, who was particularly concerned with the pressure of public opinion (Bloch-Lainé 1981; Weil 1995a). The governmental policy on immigration defined after 1976 still considered the immigration question in relation to the economic conjuncturc:

Le VIIe Plan (1976-1980) repose sur un double choix: (a) le développement économique à venir tiendra compte de la contribution de la population étrangère résidant actuellement en France, (b) le recours à l'immigration nouvelle devra garder un caractère exceptionnel. (Secrétariat d'Etat aux Travailleurs Immigrés 1977: 23)


From that period can be dated programmes to avoid urban concentration of immigrants families to avoid the so-called problem of "ghettoization" (Schain 1985: 173).
Thus, although the government, in its publication of 1976 insisted on its objective of "stabilising" the volume of the immigrant population at its 1974 levels, policy proposals (government bills of Spring 1979) and administrative practice during this period showed that the emphasis was put on reducing the migrant population (G.I.S.T.I. 1976c; Costa-Lascoux 1980).  

In June 1979, the government presented a bill named after the Prime Minister and the Minister of Labour to provide a new status for immigrants and refugees (Projet Barre-Boulin, n.1130, J.O., A.N., Lois et Débats, 1978-1979). The governmental text made an implicit selection among foreigners. It gave to long-term residents a privileged status. This concerned for the most part immigrants who had been residing in France (uninterruptedly) for the last twenty years (mainly migrants of European descent: Italians, Spaniards) and refugees. This first category had their work permit and residence cards automatically renewed. On the other hand, immigrants arrived more recently, that is principally those coming from Maghrebi countries and sub-Saharan countries, were given a provisional (valid three years) work permit and residence card whose renewal depended on the situation of the labour market. In addition this second category could easily be expelled after withdrawal of their work permit in case of unemployment for more than 6 months or because the work contract had been broken because of late return from holidays. To these provisions another governmental text on voluntary repatriation was added (Projet n.780, J.O., A.N., Lois et Débats, 1978-1979). These texts were subsequently withdrawn despite governmental intentions to resist the fierce opposition they encountered (Weil 1995a). However, the government managed to secure the vote of the 1980 Loi Bonnet (L. 80-9, 10/1/80) which gave administrative authorities enforced possibilities to deport foreigners, either because they were in an irregular situation (non-renewal of residence

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28 See the following articles in *Le Monde*, "Des détentions arbitraires seraient pratiquées près de Marseille" (20/4/75); "Le Ministère de l’intérieur dément l’existence d’un centre clandestin d’hébergement à Marseille" (24/4/75); "Le centre d’hébergement d’Arenè a été visité par un magistrat" (31/5/75); “Centre d’hébergement d’Arenè” (14/11/76 and 15/12/76); “Une réglementation pour la détention des étrangers en voie d’expulsion” (28/12/77). See also Bonnechère (1978) and Droit Ouvrier (1979).
cards and work permits) or because of public order considerations (see Bonnechère 1980; Turpin 1980; Vincent 1980).

Opposition to the governmental policies was generally expressed during the annual debates on the general budget, when the minister of Labour was given an opportunity to justify the financial implications of the housing programmes devised by the secrétaire d'État in charge of immigrant workers (see discussions in the A.N. on the vote of the annual budget for 1975, 1976, 1977, 1979, 1980 and 1981). These debates were the best opportunity for the opposition to question the government on its immigration policy and in particular to criticise the financial limitations of governmental policy.

As a result, most of the programmes to improve the immigrants' situation (in particular as regards housing conditions) were only partially carried out, and this became an obstacle to effective integration of the immigrant population into French society. It confirmed that from 1977 onwards, as opposed to the first part of Giscard d'Estaing presidency, the government chose to favour proposals which encouraged immigrants to return to their country of origin rather than implement effective programmes of integration (see infra).

Other groups which were increasingly critical of the government’s methods were associations defending immigrants' rights such as the G.I.S.T.I. and C.I.M.A.D.E. (Le Monde, 22/5/75) as well as trade unions (Verbunt 1973, 1980; Apostolo 1976; Evain 1976). Finally, an important role was played by the highest administrative tribunal, the Conseil d'État, in censoring government texts regulating conditions for entry, settlement and deportation. It therefore limited governmental discriminatory practice and signalled the end of a period when the government’s control over regulation of immigration had been particularly strong (Weil 1995a, and see next chapter).

This period began with a major decision made by French policy-makers to regulate migratory flows. The ban constituted a U-turn compared to the open-door policies pursued during previous decades. The ban, which was closely linked to economic development, became permanent as the crisis went on and worsened. The introduction of restrictive criteria
for entry and settlement of migrants still authorised to enter France should have been counterbalanced by a set of social provisions for the resident migrant population (accommodation, working rights, education, professional training, cultural development...). However, although implementation of the government’s social policy was proclaimed as being the government’s first priority in October 1974, it became a secondary objective for it lacked an adequate budget for full implementation.

Towards the end of the presidency in addition to increased border controls, the government attempted to decrease the size of the immigrant population through voluntary repatriation, non-renewal of residence cards and work permits or deportation orders. The end of the liberal phase meant that the President realised that his attempts to appeal to the Left had failed and that part of the electorate had a growing feeling of insecurity which needed to be appeased (Ysmal 1981). Severe criticism of governmental policies during this period united the opposition, as well as some members of the majority, the Church and associations defending immigrants’ rights.

4.3 Potential instruments for decreasing migrant populations: aide au retour and voluntary repatriation

The French aide au retour and British schemes for voluntary repatriation are presented below, separately from policy instruments devised by governments during this period (cf. chapter 5), because they are considered as being secondary “techniques” used by government leaders to decrease the migrant population and were never considered, at least in the British case, as being the main instruments for regulating migratory flows. Voluntary repatriation programmes constituted a fundamental aspect of French immigration policy at the end of the 1970s even though their implementation revealed the failure of the system as well as the lack of long-term objectives. As for the British schemes, although they were given minor importance in the context of immigration policy as a whole, they are important nonetheless,
for understanding the principles that guided policy leaders to implement such programmes. Thus, for different reasons, these programmes remained potential instruments of French and British immigration policies.

In Britain, the concept of repatriating immigrants has its origins in the 1960s when the newly created Monday Club advocated that the curtailment of the New Commonwealth population could be carried out through an essential and "vigorous programme of repatriation for all those who wish to take advantage of it, well financed, well publicised and well organised" (Monday Club 1981: 4). Other members of the Monday Club urged an effective campaign on immigration to stop coloured immigration "completely and at once" by securing in addition an effective policy of assisted voluntary repatriation (Ronald Bell, Conservative MP for Buckinghamshire, The Times, 14/4/73). Another declared: "The cost of the recent commitment to rehouse the majority of immigrants at huge expense would be better used in generous repatriation grants in accordance with party policy" (Guinness 1972: 5). The Monday Club also regretted that the 1971 bill contained few provisions on repatriation: "Repatriation provisions seem to be limited to their expenses of return. Unless that can include resettlement, the response may not be as large as it should be" (Race Today 1971: 3.3: 78). Finally, the NF also advocated repatriation "so that a more 'equitable' sharing-out of British resources for the British can [could] take place (Fielding 1981: 68).

Powell was also among those arguing for the necessity of introducing repatriation schemes for Commonwealth immigrants. Along with other ardent anti-immigrant Conservative members, when he campaigned against coloured immigration he advocated the creation of a Ministry of Repatriation (Speech delivered to the annual conference of the Rotary Club of London, Eastbourne, 16/11/68 in Smithies and Fiddick, Powell on immigration, pp.63-77, quoted in Layton-Henry 1992: 82). But forced repatriation was out of the question for the Conservatives, since they had clearly stated in their manifesto: "we shall

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29 The Monday Club created in 1961 after Macmillan’s “Wind of change” speech had initially concentrated on criticising and opposing Tory positions on decolonisation.
not tolerate any attempt to compel them (immigrants from the Commonwealth) to go against their will” (Conservative Manifesto 1970).

However, the newly elected government promised in parliament that it was ready to assist those wishing to be repatriated (R. Maudling, HC, vol.803, 3/7/70, col.211). Consequently, two programmes for assisted repatriation were run on behalf of the government. The first scheme allowing voluntary repatriation was administered by the Supplementary Benefits Commission, which had power to determine that payment of benefits could be made once and for all in a single payment when the conditions were met. But details on the rules governing this body were kept secret under the Official Secrets Act and the conditions to be met to qualify for eligibility were quite strict. It only concerned unemployed persons who were living on social security funds with no prospect of self-support (due to illness or permanent unemployment). Under the authority of the Immigration Act 1971 (S.29) a second repatriation scheme administered by the International Social Services (I.S.S.) was restricted to particular cases. The assistance given by the government towards the cost of repatriation was only directed to “those who lack the means to finance their departure themselves” (D. Lane, HC, vol.839, 29/6/72, col.383). Under this scheme, grants were awarded to go towards the expenses of non-British citizens wishing to leave the UK permanently to resettle abroad (it only paid for travel expenses and little else).

In contrast to French programmes this scheme was not intended to encourage the departure of immigrants through the payment of a lump sum. In March 1973, Robert Carr, Secretary of State for the Home Office, announced the government’s intention to extend the number of potential applicants. Criteria governing eligibility for assistance under the scheme operated by the I.S.S. were relaxed as the new conditions stipulated that those in employment were able to apply for, and benefit from the scheme provided they satisfied the income criteria (HC, vol.839, 29/6/72, col.383 and vol.854, 2/4/73, col.17-18).30

30 Families were allowed to retain up to £500 capital before being asked to contribute towards the cost of repatriation.
In both schemes a major condition attached to payment of voluntary repatriation was that no re-admission would be allowed afterwards. Thus Robert Carr asserted that cases where assisted repatriation was granted were “searchingly examined in order to make as sure as possible that the people concerned genuinely intend to reside permanently overseas” (HC, vol.855, 3/5/73, col.1450). These two governmental programmes were never thought of as the main method to reduce the number of immigrants settled in the UK, as was acknowledged by the secretary of State for the Home Office:

I still think that assistance with repatriation is an important service to make available to those who wish to go back. (...) I accept that the pressure created by it is quite small in relation to other social and economic pressures which at any given moment tend to cause major flows inwards and outwards. (HC, vol.855, 3/5/73, col.1451)

MacDonald claimed that the system was not genuinely voluntary: “the scheme may remain voluntary in name; but when it is to be administered by a Government department which has also the power to give or withhold social security payments, it can be used against an immigrant family as a veiled threat” (1971: 74). Figures on the numbers of those repatriated contradict this hypothesis since it was only a tiny number of families which did eventually benefit from those schemes. Families repatriated under arrangements made by the Supplementary Benefits Commission were 103 in 1970 (out of 457 applications received) and 86 in 1971 (out of 406 applications received) (HC, vol.843, 23/10/72, col.188). As regards the repatriation scheme under the Immigration Act 1971 up to October 1973, 62 families (that is 216 individuals) had been assisted to leave the country.

By contrast, the French equivalent, l’aide au retour, was developed to a much larger extent by the second government under Giscard d’Estaing presidency. In March 1977, the successor of Paul Dijoud, Lionel Stoléru soon adopted a series of much tougher decisions to control the rate of immigration. Alongside the main objective to reduce primary and secondary immigration, the third secrétaire d’État intended to carry out a vast programme of voluntary repatriation, which needs to be placed in the wider economic context of this period, to fully understand the motivations behind it.
Towards the end of the 1970s, several parliamentary reports were published to attempt to assess the cost of immigration: its economic advantages for the French labour market in terms of the immigrants' impact on the economy in determined sectors, the immigrants' contribution to the nation's wealth and the social costs imposed on social services.\textsuperscript{31} As the unemployment situation worsened, many observers, and in particular Lionel Stoléru, were prompt to associate the departure of unemployed immigrants with the economic and social advantages these departures could bring to French society. Thus, he declared:

Nous avons constaté que, dans 98 p. 100 des cas, un départ équivalait à un chômeur en moins. Les postes concernés sont pour un tiers repris par des chômeurs étrangers, pour un autre tiers occupés par un chômeur français et pour le dernier tiers supprimés, ce qui diminue d'autant le nombre de licenciements. Dans les trois cas, chaque départ réduit la masse des chômeurs d'une unité. (J.O., A. N., Lois et débats, 27/10/80, p.3154)

\textit{L'aide au retour} was first introduced in spring 1977 through a simple \textit{circulaire}. However, the idea of encouraging immigrants to settle back in their home country dated back to October 1974 when Paul Dijoud had presented the new governmental measures on immigration he intended to carry out. He had then declared that part of the new governmental policy consisted in progressively setting up a series of measures designed to help those wishing to return home:\textsuperscript{32}


\textsuperscript{31} Cf. Footnote n.26

\textsuperscript{32} This was repeated by P. Dijoud in Parliament on other occasions in November 1974 (JO A.N., Lois et Débats, 4/11/74, p.5796) and in April 1976 (JO A.N., Lois et Débats, 29/4/76, p.2375).
Laide au retour set up by Stoleru consisted in allocating a special one-off payment of 10,000 Francs to any unemployed immigrant in exchange for his definitive departure from France and renunciation of any claim to social benefits. The major condition for eligibility, as in the British schemes, was that no further re-admission would be allowed. As in the British case, direct connections were made between voluntary repatriation and the burden of unemployed immigrants on social services.

However, the French went much further in developing these programmes of repatriation than the British. Voluntary repatriation was considered an important part of the official immigration policy carried out from 1977 onwards. The aim was to organise the definitive departure of thousands of immigrants over the following five years. Selection among immigrants thought to be ideal candidates for the aid au retour had to be made according to their nationality; thus EEC nationals, Portuguese and Spaniards and refugees were excluded from the governmental proposals. Consequently only those immigrants whose status was regulated through bilateral agreements – that is, mainly Maghrebis and Africans from Sub-Saharan countries – were concerned.

In particular Algerians were once again targeted in this governmental programme as it coincided with the necessity to renegotiate the Franco-Algerian agreements. From the beginning the Algerian authorities had made it clear that they would only accept voluntary returns. The final agreement reached in June 1979 stipulated that instead of the 100,000 returns of Algerians per year (French proposal) there would be 100,000 returns per year all nationalities included, with at least 35,000 returns of Algerians whose residence permits had not been renewed. In addition to the lump sum of 10,000 francs, the governmental proposals also included the organisation of professional training linked to the needs of each emigration country. In 1979 the main beneficiaries (2/3) were Spaniards and Portuguese but not the

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33 On 18 October 1980 the final agreement was signed between France and Algeria. Immigrants who arrived in France after July 1962 had their documents automatically renewed for 3 years and 3 months, special financial benefit was granted to those wishing to go back home, the building of professional training centres in Algeria by the French government and the teaching of the Arabic language in France were agreed.
nationalities initially targeted, that is, Turks, Maghrebis and in particular Algerians (J.O., A.N., Lois et débats, 25/10/79, p.8944-45). Eventually, financial help towards the repatriation costs of Spaniards and Portuguese was suppressed because of the future entry of these two countries to the EEC.

This objective did not have the same weight in France or Britain compared to the set of measures that intended to reduce primary and secondary immigration. The French and the British schemes of voluntary repatriation consisted mainly in providing financial assistance to regularly settled immigrants who wished to leave the host country permanently to resettle abroad. It had a lower impact on the rate of immigration in Britain than in France where it was developed more fully, despite criticism from the Left. But in both cases financial obstacles prevented full achievement of the objectives. Finally, the French and British governments never considered it as the main means of reducing the size of their immigrant population effectively but on both sides of the Channel it raised ethical questions and gave rise to intense political controversy.

4.4 The legitimisation of policy choices

Political discourse on immigration is particularly illustrative of the changing nature of governmental response to the phenomenon of immigration. French and British policy-makers had recourse to a series of arguments which served to legitimise their policies and in turn revealed the preponderant perception of the phenomenon of immigration, the migrant population and the evolution of society. These arguments, classified here into two categories, were used by both the British and the French governments during this period, with, however, a predominance for the “social argument” in the British case and the “economic argument” in

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the French case. The differences observed between the two countries have their roots in different historical backgrounds.

The "social argument" referred to the protection of social cohesion threatened by additional migratory waves, which in turn justified the new restrictive controls imposed on coloured migrants. Foot used the concept of the "social argument" to criticise governmental policies of the 1960s, arguing that "the so-called "social arguments" are founded on the weird fantasies of race and the xenophobic traditions of British people. They distract attention from relevant and realistic political demands" (1965: 248). By contrast the "economic argument" related to the prevalence of economic considerations and the role of the economic conjuncture which cyclically modified the entry or settlement conditions of migrant workers.

4.4.1 Great Britain, an overcrowded island?

In 1970, the Conservatives argued that the introduction of new legislative controls was principally dictated by the social context. Like their predecessors, they linked the application of immigration controls to the improvement of race relations. The "social argument" derived from the perception that the situation was slowly deteriorating in some parts of the country: large concentrations of immigrant population in some areas (Greater London, the West Midlands, the Manchester area and West Yorkshire in Bradford and Leeds); overcrowded houses due to the lack of sufficient and suitable accommodation; education problems; high unemployment rates; and criminality. As such, the "social argument" as well as the Conservative's perception of the "problem of immigration" did not differ much from the previous decade. This also explained the Labour opposition's weak reaction to the introduction of the new act. The government, through Reginald Maudling, defended its new policy as follows:

We believe that any further large-scale immigration will be bad for everyone here, including immigrants already among us. (...) The strain really arises, first, because of the concentration of immigrants in certain areas, and second because of the speed with which this
concentration has transformed the whole social nature of parts of our community [emphasis is mine]. (HC, vol.803, 3/7/70, col.210)

This kind of argument about the necessity to preserve the Britishness of society was not dissimilar from statements endorsed by the Monday Club:

The fundamental objection to this large-scale immigration was not any alleged drain on the social services, nor the fears of future unemployment which might have aroused, but was rather the threat it posed, at least on a local scale to people's sense of national identity and their feeling of being at home... (Allan 1971: 9)

The debate on the need to restrict immigration from the New Commonwealth was conducted on the assumption that Britain was an overcrowded island that could no longer accommodate further immigrants. In that perspective the "economic argument", according to which there were no jobs available for immigrants on the British labour market, was a secondary one. This is even more surprising given that one of Heath's main concerns was the state of the economy, as his government was determined to promote free industry and to legislate on trade unions' powers following the radical and free-market programme devised during the electoral campaign (Wright 1970; Burton and Drewry 1971). While in office, as unemployment rose (nearly one million unemployed by January 1972) and inflation was running at high levels, the Conservative government passed the Industrial Relations Act (1971) which greatly increased State intervention to face the consequences of the economic crisis. Like France and many other western societies Britain was experiencing a major economic crisis but contrary to the French case, "economic arguments" did not serve the cause of the necessity of immigration controls for "coloured workers". This resulted principally from the fact that Britain never accepted the "guestworkers" principle in the same way as its European neighbours (Dummett 1986).

The "social argument" was supported by alarmist views on the likely patterns of future migratory waves. The "numbers game" meant that entire aspects of governmental policy were not given due attention because they were overshadowed by the significance given to figures on entry and settlement. In that respect, the few studies which focused on the economic contribution to the British economy made by Commonwealth immigrants bore little weight in
the debate which tended to focus only on the negative consequences of coloured immigration on the composition of British society. Despite the early restriction on immigration from the New Commonwealth, constant allegations were made that the natural increase of the coloured population had been going on at a very high rate (Eversley 1973).

In reality, since 1964 net migration in Britain was negative with more people leaving the UK than coming in, and in particular between 1971 and 1974 the net balance of migration from the West Indies had been negative (O.P.C.S. evidence to the Select Committee on Race Relations and Immigration, House of Commons 1978: 147e, quoted in Demuth 1978: 11). But the obsession with figures on entry, settlement and birth rates among the “black population” led to a completely distorted picture of the British population. Estimations varied greatly but they all contributed to instil the fear that Britain would be “invaded” by the end of the century and the native inhabitants would be reduced to a minority in certain areas.

First among other leading politicians, Powell managed to gain the monopoly of this debate with his repeated manipulation of immigration statistics. His propaganda contributed not only to a new vision of the Britain of the future but also greatly increased intolerance and racist reactions towards ethnic minorities. In February 1971, at a meeting of the Young Conservatives in Carshalton, he estimated that by 1985 Britain’s population would include 4 million coloured people and proposed as a solution “massive, albeit voluntary repatriation” (Birmingham Post, 16/2/71). Powell’s statements were largely conveyed by the media, and in particular by the tabloid press. In their analysis of the local and national press during this period, Hartmann and Husbands argued that the immediate result of the numerous references to Powell in the national and local newspapers was that “his views became incorporated into the frame of reference within which race in Britain has come to be reported” (Hartmann and Husbands 1974: 145).

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35 Between 1971 and 1976, negative migration was - 219,000 for the years 1971-1976. For the West Indies 7,000 more people left the UK to go and live in the West Indies than came to live in Great Britain (O.P.C.S. evidence to the Select Committee on Race Relations and Immigration, House of Commons 1978: 147e)
Concern over the rate of immigration and the real numbers of immigrants was not only expressed by extremists such as Powell and members of the Monday Club. Indeed, the significant proportion of oral and written questions to the government dedicated to that issue reflected MPs' anxiety over rates of immigration. More information was requested about statistical data on the rates of entry and settlement of different nationalities, on future trends of entry and settlement for New Commonwealth immigrants and U.K.P.Hs.

This constant preoccupation with assessing present and future rates of immigration as accurately as possible reduced the whole immigration policy to a mere exercise in counting entries and departures. Not only did this limited perception of governmental policy ignore the complexity of a set of provisions that could not be summarised in tables and graphs but it also took attention away from other aspects of the government's policy like the promotion of better race relations. As Moore and Wallace noted "the whole immigration debate has been conducted against a set of assumptions which says that "numbers are of the essence" and that the fewer blacks we have the better" (1975: 23).

In parallel to these statements, reports produced at that time supported these alarmist views and while trying to forecast the likely growth of Britain's population, also warned of the risks of overpopulation. Groups such as the Population Stabilisation Group exerted some pressure, which led to the publication of the first report of the Select Committee on Science and Technology on the population of the UK (House of Commons 1971a). It highlighted in its conclusion the argument that "the government must act to prevent the consequences of population growth becoming intolerable for the everyday conditions of life" (House of Commons 1971a: x, quoted by Booth 1986: 118). Although Stephen (1975b) argues that the Committee was unable to state what the optimum population of Britain should be, its report corroborated the current views of those trying to attract public attention to the inadequacy of the government's policy in effectively controlling the rate of immigration. In that respect the Select Committee recommended the setting up of a Population Panel to assess Britain's population and its growth.
The Panel's conclusions published in 1973 stressed that "the population will almost certainly go on rising at least until the end of the century" but also emphasised that there was no urgent necessity to take immediate steps to reduce such an increase. More importantly the Panel noted that immigration policy had little effect on the size of population (Report of the Population Panel, Cmnd 5258, 1973: 1). As for the Population Stabilisation Group, it published two reports *Population Stabilisation. A Policy for Britain* (July 1972) and *Decline or Fall. A Case for a Decrease in Britain's Numbers* (August 1974) whose content clearly reflected the group's concern over demographic growth among ethnic minorities.

To conclude on the importance of the "social argument" as it was used by British leaders to justify their political objectives, two points can be raised. Firstly, the "social argument" not only served the government's aims for legitimising its policy choices but it was also a rhetorical device widely used across the political spectrum (as shown by parliamentary questions in particular), even if this line of reasoning was to be found more easily in the mouth of extremists such as Powell or members of the Monday Club rather than moderate Conservatives or Labour MPs.

Secondly, debating about Britain's resources in terms of social services and housing problems implicitly referred to the wider notion of the composition of British society. There was constant concern over growing numbers of foreigners, but after closer inspection, arguments on the strains imposed on social services by new immigrants, housing estates, education programmes, etc., proved to be secondary in relation to deeper feelings about what British society should be like. Although in the early 1970s British policy-makers acknowledged that Britain had turned into a multiracial society, their conception of the future of Britain was based on the preservation, and ideally, the improvement of the delicate balance between the indigenous and migrant populations that existed at the time. As such, British leaders had a well-defined but static vision of the British society they intended to promote: a society free from the colonial connections of the past with fewer and fewer commitments towards overseas populations whose British passport was gradually loosing its importance.
4.4.2 France, the decreasing role of economic considerations

In the early 1970s after twenty years of economic expansion during which the French labour market had largely benefited from imported labour, the first oil crisis raised serious and long-term questions on the presence of the migrant population and its likely future. The onset of the economic crisis urged French officials to reconsider their immigration policy in the light of new economic perspectives, which officially served to justify the decision of July 1974. Movement of migrant workers across French borders was still considered within the framework of the economic situation and had to be solved accordingly.

The "economic argument", had been a recurrent theme since 1945 following the major orientation of the immigration policy that had been devised at the end of the war and during the subsequent decades. In 1974, more than ever, it enabled French officials to defend the sudden implementation of the ban. However the use of the "economic argument" evolved in parallel with the government's perception of the economic usefulness of the migrant population during this seven-year period. It developed from a cautious period of observation mainly adopted at the beginning of the Giscard d'Estaing presidency, when the suspension was presented as temporary and implicitly meant that immigrants were still considered as a valuable asset for the French economy, to a more negative image of the phenomenon of immigration, when, towards the 1980s, the economic contribution of immigrants to the French labour market was largely questioned.

Like their counterparts in Britain, French policy-makers used the "social argument" to defend the harshness of new conditions on entry. But as opposed to the British case, it constituted a secondary consideration for justifying policy-makers' choices and was in any case closely linked to the "economic argument". The "social argument" was used to convince French people that the suspension would give time for the new government to achieve its social programme and eventually improve the integration of the immigrant population. Despite the fact that it was often presented as the main ground for legitimising public policies on
immigration, because of its more “ethical” approach, it became a minor justification over the years:

Les pouvoirs publics doivent être les maîtres d'oeuvre de la politique d'immigration. Celle-ci suppose un changement dans l'attitude des entreprises. (...) Il s'agit d'organiser une immigration nouvelle, d'améliorer les conditions de vie et de travail. (...) Dans l'immédiat la suspension de l'immigration sera maintenue afin de préserver l'avenir et de préparer des conditions d'accueil améliorées. (Communiqué officiel du Conseil des Ministres du 9 octobre 1974, Le Monde, 10/10/74)

The evolution of the French policy-makers’ perception of the phenomenon of immigration over this seven-year period has no real equivalent in the British case. This derives primarily from the shorter period under study. This can also be explained by the fact that, apart from extremists (such as Powell or members of the Monday Club), the political elite (both Conservatives and Labour) shared a common perception of the immigrant population: a “coloured” population which had settled permanently and was experiencing difficult race relations.

In France the growing public awareness of the permanent presence of immigrants played a significant role in the changing perception of the immigrant population. The “social visibility” of the immigrant population resulted directly from the change in composition of the immigrant population over that period. This social visibility, combined with the rise of unemployment rates and the economic crisis, increased xenophobic feelings and more generally intolerance towards foreigners.

To conclude this discussion of French and British arguments, a further common point can be highlighted. As in Britain, official statements in France stressed the government’s intention to formulate a policy on immigration characterised by its novelty and its long-term consequences. The novelty referred to the definitive break with the policies that had been pursued up until then as the “laissez-faire” attitude was to be replaced by a set of significant political decisions which testified to the State’s intention to reassert its sovereignty over the regulation of immigration. According to French officials, the long-term consequences of the
suspension were expressed in the government's intention to plan its immigration policy for a more or less immediate future. These two features characterising the new immigration policy—a new and long-term policy—bore similarities to the formulation of the Conservative government's immigration policy carried out at the very beginning of its term of office.

Finally, and paradoxically, the 1974 ban and the new rules under the 1971 Act were presented as positive measures for the immigrant population already resident in Britain and France. Although the new restrictions severely affected future migratory waves, policymakers attempted to demonstrate that their ultimate aim was to protect the migrant population:

La stabilisation du nombre des immigrés est le fondement de leur progrès. La promotion de cette population ne se fera que si son importance et sa composition humaine et culturelle présentent une certaine stabilité. (...) Sans stabilisation, ni l'insertion, ni la promotion ne se feront [emphasis in the text]. C'est donc une préoccupation d'avenir, fondée sur l'intérêt à long terme des immigrés, qui dicte le choix de la stabilisation. (Secrétariat d'Etat aux Travailleurs Immigrés, 1977: 50)

The simple fact is that some control had become necessary in the interests of society in this country, including, I must again emphasise, those immigrants already here. (R. Maudling, HC, vol.813, 8/3/71, col.43)

In short, the "economic argument" in Britain, despite some studies, in particular by the Labour N.E.C., was never a central element serving to legitimise public decisions to restrict Commonwealth immigration. In France, on the contrary, most of the decisive public choices on the curtailment of immigration were defended on the grounds of the importance of the economic dimension of the immigration question. The "social argument" raised on few occasions in the French case was instead more fully developed by British policy-makers.

Some last comments can be added to sum up the main characteristics of British and French immigration policy over that period. Both governments set up new devices to control migratory movements, whose immediate rationale was either, based on political pledges to be fulfilled or, on economic analysis of the deteriorating situation. Arguments put forward to rationalise the harshness of the new provisions differed from one country to another.
However, they had in common that they were based on historical developments of the immigration phenomenon during the previous period.

This chapter provides a review of the set of rules with differing degrees of legal authority governing entry rights of immigrants that were implemented following the policy objectives devised by the Heath government in Britain and the Chirac and Barre governments in France. Despite the fact that British and French policies had comparable targets—a drastic reduction in the levels of primary immigration and a substantial diminution in admission rates of secondary immigration—a closer look at this body of rules shows noticeable differences. These contrasts stem principally from the specificity of the French civil law and British common law systems but also result from the different legal instruments adopted, the complex state of British nationality and the influential role of the colonial connections. Finally, the comparison also sheds light on some of the inherent contradictions and limits of governmental objectives and, to a certain extent, on the weight of contextual constraints upon the implementation of these policies.

The pattern observed here, the separate analysis of the mechanisms of control for the regulation, of primary immigration on the one hand and, on the other hand of secondary immigration entailed different political considerations for each category of immigrants concerned. Rules to limit the number of work permits, to establish quotas for U.K.P.Hs, Algerians or Portuguese, to slow down the process of family reunification were closely interdependent. They derived directly from the policy-makers' objectives and the socio-economic contexts of these years. French policy and its instruments were closely linked to manpower requirements; consequently variations in the content of the rules became largely dependent upon the economic conjuncture. In Britain, however, the question of controls was rarely related to the state of the economy. Instead, rules governing entry rights of primary and secondary immigration reflected a constant concern for the overall volume of immigration.
that Britain was able to “absorb”. Thus, it transpired that both systems contained regulations which clearly discriminated among immigrants.

This chapter provides: (i) an overall picture of the texts and provisions issued by the governmental authorities to regulate the entry of primary and secondary immigrants (sections 1 and 2); and (ii) a comparative appraisal of the direct and indirect effects of these rules on immigrants’ rights and on the roles played by government and parliament in each of the two countries (section 3).

5.1 French and British legal rules for reducing primary immigration

In the early 1970s, the British and French governments were firmly determined to reduce the levels of primary immigration, either to fulfil electoral commitments (British case) or to adjust to the changing economic conjuncture and address social problems faced by the immigrant population (French case). They adopted distinct types of control mechanisms adapted to the different sub-categories of primary immigrants. Hence, in France, in addition to the well-known 1974 ban on the entry of workers administered by the O.N.I., a system of annual quotas governed the admission and settlement of certain nationalities while a rather strict system of work permits prevented the access of foreign labour to the domestic labour market.

Similarly in Britain, quotas were used to regulate the rate of admission of U.K.P.Hs while the Immigration Act 1971 set up a system of work permits comparable to the French one. Moreover the French used the system of bilateralism, that is conventions concluded with emigration countries to regulate the admission of thousands of workers. Although there is no equivalent in the British system, this specific instrument will be nonetheless investigated.

5.1.1 The system of quotas

In Britain, from the end of the 1960s onwards, U.K.P.Hs constituted an important source of primary immigration, whose rate of admission had been governed by quotas revised annually
by successive British governments. The scheme, introduced after Kenyan Asians had
massively arrived in Britain in 1968, allowed heads of households (as well as their
dependants) holding a UK passport to enter the UK for settlement, once in possession of a
voucher. Initially the quota had been fixed at 1,500 vouchers per year – that is an average of
6,000 people admitted for settlement. These vouchers were mainly allocated to applicants in
East African countries (Kenya, Tanzania, Uganda, Zambia, Malawi and Aden) and in Asian
countries where some U.K.P.Hs had gone temporarily while waiting to be admitted to the UK.

In June 1971, a once-and-for-all quota of 1,500 was made available for that year while
3,000 vouchers instead of 1,500 were issued to double the rate of entry of U.K.P.Hs. The
government’s initiative followed a series of consultations with governments in East Africa,
"with a view to facilitating more orderly movement of U.K.P.Hs to this country and reducing
the waiting time for vouchers” (R. Maudling, HC, vol.818, 26/5/71, col.380). This decision
revealed that although British decision-makers were intent on refusing further migratory flows
they could not escape abiding by Britain’s commitment to these populations. A year later,
towards the end of 1972, the Ugandan crisis reminded the Heath government of its
obligations. Britain eventually accepted for settlement a total of 28,000 U.K.P.Hs fleeing from
Uganda.

It soon transpired, however, that the quota system proved to be a very effective
regulatory instrument for limiting the rate of admission of U.K.P.Hs. Hence, the voucher
scheme constituted a veiled method of raising supplementary barriers against admitting further
immigrants (Moore and Wallace 1975). The discretionary character of the whole system had
its roots in the fact that it depended entirely on the Home Office. The admission of U.K.P.Hs
was not governed by criteria stipulated in the 1971 Act or in the immigration rules. Rather the
conditions to be met were defined only by the Home Office which also determined the overall

1 To qualify for a voucher, the head of household needed to hold a UK passport (and no other citizenship), to be
under pressure to leave the country where they lived, to have nowhere else to go and to intend to settle in the
UK.
size of the quota and the size of the allocation to each country (never published). In addition, there was no possibility of appealing against a refusal to issue a voucher, unlike the system of entry clearance.

In addition to its discretionary nature, the way the system was administered at British High Commissions abroad further reinforced its effectiveness in keeping out immigrants. Except in the first year of the increase (1971), the quota was largely undersubscribed in 1972 and 1973. As with the system of entry clearances, queues formed because the inflexibility of the voucher system prevented the transfer of quotas from one country to another. It resulted in oversubscription in East African countries while in other parts of the world some quotas were not filled. The scheme's lack of flexibility, as well as the treatment U.K.P.Hs underwent for their admission to Britain, have often been criticised (Sharma and Wooldridge 1974; Williams 1974; Moore and Wallace 1975) and have also been the subject of official reports (House of Commons 1978; C.R.E. 1985).

To sum up this type of regulatory instrument used by the Heath administration (as well as its predecessors), it proved to be a particularly effective method of slowing down the admission rate of populations entitled to settle in Britain. In December 1973, the European Commission of Human Rights reported that the imposition of immigration controls upon C.U.K.Cs from East African countries “discriminated against this group of people on grounds of their colour or race” (House of Commons 1980: 53; Duffy 1983; A. Evans 1983). The system succeeded in keeping the numbers down but at the cost of increased hardship to applicants who experienced considerable delays.

There had not been any use of a quota system in French immigration policy from 1932 until 1968 when it was introduced to regulate the rate of admission of Algerian immigrants. This “novelty” (Laurin 1977) gave French administrative authorities the opportunity to regain some control over Algerian immigration which had developed haphazardly since its

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2 Figures for the years 1970 to 1974 are the following (the first figure indicates the quota, the second in brackets the number of vouchers issued): 1970: 1,500 (1,560), 1971: 3,000 (3,820), 1972: 3,500 (2,090), 1973: 3,500 (2,280), 1974: 3,500 (3,520) (C.R.E. 1985: 138).
exemption from any immigration control following the 1962 agreements. We saw that the procedure to admit Algerian nationals for work and settlement escaped the control of the O.N.I. and was instead under the supervision of the ministry of the Interior. The 1968 convention initially stipulated a quota of 35,000 workers per year, which was subsequently reduced to 25,000 in 1971. In practice, from September 1973 onwards, following several racial incidents, the Algerian government had suspended the emigration of its nationals to France. Hence the impossibility for emigrant workers to obtain the necessary authorisation to enter and work in France — the card delivered by the O.N.A.M.O. (Office National Algérien de Main-d’œuvre).

Although Algerians had been logically excluded from the ban introduced in July 1974 following the 1968 agreements, the exemption from the ban proved to be largely fictitious. Thus, a circulaire dated 26 November 1974 empowered the French administrative authorities to refuse the admission of Algerians who had arrived after August 1, 1974 without the proper documentation (that is the card delivered by the O.N.A.M.O.). At the end of the Giscard d’Estaing presidency, since these agreements had not been implemented since 1973, the French government should have automatically renewed all the residence cards that had elapsed. Instead residence cards were only provisionally renewed until 1980 when a new agreement was signed between the two countries (Sayad 1977; Bloch-Lainé 1981; Costa-Lascoux and Temime 1983). The convention sought to induce Algerians to come back home following the French government’s objective to reduce substantially the volume of certain groups of immigrants (see Wihtol de Wenden 1983 for a full account of the conclusion of these agreements).

The Portuguese constituted the second major group of immigrants whose rate of admission was governed by annual quotas. This group, fleeing from its country for political reasons and in search of economic prospects, had found in France easy access to an industrialised labour market. In 1971 a bilateral convention determined the conditions of entry of Portuguese workers and fixed the annual quota at 65,000 work permits delivered by the
ministry of Labour. In 1977 the revision of the agreement led to the implementation of a more flexible system and the quota was dropped. French and Portuguese administrative authorities in charge of the regulation of immigration decided to regularly exchange information on the number of vacancies in France and on the number of potential emigrants in Portugal.³

At a time of severe restrictions on other sources of immigration, while French policymakers questioned the economic impact of a foreign workforce on French expansion (cf. parliamentary reports on the economic costs of immigration, quoted in the previous chapter), encouraging the settlement of Portuguese workers was a clear sign that this immigration of European descent was officially favoured. Given that the marked decrease in migratory flows of European descent was paralleled by rising numbers of non-European immigrants attempting to settle permanently, it showed that the Chirac and Barre governments had two objectives. It was first of all a question of privileging certain categories of foreigners and secondly of slowing down the arrival and settlement of other groups, principally North Africans. “Official” reasons for encouraging the admission and settlement of the Portuguese have been well documented (Laurin 1977; Bloch-Lainé 1981; Weil 1995a; Viet 1996). The disproportion between the total number of Portuguese entries and Algerian entries illustrated “la volonté d’institutionnaliser, de fixer par des chiffres la part respective de ces deux immigrations, algérienne et portugaise, toutes deux autant nécessaires, mais dont l’une est crainte tandis que l’autre est désirée” (Laurin 1977: 235).

In both countries, quotas served as screening systems to “quantify” the rate of admission of determined sources of primary immigration. There is a manifest disproportion between the French and the British figures on annual quotas: 3,000 vouchers for U.K.P.Hs (that is an average of 12,000 people admitted per year) which contrast with the figure of 65,000 Portuguese authorised for work and settlement and the official figure of 25,000 authorisations for Algerians. This contrast can be explained by previous historical

developments where France had massively attracted a foreign workforce and was therefore still undergoing the consequences of these policies, while Britain with its early system of legislative controls had been trying to "preserve" the national cohesion allegedly threatened by further migratory influx.

5.1.2 Work permits

We saw that since 1945 French governments had been pursuing an economically based immigration policy, leading to a rather complicated system of work permits to regulate the entry of foreign workers. The Chirac government's abrupt decision to close borders to foreign workers did not mean that the French suddenly abandoned their economically orientated approach in their management of immigration. Instead, rules determining the conditions for entry of foreign workers varied according to the socio-economic conjuncture, but also derived from hidden motives. As for the system of quotas discriminating against Algerian immigration, work permits served to select among the various immigrant groups those most "suitable" to adapt to French life.

The 1974 ban marked the starting point of a period when French administrative authorities at different levels (ministers, local administrators, mayors) issued a vast quantity of regulations of varying legal authority. These texts confirmed the ban, although it had been initially presented as temporary and had far-reaching consequences at different levels. First, the deepening economic crisis "justified" the introduction of criteria which became more restrictive over the years. Some of these were deprived of valid legal authority and were subsequently declared void (Bockel 1991). 4

The text (C. n.9-74, 5/7/74) which stipulated the ban also defined the categories of foreigners exempted from the suspension: seasonal workers, EEC workers, artists, highly

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4 The governmental texts which were declared void by the Conseil d'Etat: some were issued by the secrétaire d'Etat (ministry of Labour) C. n.9-74 (5/7/74), C. n.11-74 (9/7/74), C. n.17-74 (9/8/74), C. n.22-74 (27/12/74) while others originated from the ministry of the Interior, C.(26/11/74) or from both ministries C. n.21-74 (30/11/74).
qualified people and some workers in the metallurgy and building sectors. Indeed the government retained the possibility of determining via *circulaire* categories of immigrants exempted from the suspension because they were still needed in some industrial sectors. As Paul Dijoud declared:

Dans l'éventualité d'une reprise économique (...) l'attitude du gouvernement demeurera cohérente avec les décisions qui ont été prises. Bien entendu, si l'insuffisance de main d'œuvre dans une entreprise particulière ou dans un secteur donné devait entraîner des difficultés certaines pour cette entreprise ou pour ce secteur, et que la solution ne puisse absolument pas être trouvée en faisant appel au marché national de l'emploi, nous serions amenés à consentir quelques dérogations. (J.O., A.N., Lois et débats, 29/4/76, p.2381)

When the government realised that the economic crisis would last as the level of unemployment rose and it was necessary to plan radical industrial restructuring, it also started to question the economic outcome of immigration and its impact on economic expansion. The modernisation of several industrial sectors where immigrants were concentrated – mainly in manual and non-skilled job sectors – went in parallel with a promotion of manual activities to attract French workers to job sectors they had previously abandoned. This was perceived as one “recipe” to decrease unemployment levels of national workers while French policy on the admission of foreign workers became much more protectionist.  

Secondly, *décrets* and *circulaires* issued under the Giscard d'Estaing presidency testified to the supremacy and the arbitrariness of the administrative system to control foreign workers' access to the domestic labour market. This arbitrariness derived principally from the absence of real controls over administrative decisions. For example, in 1976 a *circulaire* introduced criteria for the delivery of work permits comparable to those existing in the British system (C. n.2-76, 24/2/76). The 1976 text specified that French administrative authorities had to take into account the situation of the labour market in the specific *département* where the

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5 From 1979 onwards, the Barre government launched specific programmes to promote the values of manual work: *Semaine du travail manuel* (1979), creation of an organisation *Association Nationale pour la Revalorisation du Travail Manuel*, radio and television programmes to publicise different types of manual activity for young nationals.

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application for a work permit was made before granting or renewing a work permit. This new
limitation was comparable to the British rule stipulating that the granting of work permits was
conditional upon the situation of the local labour market. This paved the way for
administrative decisions based on the discretionary appreciation of the economic situation by
the D.D.T. (Direction Départementale du Travail) (Bockel 1991). As the minister of Labour
explained:

Il n'est pas possible de fixer d'une manière globale, le nombre
d'étrangers nécessaire à l'économie nationale: en effet, les règles
juridiques qui régissent ce domaine font obligation à l'administration
d'examiner chaque demande de titre de travail individuellement et non
en fonction d'une politique générale. (J.O., A.N., Lois et débats,
28/4/80, p.1754)

Hence, the importance given to ministerial instructions to local administrative authorities to
decide when some “thresholds” had been reached (cf. Question asked by Bernard Derosier
(PS) to the minister of Labour, J.O., A.N., Lois et débats, 6/10/80, p.4264-5) when it was
perceived that the concentration of the immigrant population was too high in certain areas. In
addition, refusals to deliver or renew a work permit could be given without explanation or
could be based on totally invalid grounds or on no grounds at all.6

The major consequence of these rules was for immigrants whose legal status was
considerably weakened. Since for most of them their right to stay in France depended on their
status as a worker and the necessity of holding a work permit, their permanence could be
brutally stopped by a deportation order, following the non-renewal of work permits. To
illustrate this, the radical reform of the system of work permits introduced in 1975 via décret
apparently sought to simplify the previous system in which there used to be 7 different types
of cartes de travail (D. n.75-1088, 21/11/75). The new system established three types of
cards: card A valid 1 year (only for a specific activity in one area), card B valid 3 years (id)
and card C valid 10 years (no restriction on the profession, valid on the entire French

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6 In addition other criteria had to be taken into account: a stricter application of labour law, the same wage
conditions for foreigners and French nationals and a further responsibility for employers who had to make sure
that their employees were housed in normal conditions.

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Despite the simplification, the new rules provided for significant restrictions on the kind of professional activities to be undertaken and on the geographical areas concerned – limited to a specific région, depending on the status of the foreign national (Peirot 1976; G.I.S.T.I. 1976b; Beylier 1978). The rules had two major consequences. Firstly, they contributed to creating an implicit hierarchy among immigrant groups. Secondly, they considerably limited the possibility of finding a new job in case of unemployment since immigrant workers were restricted to a specific activity within a certain geographical area.

A year later a new circulaire more precisely defined the categories of immigrants with an automatic right to be granted a carte C because of their status. These included, for example, immigrants married to French persons or EEC citizens, young foreign nationals who had completed at least three years in French schools, and refugees. The new governmental text aimed at limiting the number of young workers who would eventually settle in France and possibly be joined at a later stage by other members of their family. The card could thus be refused to foreigners aged over 16 years entering France as dependants because of the situation of the French labour market.

The whole system of work permits in force throughout this period was largely dependent on the policy objectives of the government, which was particularly intent on adjusting its rules to the changing economic situation. Other important considerations, such as the dramatic lack of housing facilities for immigrants, worked in favour of implementing strict conditions to limit their access to the French labour market. Figures on the annual number of permanent workers admitted, show a dramatic decrease before and after the ban was implemented: from 212,785 in 1970 to 153,419 in 1973, further reduced to 25,591 in 1975 (Secrétariat d'Etat aux travailleurs immigrés 1977: 54).

In Britain, the system of work vouchers introduced in the 1960s disappeared with the introduction of the 1971 Act. Instead, work permits to enter the UK were imposed on certain categories of immigrants, subject to conditions contained in the immigration rules and the instructions issued by the D.o.E.. As in France, where the renewal of work permits was
conditioned by many factors, British policy-makers sought to devise new rules which would prevent foreign workers from settling permanently after working for a while in the UK. This contrasted with the previous system of work vouchers which entailed automatically the right to settle.

Since the bulk of migrant workers seeking entry into Britain were those whose first authorisation was given only for a twelve-month period (extendable to three years), pending the renewal of the work permit by the D.o.E., their position was particularly unstable and vulnerable. D.o.E. approval was conditioned by many factors: unavailability of the post, disagreements with the employer or non-renewal of the work permit due to the condition of the local labour market. The ultimate purpose of the new system was to discourage potential immigrants from planning to settle in Britain and possibly being joined later by their families. Hence, these four years of employment did not carry any automatic right of permanent settlement. As Robert Carr declared:

> The first principle is the recognition that Britain is a crowded island with a labour force which, for the moment at least, appears ample for her needs, and, therefore, that there must be restriction of all permanent immigration. (HC, vol.851, 21/2/73, col.598)

Criteria and conditions for issuing work permits, as well as their number depended completely on Home Office instructions and the D.o.E.. This allowed the government to reduce the levels of primary immigration at will. Hence in May 1971 when Reginald Maudling announced that the annual quota for U.K.P.Hs was doubled, at the same time the number of work permits was severely curtailed from 4,000 to 2,000 (HC, 26/5/71, vol.818, col.380). The government's position was clear; the reduction would automatically entail a decrease in the number of family dependants joining the head of the household (HC, 22/7/71, vol.821, col.1663-65).

As in the French case where the economic recession "justified" the tightening of criteria for issuing new work permits, in Britain limitation on the entries of foreign workers obeyed socio-economic considerations. In the early 1970s, the economic situation worsened to the point of reaching unprecedentedly high unemployment rates, resulting in the government's
growing concern to preserve the domestic labour market. In November 1971, the government carried out its commitments to cease issuing work permits to job categories in industry and commerce for unskilled and semi-skilled alien men. There was also a slight reduction in the number of work permits delivered, but no definitive ban in the hotel and catering industry which had always relied on an imported workforce (HC, vol.825, 11/11/71, col.200-202). On the whole, for the period considered, the number of employment vouchers (previous system) was curtailed from 8,500 to 2,700 in 1971 and then to 2,250 in 1972. The reduction was meant to compensate for the sudden increase of vouchers issued to U.K.P.Hs in May 1971. Considerations based on purely economic grounds were mixed with the constant concern of the British government over Britain’s future as an ethnically composite nation. At the end of 1973, Robert Carr stressed the far-reaching consequences this reduction had for the total number of potential settlers admitted to the UK:

In the first nine months of this year 1,053 people arrived with the new twelve-month work permits. In the first nine months of 1970 a total of 3,124 people arrived with the old type of employment vouchers. (...) The much smaller numbers coming this year have, unlike their predecessors, no right of permanent settlement for themselves or their families. This is, as we promised it would be, a dramatic reduction both in number and in future commitment. (HC, vol.865, 6/12/73, col.1472)

Some scholars have contended that the passage of the 1971 Act with its system of work permits implied that British immigration policy had become an economically orientated policy (MacDonald 1972; Sivanandan 1978). Macdonald noted, “this marks a change in status from immigrant to migrant worker” (1972: 54). However, the racially discriminatory character of the policy emerged through the system of work permits. Although the reduction of the total number of work permits delivered by the D.o.E. responded to the fall in labour demand, there were, on the other hand, more fundamental considerations behind the elaboration of the new system. The need, therefore, to hold a work permit derived primarily from the legal status of the immigrant, where the borderline between those needing one and those who were exempted was determined by the key concept of patriality based on a UK ancestry link. While all aliens
needed a work permit to enter the British labour market, Commonwealth citizens were divided into several categories with different duties. Non-patrial Commonwealth citizens without any UK grandparent were only admitted for an initial period of 12 months for a specific job with a particular employer, while those Commonwealth citizens with some remote connection with the UK could get an entry clearance allowing them to work without a work permit.

Discrimination based on colour was even more discernible because the reduction of permits for non-skilled or with low professional qualifications workers principally targeted male immigrants from the Indian sub-continent, especially those coming from Pakistan. In contrast, the large quota allocated to Maltese workers (1,000) was illustrative of the highly selective character of the legislative system that had been implemented (Cf. HC, vol. 818, 26/5/71, col. 381). Similarly, the absence of controls on Irish workers (even before Ireland's accession to the EEC) who were all non-patrial and did not need any work permits nor any entry clearance to be admitted reflected not only the traditional reliance of the British labour market on the Irish workforce but also the clear preference British policy-makers had for "white workers". Despite its high level – there were 739,000 Irish living in Britain by 1966 – Irish immigration was rarely mentioned in political circles and as Freeman (1979) noted, it was not a contentious issue.

Some final comments can be made on the limited parallels between the French and British systems of work permits. In both countries access to the national labour market was determined by a ministerial authorisation delivered in accordance with criteria that became more restrictive over the years. Both systems functioned as "filters" to introduce into national labour markets certain categories of migrant workers and, within the context of the economic crisis and the ensuing recession, they served to exclude other categories according to criteria which, at least in the French case, varied following the economic conjuncture. The combined effect of the worsening of the economic crisis and the rise of unemployment led to the formulation of rules based on a fundamental, but rather vague criterion – "the situation of the
local labour market". Logically, the way this criterion was interpreted gave civil servants of the D.o.E. in Britain and local administrators of the D.D.T. in France more discretionary powers to grant new work permits or refuse their renewal. Hence, according to the instructions received, French administrative structures used the economic situation as a measuring tool to stabilise or decrease at will the number of work permits: 119,649 in 1972, 153,419 in 1973, 64,462 in 1974 and 25,591 in 1975 (Secrétariat d'Etat aux travailleurs immigrés 1977: 54). In Britain, considerations on the capability of British society to "absorb" further immigrants from New Commonwealth countries transpired from the number of work permits delivered: 21,806 in 1973, 19,435 in 1974 and 19,344 in 1975 (Home Office 1978b).

5.1.3 A French specificity: bilateral conventions with sending countries

We saw that both systems of regulating primary immigration lacked a unified set of rules applicable to all foreign workers. While in the British system this derived principally from the concept of patriality as it had been defined in the Immigration Act 1971, in France this characteristic stemmed primarily from the multitude of bilateral conventions concluded with sending countries. These conventions defined the conditions foreign nationals had to meet to gain access to French territory and the criteria for seeking employment with or without work permits. This was an aspect of French policy which had no equivalent in Britain.

Indeed, Britain never considered co-operation with other Commonwealth countries as an essential asset for the regulation of migratory flows. The secretary of State for the Home Office stated: "The immigration policy and rules of any country is [sic] its own affair and it is our experience that other countries not only do not expect to be consulted about these matters but often would prefer not to be" (R. Carr, HC, vol.849, 25/1/73, col.662). The device of bilateralism, which had worked for a certain period at the end of the 1950s prior to the introduction of legislative controls, had not been set up again after the 1965 Mountbatten mission's attempt to revive it, had failed. The strong British concept of parliamentary
sovereignty is certainly a key factor in explaining the reluctance of successive governments to seek the active co-operation of overseas territories in limiting departures towards Britain. In addition, the heavy reliance of the British on the system of entry clearances delivered abroad by British officials certainly accounts for this distrust of any control mechanism that was not managed by them.

In contrast, bilateral agreements were perceived by successive French governments as an equitable and fair method of regulating immigration flows. The active co-operation of sending countries in controlling and, to a certain extent, limiting the emigration of their nationals, was one aspect of foreign policy that French governments carried out abroad. These conventions represented for France a means of maintaining economic and political relationships and asserting its political influence on these countries previously under its control. Sayad (1979) demonstrated that these conventions originated in the process of decolonisation to regulate, in the sense of limiting, the foreign workforce from previous colonial territories, who had up to then benefited from privileged treatment to enter and seek work in France.

Superficially, the device of bilateralism could be analysed as an advantageous instrument for emigration countries to negotiate the entry and settlement of their nationals into France, instead of unilateral conditions being imposed. Furthermore, most of these conventions were based on the reciprocity of treatment, which implied that French nationals seeking entry to these countries would have the same conditions applied to them as those applied to a Moroccan or Senegalese national entering France. However, it is a misperception to consider the reciprocity of conditions as a sign of “equality” between France and labour-exporting countries (Sayad 1979; Lochak 1985). First, during negotiations French governments were in a much stronger position than their counterparts because of their political and economic power. Issues at stake during these conventions often consisted of

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7 See Guimezanes (1987a: 49, 57-58) for a complete list of all the conventions with African countries.
crucial economic deals for these emigration countries and thus influenced the conditions of the agreement (such as commodity markets and economic aid for development). Second, most of these African countries lacked a well-structured and planned immigration policy and legislation, nor did they have a huge influx of French nationals seeking entry and residence in their country. As a result they did not have the same will and legislative devices to implement these regulations on control of immigration.

Agreements with Algeria and other North African countries illustrate this imbalance. During the Giscard d'Estaing presidency, most of the agreements between France and African sending countries were renewed. There were also some new bilateral agreements which provided that, for periods of up to five years (with the possibility of renewal), nationals from these countries needed a ministerial authorisation for a specific job prior to their entry into France. The most perceptible differences between the different bilateral agreements concluded by France with North African and sub-Saharan countries concerned the admission criteria. These in turn affected the legal status of foreign workers who, depending on their nationality and the conditions of the agreement, needed or were exempted from holding work permits. Nationals from Cameroon, Congo, Benin, Niger and Senegal, for example, did not need to apply for a residence card since their work permits were deemed sufficient while, on the other hand, nationals from Central Africa and Togo could be exempted from holding work permits and therefore were authorised to work in any job sector of their choice.8

Consequently, beside the régime de droit commun coexisted a multiplicity of provisions stipulating different criteria to access French territory or to obtain a work permit. This clearly contradicted the initial objectives of the legislation set up in the 1945 text which provided that all immigrants whatever their nationality would be subject to the same immigration controls in the name of the principle that all foreigners had to be treated equally. The situation originated in the Chirac and Barre governments' obligations towards nationals

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8 Conventions with Central Africa (13/8/60, J.O. 24/11/60), Togo (10/7/63, J.O. 17/6/64).
of countries which had a common past with France. The necessity of maintaining economic
links and privileged political connections obliged French governments to reconcile French
interests with those of sending countries.

To conclude, beyond the economic considerations which from time to time dictated
the modification of existing provisions or the issue of new rules, French and British
regulations on primary immigration, whether through quotas, work permits or bilateral
conventions, had a common side-effect. These rules led to an implicit hierarchy of rights and
privileges among foreign workers. In the British case most of the privileges accorded to
certain categories of primary immigrants resulted from the connection these immigrants had
with the UK. In France, the privileges granted to some nationalities (either for their first
access to the labour market, or their renewal of work permits, or the absence of restrictions for
the job sector concerned) testified to the existence of multiple links still connecting France
with certain emigration countries, and to the undeclared intention of giving preference to
people of European descent.

Through the application of the different instruments of British and French policy, there
emerged sub-categories of immigrants with different legal statuses. In the French case, the
different types of instruments made the task of drawing clear cut lines between the different
categories difficult because of the intricacy of the multitude of provisions governing entry
rights, work permits and conditions for sojourn (Bockel 1991). In Britain, the key concept of
patriality allowed the establishment of a hierarchy which clearly discriminated against
“coloureds” as opposed to “white entrants”. They were aliens who by definition were non-
patrial and constituted by far the largest and least favoured group. This group is comparable in
the French system to the group of foreign nationals subject to the régime de droit commun.

The group of Commonwealth citizens was divisible into patrials and non-patrials. It is
within this second group that the racially discriminatory character of the whole system
transpired. Thus, there were five sub-categories subject to different types of immigration
controls: patrial U.K.P.Hs (with unrestricted right of entry and abode, the only group to be
considered as British nationals for EEC regulations), non-patrial U.K.P.Hs (admitted for settlement with special vouchers), patriarchal Commonwealth (unrestricted right of entry and abode but no right to seek work in the EEC), non-patrial Commonwealth with a UK grandparent (no right of abode but might be given entry clearance enabling them to work without a work permit and to remain in the UK), non-patrial Commonwealth without a UK grandparent (work permit needed for a limited period with a specific employer). In addition, another important category was constituted by the citizens of the Irish Republic since they were treated as non-patrial but did not need to hold a work permit or an entry clearance (Grant and Pierce 1973).^9

Both systems provided rules for some specific professional qualifications and contributed to creating further distinctions between immigrants. Thus, specific professional qualifications held by some migrant workers allowed them to be freed from restrictions applied to other categories. In Britain for example, the traditional shortage of staff in the health service exempted foreign doctors or dentists from holding work permits, while in France the situation of the French labour market meant that people with high academic qualifications were never refused entry.

5.2 The French and British systems for limiting secondary immigration

The question of controls over family reunification was probably the aspect of immigration policy and legislation that led to the most intense political debates and controversies on both sides of the Channel. The arrival of dependants implied a stabilisation and an increase in the immigrant population which had profound consequences on the societal structure of the host countries. Despite the fact that many dependants had a "right" to be reunited with the rest of the family, French and British rules multiplied the obstacles to an easy and rapid process of family regrouping. In France, rules for the admission of family dependants oscillated from

^9 See also Böhning (1972a) and Rose (1972b).
liberal conditions to more restrictive provisions. Problems often arose because the French and British legal definitions adopted for immigration law purposes often clashed with different and sometimes opposite cultural and even legal concepts of the family that were predominant in the emigration countries. These differences generated many difficulties for the admission of family members not expressly designated in the British or French rules. In addition, the British rules provided a separate set of provisions to govern the admission of immigrant fiancés and husbands of British or foreign women settled in the UK. In both countries throughout these years, regulations governing entry rights of families were characterised by repeated attempts to deny the existence of any family reunification right.

5.2.1 The absence of any right of family regrouping

In France, from 1974 to 1976 criteria governing family reunification fluctuated according to the different circulaires issued to local authorities by the different ministries in charge of the regulation of immigration (Interior, Labour and Foreign Affairs). More than in any other area of immigration control, French administrative authorities sought to regulate the process of family regrouping through the extended use of circulaires. Like the rules regulating the admission of primary immigration, this kind of instrument, which characterised the whole period under the Giscard d'Estaing presidency, gave local administrators considerable powers to grant or refuse authorisations for settlement to family members.

The spectacular decision in July 1974 to close borders to family dependants through a ministerial circular (C. n.11.74, 9/7/74), imposed such severe strains on families that a second text, a month later, liberalised some of the provisions of the circulaire of July 1974 (C. n.17-74, 9/8/74). It exempted from the ban many categories of immigrants until a year later new
regulations lifted the ban (C. n.17/75, 18/6/75).\textsuperscript{10} These ongoing modifications to the rules on family regrouping clearly testified to the contradictions of French policy in that area. The main ministries concerned were bound by considerations of domestic policy which led them to attempt to preserve the French labour market, to prevent hostile reactions from the population due to the scarce housing facilities and to avoid a general climate of intolerance towards foreigners in areas where there was a higher concentration of immigrant population.

There were also questions of foreign policy which weighed on the issue of new restrictive rules. Although policy-makers intended to maintain political, economic and cultural connections with North African and African countries they also sought the gradual removal of entry rights and privileges for these nationals for obtaining residence cards easily (Two texts issued on November, 30 1974: C. n.20-74 for the admission of Malagasy nationals, C. n.21-74 for the admission of nationals of Cameroon, Gabon, Togo, Chad, Senegal, Niger, Mali, Mauritania, Upper Volta, Dahomey, Ivory Coast, Central Africa and Congo-Brazzaville).

Eventually, in 1976, the G.I.S.T.I., an organisation working in the areas of immigration and nationality laws and practice, applied for the judicial review of several of these circulaires, some of which were invalidated. The government was therefore obliged to issue a new text, a décret, to regulate the process of family reunification. For the first time a governmental text did acknowledge that foreign workers had the right to be joined by their family (D. n.76-383, 29/4/76). However, despite this reform, details to implement the 1976 décret were provided by a circulaire (C. n.7/76, 19/7/76) and an arrêté dated 11/10/76. The government was still using its administrative power to issue rules providing for new conditions on admission, which escaped the control of other authorities (G.I.S.T.I. 1976a).

\textsuperscript{10} The circulaire n.11.74 (9/7/74) stipulated that any new family regrouping had to be refused when the application for family reunification had not reached the O.N.I. by the 4 July 1974. Later in December 1974, another circulaire constituted a temporary relaxation of the July suspension by allowing administrative authorities to consider applications for family reunification where sponsors could justify having decent accommodation on 1 January 1975 (C. n.22-74, 27/12/74). Then in July 1975 an additional text extended the lift of the suspension to Algerian nationals and Africans from sub-Saharan countries (C. n. 19/75, 27/75).
Paul Dijoud's declaration on the governmental policy on family regrouping illustrates the governmental preponderance over this area of control:

Notre politique ne cherche donc en aucune manière à encourager l'immigration familiale. Elle la reconnaît comme un fait. Plutôt que de l'ignorer ou de le refuser, ce qui ne l'empêcherait d'avoir lieu, il paraît plus sage de l'accepter et de l'organiser. (...) C'est pourquoi tout en étant strictement neutre vis-à-vis du projet même de l'immigré, notre politique s'efforce de guider et de soutenir la venue de la famille étrangère, de sa préparation à son installation complète [emphasis is mine]. (Secrétariat d'Etat aux travailleurs immigrés 1977: 72)

When Paul Dijoud was replaced by Lionel Stoleru (a "man of the President" as he was often called), policy on immigration hardened considerably during the last years of the presidency (March 1977 to May 1981). In addition to the series of protectionist measures that the government carried out to restrict the access of primary immigration to the labour market, the process of family regrouping for family members seeking work in France was provisionally suspended for a period of three years. The new décret was designed to prevent, through the delivery of work permits, the settlement of family members and thus reduce the volume of secondary immigration (D. n.77-1239, 10/11/77). Lionel Stoleru defended this restriction on the grounds that:

L'impact de l'immigration familiale ne peut être sans conséquence notable sur le marché du travail et surtout compte tenu de la conjoncture économique. (...) Or la conjoncture économique est aujourd'hui devenue telle qu'un afflux constant de demandes d'emploi nouvelles émanant de personnes de nationalité étrangère, doit être considéré comme de nature à perturber gravement le marché du travail, compte tenu du caractère aigu revêtu par les problèmes du chômage dans l'ensemble du pays. (Stoleru 1977: 14)

One of the immediate negative side-effects of these provisions, was to increase the volume of illegal workers since many family dependants could not afford to live on the head of household's salary only.

Several categories of family members were exempted from the prohibition to take up employment, following specific agreements between France and emigration countries. These were EEC citizens, Algerians, Portuguese, nationals of Congo, Chad, Togo, Djibouti (exemption up to 27/6/78), Laos, Comoro (exemption up to 11/4/78) (C. n.13-77 and n.14-77,
Eventually, the 1977 décret was invalidated by the Conseil d'État which formally recognised the unconditional right for settled immigrants to be joined by their families as a general principle of law:

Les étrangers résidant régulièrement en France ont comme les nationaux le droit de mener une vie familiale normale; que ce droit comporte en particulier la faculté pour ces étrangers de faire venir auprès d'eux leur conjoint et leurs enfants mineurs. (G. I. S. T. I. et autres, C. E. 8/12/78)

In Britain, contrary to France, there were fewer texts governing the admission of wives and children and other dependants for the period covered in this chapter.¹¹ The lack of any specific provision in the Immigration Act 1971 implied that the wife and the children of immigrants who had settled in UK after the entry into force of the 1971 Act, had no entitlement to join their relative. In the absence of a statutory right, the first immigration rules laid down in 1973 and 1974 provided for the many details necessary to implement the 1971 Act: HC79 was applicable to Commonwealth citizens (25/11/73) while HC81 was applicable to EEC citizens and non-Commonwealth citizens (25/11/73).¹² The rules adopted in January 1973 reflected the governmental attitude since it was admitted that a total ban on immigration for permanent settlement was wrong and that instead a reduction of certain forms of immigration would be necessary (R. Maudling, HC, vol. 819, 24/6/71, col. 1584).¹³ A year after the 1971 Act had come into force, the government evaluated its impact on the volume of secondary immigration:

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¹¹ The main reason is that the period covered is much shorter than for France as the Immigration Act 1971 entered into force in January 1973 just one year before other general elections and the subsequent change of majority in parliament.

¹² Two other sets of rules were laid down in January 1973: HC 80 (25/1/73) applicable to Commonwealth citizens and HC 82 (25/1/73) applicable to EEC and non-Commonwealth nationals. These rules provided details for control after entry: regulations on variation of leave to enter or remain and deportation.

¹³ Considering the rules on admission of dependants on a longer period of time, further changes to the law were brought in November 1979, in October 1982 and finally in December 1982. Criteria determining the admission of fiancés and husbands have been modified on several occasions. The first immigration rules laid down in January 1973 were subsequently modified in August 1974, in March 1977, in November 1979, February 1980, October 1982, December 1982 and February 1983.
These dependants of heads of households settled here before the beginning of the year now constitute the major part of Commonwealth immigration. But their numbers are declining and will continue to decline, because since January this year new families are no longer acquiring any entitlement to settle here permanently. We no longer have new families adding themselves at the end of the queue of people with that entitlement to come. (...) I repeat that the number of dependants coming here is declining and will continue to decline. (R. Carr, HC, vol.865, 6/12/73, col.1472-3)

The Ordonnance of 1945 and the Immigration Act 1971 did not provide any specific statutory right of family regrouping nor any explicit criteria for the admission of dependants. This meant that immigrants entering Britain after 1973 did not have an absolute and automatic right to be joined by their family, while in France the droit au regroupement familial was not formally recognised until the end of the 1970s. Hence, in both countries, criteria for admission were stipulated in texts, often passed quickly in parliament and/or issued by administrative authorities (especially in the French case). The criteria for admission raised difficulties because of gaps in the social and legal norms between the host countries’ legal systems and the emigration countries’ values.

5.2.2 Problems of social and legal definitions

Despite official declarations stressing the value attached to the process of family regrouping, French and British rules multiplied the conditions to impede the settlement of family members. Official definitions to determine who was entitled to come to Britain or France as dependants were not always compatible with the cultural norms of the sending countries. The following comment on the existing divergence between the British rules and the culture in the Indian sub-continent also fits the French case:

They [the entry clearance officers] operate at the frontiers of two cultures, applying rules that seem reasonable to British society to people who have different customs, conventions, and, in some respects even a different sense of values. But a main source of misunderstanding stems from widely different concepts of what a family means. (Bottomley and Sinclair 1970: 26)
It was a common feature of French and British systems of admission to define very strictly the meaning of family to determine its extent. To limit the number of persons entitled to come for settlement and/or work purposes, both sets of rules only considered the nuclear family composed of the spouse and the children as dependants with some rights to admission. The concept of extended family as it existed in the Indian sub-continent or in African countries was clearly ruled out. In addition, these regulations set up age limits for the admission of children. According to the French regulations, children over 18 but under 21 were not generally admitted unless they were nationals of a country which had signed the European Social Charter. Thus, Spanish and Portuguese dependants could be admitted up to the age of 21.

In Britain, the cases of unmarried dependants over 18 but under 21 constituted a source of difficulty. More often than not, immigration officers used their discretionary powers to grant or refuse admission in borderline cases. A serious problem was caused by the requirement for proof of the age of some children from the Indian Sub-continent because of the lack of official birth registers. The unavailability of birth certificates led the E.C.Os to employ dubious methods to ascertain the real age of children before making their decisions.

The entitlement of other members of the family, such as grandparents, to join their relatives depended greatly on the position of the sponsor in the UK and France. Since rules on family regrouping only took the nuclear family into account, much power was left to British and French administrative authorities to allow or hinder the settlement of these other members. Thus, British immigration law ignored Indian customary culture where it is traditionally the duty of the eldest son to provide care for his ageing parents. Consequently the admission of parents and grand-parents was granted only if they were over the age of

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14 Immigration rules (HC 79, 25/1/73) stipulated that children over 18 should qualify in their own right but authorised those under 21 to be admitted as members of the family if unmarried and fully dependant. Later in 1979 this second condition was restricted to unmarried daughters only (Cmnd 7750, Nov. 1979).

15 In particular, up to 1982 X-rays (on wrists or other joints) were commonly used to determine age until recent progress in the medical techniques. DNA testing is now used more currently to obtain these results. (C.R.E. 1985).
retirement or in the cases of widowed mothers with no other relatives to turn to. On the other hand, in France, even after 1976 when French rules sought to give effect to the principle that people who live in France were entitled to be joined by their families, the admission of ascendants or other members of the family depended principally on the discretionary powers of the administrative authorities because criteria for admission were generally not known. Proof had to be given that the extended family was living with the head of household and had no other relative to turn to. After the 1976 décret while the right of family reunification was temporarily granted to the spouse and the under-18 children of the head of the household, admission of other members still remained within the discretionary powers of admission officers. At a time of deliberate screening processes to reduce the entry of workers, spouses and children, the admission of other dependants, even those who are old and therefore not a threat to the domestic labour market, nevertheless constituted a supplementary source of immigrants that both British and French governments were not ready to welcome. Fear that these categories might be a burden for the social services, the N.H.S. and the housing facilities, were all invoked to justify the harsh decisions of refusal.

The question of polygamy constituted a further example of the existing incompatibility between French and British legal and cultural norms and those of migration countries. Although both legislations acknowledged the existence of polygamous marriages contracted abroad and valid in the country of domicile, practice showed that the second wife was faced with many obstacles to her admission. In France, cases of polygamy were brought several times before the courts.\(^{16}\) Authorisations for a second spouse to join her husband were often refused on other grounds, such as the lack of sufficient resources or the inadequacy of the accommodation to house a further member of the family.

In Britain, up to 1955 Hindus and Sikhs could have more than one wife. Then, the Indian Hindu Marriage Act (1955) obliged Hindus and Sikhs to become monogamous. As for

\(^{16}\) See the following two decisions taken by the Conseil d'État: Min.Int. c/Bennacer (C.E. 16/5/80) and Montcho (C.E. 11/7/80).
Muslims, they could be polygamous unless forbidden by their national law. For example, Pakistani Muslim husbands were required by the Pakistan Family Laws Ordinance 1961 to register the marriage (which was often rare in a country where formalities for marriage or birth or death were not very strict) and in the case of a second marriage to obtain a prior authorisation from the appropriate authority. As was also the case in France, the practice in Britain showed that the second wife found it difficult to gain admission although McDonald (1972) quoted the case of a second wife admitted for settlement (*Afza Mussarat v. The Secr. of St. for the Home Dept.*, 1972, Imm. A.R. 45).

There were many similarities in the British and French regulations for the admission of dependants, despite the different legal systems. Since this second source of immigration constituted the major source of immigration in the 1970s, it was logical that both French and British policy-makers sought to contain it. This was mainly done through rules which limited the extent of the family as strictly as possible. However, moral considerations and the value attached to the process of family regrouping as a way of stabilising foreign workers were weighed against the political objective of containing further immigration.

### 5.2.3 The procedure for admitting dependants

Most of the differences between the British and French systems of family regrouping emerged through the administration of controls. Whereas Britain relied on the system of entry clearance delivered abroad, France tolerated the development of an anarchic process of family regrouping and regularised those who had entered without prior authorisation. Moral considerations played in favour of the admission of family dependants to France, even though rules stipulated by the ministerial authorities were far from tolerant. The result of these differences was that the strict controls exerted by the British led to a significant reduction of the levels of secondary immigration, whereas this was not the case in France.
From the end of the 1960s onwards the British system relied on a complex set of checks in the emigration country before granting any authorisation of settlement for family dependants. The Wilson Committee (House of Commons 1967) which had been in charge of examining the value of the entry clearance system, declared that it was opposed to its compulsory application to Commonwealth citizens.\(^ {17} \) Although in the first instance the government of the day had agreed with the committee's recommendations, it had then decided to extend this compulsory procedure to all dependants of Commonwealth citizens. It was argued that these procedural requirements had a twofold advantage. They would avoid refusal of entry to dependants who had already arrived at ports of entry in Britain and would therefore ease the implementation of immigration controls at ports of entry. But as J. Evans noted “the result may represent little more than a shift of the administrative difficulties at [sic] an earlier stage in the decision making process” (1983: 126).

From then on, a complex system of prior screening of relatives wishing to join their sponsors in the UK was implemented in the main emigration countries. The E.C.Os, under the responsibility of the Foreign and Commonwealth Office operated thorough investigations to examine accurately claims of relationship before delivering an entry clearance. Difficulties arose in proving the identity and the relationship of the family dependants with the sponsor in the UK. Thus, the unavailability of some personal documentation required to satisfy immigration officers increased the grounds for the refusal of an application. The extraordinary delays in issuing entry certificates as well as the use of openly discriminatory and often oppressive methods of investigation constituted many obstacles to the reunification of families (Hartley 1976). The negative effects of the procedure have been discussed at length (Runnymede Trust 1973; House of Commons 1978; C.R.E. 1985). Certainly this mandatory system of entry clearance contributed to a net decline in the number of dependants admitted to the UK.

\(^ {17} \) The Wilson Committee in particular declared: “The great majority of aliens (...) are free from the visa requirement [and] it would be out of question to impose on Commonwealth citizens the same requirement under another name” (House of Commons 1967: para.70, quoted by Bevan 1986: 164).
In the French case, there was never any similar system to select family dependants entitled to come for settlement and restrictive procedural requirements to admit dependants were only introduced in 1976. Prior to that date, except for the period when family reunification had been suspended (9/7/74 until 2/7/75), circulaires and internal notes issued by the ministry of the Interior and the ministry of Labour to local administrative authorities specified the procedural requirements to be met. In practice, many families entered French territory with tourist visas and overstayed their permitted time. Once in France they had their situation easily regularised because the administrative authorities found it was morally unacceptable to expel family members once they had been reunited with the heads of household. It meant that the settlement of families largely escaped the control of the administrative authorities.

The 1976 décret was intended to remedy the negative consequences of the process of family regrouping (D. n.76-383, 29/4/83). The new provisions still allowed the procedure of post-regularisation and introduced procedural requirements similar to the British ones. The new rules required the families to have their authorisation for family regrouping granted in their home country through the intervention of the administrative structure of the O.N.I. at points of departure. Alternatively, if the family had already arrived on French territory, they had their situation regularised a posteriori. The regulations also required the families to apply once and for all to be reunited with the head of household. No partial regrouping, where for example some children might remain in the country of origin, was allowed except under exceptional circumstances (medical purposes, educational purpose, etc.). This contrasted with the British rules where similar provisions were adopted much later.¹⁸

¹⁸ It was only in 1977-78 that the Select Committee on Race Relations and Immigration recommended for the first time in the particular case of children remaining in the Indian sub-continent that they should join their father in UK as early as possible if the intention of the family was to settle in the UK. The Committee stressed: "It is highly desirable that these children should spend their formative years in the UK and should avoid the traumatic experience of being admitted totally unprepared for British secondary school education and teenage society. (...) It may well be necessary on social grounds to adjust the immigration rules in the future to ensure children are only admitted if they are below school age" (House of Commons 1978: para.142). Although the aim of the recommendation might be justifiable in the interest of the children, the implementation of such rules would inevitably lead to distress for immigrants and a greater deal of discretionary powers for immigration officers when assessing individual circumstances to admit children above the age of twelve.
There were other conditions that the sponsor and the dependants had to satisfy to come to France or Britain. In the first country, the length and the stability of the sponsor’s stay in France (at least a year of residence) conditioned any successful application for family regrouping. In addition, his financial resources were scrutinised (he was required to hold a full-time regular job with a minimum wage to be able to maintain the whole family) and material conditions for accommodating the family were also examined by local administrative services (the requirement for “decent” accommodation). By contrast, the criteria to be satisfied by the dependants were not particularly strict: their presence in France should not be a threat to the public order and they had to undergo medical controls before their departure to ensure that their presence would not constitute a threat to the public health.

Like the French rules, the British regulations gave fundamental importance to the financial aspect of the process of family reunification. The British provisions insisted that the sponsor be able and willing to support and accommodate his dependants without any recourse to public funds. However, unlike in France where family members could be refused entry on the ground of public health or threat to public order, the British regulations only required family members to produce a valid entry clearance for their admission.

Although both systems provided comparable conditions that the sponsor and his dependants needed to satisfy to be admitted – sufficient financial resources, adequate accommodation, regular and long-term work contract for the sponsor – most of the differences between the French and British regulations concerned the procedural requirements for family regrouping. The following two statements illustrate the important differences in the way French and British thought about their systems of controls on family members:

The Government have been concerned with the situation that arises from the prolonged examination at London Airport and other places of arrival of the dependants of Commonwealth citizens whose credentials for settlement in this country need detailed

19 The expression “decent accommodation” was not defined in the early texts. This allowed some mayors to refuse authorisations for family regrouping.
investigation, sometimes spread over several days. We have decided that it would be more humane and lead to improved efficiency if those who have claim to settle here have their cases scrutinised and decided before they set out on their journey. (HC, Official Reports, 1/5/69, quoted by C.R.E. 1985: 18)

Conforme à notre politique, le respect de la libre décision de l'immigré pour la venue de sa famille résulte de deux constatations. La première réside dans l'impossibilité matérielle et morale d'empêcher les familles étrangères de s'installer en France, si elles le désirent [emphasis in the text]. (...) En face d'un tel processus, le contrôle, au moment de l'entrée sur le territoire, ne peut que laisser passer la famille; [emphasis is mine] s'il s'opposait à ce passage, il ne pourrait qu'apparaître arbitraire et contraire aux nécessités de la libre-circulation. (Secrétariat d'État aux travailleurs immigrés 1977: 71)

It resulted from all the conditions presented above that the admission rates to Britain and France differed considerably. Figures for the period concerned give an idea of the respective volumes of secondary immigration to France and Britain. These statistics relate to the numbers of family dependants entering Britain or France for settlement purposes and do not cover people who entered for temporary visits and were subsequently accepted for settlement. In Britain, the figures include citizens of Old Commonwealth countries, of New Commonwealth countries (including Pakistan) and foreign nationals as well as U.K.P.Hs for 1973. In France, entry of Algerian dependants is recorded separately.

<table>
<thead>
<tr>
<th>YEAR</th>
<th><strong>FRANCE (a)</strong></th>
<th><strong>BRITAIN (b)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Algerians (c)</td>
<td>All other nationals</td>
</tr>
<tr>
<td>1972</td>
<td>4,054</td>
<td>74,955</td>
</tr>
<tr>
<td>1973</td>
<td>5,421</td>
<td>72,647</td>
</tr>
<tr>
<td>1974</td>
<td>5,663</td>
<td>68,038</td>
</tr>
<tr>
<td>1975</td>
<td>4,249</td>
<td>51,822</td>
</tr>
<tr>
<td>1976</td>
<td>5,832</td>
<td>57,374</td>
</tr>
</tbody>
</table>

Source: (a) Secrétariat d'Etat 1977: 74
(b) Home Office 1978a: 25
(c) O.N.I., quoted by Weil 1995a: Annexe VIII
(d) Include U.K.P.Hs

See also Campbell-Platt (1976) for more statistical details on the volume of immigration for settlement in Britain.
5.2.4 A British peculiarity, the sub-category of fiancés and husbands

The admission of fiancés or husbands of women settled in UK was governed by separate provisions. It is a specificity of the British system which has no equivalent in the French rules. Although Bevan contended that this category of entrants was perceived from the government’s point of view as primary immigration (Bevan 1986: 246), rules governing their entry are presented here. They are considered as a sub-category of dependants because their entitlement to come to the UK depended to a great extent on the legal position of the sponsor they wished to join. Rules governing their entry and settlement reflected the fear the Heath government (as well as its successors) had of this source of immigration, for it constituted a more or less large pool of migrants wishing to take up employment in Britain.

The controversy over the admission of fiancés and husbands has its origins in the system of controls introduced in the late 1960s. It revealed a cultural difference between the British and Asian concepts of marriage and more precisely, a constant wariness on the part of British officials towards the Asian tradition of arranged marriages. Many marriages between men from the Indian sub-continent and women settled in the UK were perceived by British officials as a way to secure settlement in the UK (Bottomley and Sinclair 1970). However, even if the Labour government already believed in 1969 that marriage was a way for some Commonwealth citizens to secure settlement, no reliable figures were ever put forward to measure the level of abuse (Bevan 1986). Moreover, British officials had wrongly assumed that these women, mostly of Asian origin, would follow their husband to his home country and not remain in the UK.

Until 1970 Commonwealth husbands and fiancés could be refused entry only on certain specific grounds (medical grounds, grounds of criminal record and security reasons). The 1970 Instructions to Immigration Officers increased the probability of refusal since they provided that Commonwealth husbands and fiancés could be admitted only under special
circumstances, where their exclusion would be undesirable. It was mainly a matter of
discretionary powers. As for alien husbands and fiancés, they could only be admitted if their
wife was a British-born subject who had lived all her life in Britain. Nothing was explicitly
stated in the Immigration Act 1971 about the right of spouses to join their relatives in Britain.
Therefore the 1970 rules continued to be applied, except to aliens, whose position was made
identical with that of Commonwealth citizens in 1972.

French regulations did not make the same distinction as the British did, between a
female or a male applicant joining her/his spouse, nor were there any specific rules concerning
the admission of fiancés. Instead, there existed distinct provisions according to the nationality
of the sponsor wishing to be joined by his/her partner. Hence a foreign spouse married to a
French national had an automatic right to be reunited with his/her wife/husband without
having to meet the criteria set by the 1976 décret. This constituted an important difference
from the British system where the rights of the spouse were conditional upon the legal status
of the sponsor (possession of British citizenship and the status of patriality). As for other
nationalities, much depended on the bilateral agreements that had been concluded with France
(mainly for Algeria and sub-Saharan countries). These conventions set up preferential regimes
for those nationals, who either could come directly with their families or could easily obtain a
subsequent authorisation for family regrouping.

Some last comments need to be added to the comparison of the French and British
systems of family regrouping. It is in the daily administration of controls on family
regrouping that the most fundamental differences emerged between the British and French
systems. Basic criteria governing entry of family members provided by the British rules
seemed far less demanding than the French ones. However the British system of compulsory
entry clearance for certain categories of immigrants proved to be an extraordinary barrier that
curbed the process of family regrouping. It created huge delays in the Indian sub-continent
and waiting-lists of years sometimes.
The French regulations on family regrouping were at first less systematic than the British ones and provided more grounds for refusal. In addition because of the lack of "official rules" (in the sense that up to 1976 family reunification was mainly organised through circulaires), the process of family reunification was never a right and fluctuated regularly according to political circumstances (suspended in July 1974 then re-authorised in June 1975, formally recognised in 1976, suspended again in 1977 and then re-authorised under new conditions in 1977).

Most of these rules had their roots in the practice established under earlier governments. Indeed in Britain the system of entry clearance set up in 1969 continued to be applied more firmly than ever. E.C.Os following the instructions received from the Home Office were zealously intent on slowing down the entry of more migrants seeking settlement in Britain. In France in the absence of a proper system, in the sense of a legislative system, of control on family reunification, the admission of family members remained within the administrative sphere of influence as had been the case during the previous decades.

Finally the regulations on family regrouping bore the weight of contrasting considerations. In France there were, on the one hand, official policy objectives which sought to reduce the overall volume of immigration and on the other hand, the search for social and racial harmony with the intent that family regrouping should stabilise that part of the migrant population which had decided to settle permanently. In Britain, it was rather a problem of honouring commitments towards the two main categories of immigrants; those long-term immigrants who had arrived before the implementation of the 1971 Act and wished to call for their families and the U.K.P.Hs who had the right to settle in Britain with their families.
5.3 *General synthesis*

To compare the evolution of the rules governing entry of migrant workers and their families, some general observations can be made on the type of immigration controls practised by the French and British, mainly a mixture of qualitative and quantitative controls. In parallel, it has been observed that both sets of regulations had in common a progressively increasing severity towards the admission of newcomers. This increasing rigidity was accompanied by an extension of the most severe criteria to more and more categories of immigrants according to a phenomenon designated here as a "process of vertical levelling down". Finally, it is worth noting that the predominance of the governmental structures in stipulating new conditions for gaining access to Britain and France meant a consequent decrease of parliamentary powers as well as a constant increase of administrative discretionary powers at the expense of immigrants' rights.

5.3.1 *Quantitative and qualitative immigration controls*

Following Bevan's classification of the different types of immigration control: qualitative control, quantitative control and complete ban, some observations can be made on the French and British systems of controls (Bevan 1986). In the French case, the first important measures for regulating primary and secondary immigration consisted initially in a total ban of workers and dependants – albeit one which was defined as temporary – followed by a mixture of qualitative and quantitative controls more similar to the British situation. In Britain, qualitative controls took the form of the exclusion of certain immigrant populations on the grounds of "race". The concept of patriality was a blatant example of the use of the criterion of race to favour the "white" population of the Old Commonwealth at the expense of the bulk of "coloured" immigrants coming from New Commonwealth countries. In France, qualitative controls consisted in the selection of some nationalities for privileged treatment with regard to
entry. That was the case for Spanish and Portuguese immigrants, as well as Algerian nationals to a certain extent.

On the other hand, quantitative controls took either a direct or an indirect form. In Britain, a clear example of this type of control was the use of quotas determined on an annual basis to admit U.K.P.Hs. It gave the government the undeniable advantage of mastering the rate of immigration by deciding the rate of admission for a determined category of immigrants in advance. In a similar way, the system of quotas for admitting Algerian workers gave the French authorities a certain main mise on this type of immigration. In both cases, the adoption of a system of quotas is connected with the special obligations the French and British governments had towards populations previously under colonial rule. It is no coincidence that the system of quotas prevailed over other types of immigration control, for it allowed the British and French administrative authorities to contain these sources of immigration while honouring their commitments towards the populations of the countries in question, which in the name of the past could not be subjected to the same treatment as other categories of immigrants.

Quantitative controls in their indirect form were more related to the way administrative measures were implemented. In the British case, the system of entry clearance used to process applications for family regrouping in the Indian sub-continent proved to be a formidable tool in the hands of the E.C.Os to ease or impede the rate of admission. The rate at which applications were processed, the number of E.C.Os employed overseas, the standard of proof required when producing documents, the pressures exercised on the sponsor, etc., all constituted supplementary barriers to curb the rate of immigration. Similarly, the way French administrative authorities dealt with applications for work permits and residence cards constituted a clear example of the use of discretionary methods. Depending on the instructions received by the ministry concerned, local administrative authorities acted in compliance with these instructions, to ease the procedure or impede the process of family regrouping for example.
5.3.2 The process of vertical levelling down

Simmonds observed that the Immigration Act was “complicated and ambivalent because it seeks to rationalise and justify an extension to Commonwealth immigrants of restrictions derived from earlier aliens legislation” (1972: 314). Rose designated the evolution of the conditions for immigration control as a “levelling down” of the criteria applied to Commonwealth citizens to those previously applied to aliens (Rose 1972: 30). The concept of “levelling down” implied that the conditions of admission of Commonwealth citizens would worsen since the most severe rules previously only applicable to alien entrants were extended to them.

In the French case, a comparable phenomenon could be observed for the period under study. There was a progressive reduction of the privileged treatment that Algerians and nationals of sub-Saharan countries enjoyed for their access to French territory. Over the years, the advantages that those nationals enjoyed for purposes of entry, work or settlement in France because of their régime particulier, were progressively removed and their situation became more and more similar to the régime de droit commun. According to Peirot (1976) out of two million immigrants working in France, there were 800,000 workers whose status was governed by specific rules (régime particulier) while those under the régime de droit commun were 350,000 workers with a card C, 200,000 with a card A and 6 to 700,000 with a card B (these figures exclude illegal workers).

When the concept is further elaborated, this process of “levelling down” could be more properly designated as a “vertical levelling down” to suit the French and British cases. The hierarchisation of the nationalities observed in the French case or legal status following “race criteria”, which was predominant in the British system, can be visualised as a pyramid built with the several categories of immigrants classified according to their entry rights: from the most favoured immigrants (at the top of the pyramid the smallest category enjoying more rights and subject to few restrictions) to the least favoured (at the bottom of the pyramid the
largest category enjoying fewest rights and subject to more restrictions). Over the years a gradual “flattening” of the pyramid could be observed because of the systematic evolution of the legal rules on control on entry (but not only on entry, it also concerned other aspects of immigration control such as the delivery or renewal of residence cards and work permits). Thus, provisions differentiating immigrants evolved gradually into provisions unifying the different categories of entrants in a restrictive sense.

The phenomenon of “vertical levelling down” constituted a mere reflection of the dilemma with which French and British policy-makers were faced during these years (already described in the previous chapter). The dilemma can be briefly recalled as an opposition between, on the one hand, the political determination to disentangle immigration policies and consequently immigration regulations from the colonial past and therefore to abolish the regime of special and privileged connections granted to some nationalities, and on the other hand, the need to honour remaining commitments towards some populations for reasons of foreign policy (as in the case of U.K.P.Hs in Britain, or Algerians in France).

5.3.3 The predominance of the governmental structure

The British and French systems of control shared a marked characteristic which was also dominant in other systems of immigration regulation. The preponderance of the executive over the legislative domain in that area of public policy and legislation was a clear indicator of the autonomy of the executive. Although the autonomy enjoyed by the governmental sphere to regulate control on entry varied to some extent from one country to the other, the importance attributed to secondary legislation left the French and British parliaments with very few powers to control the elaboration of the rules. The differences between the two systems stemmed from the role the administrative and political institutions played and from the type of legal system.

Despite the statutory basis of immigration control contained in the 1971 Act, the text only contained very general powers, a “legislative skeleton”, for the control of entry (Grant
and Pierce 1973; Vicenzi and Marrington 1992). The 1971 text laid down the basic structure of the new legislation on immigration while the immigration rules were designed to govern the operation of these provisions.\textsuperscript{21} It is an important aspect of the British system of immigration control that most of the detail of the law was contained in non-statutory rules. These rules provided the basis for thousands of decisions of admission taken on a daily basis abroad at points of departure and at ports of entry in Britain. Over the years the number of immigration rules made and published by the Home Secretary increased up to the point of constituting the second main source of legislation on immigration (Marrington 1986; Juss 1993).

In France, the importance of the secondary legislation for regulating entry grew over the years principally because of the lack of any updated statute on immigration control. The 1945 text provided the basic rules that defined the legal conditions for entering and settling in France and was not modified until 1980. To compensate for this “legal vacuum”, successive governments regulated immigration through ministerial \textit{circulaires} and internal notes to administrative authorities.\textsuperscript{22} In the mid-seventies many commentators began to denounce the way immigration policy was implemented through rules often without any legal authority (Simon-Depitre 1975; Costa 1976; Lyon-Caen 1976; Bonnetête 1979; Wisniescki 1978; Bonnechère 1979, 1980). Costa described as follows the system that was then prevailing in France:

\begin{quote}
Alors qu'une politique de l'immigration est mise au premier plan des préoccupations nationales, aucun ensemble cohérent n'a encore été promulgué (...). C'est au travers de textes administratifs, de circulaires souvent non publiées, d'arrêtés et de communiqués de la Préfecture de Police, qu'il faut essayer de discerner les solutions prescrites. (1976: 2)
\end{quote}

\textsuperscript{21} See glossary for the Home Office's definition of the immigration rules.

\textsuperscript{22} According to articles 37 and 21 of the 1958 Constitution, the government and its ministers are competent to draw up rules (provided they fall within some pre-defined domains), to instruct administrative authorities on how to interpret a text or to implement details of existing legislation. The multiple \textit{circulaires} issued during these years were supposedly providing details on how to implement or interpret the 1945 text or the texts of the bilateral conventions on immigration.
In both systems, the extensive use of secondary legislation to regulate immigration had far-reaching consequences. Firstly, it implied that ministerial authorities retained important discretionary and sometimes even arbitrary powers to issue new provisions or modify existing conditions impinging on immigrants’ rights. The use of immigration rules in Britain and *circulaires* in France to regulate entry rights (as well as other areas of immigration law) meant that their content was easily altered to meet new circumstances and that they were not always published. The governmental prerogative over that area of regulation extended to lower-level administrative authorities in charge of the implementation of immigration control. British immigration officers, whether abroad or at ports of entry, and French local administrators (in the *préfectures*) and the *Police de l'air et des frontières* benefited from extensive discretionary powers to refuse or grant admission, renew residence cards and deliver work permits in accordance with the instructions received. Secondly, through the use of delegated legislation, French and British ministers were given a way to evade the control of parliament and to avoid the lengthy legislative procedures usually adopted to enact statutes (Baldwin and Houghton 1986). The quasi-exclusive governmental *main mise* excluded British and French parliaments from any control over the implementation stage. Once issued, these provisions could only be reviewed by the judiciary when cases were brought before courts.

In France most of the texts regulating entry rights were drafted within departments of the ministry of the Interior and the ministry of Labour. Because of the lack of any parliamentary control when these rules were defined, the parliament was denied any power of constraint on the governmental authorities to alter or repeal them. However, from the mid-1970s onwards, the highest administrative court, the *Conseil d'État*, carried out repeated judicial reviews of the *circulaires* and *décrets* governing immigration control. The weight of its decisions limited governmental autonomy in that area. Some of the rules were invalidated on the ground that these texts originated from ministerial authorities who were incompetent to issue them. Indeed, ministers had abused their powers to issue instructions to the administrative authorities under their direct supervision. In many cases, these texts not only
instructed civil servants on how to interpret particular provisions but also contained new measures, which sometimes were clearly inconsistent with the main texts governing immigration (Ordonnance of 1945 and bilateral agreements between France and emigration countries).

Thus, in November 1978 the Conseil d'Etat condemned the governmental practices in three famous decisions, which declared some of the main circulaires on immigration control to be partly or entirely void. The decisions applied to the text which suspended the immigration of workers (C. n.9-74, 5/7/74, secrétariat d'Etat auprès du ministre du Travail), several provisions restricting family regrouping (C. n.11-74, 9/7/74, C. n.17-74, 9/8/74 and C. n.22-74, 27/12/74, secrétariat d'Etat auprès du ministre du Travail), and the one forbidding the regularisation of the situation of foreign workers who had entered France as tourists and had subsequently found jobs (C. 26/11/74, ministère de l'Intérieur et secrétariat d'Etat auprès du ministre du Travail). In December 1978, the supreme court also invalidated the 1977 décret (D. n.77-1239, 10/11/77) that authorised the entry of family dependants on the condition that they would not take up employment. In general, grounds for invalidation stressed that ministers had taken new measures whose scope was too general or had modified provisions already existing and therefore had added details to the previous legislation. By doing so they had abused powers conferred on them by the constitution. The final comment made by Bonnetête clearly summarised the importance of these decisions:

L'intérêt de ces décisions du Conseil d'Etat ne réside pas tant dans leurs conséquences concrètes et immédiates sur la situation des travailleurs concernés que dans le coup de semonce qu'elles représentent vis-à-vis d'une pratique qui tend à se généraliser. (1979: 56)

These judicial decisions represented an important step forward to protect immigrants' rights and consequently restrained governmental methods. However, the texts remained in force for some time before their invalidation. Ministerial authorities, aware that it was illegal to use

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these procedures to regulate areas which should have been governed by statutes, knew about the lengthy delays in the process of judicial review and felt safe for a certain period (Verbunt 1980; Weil 1995b: 86).

In Britain, unlike the French case where parliament was completely excluded from the drafting of circulaires, the 1971 Act allowed parliament to express disapproval of the immigration rules made under the statutory authority of the 1971 text through a negative resolution within 40 days of their being laid down, thus forcing the government to lay down a new set of rules. However, despite their rejection, the rules were still enforceable until new ones had been approved and, as in the French case, notwithstanding the "irregularity" of the situation created by the rules, the delays imposed by the procedural requirements for their invalidation constituted a clear example of the preponderant role played by the executive. Finally, parliament enjoyed even less power to control the issue of administrative guidelines given by the Home Secretary to immigration officers and the quota of work permits modified from time to time by the ministry of Labour and announced in parliament without any possibility for the opposition to intervene (Sachdeva 1993: 31).

The infringement of immigrants' rights came from the discretionary powers held by the Home Secretary in Britain and the minister of the Interior in France for the implementation of the regulations. The often late publication of important regulatory texts or even the absence of publication as well as the swiftness of ministerial authorities in issuing new rules were common features of the British and French systems of delegated legislation infringing immigrants' most fundamental civil liberties. Up to 1971, the British governments were under no obligation to publish the rules governing control of immigration. After 1971, the mandatory publication of immigration rules represented an important step forward to eliminate any secrecy from this area of law.

24 By 1967, the General Instructions (as they were called, the term "rules" was introduced with the Immigration Act 1971) issued by the Home Secretary to immigration officers amounted to nearly 400 pages. These guidelines instructed immigration officers on how to carry out their duties (Juss 1993).
However, it soon became clear that, despite their presentation in parliament, most of these rules often came into force the day or few days after their presentation to parliament and consequently were made known to the public after they had come into force (for example the set of immigration rules on admission with a visa) (White 1987). Besides the immigration rules, confidential instructions given by the Home Secretary to immigration officials continued to be issued and remained unpublished (Gordon 1981; Baldwin and Houghton 1986; Juss 1993). This set of unpublished informal instructions and internal circulars has often been criticised: "It is the third tier – the hidden agenda – which spells out in detail to the subordinate official the circumstances in which he may, for example be ‘satisfied by an application’" (Marrington 1986: 274). Gibson (1971) raised questions over the extensive discretionary powers enjoyed by the Home Secretary in particular in relation to the administration of the control, claiming that the absence of any right of appeal in many circumstances (in cases of deportation for “public good” or in case of non-admission of overseas students on the grounds that their English was too poor to follow a course in Britain) added to the arbitrariness of British immigration controls (See also Hepple (1971) on the Dutschke case).

In France, the publication of circulaires only became compulsory in 1978 (L. n.78-753, 17/7/78) for the texts that interpreted an act or described an administrative procedure. In practice, as in Britain, many internal notes and guidelines issued by ministers to the different administrative authorities in charge of immigration control still remained unpublished.25 Prior to 1978, in comparison with the use of immigration rules in Britain, the absence of publication of the many circulaires applicable to immigrants resulted in belated communication to those who discovered them at the moment of their implementation. This weakened the already precarious legal position of many immigrants since they could not claim to have any right to the delivery of a work permit or a residence card (Distel 1977). For example, criteria for

25 L. n. 78-753 portant diverses mesures d’amélioration des relations entre l’Administration et le public et diverses dispositions d’ordre administratif, social et fiscal (J.O. 18/7/78).
delivering the administrative authorisation granting family reunification or those determining the conditions that must be satisfied in order to be regularised remained somehow secret and constantly under change.

During these years, the French administrative authorities enjoyed extensive powers to interpret many internal texts according to variable external circumstances, such as the labour situation in the area where the authorisation for family members to work was applied for, or the definition of "normal conditions" for suitable accommodation for the family dependants joining the head of household. Thus, Lochak (1988) noted that the stylistic devices used in the circulaires or internal guidelines were helpful indicators for local administrators on how to interpret the ministers' intentions even if the texts did not spell out detailed instructions. Key concepts such as ordre public, santé publique or conditions such as "decent accommodation" were not explicitly defined and could be interpreted at will according to the circumstances (A. Evans 1980).  

These rules were easily and rapidly altered, thus allowing governmental authorities to implement subtle and less subtle changes in immigration control. The swift changes introduced generated instability as well as a sense of insecurity since immigrants could not invoke permanent legal rules as a firm guarantee to secure their rights. The exemption from a visa or its requirement was a classic example of change in the control of entry stipulated by immigration rules. Two sets of rules on visa requirement were issued in Britain in 1973. One set exempted nationals from Iran from the requirement to produce a visa to gain admission into UK (HC 73, 15/6/73), while the other set required nationals from Pakistan to produce a visa to enter the UK following the withdrawal of Pakistan from the Commonwealth after Britain's recognition of Bangladesh (HC 437, 1/10/73).

26 In Britain for example the term "public funds" used as a determining criterion to assess whether dependants could be admitted or not, was not formally defined until 1985 when the immigration rules stated: "For the purpose of these rules the term 'public funds' means Supplementary Benefits, Housing Benefit, Family Income Supplement and housing under the Housing Homeless Persons Act 1977" (HC503, para.1, quoted in Morris 1998: 956).
Hence the immigration rules represented a rapid “technique” used by the Home Office to establish new regulations in response to rapidly evolving situations (Baldwin and Houghton 1986). New circumstances were created by a combination of domestic or international events which had an impact on immigration flows, such as political or economic crises, wars or natural disasters. The lack of recourse to legislation implied that to formulate and implement its immigration policy the government avoided the “full rigour of the democratic process” (Marrington 1986: 272). The procedure for laying down these rules was not as heavy as the whole process for enacting statutes. Similarly, in France the use of circulaires as the main “legislative technique” for the French governments to introduce new criteria rapidly or to modify existing criteria constituted many breaches of the legal system. Soon the regulation of immigration was characterised as the domaine du non-droit ou de l’infra-droit (Lochak 1976; Nguyen Van Yen 1986; Guimezanes 1987a). Lochak in particular was one of the first to define l’infra-droit:

La règlementation applicable aux travailleurs étrangers est complexe, touffue, malconnue, changeante; mais elle existe. Si l’on dit que les travailleurs immigrés se trouvent dans une situation d’infra-droit, c’est parce qu’en raison non seulement du contenu de ces textes, mais aussi de leurs conditions d’élaboration et d’application, ils ne confèrent aux travailleurs immigrés ni droits dont ils puissent se prévaloir, ni garanties contre l’arbitraire des autorités administratives. Leur situation est tout sauf une situation juridiquement protégée. (1976: 44)

French and British officials justified the use of secondary legislation to control immigration on the grounds that these norms had the advantage of flexibility, adaptability and rapidity over other types of legal norms in an area subject to many changes. It has been stressed that “this flexibility is not however an unmixed blessing” (Juss 1993: 161). In comparison with the British case, the French situation during these years appeared much worse for it was an “institutionalised” system that prevailed in breach of constitutional law,

27During the last conference on desertification, held in Nairobi in August 1995, experts talked about a new category of refugees designated as “environmental refugees”, people forced to leave their country because of some natural disaster. They represent 25 Millions people all over the world which is much more than the “classical” refugees (economic or political refugees), about 18 Millions (Le Monde, 7/10/95).
administrative law and civil liberties. The French used them as long as it served their purpose when neither the judiciary nor the parliament could exercise a proper control over them.

To conclude, to serve the purpose of control both systems of immigration law adopted many varied legal norms often described as a "confusing melange" (Juss 1993: 150). While the British system of legal regulation for immigration law was composed of a "mixture" of statute law, delegated legislation and administrative rules, French governments and administrative authorities used ordonnances, lois, décrets, circulaires and notes internes of different legal authority to regulate entry control as well as other aspects of immigration. The absence or quasi-absence of controls over this body of rules undermined the immigrants' position in the host country and occasionally made their legal status particularly vulnerable. The sense of security normally provided by any formal set of legal rules was often compromised since many criteria contained in these regulations infringed fundamental civil liberties. Secondary legislation as it was used and abused by French and British officials likewise testified to a great degree of discretionary powers in the administrative practice of immigration control, which often degenerated into arbitrariness. "The twin features of modern immigration control are administrative discretion and administrative secrecy" (Robertson 1989: 315, quoted by Juss 1993: 86).

When the Left took office in 1974 in Britain and in 1981 in France, their governments were committed to making decisive changes in the area of immigration controls in contrast with the policy of their predecessors. The study of the third period of immigration policy analyses the series of positive reforms on immigration that the Labour and Socialist governments formulated during their first years of office (1974-1976 in Britain, 1981-1983 in France). As in the previous electoral campaigns, the immigration and race relations issues did not reveal fundamental cleavages among the political elite and on the contrary these issues were even less debated than in 1970 (Britain) and 1974 (France). The few electoral pledges put forward by the French and British candidates did not reveal any original approach towards the question of immigration nor specific proposals to modify the existing system of immigration control (section 1). However, once in office, the newly elected governments showed their intention to devise a policy that would constitute a clear break from the measures adopted under their predecessors (French case) or at least to adopt a softer approach towards the whole question of immigration controls and race relations (British case). In France, among other provisions, the previous Loi Bonnet was repealed by a new act, which granted rights to certain categories of settled immigrants, while in Britain the immigration rules on the admission of fiancés and husbands were modified in a liberal way and the number of vouchers granted to U.K.P.Hs was substantially increased (section 2). In addition to these reforms a more widely publicised decision taken by Labour and the Socialists was to grant a political and legal amnesty to illegal immigrants (section 3).

6.1 Labour (1974) and the Socialists (1981): from opposition to power

Immigration and race relations were not central issues that the major parties addressed during the electoral campaigns. Rather, on both sides of the Channel the state of the economy and the
remedies designed to cure the long-lasting recession dominated the political debates and received full coverage in the manifestos and other types of electoral documents. In France, as in 1974, the immigration issue was not a major theme that candidates for the presidential post developed at length in their electoral pledges. In response to the growing anxiety of the French, the solving of the economic crisis appeared to be the main issue at stake, while the question of immigration control and the presence of the immigrant population was tackled only briefly by each candidate (Jaffré 1982: 9).

Valery Giscard d'Estaing, the outgoing president and the main candidate of the Right, chose to address the question of immigration within his programme on employment. His electoral pledges, developed in seven main points of action, stressed that immigrants should be encouraged to return to their home country (financial help would be increased) but he also insisted, albeit with less emphasis, on the need to adapt the regulations to the foreign workforce:

Il n'est pas question de chasser brutalement de France des hommes qui ont travaillé à nos côtés. Mais il faut continuer à arrêter les nouvelles arrivées et inciter au retour dans les pays d'origine. (…) Le nombre des travailleurs immigrés peut être réduit de plusieurs centaines de milliers en quelques années. (Le Monde, Dossiers et Documents, mai 1981: 80)

For him, the question of immigration was still related to the wider economic context and because of the lasting economic recession, his proposals questioned the legitimacy of the permanent presence of immigrants in France. Giscard d'Estaing's electoral pledges constituted a mere repetition of the two main aspects of the policies carried out from 1976 onwards: the strict application of the suspension of entry for migrant workers and the implementation of a programme of voluntary repatriation to reduce the numbers of foreigners. By contrast, the proposals of the RPR candidate, Jacques Chirac, on the immigration issue were rather short, as he only advocated the suspension of immigration without further developing his commitments towards the migrant population.
As for the Left, the two main candidates, representing the PCF (Georges Marchais) and the PS (François Mitterrand), also explored the issue in their electoral programmes but neither of them officially denounced the suspension introduced in 1974. On the contrary, the Communist candidate reaffirmed the need to maintain the ban in his electoral pledges (131 proposals under the title *Plan de lutte contre la crise, pour le changement*) while the Socialist leader adopted a softer stance proposing to introduce a system of quotas to regulate the entry of foreign workforce. The Socialist candidate took a more socially orientated view of the immigrant population than the other candidates did, since a proposal to give voting rights to legally settled immigrants was put forward together with another proposition to grant a right of free association to immigrants. François Mitterrand included his political commitments on immigrants as part of a manifesto containing 110 proposals:

1. **Proposition 79**: les discriminations frappant les travailleurs immigrés seront supprimées. Les refus de délivrance de cartes de séjour devront être motivées.

2. **Proposition 80**: l'égalité des droits des travailleurs immigrés avec les nationaux sera assurée (travail, protection sociale, aide sociale, chômage, formation continue). Droit de vote aux élections municipales après cinq ans de présence sur le territoire français. Le droit d'association leur sera reconnu.

3. **Proposition 81**: le plan fixera le nombre annuel de travailleurs étrangers admis en France. L'Office national d'immigration sera démocratisé. La lutte contre les trafics clandestins sera renforcée.

(Chapitre III des 110 propositions)

These three proposals originated from a bill presented by the Socialist group in parliament in 1978, which represented the only formal, public document on the position of the Socialist Party on the question of immigration. The 1981 electoral proposals did not include two important issues of relevance at that time: the extensive removals carried out in the last years of the preceding government or the regularisation of immigrant workers who were in an illegal position (regularisation repeatedly asked for by trade unions and associations defending

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immigrants' rights). In that respect these proposals appeared "out of date" because they did not take into account the developments in immigration since 1978 (Weil 1995a).

On the whole, the Socialist programme was a mixture of proposals; some more in the vanguard (voting rights) than others (quotas to limit entry of foreign workers), which still perceived the immigrant as un travailleur immigré according to the standard perception that had prevailed during the preceding decades. Finally, the political debates and the electoral pledges confirmed that there were more similarities between right-wing and Communist politicians on the whole issue of immigration than between the two main parties of the Left. The contrast between the Socialists and other major political groups became apparent when the new government launched its programme of liberal reforms on immigration.

In Britain, the 1974 general elections in February and October were held in a context of deep economic and industrial crisis. It had happened only once before (in 1910), that two general elections had been held in the same year. Early in 1974, the combined effects of the strike organised by the National Union of Mineworkers (with drastic consequences for electricity production and industrial activity and deaths of several elderly people) and the sudden increase of oil prices led Heath government to call for an early election in order to appeal to the British voters for their support.

Against this background, the Conservatives and Labour fought the election on similar grounds, calling for urgent measures to stop the miners' strike and promising radical provisions to halt inflation and more generally to solve the deepening economic crisis. In that context, issues of immigration and race relations were minor themes, which were not given much attention in the manifestos and not addressed at length during the electoral campaign.

Despite the preponderance of the economic issue, the Conservatives addressed the issue of immigration and race relations in a specific paragraph in their manifesto. They did not, however, make any new proposals, except for the promise to modify British nationality law. The themes developed were those that the Conservative government had already defended when in office. They claimed that the Immigration Act 1971 was justified by its
effect on the rate of immigration since, except for the commitments Britain had towards the
dependants of those settled in the UK and the U.K.P.Hs, immigration had been curbed and
would remain at a low rate in the future. Finally, in the field of race relations they promised to
improve the situation because of the multiracial composition of the British society.

By contrast the Labour manifestos were almost silent on the issue. The few proposals
they made on immigration and race relations matters were rather similar to the Conservatives’
one. Some indications on the position of the party for these years is given by a Labour Party
publication issued in 1973 (The Present Government Won't Listen to You, the Next Will)
where they acknowledged that action was necessary in the fields of citizenship, immigration
and integration. Labour also stressed that while not opposing immigration controls, criteria to
determine rights of entry and settlement would have to be “rational, non racial and must be
seen to be so” (Labour Party 1973: 18).

For the February election Labour’s proposals covered the question of the necessary
revision of nationality law to make immigration controls conform with citizenship. They also
dealt with the issue of discrimination on grounds of colour, which needed to be addressed
effectively. This last topic was further developed in the document Labour produced for the
October election. In this document Labour reminded its voters of the record of the previous
Labour government on legislation against racial discrimination in the sixties: “To protect and
extend the processes of democracy at all levels (...) it was a Labour government which (...) legislated against racial discrimination” (Labour Party Manifesto, October 1974). The
omission of any new proposal clearly denotes the lack of interest for the two issues.

As Butler and Kavanagh (1975) noted the holding of two elections within a few
months of each other provided the opportunity for the parties to make modifications to their
manifestos which were specifically dictated by the national crisis as well by “crude
calculations of electoral expediency” (1975: 56). In that respect, immigration and race
relations were not of central concern for either Labour or the Conservatives. By contrast, a
major concern for the Labour Party was the position of Britain within the Common Market.
Labour clearly stated that it was against the terms under which Britain's entry had been negotiated and their proposal to re-open these negotiations would lead them ultimately to ask the British people for their consent to the renegotiated conditions. The Conservatives, on the other hand, knowing their opponents' position on that issue, warned of the dangers of a withdrawal from the EEC.²

When comparing the content of the British and French electoral programmes and the context of these elections, a few points should be stressed. In France and particularly in Britain, economic themes dominated the political debates during these elections (Butler and Kavanagh 1975). Whereas in France, the Communists as well as other left-wing politicians still believed that the presence of the immigrant population was closely connected to the state of the economy, in Britain the old equation that strict controls were the necessary counterpart of the promotion of good race relations was again the common motto of Conservatives and Labour.

In both countries, outgoing candidates did not make any new proposals but merely restated the policy lines which they had followed when in office. The Conservatives recalled their major objectives achieved through the vote of the new immigration act and its immigration rules, while Giscard d'Estaing reasserted the need to reduce the immigrant population. Finally, neither the French Socialists nor British Labour advocated a radical programme of changes. Thus, the set of reforms that their new governments formulated was not directly based on the electoral documents produced during these campaigns.

As for the immediate context surrounding these two electoral campaigns, the meagre attention given to the immigration and race issues arises from different factors. We have seen that, in Britain, the severe economic problems predominated over any other electoral issue. Miller remarked that "the Conservatives only led on immigration by 11% in February 1974 and by 3% in October whereas Labour had a lead of 33% on industrial relations and around

² Britain's membership proved to be a threatening issue for party unity. Pro and anti-Marketeers were initially balanced in the Cabinet. Eventually, in 1975 the Harold Wilson government called for a referendum over Britain's future within the Common Market to resolve disputes concerning the EC.
20% on prices and unemployment” (1980: 36). When the first elections had been called in February, Edward Heath had been looking for clear support from the British electorate so that his government could carry out its programme. Similarly in July, the new Labour government (a minority government) called for another election in search of a clear majority to support the reforms it intended to achieve.

The slight interest Labour manifested towards the question of immigration can also be explained by the importance given to the concept of social contract which it had elaborated when in opposition (Butler and Kavanagh 1975).³ The Labour Party manifesto and the electoral campaign were centred on its economic policy based on this new concept, which eventually determined the outcome of the elections.

Furthermore, immigration and race relations were still part of the broad political consensus existing between the two major parties in Britain. In his study on the politicisation of the issues of race and immigration Messina (1985) argued that for the 1974 general elections, the bipartisan consensus still prevailed. Not only were these topics still excluded from the political arena as valid electoral issues to be presented to the British public for vote-winning purposes, but the formulation of the governments’ policies on race “in a bipartisan fashion” still prevailed at the time (Messina 1985: 423).⁴

In France, as in Britain, the question of immigration was not considered to be an exploitable electoral issue, which could bring any strategic advantage to the candidates. However the failure to consider the immigrant population or to address the immigration question specifically was not based on any political consensus existing between political elites. Rather, it denoted that policy-makers from the Right and the Communists, lacked any

³ Anthony Benn was the first Labour politician to use the term. The social contract meant that the Labour government would keep control over the rise on prices, freeze rent increases, repeal the Industrial Relations Act and in return trade unions would make moderate wage claims (Butler and Kavanagh 1975).

⁴ Messina studied the impact of race and immigration in relation with the 1974 and 1979 general elections. He concluded that in 1974 only 6% of Conservative candidates tackled the issue while they were over 25% in 1979. As for Labour candidates, they were only 2% to cite immigration in their electoral addresses in 1970 (no figures for 1974) and 27% in 1979 (1985: 425).
capacity to comprehend the short-term and long-term consequences of the phenomenon of immigration.

As regards the position of the Socialists, commentators severely criticised the PS' attitude during these elections. They argued that the earlier Socialist opposition to the policies carried out in the late seventies was mere political manoeuvring to attract attention, which in turn could explain the rare political commitments taken on that issue during the presidential campaign (Schain 1988; Weil 1995a; Viet 1996). Finally, as in 1974, when Giscard d'Estaing had declared that immigrants were not concerned with the presidential elections, many in the political elite concentrated on issues affecting the French population; such as taxes, salaries, unemployment and restructurating of some industrial sectors, thereby continuing to ignore the ineluctable transformation of French society. Later the extreme-right, which was not represented in this election, skilfully appropriated these issues, but they were not yet a contentious subject dividing traditional political forces.

Despite the quasi-silence observed by the major French and British parties over the immigration question during the electoral campaigns, the new Labour and Socialist governments proposed a series of liberal measures in the field of immigration controls. In less than two years the French secrétaire d'Etat chargé des Immigrés, François Autain, and his British colleague Alex Lyon, minister of State for Immigration, made radical changes or softened existing rules to implement a “different” immigration policy.

6.2 A series of positive reforms

6.2.1 France: a wind of change (May 1981-March 1983)

During the first months of the Mitterrand administration in office, the policy on immigration consisted of a balance of generous provisions towards resident immigrants and the firm

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5 There was no candidate from the FN because its leader did not manage to get the required number of signatures for its candidacy.
intention to apply strict immigration controls at borders. The generosity of the new government stemmed principally from its perception of the definitive transformation of French society. Following the 1974 ban many immigrants had sent for their families instead of returning home for they had feared that they would not be allowed back into the host country once the doors for further migration were shut. Thus, the gradual settlement of family dependants as well as the birth of the so-called “second-generation immigrants” had turned France into a multiracial society (Marian 1981; Weidert and Schlegel 1984).

The vast programme of reforms undertaken by the new majority aimed at remedying the precarious legal status of some categories of immigrants. These liberal reforms went along with a series of radical provisions that the Socialists, in the aftermath of their victory, proposed to the French electorate in several fields: civil liberties (death penalty abolished, criminal sanctions softened), working rights (Lois Auroux), housing (Lois Quilliot). However, despite the considerable improvements applicable to resident immigrants, the same strictness continued to prevail in the area of external controls.

François Autain, the newly appointed secrétaire d’État in charge of immigrants presented the innovative approach which the Socialists intended to take towards the phenomenon of immigration.  

Ce changement (changement du nom du secrétariat d’État et rattachement au Ministère de la Solidarité Nationale) (...) procède d’une approche totalement différente de celle des gouvernements giscardiens, approche qui était purement économiste. Il annonce une politique nouvelle placée sous le signe du respect et de la reconnaissance des droits de l’ensemble de la population immigrée vivant dans notre pays. (Le Monde, 29/8/81)

In practice even prior to the appointment of a minister in charge of foreign workers, the first Mauroy government (21/5/81-22/6/81) had made a series of urgent provisions to remedy the irregular situation of many immigrants (suspension of all the deportation orders

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6 According to Patrick Weil there was no secrétaire d’État in charge of foreign workers within the first Mauroy government, simply because the creation of this post had been forgotten (Weil 1995a).
issued under the last presidency, re-authorisation of the process of family regrouping with a lifting of the ban on taking up employment).\textsuperscript{7}

Discussed on several occasions within the cabinet during the summer of 1981, the proposals put forward during that period were either drafted into bills presented to the autumn parliamentary session (right of free association for foreigners, intensified action against illegal work and need to improve border controls) or implemented via governmental \textit{circulaires} to ease and accelerate the process of reforms (regularisation of illegal immigrants, suppression of the voluntary repatriation programme known as \textit{aide au retour}).\textsuperscript{8}

The set of legislative texts adopted during the autumn parliamentary session made significant changes in the basic laws regarding foreigners. Among the new provisions regulating several aspects of the immigration field, some were more related to the area of civil liberties than others which dealt with work regulations. In the field of civil liberties a new statute abrogated a text which dated back to 1939 (\textit{Décret-loi} 12/4/39) stipulating that foreigners needed a governmental authorisation (from the ministry of the Interior) before constituting an association directed by foreigners or with extensive participation of foreigners. However, in parallel with the provisions granting freedom of association to foreigners, the government still retained the power to dissolve associations of foreigners whose activities constituted a threat to French diplomatic interests (L. n.81-909, 9/10/81).\textsuperscript{9}

Other important provisions were the granting of new rights to immigrant workers within trade unions, eliminating any difference between foreign nationals and French workers.

\textsuperscript{7} From 29 May 1981 deportation orders were provisionally suspended for adults and permanently suspended for young immigrants. This was done through some \textit{télégrammes-circulaires} sent by Gaston Defferre, the new minister of the Interior to the \textit{Préfets}. However those who could constitute a threat to the public order had their case reconsidered and the decision was personally taken by the minister.

\textsuperscript{8} The programme had been used predominantly by nationals (Spaniards and Portuguese) whose departure was not desired. Cf. the \textit{circulaire} issued on 25 November 1981 (J.O., 9/12/81).

\textsuperscript{9} The Socialist group had proposed a bill on the right of free association in 1980 (Proposition n.2194, A.N. Session 1980-1981) while the Barre government had also proposed a bill on that right more or less at the same time (Proposition n.2203, A.N. Session 1980-1981). However the governmental proposals were more limited because they intended to grant the right of free association to EEC citizens only (Simon-Depitre 1983).
The specific authorisation needed for foreigners before getting married was abrogated.\textsuperscript{10} Still in October 1981, the assembly adopted a governmental text which abrogated the system of quotas for certain professional activities that had been set up by a 1932 statute (L. n.81-941, 17/10/81).\textsuperscript{11} This system, which had introduced discrimination among foreign workers was abandoned mainly because of its rigidity and complexity (484 \textit{décrets} and around 2265 \textit{arrêtés} had been needed for its implementation) (Simon-Depitre 1983: 56). In addition, the renewal of an expired work permit could not be refused on the ground that its holder was unemployed (as had been the case in the last years of the previous government) or because of the difficult situation of the labour market.\textsuperscript{12}

Among all these reforms, the repeal of the last text on immigration control voted in 1980 (L. n.80-9, 11/1/80) brought fundamental changes to the condition of entry (and refusal of entry) and residence of foreigners in France. The statute adopted in October 1981 (L. n.81-973, 29/10/81) clearly denoted a different perception of the question of immigration. To the Socialists the definitive transformation of the composition of French society made it necessary to formulate policies that contrasted with the previous methods of administering immigration issues. The text gave to certain categories of foreigners a stable legal status, shielding them from the arbitrariness of administrative decisions which could threaten their permanence in France. For the first time several categories of immigrants were formally defined as being immune from deportation (l'\textit{expulsion} which forbade them to re-enter French territory). These categories included foreigners under 18, foreigners who had been married to a French national for a minimum of six months, foreigners living permanently in France since the age of 10 or

\textsuperscript{10} It seemed however that since 1980 this authorisation was no longer required (Turpin 1982; Simon-Depitre 1983).

\textsuperscript{11} Modification of the art. L.342 al.2 of the \textit{Code du Travail}.

\textsuperscript{12} A \textit{décret} dated 15 January 1976 (D. n.76-56) provided several criteria for an easy non-renewal of work permits, thereby leading to a rapid expulsion of workers deprived of any authorisation to work or stay. See analysis of the far-reaching consequences of the text in G.I.S.T.I. (1976c).
resident for 15 years, foreigners with children born in France and therefore French, foreigners with criminal convictions of less than a year of imprisonment (Lebullenger 1982).

The text also introduced new procedural safeguards to protect immigrants' rights in case of refusal of entry. Instead of the previous immediate removal, foreigners were given 24 hours to seek help from a friend, family, legal adviser or consular official and their administrative detention was limited to a 24 hour period (as opposed to 48 hours under the previous law). Once this initial period had elapsed, a judicial decision was necessary to keep immigrants in prison. In addition a written notice indicating the motives for refusal had to be issued (Bonnechère 1983). More importantly, the transfer of decisions from the administrative authorities to the judiciary was meant to eliminate most of the discretionary powers that had intensified in the last years of the previous presidency. Thus, the new provisions gave tribunals (instead of the administrative authorities or the police) the power to decide on the expulsion of anyone found in an irregular situation (Vincent 1982).

In the governmental agenda, the improvement of relations with Algeria was put among the priorities. On several occasions the minister of Foreign Affairs, Claude Cheysson expressed his solemn gratitude in the name of the government and the indebtedness of France towards Algerian workers. In November 1981 the visit paid by François Mitterrand to the Algerian President confirmed the strengthening of bilateral agreements between France and Algeria. The co-operation of French and Algerian police was designed to prevent the arrival in France of false visitors seeking access to the French labour market. In parallel the Socialists reaffirmed their intention of re-examining many bilateral agreements with sending countries to update conditions of entry and ensure efficient co-operation between French police and their counterparts in the emigration countries to fight against evasion of immigration control.

Limits to the vast programme of reforms undertaken by the Socialists appeared here and there and in particular as regards controls on entry. The generous attitude towards

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13 This was marked by the signature of a new gas contract and the transfer of the Algerian archives to Algeria.
established immigrants went in parallel with external rigour towards newcomers, whether
these were regular or irregular immigrants. Controls at borders were strengthened and limits
on the entry of new foreigners took the form of the compulsory production of additional
documents proving the purpose of the entry and giving details on the financial conditions of
the entrant.\textsuperscript{14} The new requirements were directed at the problem of overstaying. Many
visitors since the closure of the borders to the foreign workforce had entered French territory
as tourists or students. After that it was easy to remain in France.

Certainly, in exchange for these requirements a proper right of entry was recognised
by the new text since the production of the documents implied that entrants could not be
refused entry. However, as in the past, considerations of public order continued to prevail and
the right of entry could be limited by the police powers to refuse entry to foreigners
representing a "threat to public order". The concept of "public order" was not defined and,
like other terms widely used in the administrative practice of immigration controls, it meant
leaving to the \textit{Police de l'air et des Frontières} a certain freedom to act in compliance with
instructions received from their superiors. They could thus, interpret this notion defined as
"malleable and subjective", by attentive commentators, according to the latest instructions
received (Bonnechère 1983: 441).

Other restrictive measures remained applicable only to non-nationals. Hence,
foreigners were still obliged to communicate their new addresses to the police or to the
administrative services of the mairies when they moved house. Similarly, identity checks
which had been reinforced since the \textit{Loi Sécurité-Liberté} (L. n.81-82, 2/2/81) were still
possible and foreigners were required to produce on request of the police all the documents
necessary to prove the legality of their presence on French territory.\textsuperscript{15} Governmental

\textsuperscript{14} It was stipulated at a later stage that this condition was not applicable to members of family joining the head of
household. (D. 27/5/82).

\textsuperscript{15} It should be noted that a tribunal held that in order to be able to recognise foreigners, the police should look for
any person "susceptible de par son aspect, son comportement, sa tenue vestimentaire, voire sa diction, de
ressortir d'\textit{une nationalité étrangère}" (Arrêt de la Cour d'appel de Versailles du 19/10/83, quoted by Bonnechère
generosity was clearly limited by considerations of public order and the state’s sovereignty over its borders and domestic territory.

Finally, although the Socialists were committed to granting voting rights in local elections to immigrants (Proposition 80 in the Mitterrand’s Manifesto) and this had been reaffirmed on several occasions by other members of the government during the summer of 1981, the idea was soon abandoned for it was felt to constitute a radical measure for which French public opinion was not yet ready (Safran 1985; Bockel 1991; Weil 1995a).

The justification for the firmness Socialists intended to show stemmed principally from a general agreement over the need to maintain the suspension decided in 1974 owing to the lasting economic crisis and the consequent rise of unemployment:

Toutefois, compte tenu de la situation de l’emploi, la France n’est pas en état d’accueillir un nombre croissant de travailleurs étrangers. Elle entend donc limiter les entrées et proposer aux pays d’origine des accords bilatéraux définissant les conditions de travail, de séjour et de retour des travailleurs étrangers en France.

(P. Mauroy, J.O., A.N., Lois et débats, 8/7/81, p.49)

This declaration made in the early days of the new government clearly indicated that the Socialists accepted firstly, some of the basic rules on immigration controls that had been followed by their predecessors (limits on the entry of new foreign workers and strict controls over temporary migration) and secondly, re-used the system of bilateralism to implement their policy.

Hence, despite the considerable changes that were introduced to stabilise the situation of long-term immigrants, criteria for external controls were based on the same strict rules as had prevailed before. In parallel, arguments to justify the main orientation of their policy were still based on economic considerations, as during the previous period. This declaration by Gaston Defferre, minister of the Interior is characteristic of the unchanged position of French officials on the strict corollary between the immigration question and the economy:

En ce qui concerne le nombre de travailleurs étrangers, je dirai que l’économie française ne peut pas s’en passer (...). Il faut que l’on sache que ces travailleurs ont été appelés [emphasis is mine] dans notre pays et qu’ils sont nécessaires au fonctionnement de
Two points should be raised about these declarations. Firstly, the "economic argument" already abundantly used by the previous governmental officials was taken over by the Socialists. Accordingly the "social argument" was not yet invoked as it would be only two years later. It also meant that although the Socialist government had taken into account the societal transformation that had occurred, it had not yet drawn all the conclusions from this transformation. Secondly, it denoted a clear distinction established by the government between resident immigrant workers and any future foreign workforce. To the first group, as we have already said, the government was willing to demonstrate its indebtedness as well as France's economic reliance. By contrast, to the second group the Socialist government was equally clear about its intention not to accept supplementary foreign manpower. The following statements by the Prime Minister and the minister of the Interior removed any ambiguity in that respect:

Il s'agit également de nouveaux textes sur l'immigration et sur le statut des femmes et des hommes qui sont venus parmi nous, soit pour nous apporter leur force de travail, soit pour trouver un refuge [emphasis is mine]. (P. Mauroy, J.O., A.N., Lois et Débats, 2/8/81, p.794)

Je le dis clairement, les faux touristes, les clandestins, ceux qui n'ont pas leur place en France, ceux qui n'ont pas de moyens d'existence, ceux qui ne sont pas en règle n'ont pas leur place en France. Nous prenons des mesures pour les empêcher d'entrer, pour les refouler et, le cas échéant pour les expulser. (G. Defferre, J.O., A.N., Lois et Débats, 10/11/82, p.7037)

Immigrants' rights were restricted to well-defined categories of people for whom the government could not evade its responsibility. Hence, the Prime Minister's statement on the new governmental texts to regulate immigration eluded the question of the situation of foreigners with a temporary status (seasonal workers and students, for example).

The Socialists, thus, aimed at finding the right balance between considerations of public order with the continuation of reinforced controls at borders and ports of entry and the extension of general principles of justice and humanity to the immigrant population which had
previously been excluded from the legal protection of statutes. Hence the suspension of
departure orders and the formal definition of categories of immigrants immune from
departure marked a decisive step forward in a particularly threatening area of immigration
regulation for immigrants' liberties. The new policy on immigration marked a decisive break
from the previous policies and the practice of administrative controls of the past decade.

However, some fundamental principles underlying immigration policy (as they had
been established by the previous governments) were not questioned by the new majority. The
suspension of immigration applicable to foreign workers was maintained, while the necessity
to control illegal immigration led to the reinforcement of border controls. Finally, from
August 1981 the big operation of regularisation of illegal immigrants captured the attention of
the media and the public and led to intense political controversies.

6.2.2 Great Britain: a softer stance on immigration control (February 1974-June 1976)
Appointed minister of State for immigration in February 1974, Alex Lyon played a decisive
role in moderating the strict interpretation of the rules on immigration control and in
formulating new provisions for the admission of fiancés and husbands. In addition, the Labour
government published a White Paper in September 1975 on racial discrimination, which later
formed the basis of the new Race Relations Act 1976.

Although the Labour Party had not fully developed its programme on immigration
during the electoral campaign, its position once in office reflected a previous statement made
by Roy Jenkins. While in opposition Jenkins had criticised the Conservatives' policies on
immigration during a general debate on immigration and race relations held in December
1973 (HC, vol.865, 6/12/73, col.1469-1582). In particular, he had made it clear that Labour
did not approve of the Conservatives' handling of the Ugandan crisis because of the
prolonged waiting periods that caused much suffering to U.K.P.Hs. He had also pointed out
the obvious sex discrimination resulting from the immigration rules forbidding British
females to bring in their husbands as British husbands could do with their wives. Finally, Jenkins had condemned the administration of the system of entry certificates used in the Indian sub-continent to allow dependants to join their families in the UK. He had concluded by stressing that "the Home Secretary should not congratulate himself upon statistics that are produced by these inhumane methods which cannot fail to interfere with family life and cannot be conducive to good relations" (HC, vol.865, 6/12/73, col.1488-89).

The points developed by Roy Jenkins formed the basis of Alex Lyon’s main points of action during his two years in office – the maintenance of strict controls administered with justice and humanity. The new minister acknowledged that the Labour government inherited two main commitments from its Conservative predecessor: a statutory commitment from the Immigration Act 1971 towards Commonwealth citizens settled in the UK to be allowed to call for their dependants and a promise given to Asians holding UK passports that they could come to Britain if expelled from East African countries. In order for Britain to honour these commitments as rapidly as possible, Lyon advocated a rapid reduction of the waiting lists in the Indian sub-continent by processing applications for entry clearance more rapidly and by increasing the total number of vouchers granted to U.K.P.Hs. One of his principal pledges was that the increase in the rate of processing applications would inevitably extinguish Britain’s commitments towards U.K.P.Hs and Commonwealth dependants who had not yet been reunited with heads of the households in Britain. For him, the way the system of controls was administered at points of departure lay at the core of the problems: “I have always maintained that it was the system that was wrong. (...) I do not attribute blame to the entry certificate officers. The blame ought to lie properly on the procedures and upon us who have allowed and sanctioned them. I was concerned to change the procedures” (HC, vol.884, 23/1/75, col.2017-18).

One of his first tasks was to visit British posts in the Indian sub-continent to assess the situation. Interpretation of the rules on the admission of wives and children was a crucial point at stake since the Immigration Act 1971 had been implemented. In particular, major
difficulties had arisen from the assessment of the documents produced by applicants to prove their relationship with sponsors settled in the UK. In fact, for most E.C.Os documentary evidence was often regarded as suspect and therefore of little probative value. In 1972 a High Court decision on the burden of proof to be satisfied by applicants had held that the standard of proof contemplated by the immigration rules was the civil standard of proof (on balance of probabilities) and not the criminal law standard (proof beyond reasonable doubt) which was less favourable to the applicant (Blake in Dummett 1978; Juss 1993). It transpired later that the Home Office had failed to instruct the E.C.Os of the decision. During his visit, Lyon, unaware of the decision, gave new instructions to E.C.Os to apply the civil standards of proof instead of the criminal-law standards to which civil servants had adhered when testing the relationship of dependants with their sponsor (Campbell-Platt 1976).

The results were immediately felt. Quite rapidly, the rate of entry of dependants from the Indian sub-continent rose since the ratio of refusals fell sharply (from 1:16 to 1:6 at Dacca, Bangladesh and from 1:23 to 1:5 at Islamabad, Pakistan). In addition to these instructions, efforts were made by the Home Office to establish priority queues for certain categories: childless wives and those with children aged under 10. This resulted in a significant reduction of the waiting times in this queue compared to those observed previously (House of Commons 1978: 107-110). Lyon was also very concerned by the lack of sufficient resources in British posts abroad. He commented that “the best way to clear up the argument about the size of the commitment would be to put in some more staff and improve the procedures in order to clear the commitment so quickly that it was undeniably clear that it was ending” (House of Commons 1978: 88).

To deal with the case of U.K.P.Hs, the annual quota of vouchers delivered to heads of household was increased from 3,500 to 5,000 (that is an average of 20,000 persons admitted for settlement) and justified on the grounds that it would allow Britain to honour its

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commitments towards Asians from East African countries at a much quicker pace. It was repeatedly asserted by the Home Office minister that this was a finite commitment which would soon be extinguished as already in 1976 only 3,585 of the 5,000 vouchers had been subscribed (Memorandum submitted by A.W. Lyon to the Select Committee, House of Commons 1978). The increase was also justified on moral grounds as Roy Jenkins, answering the Conservatives’ criticisms, argued that he wanted to reduce the danger of a repetition of the traumatic experiences of 1972. His hope was to “be able to see the end of this relic of our imperial history without any repetition of 1972 during the course of this Parliament” (HC, vol.912, 24/5/76, col.100). Finally it was also reasserted that the Labour government was not contemplating any future increase in the total number of vouchers.

The third action of the minister was to modify the rules on admission of fiancés and husbands of women settled in the UK. Before 1969 any woman settled in the UK could bring in her fiancé or spouse. This rule was modified with the Immigration Act 1971 and the subsequent immigration rules laid down in January 1973 to prevent male immigrants from entering the UK by means of marriages of convenience, since it was alleged that many of these marriages were bogus.\(^{17}\) The Home Secretary’s decision in 1974 to revert to the previous rule was taken by the Labour government because of the growing pressure of public opinion. In particular women’s associations complained that the 1973 rules discriminated on grounds of sex since fiancées could be admitted without any entry clearance (Campbell-Platt 1976).\(^{18}\) In addition, EEC women because of the provisions on the free movement of workers enjoyed privileged treatment as they could be joined by their husbands whereas a British-born woman married to an alien could not. So, the main ground for protest against the rules was

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\(^{17}\) See HC81 (1973) and HC79 (1974) where it was stipulated that Commonwealth and non-Commonwealth husbands and fiancés had no claim for settlement in right of his wife/fiancée. The issue of entry clearance certificates to enable the husband/fiance to enter was made only in cases under special consideration “whether of a family nature or otherwise (…) because of the degree of hardship which would be caused if the wife had to live outside the UK…”.

\(^{18}\) See articles in The Guardian, “No home for British wives” (8/3/74), The Sunday Times “The marriage that Britain splits up” (17/3/74), The Observer, “Britain’s waiting wives” (17/3/74), The Sunday Times, “The law against the wives” (24/3/74), The Observer, “The Jenkins’ husbands’ row” (31/3/74).
based on sexual discrimination because many cases of injustice and misery had been observed (Guardian, 3/6/74). The Home Office justified the decision to soften the rules on admission on several grounds. Firstly, Lyon argued that the reality of trends of immigration had to be taken into account:

There is no way we can prevent an Asian girl born here from marrying abroad, any more than we could a Welsh girl. We therefore have to accept that under any system of immigration control there will be a continuing commitment to allow entry for marriage for what will probably be about 16,000-20,000 a year, men and women, from all over the world of whom less than half will be black. (Memorandum submitted by A.W. Lyon to the Select Committee, House of Commons 1978: 89).

Secondly, in direct answer to the opposition’s criticisms, which claimed that there had been an increase of bogus marriages to gain entry, the secretary of State defended the modification of the rules by asserting that there was no statistical evidence to justify the suggestion that the 1974 concession to foreign husbands was “a gateway to immigration for bogus marriages from the Asian sub-continent” (House of Commons 1978: 88). Alex Lyon admitted that this particular commitment towards women settled in the UK married to foreign husbands was not a finite commitment like those towards U.K.P.Hs and men from the Indian sub-continent:

“This commitment will continue for as long as people wanted to marry outside this country (..) the number involved would always be relatively limited. There were about 12,000 in 1974 and there might be slightly more in 1975, but it is well within the capacity of this country to absorb them” (HC, vol. 912, 24/5/76, col.67).

Finally, in an area connected to the question of immigration controls, the Labour government published a White Paper, Racial Discrimination, (HMSO, Cmnd 6234) in September 1975 which subsequently became the basis of new Race Relations Act (1976). The Labour proposal was welcomed by many ethnic minorities associations because it represented a “bold step forward in attempting to create racial harmony in Britain” (Hines in Bindman 1975: 20). The Race Relations Act 1976 provided stronger legislation to combat racial
discrimination in several fields; including employment, education and provision of goods and services (C.R.E. 1983).

Sacked in April 1976, Alex Lyon later explained that by refusing to abide by his instructions, civil servants had made his position untenable. He denied that civil servants were merely responsive to instructions from ministers and argued that after his dismissal, despite any new instructions to E.C.Os, an increased rigidity reflected in the number of referrals was decided by civil servants (for example, only 481 out of 2,168 applications were granted in Dacca in the last quarter of 1976) (House of Commons 1978: 88).

His dismissal also corresponded to a new phase in Labour’s term of office when James Callaghan succeeded Harold Wilson as Prime Minister in March 1976. In the preceding Labour administration Callaghan at the head of the Home Office had shown himself to be rather tough on the immigration issue. Accusations to the effect that Lyon had been too liberal went along with a new Labour administration. As a commentator in the Guardian put it:

Like his boss, Mr Lyon has shown himself to be a humane and compassionate Minister but he is a member of a party which has become obsessed with the fear of being labelled “pro-immigrant”.

(Guardian, 3/6/74)

6.2.3 Synthesis: French and British immigration policy bound by internal and external commitments

The set of liberal reforms carried out by the Socialist and the Labour governments have to be set against previous policies in order to underline the continuity of some principles and to highlight the novelty of other points. The comparative analysis of political statements made by the French and British political elites reveals many similarities in the policy objectives not always detectable through a simple observation of the choices made in that area of public policy.

Thus, the use of specific terminology in this sphere revealed comparable features in the content of the political discourses as well as similar characteristics in the guiding principles underlying the new choices. French and British politicians used the notion of
“commitment” quite extensively to explain and justify the policies implemented. In Britain, it was repeatedly asserted that the country had to honour a “moral commitment, a statutory commitment” towards the immigrant population. Often used as a legitimisation against opposition criticisms of the policy choices, the concept of Britain’s commitments also served as a yardstick of the policies to be carried out. The use of this word seemed to imply the existence of determined parameters that, Labour ministers recalled, were set up and accepted by the previous governments (in particular Conservative governments) within which the immigration policy had to be developed. Thus, the Labour government had inherited a “moral commitment” towards U.K.P.Hs and fiancés and husbands of women settled in the UK. More specifically, the definition of this moral obligation as a “finite commitment” to accept dependants of heads of households legally settled in Britain implied a future ending:

> It is because we believe that it is better to get rid of that commitment as soon as possible that we have increased the number of vouchers. However, that does not mean that the total number of those coming in will increase. It means that these people will come in quicker. We hope that the commitment will be fulfilled by the end of this decade. (A.W. Lyon, HC, vol. 905, 12/2/76, col.606)

Similarly, French discourses on immigration referred to the notion of commitment towards the immigrant population, albeit with a rather different emphasis on the positive contribution the immigrants had made. To French policy makers, particularly the Socialists in 1981, but also to some right-wing politicians during the Giscard d'Estaing presidency, the word “commitment” related to the debt successive French governments had contracted towards immigrant workers. This commitment also extended to the whole immigrant population and meant that immigrants should be recognised as having their proper place in French society and should also enjoy some basic rights. In 1981, it was felt by the Left’s political elite that the time had come to extinguish the debt and therefore to formulate a new policy in accordance with this approach (cf. Claude Cheysson's declaration and François Autain’s interview in *Le Monde*, already quoted). We saw that in practice the legal status of
several categories of immigrants was consolidated, while the right of family dependants to join the head of household was reasserted.

Like any new government coming into power, Labour and the Socialists asserted their intention to formulate and implement a new policy. Thus, the announcement by François Autain of “une politique nouvelle placée sous le signe du respect....” could be compared to a similar statement that one of his predecessors, André Postel-Vinay had made to the press in July 1974 (Le Monde, 29/8/81 and 5/7/74). However, beyond the use of specific rhetorical arguments that characterise political statements (whatever the period or the country), it is important to examine the content of the reforms in order to understand whether the Left’s political elite had followed old recipes or had laid down new principles to guide future immigration policy.

Attentive commentators like Weil (1995a), Viet (1996) and Caudron (1997), in their close observation of the new texts as well as the daily practice of immigration controls have concluded that during these first months in office, the Socialist administration in France did, in fact, adopt a mixture of new and old principles. Certainly, the Socialists did not intend to lift the 1974 ban or to soften immigration controls at entry: “Elle (la France) entend limiter les entrées et proposer aux pays d'origine des accords bilatéraux définissant les conditions de travail, de séjour et de retour des travailleurs étrangers en France” (P. Mauroy, J.O., A.N., Lois et débats, 8/7/81, p.49). Consequently the new text regulating entry conditions voted in October 1981 (L. n.81-973) went beyond the requirements set by the Loi Bonnet which, at the time the Left itself had severely criticised when in opposition.

As for the instruments of their policies, the vote of successive statutes to regulate several aspects of immigration denoted the attachment of the Socialists to the legislative process (Bockel 1991). It represented in that respect a considerable progress in comparison with the previous period where the worsening of the situation had derived from a worrying extension of l'infra-droit. However, like their predecessors, the Socialists intended to use the device of bilateralism to regulate conditions of entry and length of stay of the many different
groups of nationals present in France. As under the Giscard d'Estaing administration, bilateral agreements were deemed to be the best method of regulation for they involved the active cooperation of emigration countries and were perceived to be more respectful of the interests of the two partners.

In Britain, political statements on entry control carried a twofold meaning which was not exempt from ambivalence. Labour ministers, while stressing that they were committed to apply strict immigration controls, were at the same time underlining that their policy was more humane and showed a higher moral consideration for the immigrant population. Statements endorsed by Roy Jenkins and Alex Lyon were illustrative of that ambiguity:

I am determined (...) to apply strict immigration control fairly, [emphasis is mine] to uphold the rules, to root out illegal immigration and to deal with overstaying. (R. Jenkins, HC, vol.912, 24/5/76, col.97).

Therefore if it were possible for me ... by any change in the procedures to raise the rate at which people have been coming over the last couple of years, I would not be increasing the total commitment which was entered into by a Conservative Government. All I would be doing would be seeing that the commitment was realised more quickly (A.W. Lyon, HC, vol.884, 23/1/75, col.2011)

The government's reforms were impeded by several constraints, which on one hand revealed the existence of limitations upon Labour immigration policies and on the other hand underlined the continuity of some principles with previous practice. Thus, despite their intention to improve the system of entry clearance, the Labour government did not increase the number of staff at ports of departure abroad to process applications for family regrouping more rapidly. Financial implications as well as the weight of the civil service infrastructures prevented Labour ministers from implementing a full reform in that area, despite evidence of the poor management of the entry clearance system.\(^{19}\) Finally, although the quotas of vouchers for U.K.P.Hs were raised from 3,500 to 5,000, this new measure was not accompanied by any

\(^{19}\) It must be remembered that the Wilson administration inherited a disastrous economic situation due in part to the Conservatives policies and to the world oil crisis (as a result public expenditure was out of control and the balance of payments in chronic deficit). In February 1976, the government published The Public Expenditure White Paper which detailed the £3 billion cuts proposed by the Cabinet (Holmes 1985).
improvement of the system to make it more flexible, nor were there any prospects of a future increase of the quotas.

In both countries, political statements endorsed by government officials revealed that policy-makers made clear distinctions between the various groups of immigrants. The concept of commitment created a clear cut line between those with the right to call for their family dependants and consequently to be permanently “integrated” in the host society and those who were not welcome at all and had to be refused entry and settlement. Thus, Lyon’s declarations about his duty to admit the wives and children of men who had come to settle in Britain during the past decades contrasted with his severe attitude towards what he called “bogus” applicants as well as other “undesirable” categories of immigrants such as workers and primary male immigration from the Indian sub-continent. Hence, the relaxation of the procedures to admit fiancés and husbands had been defended on the grounds that it would not entail the arrival of new waves of male immigration from the sub-continent nor would it bring a new batch of workers: “I have been seeking to find a humane way whereby we can overcome the problems, not in any way relaxing our vigilance against bogus and fraudulent applications but ensuring that we get the right decision and the humane decision as quickly as possible” (A.W. Lyon, HC, vol.884, 23/1/75, col.2018-19).

In France, in his speeches François Autain made similar distinctions between immigrants whose long residence in France had given them some rights and prospective entrants wishing to enter the labour market: “une telle politique qui se veut généreuse ne doit pas exclure la rigueur. Autant nous devons faire preuve de générosité vis-à-vis de travailleurs qui sont venus dans les années 60-70 (...), autant nous devons être clairs et fermes vis-à-vis de tous les étrangers qui aujourd’hui, comme les Pakistanais à la frontière de la R.F.A cherchent à pénétrer en France dans l’espoir d’y trouver un emploi” (Le Monde, 29/8/81). Thus, in both cases the long presence in the immigration country was a decisive element in justifying a benevolent position towards long-term residents and hence a severe attitude towards newcomers.
Finally, British and French politicians insisted on their firm intention to eliminate existing discrimination. Promises to grant fundamental civil rights to the immigrant population, to protect their civil liberties and to ensure fair and decent treatment in their everyday life were designed to balance the maintenance of some strict provisions on control at entry. The French and British ministers made similar declarations in that respect, although in the British case the specificity of the context (a different perception of the immigrant population in terms of prevalence of “coloured immigrants”) was predominant:

Nous entendons rapprocher le droit des étrangers du droit commun (...). Nous n'avons pas l'intention de maintenir les étrangers dans la situation d'infra-droit politique où ils se trouvent. (...) une politique nouvelle placée sous le signe du respect et de la reconnaissance des droits de l’ensemble de la population immigrée vivant dans notre pays... (F. Autain, Le Monde, 29/8/81)

We have to learn how to live as a multi-racial society. That means that we have to give every black person the same rights as every white. (A.W. Lyon, HC, vol.895, 15/7/75, col.1470-71)

In the British case the government’s commitment to eradicate racial discrimination was supported by the vote of the third Race Relations Act that the Conservatives did not oppose. In France, policies to “insert” immigrants into French society were thought to be the necessary counterpart of the strict immigration regulations applied at borders.

Through the comparative analysis of British and French political statements on immigration policies, it appeared that, beyond the different historical, legal and political contexts, many similarities existed. Hence, the Socialists and Labour were keen to stress that they intended to devise a humane and compassionate immigration policy. However, this attitude, which implicitly contrasted with the previous governments’ decisions on immigration matters, did not exclude, a rather firm and strict position towards the admission of newcomers.

As in the past period, under the previous governments, British and French left-wing leaders, made clear distinctions between the various categories of immigrants, welcoming and improving the situation of some of them while reinforcing and strengthening their severe controls towards others.
6.3 Amnesty for illegal immigrants

6.3.1 Background of the 1974 and 1981 regularisations

The terms amnesty or regularisation will be used here to designate the political decisions taken by the Labour and the Socialist governments to rectify the situation of illegal immigrants in 1974 and 1981 respectively. It meant that the governments would "forget" and erase all the irregularities attached to the status of some immigrants and give them a new legal status in accordance with the legal texts in force. The position of many immigrants was consolidated, freeing them from any threatening administrative or judicial decisions which could send them back to their countries of origin. The French and British amnesties had the same primary objective to put an end to the undesirable legal, social and economic consequences attached to the irregularity. In both cases the operation of regularisation consisted in the definition of strict criteria to be satisfied by the applicant to qualify under the amnesty within certain deadlines, and the use of discretionary powers to assess the applications.

During the post-war period, regularisation of immigrants who had entered France illegally or had overstayed their period of legal residence took place on a systematic basis. Nothing similar had ever been observed in Britain. This stemmed from the different nature of the immigration phenomenon itself and the different kind of immigration controls operated. It was also due to the geographical positions of the UK and France. The UK, being an island, found it easier to control its ports of entry (although they are many) than France, with thousands of kilometres of land borders to check. The periodic use of regularisation in France went along with an evolution of the perception of the phenomenon of illegal immigration throughout the years.

The official perception of the phenomenon of illegal immigration fluctuated from a very liberal and positive attitude towards it (from the 1950s until the early 1970s) to a very
negative view (at the end of the 1970s) until the early 1980s when irregulars were presented as victims of their employers and more generally as easy prey. Up to the early 1970s illegal workers were presented as a positive asset for the French economy since their flexible and adaptable position in the labour market could be officially justified in the name of the free market economy and served the expanding sectors of the French economy. Euphemistically, official discourses did not mention the *immigration clandestine* but talked instead of *immigration spontanée* during that period. The Right and the Left had different attitudes towards this phenomenon and while the former were clearly in support of the phenomenon, the latter denounced the exploitation of illegal immigrants by capitalist employers (Costa-Lascoux and Wihtol de Wenden 1982).

After the closure of the borders and the worsening of the economic crisis official attitudes towards the presence of illegal immigrants changed gradually. The change of perception, in part supported by the publication of several official reports, questioned the real economic benefits that immigrants in general but also irregular workers were bringing to the French economy (1976-1978). The 1980 *Loi Bonnet* was adopted at a time when the governmental elite as well as part of public opinion was particularly hostile towards irregulars. In turn, this justified the tightness of the new provisions applicable to all the different categories of immigrants in the name of an intensified action against illegal immigration.

The 1981-82 regularisation brought with it a new image of the illegal immigrant. Ministers distanced themselves from the two standard images that had prevailed up to that time, the positive and the negative ones, putting forward a different perception of that part of the immigrant population. The "new" official representation of the illegal immigrant presented these irregulars as the mere victims of circumstances. In their home country they were the victims of the political imbalance existing between North and South, which had forced them to emigrate, while in the host country they had suffered from the capitalist exploitation of employers (Marie 1988).
In Britain, because of the earlier introduction of stricter immigration controls (1962) and the tightness of the checks operated at points of departure (1969), the question of the presence of illegal immigrants seemed not to have been of great concern to the successive governments.\(^20\) Under the first act (Commonwealth Immigrants Act 1962) Commonwealth citizens who had entered clandestinely and were not examined by an immigration officer within the first 24 hours of their arrival were deemed to be lawful immigrants and therefore could not be prosecuted or arrested (Sched. 1, para.1(2)). Overstayers instead were guilty of an offence for which they could be punished or deported. In 1968, a criminal offence of “illegal entry” was created. The new rule stipulated that it was an offence for any Commonwealth citizens not to be questioned by an immigration officer. However, those entering illegally were safe from prosecution and removal if they were not discovered within 28 days following their arrival (as opposed to the previous measures stipulating a lapse of time of 24 hours). Overstaying, however, remained a continuing offence, as it had been under the previous Act.

The Immigration Act 1971 defined an illegal immigrant as a “person unlawfully entering or seeking to enter in breach of a deportation order or the immigration laws and includes also a person who has so entered (S.33)”. Until some court decisions in 1976, it was initially assumed that with the exception of those who entered in breach of a deportation order, illegal entrants were those who entered the UK without submitting themselves to the immigration authorities on arrival. From May 1976, the courts broadened the definition of illegal entry to include those who submitted themselves to immigration control but deceived the authorities about their status at point of entry.\(^21\) The inclusion of persons gaining entry by fraud had far-reaching consequences for the concept of illegal entry. The Home Office could now exercise its administrative power of removal against fraudulent immigrants (a much

\(^{20}\) It was only in 1965 that the Labour government published a White Paper, *Immigration from the Commonwealth* (Cmd. 2739) which reported the evasion of immigration controls and recommended speedy means of deportation (Nicol 1981).

\(^{21}\) Cf. *R v Secretary of State for Home Department* ex parte *Maqbool Hussain* (1976, 1 WLR 97) and *R v Bangoo and Others* (1976, Crim. L.R. 246).
easier procedure) rather than prosecute them for an offence and make a deportation order (Gordon 1981; Nicol 1981).

To sum up, in France operations to regularise illegal immigrants were nearly everyday occurrences in that area of policy (the last one dated from 1980-1981 when under the Giscard d'Estaing presidency 3,389 illegal workers had been regularised). In Britain by contrast the 1974 operation emerged due to the specificity of the problem raised by the 1971 Act and thus generated more controversies because it revealed a dimension of the immigration question that politicians were not normally accustomed to taking into account.

6.3.2 A controversial political decision

Böhning proposed a definition of the concept of “illegal immigration” that includes the different cases in which irregularity might occur:

Non-nationals are “irregular” or “in an irregular situation” where they do not possess the authorisations of the State in whose territory they are required by law in respect of admission or stay or economic activity, or where they cease to fulfil the conditions to which their admission or stay or economic activity are subject. (1983: 160)

His model made a distinction between three types of irregularity: institutional, statutory or proper irregularity depending on the different circumstances of the irregularity. According to the model proposed by Böhning, the French and British cases could correspond to the first category, the institutional irregularity, where the irregularity of the immigrant’s status stemmed from the country’s policy or administrative practice. In Britain the irregularity originated from the retroactive application of certain provisions in the Immigration Act 1971 whereas in France the irregularity derived principally from the internal and external controls that the administrative authorities had been unable or unwilling to enforce.

Böhning defines as follows the different types of irregularity: institutional irregularity: “where a country’s policy or administrative practice enable an irregular situation to exist”, statutory irregularity: “where non nationals violate restrictions imposed on them that contravene customary international law”, proper irregularity: “where nationals laws are violated that are compatible with basic human rights” (Böhning 1983: 161-162). See also Costa-Lascoux and Wihtol de Wenden (1982) for the I.L.O.'s definition of irregulars.
In France as in Britain, the amnesty was justified on technical and moral grounds. The technical grounds for the regularisation existed since the 1974 ban because no new work permits had been delivered and many immigrants who had still managed to enter and remain in France were working without the necessary authorisations. In Britain the technical grounds derived from a very severe application of some provisions of the Immigration Act 1971, which affected immigrants who thought they were immune because they had entered the UK under the 1968 Commonwealth Immigrants Act. Based on similar moral grounds, both operations of regularisation were meant to redress wrongs done to some categories of immigrants by previous governments. In France, the amnesty was designed to repair the injustices caused by governmental and administrative practices that had prevailed from 1977 onwards, exacerbated by the vote of the Loi Bonnet in 1980. In Britain it was a question of remedying the uncompromising attitude of the Conservatives, who had refused not only to consolidate the status of immigrants whose permanence was threatened but had also proposed to deal with the problem on a case by case basis with discretionary techniques.

The Conservatives, who had always opposed the amnesty when they were in office, denounced the operation on the grounds that there would be a sudden increase of applications. In reply to his opponents, Alex Lyon justified the Labour government’s decision by declaring that “the total commitment from that source is very small (...) well within our capacity to absorb” (HC, vol.884, 23/1/75, col.2020). The Conservative opposition went beyond the governmental and parliamentary spheres. During the 1973 Conservative conference 15 out of the 54 motions on immigration and race relations had been strongly in support of the government’s position of refusing to grant the amnesty. Conservative constituents had often called for the government to take stricter measures “to seek out and deport all such law-breakers” (resolution n.245, Brent East, Conservative Conference 1973).23

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23 Only one resolution was asking for a full legalisation of the position of all immigrants to avoid pressure on illegal immigrants.
The Labour decision to grant the amnesty opened a more general debate on the spread of illegal immigration in Britain. The Labour government repeatedly attempted to ease the opposition's doubts by stressing that it was taking all the necessary provisions to act against the phenomenon of illegal immigration (by establishing police and special units). Roy Jenkins defended the governmental position in reassuring terms: "Illegal immigration is a problem, but I do not believe that it is a huge problem. It must be bigger than the number of arrests we make each year, but I do not think that it is very much bigger" (HC, vol. 912, 24/5/76, col. 97).

In France the issue was abundantly covered by the media which publicised the operation. Some hostile newspapers emphasised the existence of illegal trafficking to bring immigrants into the country and warned of the appeal this legalisation would have on immigrants already in Germany or Switzerland, as they would be attracted by the prospect of having their situation regularised. The opposition's reactions were swift. Bonnet, the previous minister of the Interior, denounced the negative consequences the regularisation would have on the employment situation and the threat that it would constitute for public order. Others stressed its demagogic character. Some associations in particular (Collectif S.O.S. Refoulement), were strongly against the whole operation because it had only a symbolic dimension without solving deeper problems. They stressed that the government had created a series of discriminatory provisions because at least 80% of the irregulars would not be able to prove that they had regular work. They predicted that after the deadline (January 1982) there would be an increase of deportation orders against those found ineligible or those who had not applied (Le Monde, 23/9/81; Verbunt 1982).

6.3.3 The legal provisions

In France, because of the urgency of the whole operation, the conditions of the amnesty were defined in a circulaire (C. interministérielle, 11/8/81, JO, N-C, 25/09/81). The text stipulated that it was applicable to all non-nationals who had entered France before 1 January 1981,
whether the irregularity stemmed from their length of stay or their work. In addition, they needed to prove that they had a regular job with an employer (whether or not a contract had been signed). Other categories who could apply for the amnesty were those who had remained on French territory after the expiry of their removal order, those who had reached the age of 16 while in France but had failed to apply for a residence permit and those who had applied unsuccessfully for asylum. Applications were examined by the D.D.T.E. (Direction Départementale du Travail et de l'Emploi) except for the applications of Algerians, who had their request examined by the préfectures. Eligible immigrants were granted a temporary resident's card and a work permit valid for one year.

In parallel during the period of the amnesty (6 months from August 1981 until January 1982), to encourage employers to supply their foreign workers with regular work contracts, several provisions were particularly lenient towards them. In particular employers of illegal immigrant workers were provisionally exempted from paying all the unpaid social security contributions retroactively for the period during which the immigrant had been working. In return these employers had to agree to deliver a work contract to their illegally employed immigrant workers in order to clear up their situation and that of their employees.

In Britain the 1974 regularisation arose from the consequences of the application of the Immigration Act 1971; the negative effects of certain provisions had emerged as a result of a House of Lords' decision (D.P.P. v. Azam and others, 11 June 1973). The Times Law Report (June 12, 1973) commented as follows on the House of Lords' decision:

The Immigration Act 1971 is effective to operate retrospectively and treat as "illegal entrants" liable to detection and removal all Commonwealth citizens who entered the UK and are here in breach of the immigration law as in force both before and after the new act even where such persons could no longer be prosecuted for illegal entry under the pre-1971 legislation and have established themselves in the community. (Quoted in Couper and Santamaria 1984: 441)

Labour was then in opposition and immediately reacted to prevent the expulsion of immigrants in an irregular position. The motion proposed by the Shadow Home Secretary,
Shirley Williams, asked the Conservative government to grant an amnesty to the immigrants affected by the retrospective effect of the Immigration Act 1971. The opposition stressed the far-reaching consequences that the presence of illegal immigrants would have on race relations. Labour claimed that in the absence of an amnesty, the expulsion of these irregulars would be detrimental to the promotion of good race relations, which they claimed was a central concern for both Labour and Conservatives. The Conservative government's reply was firm; it was against a general operation of amnesty but was prepared to consider special cases. Eventually the Labour motion was defeated by 290-251 with a governmental majority of 39.24 Conservative officials indicated that ministerial discretion would be used to assess all the relevant aspects of each case: length of residence, personal circumstances, previous criminal record, etc... (HC, vol.858, 26/6/73, col.1415-1470).

Immediately after Labour had taken office, the amnesty was announced by the minister of Immigration. According to the First Report from the Select Committee (House of Commons 1978), four main methods of evading immigration controls were identified, depending at what stage of the immigration control the fraud occurred: false documents provided by the immigrant when applying for an entry clearance at points of departure, forged documents (passport or entry clearance) produced at ports of entry, covert entrance into the UK (by plane or boat) and overstaying for those who had entered with a short-term permit such as visitors and students. This was also the view of the Home Office, which issued in 1978 a publication, *Illegal Entrants*, in which the concept of illegal immigrant was formally defined as those entering clandestinely and those entering by deception, using forged documents or claiming false information.

In both countries, several difficulties rapidly arose from the application of the criteria stipulated in the amnesty. One of the main problems in France was that many immigrants did not have a regular activity with an employer. In addition, because of imperfect knowledge of

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24 During the 1973-74 parliamentary session a private Peer's bill on immigration was introduced by Lord Avebury. His bill sought to reverse the judicial decision in the Azam's case but it was defeated by 80 votes to 65 (Burton and Drewry 1975).
the realities of this underground economy, the criteria as they had been defined could not always be applied (Verbunt 1982). Consequently, three additional texts (via circulaire) extended the provisions of the first text to include those holding false documents, political refugees, those working for different employers, those under apprenticeship (C. du secrétariat d'Etat chargé des immigrés, 22/10/81), seasonal workers (C. interministérielle, 20/11/81) temporary workers and those made redundant because of their application (C. du secrétariat d'Etat chargé des immigrés, 30/11/81). Secondly, the initial deadline set at 15 October 1981 was finally extended to the end of the first quarter of 1982. At first, the administrative authorities had expected to clear up the situation of irregular immigrants in quite a short period of time during which all applications would have been dealt with rapidly. As the operation of regularisation proceeded, the emergence of difficulties of various types obliged the administrative authorities to modify the initial criteria and deadline.

In Britain the conditions of the amnesty were broadened in November 1977 in the face of new cases that had not been anticipated. Thus, unlike the French amnesty criteria, overstayers had not been considered as possible applicants in the British case. Firstly, the notion of “illegality” had not been stated clearly enough and thus, people who had overstayed their leave to remain had wrongfully applied for the amnesty. Secondly, in the first instance the setting of a time limit had not been considered since it had been argued that abuse on a large scale would not occur, thereby making it unnecessary to establish a firm deadline. It was felt that “it would not be right to deny the benefit of the decision to someone who had not heard of it [the time limit] at the time and whom we subsequently believed to be entitled to benefit” (A.W. Lyon, HC, vol.872, 30/4/74, col.451). Subsequently, however, ministers changed their minds and a deadline was established to limit the numbers of applications as well as to speed up the whole process of the amnesty. The extension announced by Merlyn Rees consisted in setting a new deadline – 31 December 1978 – and in including the case of

25 For this particular category of workers, it was stipulated that a permanent work permit would be delivered if they had been working more than 21 months from the 1/1/79 to the 31/12/81.
immigrants who had entered by deception. This extension followed some courts decisions because initially entry by deception had not been considered:

It is ordinarily understood that a person enters in breach of the immigration laws if, not being a patrrial he enters without the leave of an immigration officer which is an offence under s.25(1). It follows that bogus children and persons with forged documents who are admitted with leave are not illegal entrants. (Quoted in Nicol 1981: 31)

Finally, British courts also held that the amnesty conferred no rights but simply expressed an intention to mitigate the effects of the 1971 Act. As a consequence, the secretary of State retained discretionary powers to give or refuse leave to remain to applicants.

In both countries problems inevitably arose with cases of immigrants who had applied but who were ineligible under the conditions set by the amnesties. In those cases, administrative discretion prevailed to evaluate those applications. In Britain, each difficult case was considered under the personal authority of a minister, the only person who could order the expulsion of illegal entrants with dependants or of those who had applied too late as well as those whose applications had been unsuccessful. In parliament, the Home Office contended on several occasions that expulsions from the UK of these categories would be carefully considered by the minister in charge (HC vol.941, 16/12/77, col.522 and vol.954, 20/7/78, col.306-309). However, its decisions on amnesty applications were never judicially reviewed (Gordon 1981). This leaves the door open to many interpretations of how the Home Office exercised its prerogative in that area of public policy.

In France, because of the magnitude of the operation, departmental commissions were set up to examine difficult applications, the final decision being taken by the préfet on the recommendation of the commission. Those whose applications had been definitively rejected were notified in writing of the decision and were given a temporary permit valid for one month until their departure. In addition, to prevent their detection and their arrest, they were guaranteed that their files would not be communicated to the police services but instead would be destroyed. These procedural safeguards (written decision, destruction of the files)
proceeded from the generous attitude of the government towards irregulars. It lasted only as long as the operation of regularisation went on.

6.3.4 Synthesis: statistical information on French and British amnesty

By definition figures on the number of illegal immigrants are difficult to obtain and assessments can only be very approximate (Lebon 1976). Lebon explained the heart of the problem very clearly:

Tout essai d'évaluation, même très approximative, se heurte à de telles difficultés que l'on peut révoquer en doute l'utilité d'un tel exercice, ses résultats étant immédiatement contestés (et contestables). La modestie oblige à dire qu'on ne connaît des clandestins que ceux qui ne le sont plus parce que leur situation a été régularisée. Ce sont alors des dizaines ou des centaines de milliers de personnes, jusqu'alors ignorées par les dénombrements, qui augmentent le volume du "stock". Cependant l’interrogation subsiste et ne peut que subsister sur le nombre de ceux qui n’ont pas pu (ou pas voulu) bénéficier de la légalisation et sur l’importance de la clandestinité ultérieure. (1988: 31-32)

In Britain similar statements were made by Home Office ministers in reply to requests from the Conservative opposition on the likely numbers of illegal immigrants present in the UK and on the estimates that could be made:

The number of people who come here illegally not through immigration control is extremely small. No one doubts that there are some. (...) They must be speculative and no one knows for certain because no one can count the number of illegal immigrants. (HC, vol. 913, 24/6/76, col.66)

There is here an obvious contradiction since it was asserted that the number of irregulars was small and at the same time the minister insisted that it was a speculative figure. The truth is probably in between these two assertions. In comparison with the French situation the number of those caught was relatively small, which could either indicate that the phenomenon was small-scale or that specialised and effective controls on irregulars were ineffective or absent.

By contrast in France, apart from the compensatory aspect, the regularisation served as a measuring tool to determine the extent of the size of the illegal immigrant population and to give other types of information on that part of the immigrant population. Indeed, it emerged
from the analysis of the results of the 1981 regularisation (through an anonymous questionnaire completed by applicants) that in 68.4% of the cases immigrants had overstayed in France after their three-month visas for tourism had expired (Lebon 1983). Adding the cases of those using forged documents and those who had been refused the status of refugee, this made a total of 79.5%. Additionally previous students and seasonal workers who did not return to their home country at the end of their studies or their contract constituted the third important group of regularised immigrants (11.9%). Quite significantly these results indicated that the administrative practices implemented after 1976 (non-renewal of work permits or residence cards, increased numbers of deportation orders) were not, as had been thought initially, the main factors contributing to the increase of the pool of illegal immigrants. Rather, they suggested that in the absence of effective controls on the exit of temporary immigrants (false tourists, seasonal workers, students) or of systematic internal controls, all the illegal immigrants had been easily absorbed by an underground economic system which had maintained them in France until they were regularised.

In France, figures on the number of irregulars regularised as well as the number of refusals varied to some extent from one minister to another. Estimated results for the 1981-82 regularisation gave the following figures: up to 1 August 1983 there had been around 150,000 applications of which 131,000 had been granted, that is 88% (Lebon 1983: 16).

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26 The survey also revealed some differences between the nationalities; for example seasonal work constituted the principal means for Moroccans to stay after the end of their contract (21.1%), while Turks entered principally illegally on the French territory (27%) and Africans had been using forged documents (36.2%).


28 The main nationalities who benefited from the amnesty were: Tunisians (17.3%), Moroccans (16.7%), Africans (14.9%), Portuguese (12.7%), Algerians (11.8%), Turks (8.7%). More statistical evidence collected during the whole procedure showed that 80% were less than 32 years old and 17% were less than 22 years old. Most of them were unmarried (59.9%), owing principally to their young age (Lebon 1983: 17).
### Nationalities Applications Granted Refused

<table>
<thead>
<tr>
<th>Nationalities</th>
<th>Applications</th>
<th>Granted</th>
<th>Refused</th>
</tr>
</thead>
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<tr>
<td>Algerians</td>
<td>17,381</td>
<td>14,567</td>
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<tr>
<td>Other nationals</td>
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<td>109,012</td>
<td>Not known</td>
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<tr>
<td>Seasonal workers</td>
<td>6,858</td>
<td>6,581</td>
<td>268</td>
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<td>Self-employed</td>
<td>2,458</td>
<td>1,200 (a)</td>
<td>1,265</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>149,266</strong></td>
<td><strong>131,360</strong></td>
<td></td>
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</tbody>
</table>

((a) Estimation, Source: O.NI., quoted in Lebon 1983: 16)

In comparison with the French figures, the number of illegal immigrants present in Britain for the same period, despite a constant increase appears incredibly small: an average of 140 people per year were considered as illegal immigrants during the 1973-76 period reaching a peak of 1,250 in 1980. For the amnesty up to 30 November 1975 1,833 applications had been made of which 1,177 were found eligible (64.2%), 335 ineligible (18.2%) and the rest were still pending (HC, vol.902, 19/12/75, col.855-857). In December 1977, the number of Commonwealth and Pakistani citizens found eligible was 1,663 leading automatically to the regularisation of their dependants: 4,867 in total (HC, vol.940, 9/12/77, col.898). But the number of those removed rose as well: 270 (1976), 540 (1978) and 590 (1979) (Source: Cmdn. 8533 (1982), quoted in Evans 1983: 310).

Comparison of the French and British operations reveals that the motives of irregularity were different as well as the composition of the pool of illegal immigrants. Indeed, even the scale of the phenomena was not comparable. These differences had their origins in a mixture of technical and political grounds. Technical reasons arose mainly from the different systems of immigration control. British controls on immigration relied heavily on a system of strict checks at ports of departure, whereas France, despite its border controls, privileged a system of internal controls which, however, proved to be incapable of protecting it against large groups of irregulars. The system of entry clearance established by Britain in 1969 was a key element in preventing the entry of bogus applicants as well as genuine immigrants. Extremely severe (with high rates of refusal), it proved to be the most effective way of preventing massive entries of immigrants wishing to gain access to the British labour market. Because of the absence of any internal system of immigration control, it appeared to be the
only safe method to prevent an increase of irregulars. Despite a few cases of internal controls (e.g. police raids checking for passports and other documents in factories employing large numbers of immigrant workers), no institutionalised system of internal controls like those existing in France was implemented in Britain.\(^{29}\) Thus, the Immigration Act 1971 contains no provisions requiring persons to produce a passport or other document to prove their lawful presence or status on request. They have the choice of complying or refusing. By contrast the only time when the 1971 text requires the production of documents is on initial examination by immigration officers at ports of entry (Macdonald 1981). In 1978 the Select Committee on Race Relations and Immigration made several recommendations in that respect but the whole question of internal controls remained very controversial.\(^{30}\)

Finally, the technicalities referred to above derived principally from a different political attitude towards the phenomenon of illegal immigration. Whereas in France policymakers tolerated a phenomenon perceived as a positive asset for the economy during periods of economic expansion, in Britain, since the first legislative controls on Commonwealth immigration, measures had been taken to eradicate the problem at its origin.

The operations of amnesty in Britain and France testified, beyond their symbolic aspect, to the left-wing governments' liberal attitude towards the immigrant population. It

\(^{29}\) However see Gordon (1981) for a detailed account of how internal controls on immigration developed during that period despite Britain's official reluctance to impose identity checks.

\(^{30}\) The Select Committee (1978) recommended in particular that more resources should be allocated to tackle more effectively illegal immigration (para. 86), that effective controls on unauthorised employment should be introduced urgently (para. 88), that the Department of Health and Social Security should introduce new procedures to improve identity checks on new immigrants (by way of national insurance numbers to new applicants) (para. 87) and that the government should introduce an independent inquiry to consider a system of internal control (para. 89) (House of Commons 1978).
went in the same direction as other important sets of reforms which softened the systems of controls. However, by the end of this period, the first signs that there existed limits to this "generosity" began to show. They signalled the next "volte-face" performed by both Labour and the Socialists.

This chapter covers the last period analysing the records of French and British governments to tighten the conditions for admission of primary and secondary immigrants. Two years after taking office, the Labour and Socialist governments adopted a series of reforms, some more radical than others, to regulate immigration more closely. The redefinition of the official targets of the British and French governments led eventually to the implementation of stricter control mechanisms. The analysis of policy change in Britain throughout this period ends with the 1979 General Election, which brought the Conservatives back to power, while the 1986 parliamentary elections in France led to the first experience of cohabitation between a right-wing government and a Socialist president.

The political, economic and social constraints that accounted for the rather abrupt shift in British and French policy are analysed in the first section. The second section contains a synthesis of the regulations that were enforced to comply with the new objectives. Finally, the third section provides a comparative analysis of the political discourses and the policy choices made over that period to highlight interesting similarities, despite the diversity of the national contexts.

7.1 Political context and pressure on British and French Immigration policy

7.1.1 The predominance of the “numbers game” in British Immigration policy

As the 1977 annual report of the J.C.W.I. signalled, the arrival of James Callaghan as Prime Minister, Merlyn Rees as Home Secretary and Shirley Summerskill as the junior minister responsible for immigration (to replace Alex Lyon) “marked the end of the government’s willingness to consider even minor reform” (The Times, 29/10/77). Thus, the last years of Labour’s term of office were characterised by intensive political debates on immigration
controls, on future rates of immigration and to a lesser extent on race relations. The publication of several official reports on these issues prompted the Conservatives, the Labour party and the government (since its position often diverged from that of the Labour party) to put forward their respective positions.

A general debate on immigration held in Parliament in July 1976 reflected “anxieties about future levels of immigration from the New Commonwealth and Pakistan” and incited the Conservatives to press the government to set up a register of the dependants wishing to come to settle in the UK (Home Office 1977a: 2). For the Conservatives, the register was “the best method of providing simple and easily understood statistics which will give the full facts to the public” (Conservative Party 1976: 48). A parliamentary group was appointed to examine the “feasibility and usefulness of a register with all the problems and evidence available to them from official sources” (R. Jenkins, HC, vol.914, 5/7/76, col.985-6). The committee chaired by Lord Franks took evidence from outside bodies as well as individuals and produced a report that principally indicated the purpose, the coverage, the question of compulsion and the cost of such a register.

Although the general approach of the report was to examine the possibility of such a register and not to make any recommendation in favour of it or against it, its final conclusions highlighted its negative aspects. It thus followed the opinion of the majority, who indicated their dissent by arguing that figures on the future rate of immigration would inevitably be inflated since they would include people who in the end, would never come to Britain, and this in turn would generate anxieties among the British population and could aggravate the state of race relations. By contrast those who favoured such a register insisted on the usefulness of the figures for showing the size and nature of Britain’s future commitments. They also stressed that the register would ease the process of detecting fraudulent applications for entry clearances. In the light of the report, the government concluded negatively that “such a register would not be desirable, practicable or likely to serve the purposes which promoters
of the idea intended for it" (HC, vol.925, 9/2/77, col.1433-4). Its foreseeable cost (several millions of pounds rather than hundreds of thousands), as well as its likely discriminatory effects on race relations, not to mention the difficulty of keeping it up-to-date, explained the government's final decision.

In March 1978 the House of Commons Select Committee on Race Relations and Immigration produced its first report on immigration matters since it had been set up in 1968 (House of Commons 1978). Up to then, the Select Committee had been avoiding producing reports on immigration controls. Instead it had concentrated more on race relations, a less potentially divisive issue than immigration matters (Willey 1975). The quest for unanimity had become the rule to give the reports more weight and defuse these issues (Himelfarb 1980). The 1978 report, which was unanimous in its recommendations, generated fierce controversies in the political elite. Among the most contentious issues, the Committee advocated the setting up of a deadline for the issue of vouchers to U.K.P.Hs (para.123), the removal of the grandparental connection to grant indefinite leave to enter (the connection was deemed to be too remote, para.129), priorities queues for dependants from the Indian sub-Continent (para.141) and a revision of the whole system of work permits (para.109). It also urged the government to consider the possibility of creating a system of internal control of immigration (para.89), effective sanctions against employers who employed overstayers and illegal immigrants (para.88), and the recording of the entry of patrials settling permanently (para.84).

Although the document was unanimous, it was not easy for its members to reach an all-party agreement. Nevertheless, a middle position had been found on topics such as the annual review of quotas for the admission of U.K.P.Hs. Labour's reception of the report was mixed. It received a hostile welcome from Labour MPs, since many already considered that the Immigration Act 1971 was "the farthest concession to the anti-immigration lobby"

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1 To operate a register of dependants was not a new idea. In 1965 a similar instrument had been introduced before being abandoned a year later (Demuth 1978).
The Labour Conference also manifested its opposition to the recommendations contained in the report and adopted a resolution on immigration and race relations that strongly condemned it. According to Layton-Henry, Labour’s disappointment accounted for the poor level of the debate on immigration, which had not been raised beyond the traditional question of the “numbers game”.

To a certain extent the Labour government’s reply to the Select Committee report diverged from the Labour party’s attitude. It produced a document that detailed the government’s policy in relation to each of the Committee’s recommendations (Home Office 1978b). Some of the recommendations (such as the introduction of a system of internal identity controls or the publication of the detailed quotas for U.K.P.Hs) were strongly rejected by the government while others were welcomed with some amendments (fuller statistics on immigration and the ending of any major primary immigration for example). Conservatives, for their part, adopted some of the recommendations contained in the document and generally welcomed the Committee’s positions, though it was felt that some of the recommendations did not go far enough (Layton-Henry 1979).

In April 1978, one month after the report of the Select Committee, the government issued a Command Paper on immigration statistics (Home Office 1978a), which re-launched the debate. The statistical tables on immigration patterns over the previous 10 years indicated a continuing decline of both primary and secondary immigration for the years 1976 and 1977. These figures incited Merlyn Rees to assert that the strict policy on controls adopted by Labour, confirmed their pledge that “there will be no further major primary immigration in the foreseeable future”. (HC, vol.947, 6/4/78, col.646). It denoted the government’s intention to respond to the opposition’s criticisms that Labour was too soft on controls.

Another government’s publication resulted directly from one of the Select Committee’s recommendations (para.83). In July 1978, the government’s White Paper, 1981

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2 The 1978 resolution in the Labour annual conference “condemns the report of the Select Committee on Immigration and Race Relations as a blatant concession to racialism. It calls on the Labour Government to reject it outright”. 

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Census of Population, proposed to include for the first time a question on ethnic origin in the next population census (Cmnd 7149). The government’s arguments were based on the need to obtain “authoritative and reliable information about the main ethnic minorities” concerning housing, education, family structure, employment and unemployment (para.24). Some scholars who studied the implications of the race question were very critical of the government’s proposal since they doubted that the information would serve the development of effective social policies as the government alleged:

The omission of European groups and Cypriots from the stated categories would leave the question as a simple headcount of black people. (…) It was feared that the census figures could be used to support arguments for tighter immigration controls and wider police powers. (Runnymede Trust 1979: 20)

The proposal to insert a question on ethnic origin in connection with current policies was an indication of the government’s concern over the “numbers game” debate.

These governmental and parliamentary reports addressed the issue of immigration controls at length but left aside the question of race relations. Controversial debates on the numbers of people admitted and contradictory statements on future trends were symptomatic of the shifting positions of Labour and the Conservatives during these years. The rising concern over the rates of immigration directly stemmed from the initial policies implemented by Labour at the start of its period in office – the raising of quotas for U.K.P.Hs, the 1974 immigration rules and the amnesty for irregulars. On the one hand, Labour had argued (and was still arguing) that its liberal reforms were only designed to accelerate the rate of admission and did not consequently increase the pool of immigrants entitled to come for settlement. On the other hand, the Conservatives had been demanding a stricter enforcement of the controls on primary immigration, as had been the case under the previous government. Both Conservatives and Labour reduced their immigration proposals to a mere question of numbers – numbers of dependants still to be admitted, numbers of U.K.P.Hs who had not yet arrived, numbers of fiancés/husbands likely to settle and to bring over close dependants and
numbers of irregulars and overstayers.\textsuperscript{3} As noted by Roy Hattersley, former minister of State for Foreign and Commonwealth affairs:

It is time that we stopped playing the race relations numbers game, time we stopped arguing about immigration figures and fertility rates and talked about people rather than statistics. (\textit{Sunday Times}, 11/12/77)

Thus, Layton-Henry (1979) argued that key issues such as the economic contribution brought by immigrants and the real needs of the British labour market were rapidly brushed aside. The government's papers (Home Office 1978a; 1978b) converged in their declared intention to respond to the opposition's vigorous attack, while at the same time appeasing public anxiety. Labour was keen to stress that the government had been keeping immigration at low levels (cf. figures quoted by M. Rees on the rising numbers of deportation orders issued to irregulars). Layton-Henry concluded on the government's reply that "the clear impression conveyed by the White Paper was that the Select Committee's Report was largely irrelevant as far as Government policy was concerned and that it should be buried as quickly as possible" (1979: 248). This clear-cut statement needs to be moderated slightly. A closer look at the Committee's recommendations and the government's answers suggests that when the government argued that many of the recommendations made by the Select Committee had already been implemented, it was an indication that Labour had already gone as far as the conclusions of the report suggested:

The total number from the new Commonwealth and Pakistan accepted for settlement on arrival fell from 37,000 in 1976 to 28,000 last year, a reduction of 25 per cent. This reduction supports the Select Committee's view that for some time there has been very little primary immigration from these countries and I note that the Select Committee has not challenged the accuracy of the Home Office statistics on this issue. (...) The reduction in the immigration figures shows that there is no need to introduce a new specific annual quota. (Home Office 1978b: para.1)\textsuperscript{4}

\textsuperscript{3} See Home Office (1977b, 1980) for more detailed figures on the number of people subject to immigration controls and those with a right of entry to Britain.

\textsuperscript{4} See also the Labour government's response to individual recommendations from the Select Committee: para.4, 6, 8, 10, 14, 18, 20, 23, 27 (Home Office 1978b: 15-26).
Hence the government's papers testified, in comparison with Labour's initial period in office, to the gradual shift away from a liberal policy to stricter proposals for a system of controls enforced with renewed severity.

The political context of these years was marked by the progress of the far-right in local by-elections. Although the National Front was not able to gain any local council seats, its electoral performance in scoring three third places in by-elections (Birmingham-Stechford, March 1977; Birmingham-Ladywood, August 1977 and Lambeth Central, April 1978) was abundantly reported by the local and national press. Steed (1978) argued that the impression of increased support for the NF was due in part to the larger number of NF candidates and to the effect of by-elections. Its effort to capture white working-class voters (traditional Labour voters) caused great concern to the N.E.C. of the Labour party. Thus, in September 1976 it decided to launch an anti-racialist campaign, whose main purpose was to expose the dangers represented by the growing influence of the NF by instructing Labour candidates as well as trade unionists of the evil represented by racialism and the neo-fascist policies of the NF. The NF's electoral progress was also served by the ability of the party to exploit public fears over the arrival of Malawian Asians at the same period (Layton-Henry 1992).

In March 1976 around thirty U.K.P.Hs of Asian origin expelled from Malawi by President Banda were temporarily accommodated in four-star hotels on the south coast of Britain. This episode provoked a series of hostile reactions largely echoed by local tabloids as well as national newspapers (see The Times, 5/5/76, 6/5/76 and 8/5/76, Sunday Times, 9/5/76, The Observer, 9/5/76). Beyond the popular propaganda against immigrants spread by the tabloids, this episode gave the different political forces the opportunity to present their positions on the current system of immigration controls. Alex Lyon, the former Minister of State at the Home Office, and John Ennals, head of the U.K.I.A.S., were sharply critical of the

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See articles in the following newspapers: The Times, "Union to start campaign against racism" (7/1/77), Sunday Times, "TUC joins Labour in new attack on Front" (11/12/77), Guardian, "TUC attempts to ban demos by the NF" (7/9/77), The Times, "Union asked to expel NF members" (7/4/78), The Times, "Union drive against NF activists" (12/7/78).
government's handling of the whole crisis. In particular they stressed that the absence of a
proper system of resettlement for these refugees had long-term consequences for local
authorities in charge of finding accommodation for Malawian Asians. In addition, since the
last reception centre had been closed in 1974 (having previously been used to host Ugandan
Asians), the Labour government did not provide any advice and information to help these
refugees to find accommodation and a job (*The Times, 5/5/76, The Observer, 9/5/76*).

As for the Conservatives, this episode raised the salience of the immigration issue at
their annual conference held in May 1976 where there were 140 resolutions on the topic
(Layton-Henry 1980, 1992; see also William Whitelaw's speeches in the 1976 Conservative
Conference in Brighton and in the House of Commons, 5/7/76). The Conservatives were
firmly committed to refuse any further influx of immigrants comparable to the one which had
occurred as a result of the Ugandan Asians crisis in 1972. In that respect they urged that an
annual quota governing the admission of the remaining U.K.P.Hs wishing to settle in the UK
should be established. They proposed an annual quota inferior to the present one of 5,000 if
the last Labour government's estimates (40,000 U.K.P.Hs still waiting to come) should
exceed the figure of 40,000 (*Conservative Campaign Guide, 1977: 437, 451*).

7.1.2 New constraints on French immigration policy

1983 marked a turning point in the management of the immigration issue by the Socialist
government. Commentators on that period often disagree on the respective limits of the
"liberal" and "restrictive" phases but most agree that the appointment of Georgina Dufoix as
secrétair e d'Etat in charge of the immigration question coincided with the redefinition of the
government's priorities in that area. Some made these changes coincide with the nomination
of Dufoix (Wihtol de Wenden 1991; Schor 1996), others on the contrary, taking a closer look
at the events, asserted that the modifications implemented from 1983 onwards preceded this
appointment and can be traced back to the spring of 1982 (Guimezanes 1987b; Weil 1995a; Viet 1996; Caudron 1997).\footnote{Nicole Questiaux, ministre de la Solidarité Nationale was replaced in June 1982 by Pierre Bérégovoy (former Secrétaire Général à la présidence de la République) while François Autain kept his post as minister in charge of immigrant population until March 1983 when in turn he was replaced by Georgina Dufoix who became the new secrétaire d’Etat en charge de la famille, de la population et des travailleurs immigrés.}

It has recently been demonstrated that within the Socialists’ ranks, controversies arose quite rapidly on the role and place of the immigrant population as well as on the most efficient system of immigration controls (Weil 1995a; Viet 1996; Caudron 1997). From an early stage (towards the end of 1981) Gaston Defferre’s double role as minister of the Interior and mayor of Marseille, a town with a large concentration of immigrants, led him to advocate a stricter enforcement of the law on illegal immigration, a position which clearly contrasted with the set of liberal policies initially implemented by the Socialists.

During the summer of 1981 the sudden influx of irregulars (in particular Algerians who had entered as tourists) prompted him to issue a large number of deportation orders, thereby abusing his special powers to take urgent action to expel immigrants found in an irregular situation. His firmness with regards to immigration control was directly linked with his position as mayor of Marseille, as he explained:

Nous voyons venir à Marseille de soi-disant touristes qui n’ont du touriste que le nom qu’ils se donnent et, le délai normal de leur séjour expiré, restent illégalement sur notre territoire. Ils deviennent alors des travailleurs clandestins et provoquent un mécontentement certain de la population. Je tiens à dire, comme ministre de l’Intérieur, que je suis décidé à protéger les travailleurs immigres en situation régulière, mais, à faire en sorte que les faux touristes quittent la France. (G. Defferre, quoted in Caudron 1996: 53)

His strict position on irregular immigration was close to a “zero tolerance” attitude and his constant concern over the most efficient mechanisms of immigration control at borders and within French territory led him to confront the other ministers concerned with the immigration question, in order to impose his views. Disagreements with the minister of Justice and with the secrétaire d’Etat in charge of immigrants deepened since Robert Badinter and François Autain had been intending to stick to the official Socialist line, which claimed that the concept
of solidarity was applicable to everybody and in particular to those who had been exempted from it up to then. Thus, the minister of Justice, Robert Badinter, set out to enforce a strict application of the statute voted in October 1981 (L. n. 81-973), which for example provided judicial safeguards against expeditious removals to the borders. Consequently the respective positions of the two ministers, with Gaston Defferre on one side trying to come back to an administrative management of border controls, and on the other side Robert Badinter wishing to preserve civil liberties, generated clashes within the government (Weil 1995a; Viet 1996; Caudron 1997).

From 1982-83 onwards, in parallel with these internal conflicts, several significant electoral results signalled the end of the honeymoon enjoyed by the Socialists since their accession to power – local by-elections in 1982, municipal elections in 1983 and European elections in 1984. The electoral campaigns and the electoral results further confirmed the inexorable decline of the PCF and the emergence of the far-right, which, for the first time, posed a serious challenge to other traditional political forces. These phenomena influenced the changing balance of political representation (Schain 1988; Bréchon 1993). During the local by-elections held in March 1982 the opposition obtained 49.92% of the votes while the Socialists gained only 49.59%, which in comparison with the previous by-elections held in 1976 represented a serious loss for the majority (56.3% in 1976). Thus, opposition parties regained power over 59 out of 95 county councils (Conseils généraux).

This loss of confidence in the government was further confirmed by the municipal elections held a year after, in March 1983. Prior to that date the extreme right-wing Front National (FN) had been unable to mobilise an electoral following. The FN managed to exploit the discontent with the government and the state of society in general to gain seats as councillors as well as considerable notoriety. The party’s confrontational stance over topics such as law and order was inevitably linked with the immigration issue and put the Left on the defensive (Schain 1993). The contest in Marseille between the Socialist Defferre and his right-wing opponent, Jean-Claude Gaudin (UDF), was a revealing example of how the
immigration issue was pervading political debates. Both candidates debated “quality of life issues” such as crime, security and the rising presence of immigrants in some inner-city areas. Schain has argued that “both candidates played on the worst fears and prejudices of the electorate” (Schain 1987; 1988: 617).

The case of the small city of Dreux was another example that testified to the constant progression of the FN’s propaganda on immigration. After the town’s mayor, Françoise Gaspard (PS), was dismissed from the electoral race, the FN’s list managed to obtain four posts as assistant mayors while its leader, Jean-Marie Le Pen, ran for the city council of Paris in the 12th arrondissement and obtained 11.5% of the votes. The electoral breakthrough of the far-right turned its leader into a legitimate political actor and consequently validated in the eyes of many the issues he had been defending – law and order, national priority to French-born people, and massive compulsory repatriation of immigrants. The FN’s electoral achievements were corroborated by the result it obtained in the European elections in June 1984. It gained 10 of the 81 French seats, that is 11% of the vote, and approximately 2 million voters. For the first time, such a score put it on a par with the Communist Party which constituted a “small revolution” (Husbands 1991; Fysh and Wolfreys 1992; Bréchon 1993: 42). In turn, governmental decisions were affected by the emergence and the development of the immigration issue. (Schain 1988).

As in the British case, the electoral progress of the extreme-right, considered up to then as an outsider, constituted a challenge to the government as well as to the other political forces. The FN’s discourse on immigration clearly differed from the usual discretion on the immigration issue hitherto adopted by traditional political forces. Its unequivocal and clearcut statements on immigration – or rather, as they defined it, “the problem of immigration” – enabled the FN to gain access to the media (Taguieff 1989; Battegay and Boubeker 1993; 7 Cf. Le Monde, 11/3/83 and 23/3/83.

In 1984 there were 8,505 foreigners (59 different nationalities) living in Dreux out of a total of 33,379 inhabitants (Lobato 1985: 73).

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Cuminal 1998). Topics that mobilised FN’s voters, such as the presence of immigrants in connection with the maintenance of law and order, differed from the wider range of issues supported by the other traditional parties of the Right (in particular economic issues). The FN’s electoral success was explained in terms of its dynamic of political competition and the “volatility” of the French electorate (Schain 1987; 1988). It became a debated and controversial political issue revealing ideological and political cleavages (Wihtol de Wenden 1991).

The impact of the extreme right-wing party on the government’s policies as well as on other traditional parties was immediately felt. The leader of the FN set out a series of issues related to the presence of the immigrant population that not only forced the other parties to react on these topics but also led the government to act symbolically “to demonstrate its commitment to dealing with the ‘problem’” (Schain 1988: 613). Thus, the Socialist concept of droit à la différence, which envisaged the transformation of French society into a multiracial community, was challenged by the FN and obliged the government to modify its initial attitude. The extreme-right’s approach was exactly the opposite of the Socialist concept: it meant for the FN that French people had the right to protect their cultural identity from the intolerable threat of foreign “contamination” by the immigrant population, which could not possibly be integrated into French society (Hargreaves 1997). The Socialists were forced to rethink their approach to the slogan droit à la différence, and to back away from their initial intentions. Georgina Dufoix’s ambiguous statement reflected the difficult position of the Socialists who were ill at ease with the evolution of the public opinion as it became more and more hostile to the presence of a large population of immigrants:

Le droit à la différence? Certes, mais il n’a de sens que si notre identité propre est très clairement et très fermement ancrée. L’une des difficultés des communautés immigrées aujourd’hui tient précisément au fait qu’elles n’ont pas une identité suffisamment affirmée. (...) Rien ne serait plus néfaste que de penser insérer des hommes ou des femmes qui, en fait, ne savent pas précisément à quelle communauté ils appartiennent. (J.O., A.N., Lois et débats, 10/11/83, p.5136)
Thus, Vichniac rightly observed that “the experiences of other countries such as the
United States and Britain are held up by many within the party as failures. There appears to be
a rallying around the older model of the creuset as the only way of integrating this population
within its midst” (Vichniac 1991: 54). Contrary to many commentators (Schain 1988;
Vichniac 1991; Weil 1995a) who have stressed the decisive role played by the extreme-right
in affecting and redefining the governmental agenda on immigration, Viet (1996) has
questioned the real weight of the FN. Thus, he argues that some fundamental governmental
decisions, later transformed into statutes, were taken within a large political consensus that
dominated the entire political elite (Right and Left together). He quotes the example of the
unanimous vote of the liberal text on residence cards and work permits in July 1984, which
was not influenced by the recent electoral success of the FN at the European election.

The three electoral campaigns of these years were held in a context of economic crisis
and rising unemployment. The vast and ambitious economic programme that the Socialists
had launched at the beginning of their period in office was progressively abandoned from
1982-83 onwards (Bell 1997). Reflationary measures such as the increase of purchasing
power, the rise of minimum wages and the creation of public posts in the name of the slogan
“L’emploi passe par la relance, la relance passe par la solidarité” did not produce “a miracle
cure for the problems caused by a stagnant or near-stagnant economy” (Fysh and Wolfreys
1992: 311). Confronted with the deepening of the financial and economic crisis, the Mauroy
government adopted a series of measures, which signalled the onset of austerity. Many French
people were disillusioned by the abandonment of Socialist values and showed their
dissatisfaction with the government in opinion polls and electoral ballots (Ambler 1985).

In July 1983 several episodes of violence and racism in suburbs of Lyon were widely
reported by the media. Since the municipal elections tension had been growing in several
areas with high concentrations of immigrants. Unemployment, overcrowding, violence,
racism and general intolerance towards foreigners and in particular towards Maghrebis, were
the signs of rising tension between many inhabitants. North Africans had become the usual
targets of racist attacks and more generally the so-called second-generation immigrants, who were ill at ease in French society, had responded violently with attacks on shops and cars. Relations with the police were at their worst level. These events prompted the government to launch special programmes to improve the situation of these areas, which were given high priority. The Zones Urbaines Prioritaires (Z.U.P., inner-city areas with special needs) were given special budgets to improve the housing estates and the social structures, and to meet educational needs (Schain 1993).

On 31 August 1983 the Cabinet made known its new agenda on immigration. This meeting had been preceded by other Cabinet meetings in March, April and July. It revealed the degree to which the government's position on these issues had hardened in contrast with its previous stance only two years before. In fact most of the decisions made public at the end of the summer of 1983 had already been anticipated or had been partially implemented from 1982 onwards (Weil 1995a; Viet 1996; Caudron 1997). The official statement to the press emphasised the renewed intensity of governmental action against illegal immigration:

La situation de l’emploi et la nécessité d’améliorer plus rapidement les conditions de vie des immigrés imposent une sévérité accrue face à l’immigration illégale. (...) Les contrôles ont été renforcés afin que les clandestins soient systématiquement décelés et défiérés à la justice. Simultanément des moyens accrus seront consacrés à la lutte contre les employeurs de travailleurs clandestins. (Communiqué de presse du Conseil des Ministres du 31 aoüt 1983, quoted in Caudron 1997: 103)

This implied not only stricter control at borders, but closer monitoring of foreigners who entered as tourists or as seasonal workers, more effective sanctions on employers using irregulars, detection, arrest and removal to the borders of irregulars, and swift, efficient operations with accelerated procedures before the courts. Finally, the government intended to conclude special agreements with Algeria, Tunisia and Morocco to regulate the entry of their nationals for short-term visits by requiring new certificates in addition to the list of documents already compulsory to gain entry (D. n.82-442, 27/5/82).

In July 1984 the new government led by the Prime Minister Laurent Fabius had the difficult task of implementing a more liberal economic policy while preparing the way for the
1986 parliamentary elections. The governmental position on immigration matters did not change much except for the fact that Georgina Dufoix became minister of Social Affairs and consequently her post as secrétaire d'État in charge of the immigration question simply disappeared. The issue of immigration was therefore managed by the ministry of the Interior and her ministry.

7.1.3 Comparative analysis of the sets of constraints upon British and French immigration policy

The constraints which influenced French and British governmental policies were of several sorts. The growing activity of the French and British extreme right-wing parties required the other established parties to find a swift answer and counterattack against their electoral achievements. The French and British Left, fearing to lose some of their traditional voters attracted by the new electoral agenda of the extreme right-wing parties, had to adapt their political strategy to their new opponents. This was particularly evident in the French case where the FN's values and its political agenda were imposed to a greater or lesser extent on the other parties. Broad, popular issues such as immigration, unemployment, public safety and maintenance of law took on a disproportionate importance in the political discourses of these years. In Britain, although the topics of immigration and race relations had been on the political agenda from the 1960s onwards, the existence of a bipartisan consensus had prevented Labour and Conservative leaders from making political capital from these issues. However, political forces had played the "numbers game", perverting the political debate on immigration control and reducing it to the importance given to figures.

Ambiguity and dilemma were certainly key words to describe the situation of the French governmental and opposition parties in the face of the far-right's achievements. The 1983 elections disclosed that there were great divergences within the Socialist Party: the positions of Gaston Defferre or Charles Hernu, who had taken a hard stance on immigration,
contradicted the attitude of other Socialists, such as Françoise Gaspard, who had been vigorously denouncing anti-immigrant ideology.

Ambiguity was not only a mark of the Left since the Right also had the difficult task of assessing the extreme right-wing values in order to redefine its position relative to the far-right. The French Right’s attitude in particular oscillated from total opposition to the FN (cf. Bernard Stasi’s and Simone Veil’s opposition to the joint list of the FN and the RPR-UDF in Dreux) to variable degrees of acceptance of the FN’s values, especially in times of electoral contest with the formation of joint lists (Brechon 1993).

By contrast, in Britain, the massive counter-offensive against the NF involved all the traditional parties as well as immigrants’ organisations. The Labour anti-racism campaign launched in September 1976 matched the support which the Conservatives, the Liberals and the British Council of Churches brought to the initiatives of the Joint Committee Against Racialism to counterattack the NF. However, opposition to the far-right’s influence did not mean that political actors did not endorse some of the policies advocated by the extremists. The Conservatives through their new leader put forward uncompromising proposals on Britain’s future immigration policy, while statements made by the Labour government testified to their intention to enforce regulations toughly.

In Britain and France these electoral breakthroughs of the far-right came during a period of economic and political crisis. The deepening of the economic crisis in France from 1982 onwards (prompting the adoption of the “Plan Delors” in June 1982 and the austerity programme devised by the Mauroy government in Spring 1983) and in Britain, where recurrent difficulties had necessitated the intervention of the International Monetary Fund in 1976, provided a natural climate for French and British people to manifest their discontent to their governments. This resulted in a loss of confidence in the Labour Party and in the Socialists by sections of their traditional working-class voters who were attracted by the populist ideologies of the far-right.
Secondly, both governments of the Left faced a political crisis, although this was much less serious in the French case. In Britain, after the by-election defeats of the Labour party in 1977, the Labour government was maintained in power by the Liberal Party under the “Lib-Lab pact” of 1977-78 (Burton and Drewry 1980). The Socialists’ position was not comparable to that of Labour since it still had a majority in Parliament. Nevertheless the three electoral campaigns of 1982, 1983 and 1984, and the subsequent results, demonstrated that its political credit had been seriously eroded and announced the defeat in the parliamentary election of March 1986. More critical for the formulation of its policy on immigration were the internal divisions in the government, with regular clashes between the three ministries in charge of the immigration question (Interior, Justice and Social Affairs).

7.2 Renewed severity on immigration controls

7.2.1 Labour’s contradictory fairness

In March 1977, under a series of pressures, Labour modified the rules for the admission of foreign husbands and fiancés for the second time while in office. The modification of these regulations “was a measure designed to specifically tackle the problem of ‘marriages of convenience’” (Home Office 1978b, para.20). This problem had already been raised as early as 1969 when James Callaghan, then at the Home Office, had argued the case for control to defend the rule forbidding foreign husbands from the right to residence (Guardian, 3/6/74; Dummett and Nicol 1990; Sachdeva 1993). Later, in 1974, when Labour had liberalised the 1969 rules, the problem of marriages of convenience and of the introduction of a probationary period had arisen. At the time, the argument against such restrictions had been that they “would lead to intrusive questions by immigration officers” (A.W. Lyon, HC, vol.932, 24/5/77, col.1337-38). In addition, it had also been pointed out that the implementation of

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9 The rule had been introduced (through a parliamentary written answer) without any change in the 1968 statute with immediate effect from 30 January 1969 (Guardian 3/6/74; Sachdeva 1993: 47).
restrictions on this category of immigrants would make it difficult to apply valid criteria to distinguish marriages of convenience from other marriages.

However, from mid-1976 onwards, the problem was again drawn to the attention of the government and the opposition (Sachdeva 1993). In May 1976, William Whitelaw (Opposition spokesman on Home Affairs) stressed the negative long-term consequences the 1974 rules would have for the changing demography of the country. In the same debate Enoch Powell commented on a confidential Foreign Office report (The Hawley Report) on the system of entry clearance as it was applied in the Indian sub-Continent. The content of the document (kept secret) seemed to confirm Powell's theories on the likely "invasion" of floods of family dependants from the Indian sub-Continent. Thus, the combined effect of the pressure from the Conservative opposition and Enoch Powell's alarmist statements, which coincided with the arrival of James Callaghan as head of the government, seems to have contributed to the gradual shift of the Labour government's attitude to the liberal provisions contained in the 1974 rules. Eventually Labour officials came to the opinion that the 1974 rules had led to an increase of marriages of convenience, thereby bringing the rate of immigration into Britain to unacceptable levels. When it amended the 1974 provisions, the Labour government argued that:

The scale of abuse and the number of cases getting through that were almost certainly bogus were such that it was wrong to let the matter drift without resolute action to deal with the issue. The only reason that we have been unable to give precise estimates of the scale of the abuse is that we can judge matters only on the basis of those cases where the circumstances attracted suspicion. (Dr. Shirley Summerskill, HC, vol.932, 24/6/77, col.1353-54)

The new rules provided that recently married husbands would be granted settlement after a qualifying period of 12 months. Fiancés would only be granted an entry clearance after satisfying the E.C.O. of the genuineness of their applications to join their future wives in Britain. Thus, an entry clearance for a fiancé could be refused "if the officer to whom the

application is made has reason to believe that the proposed marriage would be one of convenience entered into primarily to obtain admission here with no intention that the parties would live together permanently as man and wife” (HC238, para.48). Rapidly the new provisions operated a reduction of the number of entry clearances delivered to this category of immigrants. Difficulties arose because of the traditional Asian system of arranged marriages. Although the government had asserted that only marriages of convenience were targeted, in practice arranged marriages came under close scrutiny.

As to the number of fiancés and husbands admitted for settlement, statistics for this category are difficult to interpret since even though the total numbers of men admitted for settlement fell, the changes in the rules might also have led to distortion in the way statistics were collected (J. Evans 1983; Sachdeva 1993). Figures quoted by J. Evans showed that for the period from March 1977 (the rules entered into force on 22 March) to 30 September 1979 only 356 men were refused settlement after their 12-month probationary period. The rules principally affected immigrants from the Indian sub-continent as the government could claim that “the introduction of the new rules (...) led to a temporary drop in the numbers of New Commonwealth and Pakistani citizens accepted for settlement” (Home Office 1978a: 22).

Quite significantly, the 1977 rules paved the way for more radical requirements, since the introduction of a probationary period became a permanent feature of the system of control on this category of immigrants. They also prefigured the concept of “primary purpose rule” later introduced in the 1980 immigration rules. In practice the introduction of the probationary period led to the development of intimidating techniques and intrusive questioning that E.C.Os adopted to assess the bona fides of the applicants (Bevan 1986; Sachdeva 1993). They also implied sex discrimination since it was undoubtedly more

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11 The rules laid in parliament in February 1980 provided: “an entry clearance will be refused if the entry clearance officer has reason to believe: (a) that the marriage was one entered into primarily to obtain admission to the United Kingdom; or (b) that one of the parties no longer has any intention of living permanently with the other as his or her spouse; or (c) that the parties to the marriage have not met” (HC 394, para.50).

12 Even prior to the introduction of the new immigration rules, there were reports in the press of police enquiries about certain marriages to assess their validity (Sunday Times, 13/2/77).
difficult for women settled in Britain than for men to be joined by their spouses. Wives and fiancéés were not bound by the same restrictive conditions to prove that their marriage was genuine. Beyond the question of numbers, it transpired later that the problem of marriages of convenience might not have been of such proportions as had been thought at first. The Home Office confirmed that the number of refusals only concerned a few thousand applicants. Bevan’s comments on the Home Office junior minister’s intervention are quite sharp: “This is a telling testimony to the power of the Press, to the fickleness and expediency of governments in immigration matters and the use of statistical imprecision” (Bevan 1986: 247).

With regard to illegal immigration, the government also adopted a rather firm position which contrasted with the initial liberal conditions defined in the 1974 regularisation. In December 1977 Merlyn Rees announced that the amnesty offered by his predecessor in 1974 would be extended. However, contrary to the declaration of his predecessor (A.W. Lyon), who had stressed that it was not desirable to set a deadline for the amnesty in order to allow as many irregulars as possible to benefit from it, Merlyn Rees decided to close the application date: “This offer will be widely publicised; but it cannot remain open indefinitely and I have decided that the final date for considering applications, both under this announcement and that of my predecessor will be 31st December 1978” (HC, vol.940, 29/12/77, col.126). Immigrant organisations criticised Merlyn Rees’ move:

It is not only Mrs Thatcher who has cast doubt on her intention to respect that amnesty: the Labour Government itself is going back on the terms of the Jenkins’ announcement, which envisaged no time limit. (Ian Martin, General Secretary of the J.C.W.I., 18/2/78)

The determination of the government to adopt a firm position towards the potential beneficiaries of the amnesty was matched by intensified action against illegal immigrants, whether these were illegal entrants or overstayers. The general debate on the nature of immigration controls and on illegal immigration was further boosted by a draft directive

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13 The government had other occasions to reassert its firm position. See Dr Summerskill, HC, vol.941, 15/12/77, col.907 and M. Rees, HC, vol.954, 20/7/78, col.308.
issued by the European Commission on illegal immigration and employment. The Commission's proposals aimed at the harmonisation of laws in member states to repress illegal immigration and illegal employment. The debate held in the House of Commons in June 1978 revealed a general hostility towards internal controls in the name of the protection of civil liberties. Questions on the setting up of identity cards and police computers to monitor the presence of immigrants on British territory in order to trace overstayers were raised during the debate. Although both Labour and the Conservatives generally agreed to refuse instituting internal controls, agreement was not reached on the question of sanctions and curbs on illegal immigrants and their employment, because there was no clear view of the government's position.

However, the government emphasised that it was in the process of concluding co-operative agreements with trade unions on the most effective means of dealing with illegal entrants and overstayers who had taken up employment illegally (talks opened with the T.U.C. and the C.B.I.). The government further confirmed that it had been devoting more resources to tracing overstayers and ensuring collaboration between the Police and the Immigration and Nationality Department (Home Office 1978b). Thus, the press reported regular raids conducted by police and immigration officials at homes, restaurants, factories and hotels to arrest illegal entrants and to trace overstayers (The Times, 2/1/76; Guardian, 23/2/76, 17/5/77, 26/11/77; see also Race Today, January 1974 and March 1976; Guardian, 27/7/78 quoted in Gordon 1981: 34-7).

The so-called “passport raids” were either initiated by the police (the Illegal Immigration Intelligence Unit was based at New Scotland Yard in London) or by the immigration service (the Immigration Service Intelligence Unit was based at Harmondsworth near Heathrow) or sometimes jointly. It seems that at least 25 operations were carried out between October 1973 and April 1978, even though there is no central record of such operations.

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operations (Gordon 1981: 33). Eventually, the Home Office could claim that “the number of deportation orders made, the number of successful prosecutions and the number of illegal entrants detected and removed were all in 1977 between two and three times higher than in 1973” (Home Office 1978b: 16). Questioned on several occasions on the subject in Parliament, the government did confirm that it shared the opposition’s growing concern over the problem of overstaying and irregularity in immigration matters in general but did not give further details of its policy to repress illegal immigration (see HC, vol.925, 3/2/77, col.735; vol.925, 9/2/77, col.1434; vol.929, 4/4/77, col.317-8; vol.935, 14/7/77, col.768; vol.936, 26/7/77, col.141; vol.940, 29/11/77, col.125-8; vol.940, 9/12/77, col.896-9; vol.941, 15/12/77, col.907; vol.961, 25/1/79, col.669; vol.962, 6/2/79, col.89). More than any other area of immigration control, the question of controls on illegal immigration raised the wider subject of a system of internal checks within British territory. The degree of secrecy of the whole mechanism of controls on immigrants was revealed through a scandal uncovered by the press early in 1979.

In February 1979 a scandal over “virginity tests” practised on female immigrants was revealed through the press. The Home Secretary denied that between 1974 and 1976, following the instructions of the former minister in charge of immigration, A.W. Lyon to immigration officers these tests had ceased (see HC, vol.962, 16/2/79, col.670 and vol.963, 22/2/79, col.610). These tests, which seemed to have been part of the current administrative practice of immigration controls at ports of entry abroad and in Britain at Heathrow airport, revealed the degree of intrusion into immigrants’ private lives for the ultimate purpose of checking the accuracy of the applications for settlement. Severely criticised by its own members as well as by the opposition, the government attempted to defend the general principle of medical examination, for the purpose of immigration controls:

I have given instructions that immigration officers are not to ask the medical inspector to examine passengers with a view to establishing whether they have borne children or have had sexual relations. But whether a woman is married or has borne children may be relevant to
her entitlement to enter this country. (M. Rees, HC, vol.962, 12/2/79, col.376-7)

The United Nations Human Rights Commission passed a unanimous resolution on 5 March 1979 to disapprove of Britain's practice of immigration controls (Couper and Santamaria 1984). More generally, the debate held in the Commons on 19 February 1979 on these screening procedures also raised the question of the abuse of powers by immigration officers and on the secret instructions they received on how to interpret the immigration rules to perform their duties. Incidentally the use of X-rays to ascertain the real age of children emigrating to Britain was also questioned. Although the Home Secretary promised to consider the usefulness of these tests for the purpose of immigration controls, in practice these continued to be adopted until other, less intrusive medical techniques replaced X-rays (M. Rees, HC, vol.963, 19/2/79, col.222 and vol.963, 22/2/79, col.604). The government's strong attachment to the preservation of civil liberties and the refusal to institute internal controls were in striking contrast with the daily administration of immigration controls at ports of entry and abroad.

The government made other modifications, albeit less radical than those presented above, which nonetheless were clear indicators of its renewed firmness over the entry of other categories of immigrants. In June 1976 the Foreign and Commonwealth Office (F.C.O.) in New Delhi estimated that the number of U.K.P.Hs still waiting to come to Britain for settlement was nearly 39,000 for India alone (House of Commons 1982). It was stressed at the time that there was a large element of guesswork and later events proved that these calculations were largely incorrect. Nevertheless these figures provided ammunition for those like Powell, who could exploit public fears over the issue (The Times, 6/1/76; Guardian, 26/5/76). It was a propitious occasion to raise once again the question of the limits of Britain's commitments towards U.K.P.Hs.

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The inaccuracy of these figures stemmed firstly from the sharp fall in the number of applications for vouchers after 1977 – this had not been anticipated by the F.C.O. – and secondly, from the reduction of the average number of dependants accompanying the head of household from 4 in 1977 to 1.5 in 1981. The rate of withdrawal was later interpreted as a sign that many U.K.P.Hs who had gone to India were no longer determined to come to settle in the UK (especially old people). In addition, many had renounced their British passports in order to be registered for the Indian nationality (House of Commons 1982). Like their predecessors, the Labour government refused to reveal the voucher allocation to each of the countries concerned. Nor did it transfer unused vouchers from one country to another and therefore could claim that annual quotas were largely undersubscribed. The rigid management of the system of vouchers as well as the waiting lists proved in the end the best way of dissuading many U.K.P.Hs from emigrating to the UK (Demuth 1978; see also memorandum submitted by the J.C.W.I. to the Select Committee, House of Commons 1978: 226-227).

Finally, students coming on a temporary basis for their studies constituted a supplementary potential source of primary immigrants whom the government did not wish to encourage to stay. Fees for overseas students were increased to dissuade them from studying in Britain and officials from the Home Office stressed that the time spent in the UK did not give them any right to be subsequently accepted for permanent settlement (Dr Summerskill, HC, vol.912, 9/6/76, col.699-700). In addition, at the end of 1976 a confidential joint circular was issued by the Department of Education and Science and the Home Office to immigration officers to offer them new guidelines when examining the cases of overseas students. The circular empowered immigration officials to test the academic ability of overseas students arriving in Britain. However, the subsequent wave of protests prevented the two departments from releasing it until it was amended in October 1977. The new text provided that:

Immigration officers are required by law to be satisfied that an applicant is willing and able to follow a full-time course of study. (...) If the immigration authorities have serious doubts about the academic credentials of a student arriving in this country they will normally call
for an independent academic assessment before reaching a decision on entry. (Extract from the circular, *The Times*, 18/11/77)

The new entry regulations therefore curtailed powers originally proposed for immigration officers to test students at the port of entry. They nevertheless left immigration officials with the power to assess the *bona fides* of the prospective student as well as his general documentation.

7.2.2 France: priority to intensified controls

The programme the Socialists intended to carry out from August 1981 contained three interrelated principles which were not given equal priority from 1982-1983 onwards:


A stricter enforcement of existing rules as well as tougher policies on certain categories of immigrants resulted from the combined action of the minister of the Interior, Deferre, and the *secrétaire d'Etat* in charge of immigrants, Georgina Dufoix. Intensive action against irregulars and overstayers had started immediately after the closing dates of the operation of regularisation launched in August 1981 (Bonnechère 1983; Caudron 1997). 16 At a rather early stage, Gaston Defferre had clearly signified his intention to modify the law voted in October 1981 (L. n.81-973, 29/10/81) to suppress the judicial safeguards from which irregulars (that is those who had entered illegally) and overstayers could benefit when subject to a deportation order. Parts of that text were implemented through provisions adopted during the spring and summer of 1982. These rules, introduced via *décrets* and *circulaires*, were not only interpretative, as they should have been, but added significant modifications to the original text. The 1981 text (L. n.81-973) was not repealed as the minister of the Interior had wished

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16 Employers using an irregular workforce were the first targeted because they could no longer benefit from the tolerant provisions initially stipulated during the summer of 1981 (which were part of the amnesty operation) while at the same time sanctions were reinforced, previously only applicable to recidivist employers: 2 months to 2 years imprisonment and/or 2,000 to 20,000FF fine (L. n.85-772, J.O., 26/7/85, p.8481).
but he was given partial satisfaction with the vote of a new statute in June 1983 (L. n.83-466, 10/6/83) which provided that deportation to the borders could be immediate without any judicial intervention. It thereby suppressed the sentence of imprisonment. In parallel, an old décret from 1946 allowed the police to ask foreigners for identity documents proving their immigration status and the regularity of their residence in France.\textsuperscript{17}

Visitors coming on a short-term basis (that is for a period up to 3 months) were the second target of the minister of the Interior, as they were often considered as potential overstayers. A major reform reinforced controls on their admission and monitored their presence more closely. The new text required them to produce a lodging certificate (Certificat d’hébergement) signed by the person accommodating the visitor and countersigned by the police, the mayor or the consular authorities, in addition to the documents justifying purpose and length of their visit as well as guarantees concerning their financial conditions. (D. n.82-442, 27/5/82). This requirement gave local administrative authorities important powers of control since they had to check that conditions for hosting the visitor were satisfied. In particular it empowered mayors to refuse to sign these authorisations if they believed that the conditions were not met. In many cases the refusal to deliver an authorisation derived only from the personal feeling of the local administrative authorities that too many foreigners were coming on their territory. The implementation of this new document gave rise to serious controversies not only within the government but also in parliament.

In the mid-eighties the rise of asylum claims – a new phenomenon encountered not only in France – caused great concern to the ministry of Foreign Affairs and the ministry of the Interior (45 % of the claims were deemed to be from “economic refugees”). While France was bound by the 1951 Geneva Convention and could not possibly refuse asylum seekers, the ministry of the Interior issued a décret (D. n.82-442, 27/5/82) allowing administrative

\textsuperscript{17} The text of 1946 stipulated that: “Les étrangers doivent être en mesure de présenter, à toute réquisition des agents de l’autorité publique, les documents sous le couvert desquels ils sont autorisés à séjourner en France".
authorities to refuse to deliver a temporary residence permit to asylum seekers. The position of the minister of the Interior was rather firm:

Le gouvernement français n'est pas tenu d'ouvrir automatiquement ses frontières à une personne dont il est manifeste qu'elle se prévaut abusivement du droit d'asile ou que, en raison des activités connues, sa venue sur le territoire constitue un danger potentiel. (...) Enfin, il ne faut pas oublier qu'aux termes de la Convention de Genève un réfugié se trouvant régulièrement sur le territoire peut être expulsé pour des motifs de sécurité nationale ou d'ordre public. (J.O., A.N., Lois et Débats, Q. n.20700, 17/1/83, p.331)

Gaston Defferre was aware of the likely rejection of his décret by the Conseil d'Etat because it conferred on local administrative authorities (préfectures in this case) powers that manifestly contravened the powers of the O.F.P.R.A.; nevertheless the text remained in force until 18 May 1985 when a new circular issued by the Prime Minister put an end to that atypical and irregular situation.18

Stricter enforcement of the existing legislation on workers and family dependants reinforced state control over the increase of these two main sources of immigration under the conduct of Georgina Dufoix. She acted on two fronts, adopting tough measures which had been previously denounced by the Left when implemented between 1978 and 1981. Her policy was designed to prevent the increase of the foreign population by way of a posteriori regularisation as had been usual at the end of the 1960s as well as at the beginning of Mitterrand administration. Immigrants who had entered as tourists or as seasonal workers and who then applied for a work permit and a residence card were the main targets of a proposal which she put forward in June 1983. This was not, however, implemented owing to the veto of the director of the D.P.M. who warned her of the unfavourable recommendations against her reforms that the Conseil d'Etat would probably make (Weil 1995a; Viet 1996: 422-23). Nonetheless, work regulations were modified to prevent the issue new work permits on the

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18 The circular provided that asylum seekers were given a temporary residence permit valid for one month to give them the time to apply for the status of refugee. Once the claim had been made a second temporary permit was issued (valid three months and automatically renewable) to remain and work in France until the O.F.P.R.A. had made its decision (Viet 1998: 419).
grounds that economic difficulties justified preservation of the labour market in the geographical area concerned by the request.

Secondly, Dufoix intended to restrict the chaotic increase of family dependants by stricter enforcement of the text on family reunification voted in 1976. Since then, although two procedures for family regrouping had coexisted, the frequent use of the second one — allowing dependants once in France to apply for a permanent residence card — had led to a considerable rise of family dependants settling permanently. Moral and humanitarian considerations had stopped administrative authorities from deporting dependants in an irregular situation.

During the Cabinet meeting held in August 1983, the government communicated its new policy abolishing the procedure of family regrouping by way of a posteriori regularisation, choosing instead the first procedure, whereby an application was made by the sponsor in France and a medical check was made in the country of origin. It was argued that the head of the household would be in a better position to prepare for the arrival of his family by ensuring adequate accommodation and financial provision (Ministère des Affaires Sociales 1986). However, in practice many immigrants were faced with difficulties of access to council housing to host their family according to the criteria set by the 1976 provisions. The governmental proposal in a décret voted in December 1984 once again granted administrative authorities control over the process of family reunification (D. n.84.1080, 4/12/84).

Algerian nationals were not concerned by the new provisions of the 1984 text as the process of family regrouping was still regulated by two old circulaires issued in 1967 and 1969. These texts, which had not been updated, stipulated that restriction on family regrouping for Algerians could be justified by consideration of geographical quotas:

Il peut se trouver que l’arrivée continue de nouvelles familles algériennes présente dans certaines localités des inconvénients d’ordre général, en raison de la situation démographique et sociale. C’est ainsi qu’il peut paraître inopportun de favoriser l’accroissement d’une colonie nord-africaine vivant en marge de la population française. (Circ. de 1967, quoted by Viet 1996)
Although part of the 1967 circular had been declared irregular by an administrative tribunal (Tribunal Administratif de Paris, 1981) it had not been repealed by subsequent provisions.

Finally, the reintroduction of a programme of voluntary repatriation based on co-operative agreements between emigrating countries and France constituted the third part of the government’s policy. We saw that the first governmental scheme l’aide au retour which granted a financial bonus to immigrants in exchange for their definitive departure from France had been largely unsuccessful (1977-1981) and was eventually cancelled in November 1981. At the time, the idea of voluntary repatriation constituted a clear contradiction to the success of the integration policies that the Socialists wished to promote. Up to the beginning of August 1983, government’s officials were still asserting that a programme on voluntary repatriation was not envisaged (see J.O., A.N., Lois et Débats, 1/8/83, R. n.31955, p.3327). However the idea of helping immigrants to return to their country of origin was never really abandoned. Rather, the Socialists intended to adapt the previous system to the new and difficult economic circumstances. Thus, in August 1983, along with its new proposals on immigration control, the Cabinet decided to launch a new programme of voluntary return of immigrant workers to their country of origin. In comparison with the previous programme, the new scheme was based on different grounds:

Il est clair que le retour dans le pays d’origine n’est concevable que si une bonne réinsertion est possible. La politique du retour que nous conduisons sera donc fondée sur deux caractéristiques particulières: le volontariat et la coopération avec le pays d’origine. (G. Dufoix, J.O., A.N., Lois et débats, 10/11/83, p.5136)

The emphasis on the absence of any compulsion as well as on the need to develop effective co-operation with countries of origin to assist their economic development derived directly from the harsh criticisms that the Socialists had made of the previous scheme set up under the Giscard d’Estaing presidency. Indeed the Socialists had often stressed the negative consequences of the absence of effective consultation with emigration countries on the

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19 Georgina Dufoix asserted: “L’information à laquelle il est fait référence, évoque un prétendu projet de départ "volontaires" de 100,000 voire 500,000 étrangers. Le secrétariat d’Etat chargé de la famille, de la population et des travailleurs immigrés n’a pas de tel projet”.

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permanent return of their nationals. Some commentators saw the terminological change (the new programme was renamed *Aide publique à la réinsertion de certains travailleurs étrangers*) as indicative of a different governmental attitude towards the permanent return of immigrants: "le changement de terminologie est important, il exprime la volonté de concilier l'intérêt de la France, de l'immigré et du pays d'immigration, conciliation indispensable à la réussite de l'insertion (Baudet-Caille 1990: 34).

Contrary to the objectives of the last years of the Giscard d’Estaing administration, the scheme was not designed to encourage mass returns but rather to give each candidate a real possibility of finding a job in his country of origin. In practice it aimed at resolving high rates of unemployment of immigrants in certain industrial sectors seriously affected by the recession which had caused problems of overmanning and consequent mass redundancies. Branches of industry such as the car industry, employing a high percentage of the immigrant workforce were affected by the modernisation of the technologies and the consequent unsuitability of unskilled workers.

In the spring of 1984, the government, the trade unions and the employers reached an agreement over the conditions of the new scheme, which was eventually set up by *décret* (Cabinet meeting 4/4/84, D. n.84-310, 27/4/84). The agreement settled a long series of industrial disputes which had involved in particular Citroën and Talbot in 1983-84 (at Talbot 1130 out of the 1905 workers made redundant were of immigrant origin).\(^{20}\) Bilateral conventions with emigration countries defined the economic and social conditions of these programmes of reintegration as strictly as possible. Foreigners with children holding French nationality were excluded from the new programme of repatriation.

Put into a wider perspective, the new programme was presented as part of a more general policy of economic aid to developing countries. Although initially the government had stressed that its primary objectives were to achieve a positive reintegration rather than

\(^{20}\) The Socialist government learning from the previous errors of its predecessors had avoided setting up the mechanism through a simple circular. However the decision to implement the scheme through a *décret* meant that the government would not be faced with opposition in Parliament (Weil 1995a).
encourage the departure of thousands of foreign workers, in practice the lack of sufficient financial means accounted largely for the poor success of the scheme. Contacts and negotiations with countries of emigration were established but only one agreement was concluded with Algeria following a convention that had been signed in September 1980. It proved to be largely unsuccessful:

Il a constitué dans le cadre des relations bilatérales de la France avec les pays fournisseurs de main d'œuvre l'accord le plus ambitieux. Si son contenu laisse présumer une réflexion d'ensemble sur les modalités de réinsertion son application a révélé un manque de moyens, une désaffection des travailleurs concernés à ces formes définitives de retour et une inadaptation aux besoins et possibilités de l'économie algérienne. (Baudet-Caille 1990: 100)

Figures on the total numbers of Algerian workers who benefited from the scheme are illustrative of this lack of success:

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<td>Travailleurs bénéficiaires</td>
<td>6,190</td>
<td>13,616</td>
<td>5,953</td>
<td>569</td>
<td>62</td>
<td>26,390</td>
</tr>
<tr>
<td>dont alloc. retour</td>
<td>6,189</td>
<td>13,608</td>
<td>5,941</td>
<td>567</td>
<td>62</td>
<td>26,367</td>
</tr>
<tr>
<td>dont form. profess.</td>
<td>1</td>
<td>8</td>
<td>12</td>
<td>2</td>
<td></td>
<td>23</td>
</tr>
<tr>
<td>dont aide à l'entreprise</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>familles</td>
<td>5,336</td>
<td>12,324</td>
<td>5,382</td>
<td>512</td>
<td>56</td>
<td>23,610</td>
</tr>
<tr>
<td>Total</td>
<td>11,526</td>
<td>25,940</td>
<td>11,335</td>
<td>1,081</td>
<td>118</td>
<td>50,000</td>
</tr>
</tbody>
</table>


Finally, to counterbalance the set of restrictive measures on border controls and the management of illegal immigration, the national assembly unanimously adopted a statute in July 1984 that removed the previous dual system combining the residence card and the work permit. The fusion of the two documents in one card gave its bearer the possibility of working anywhere in France without restriction on the work sector. The card was automatically renewed, except in cases of serious threat to the public order and gave immigrants an unconditional right to remain and work in France without any restrictions. This text
consolidated the position and the legal status of that part of the immigrant population which, in the eyes of the government, but also according to the major established parties, had settled permanently (Bonnechère 1985; Simon-Depitre 1985; Lochak 1989). It marked the beginning of a new era not only for the major reform of the legal status of immigrants but also because of its political weight. It meant that the Right and the Left had agreed to follow an implicit line of conduct on immigration matters: the political elite accepted the permanent presence of a large immigrant population who therefore needed a stable legal status, free from deportation orders or any similar administrative decisions such as non-renewal of work permits or of residence cards (Bruschi 1985). On the other hand, the Socialists' policy devised and implemented from 1982-83 onwards demonstrated that they acknowledged that tough action to regulate migratory flows was a necessity of any immigration policy (Weil 1995a).

7.3 Points of convergence of the Socialist and Labour policies

7.3.1 Old "new" scapegoats: irregulars and dependants

French and British policies carried out in those years bore some similarities concerning the constant and increasing disquiet of the Socialist and Labour governments over the spread of illegal immigration and illegal work. This in turn led them to intensify their action against irregulars, which eventually resulted in higher rates of removals. The initially benevolent attitude towards irregulars came to an end once the deadline of the amnesty expired. Thus, in both states the determination of government officials to implement regularisation once and for all was followed by intensified action against traffickers and irregulars. Apart from a stricter implementation of existing control mechanisms, the rise of deportation orders and removals operated throughout these years were indicators of this new severity towards irregulars and overstayers. Figures of deportation orders issued by the French administrative authorities for the period concerned are as follows: 1982 (1,950), 1983 (10,717), 1984 (12,595), 1985 (8,596 for the first three quarters) (Ministère des affaires sociales 1986: 46). Although figures for

In a wider perspective, the presence of a large pool of irregulars and overstayers was principally explained by the different types of control mechanisms usually adopted to check borders and ports of entry as well as domestic territory. As we saw, French traditional reliance on a system of internal controls led to regular operations of identity checks in the streets and in public areas and to work inspectorates’ visits of workplaces where employers were likely to use irregular immigrant workers (Morange 1981). As for external controls, their reinforcement by the requirement of landing cards for visitors and financial requirements to prove the purpose of the visit was severely affected by France’s physical location.

In that respect Britain had always been more favoured than most of its European neighbours. Although Labour (as well as the opposition) had stressed that it intended to fight against illegal immigration and overstaying with their corollary of irregular employment, the Labour government like its predecessor did not adopt any form of employers’ sanctions to deter employers from using illegal immigrants. In addition, supervision of the foreign population within the country by means of identity checks was opposed by most politicians. The preference for external mechanisms of control was closely connected with Britain’s traditional reluctance to adopt any system of internal control whether by way of identity checks, registration with the police or work inspectorates or social security cards (Home Office 1984).

The debate on the European Commission draft directive held in parliament in June 1977 had confirmed this widespread distaste for a system of internal controls. The government’s

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21 Cf. L. n.85-772 (J.O., 26/7/85, p.8481).

22 See the article by Williams (1974) on the notion of passport control in Britain.
position, close to the Conservative one, was unequivocal; it stressed that "identity cards would be totally unacceptable in Britain" (John Grant, under-secretary of State for Employment, HC, vol.933, 24/6/77, col.2034). It was felt that controls at ports of entry were sufficient and that civil liberties would be seriously infringed since, whereas "other countries pursue immigration control when someone has already entered, none of us would wish to see that here" (Dr Summerskill, HC, vol.933, 24/6/77, col.2001).\textsuperscript{23} Thus Britain, unlike France and other Western European countries, has not adopted any form of sanctions on employers, one of the most important control mechanisms for the repression of illegal immigration (Freeman 1994a).

As for the admission of dependants, the duty to honour their commitments prevented the French and British governments from taking measures which were too drastic. Nonetheless, procedural requirements for family regrouping in France and rules for the admission of fiancés and husbands in Britain were tightened to prevent actual or alleged abuse of the rules governing the admission of dependants, visitors (France) and fiancés/husbands (Britain). To curb these sources of immigration, increased powers were given to administrative authorities and to entry clearance officers to assess the bona fides of the prospective entrants. This eventually led to an extension of the discretionary powers of immigration officials and administrative authorities to grant or refuse applications for settlement.

It is remarkable that the new provisions contravened the initial principles that the Labour and Socialist governments had been trying to follow at the beginning of their office. In Britain the 1977 rules, with the introduction of the probationary period for husbands, constituted a backing away from the first set voted in 1974 which had meant a liberalisation in comparison with the previous period. In France, since the 1978 court decision by the Conseil d'Etat recognising that a right to family life was applicable to immigrants, the Socialists had defended that right and hence strengthened the legal status of permanent immigrants.

\textsuperscript{23} See also Home Office reply to the Select Committee's recommendation to institute an independent inquiry to consider a system of internal control of immigration (para.89), Home Office 1978b: 17).
However, the recourse from 1982-1983 onwards to expeditious removals, to the mayor's visa in the case of private visits and to the strict enforcement of provisions on family reunification, meant a renewed severity towards immigrants in distinct contrast to the actions and words which had characterised the first months of the presidency. Hence, the numbers of family dependants admitted fell from 41,600 in 1981 to 39,600 in 1984 and 32,500 in 1985 (Ministère des Affaires sociales 1986: 46).

Finally, economic motives accounted for the restrictive policies on the immigrant workforce. In France, the 1974 ban on foreign workers, albeit decided by a right-wing government, was never subsequently challenged by any minister in charge of the immigration question. On the contrary, the Socialists took over the motto that France could not host further immigrant workers:

Cette politique tient aussi compte de ce que du fait de la situation économique actuelle, nous ne pouvons accueillir davantage de travailleurs étrangers. (G. Dufoix, J.O., A.N., Lois et débats, 10/11/83, p.5135)

La situation actuelle de l'emploi a conduit le gouvernement à maintenir les dispositions prises depuis 1974 pour limiter l'entrée en France de nouveaux travailleurs étrangers. (G. Dufoix, J.O., A.N., Lois et débats, 20/2/84, p.723)


In Britain Labour politicians adopted a similar line of conduct. The economic recession justified the successive reduction of the numbers of annual work permits for the catering industry and health services. Workers were the first category targeted but other categories of immigrants wishing to gain access to the British labour market were also restricted; dependants of people regularly settled in the UK, U.K.P.Hs (by imposition of quotas for their admission) and fiancés/husbands. Policy-makers pointed out the poor growth
rates and observed that the state of the economy made it impossible to "absorb" more workers. Thus, the Department of Employment, which was responsible for the approval of employment for overseas workers, emphasised that "the economic situation in recent years is therefore reflected in the progressive reduction in the numbers of jobs for overseas workers approved between 1974 to 1976 from 33,045 to (estimated) 22,620. On those occupations where annual quotas operate, these quotas have been very substantially reduced" (Memorandum submitted by the D.o.E. to the Select Committee, House of Commons 1978: 241).

7.3.2 Observations on the political discourse in the UK and France

In France, with the exception of the extreme-right, an implicit consensus on the policy of immigration emerged within the political elite in the mid-eighties (Hochet 1988; Costa-Lascoux 1989; Viet 1998; D'Haem 1999). Viet defined the concept of governmental consensus as follows: "Par 'consensus gouvernemental' nous entendons un accord non remis en cause par les gouvernements successifs, autour des orientations de la politique d'immigration" (1998: 396). D'Haëm (1999) argued that the political consensus on immigration implied the acceptance of three broad policy options. Firstly, due to economic motives successive governments never questioned the ban instituted in 1974 and the following restrictions imposed on foreign workers to prevent their access to the labour market:

Il faut rappeler enfin que la politique du gouvernement est celle de l'arrêt de l'immigration, ce qui implique la non-admission à la frontière des étrangers qui ne possèdent pas les documents nécessaires pour pénétrer en France, et l'engagement de poursuites judiciaires, à l'encontre de ceux qui sont en situation irrégulière, soit pour être entré clandestinement soit pour être resté au-delà des trois mois autorisés. (G. Defferre, J.O., A.N., Lois et Débats, Q. n.29544, R. n.36466, 12/19/83, p.3975)

Secondly, France acknowledged that it had the moral and legal duty towards its immigrant population to accept close dependants as well as certain categories of immigrants (refugees). The moral obligations derived primarily from the economic contribution these
foreigners had made to French prosperity. Although part of the far-right discourse questioned such a contribution, other political forces still recognised to some extent France’s indebtedness to a particular category of immigrants; workers who had come since the early 1950s and their dependants:

Il est clair que la France ne peut élargir indéfiniment sa capacité d’accueil et qu’un coup d’arrêt à l’immigration doit désormais être donné. Mais il est non moins vrai que la France ne peut, en aucun cas, renvoyer cette population d’immigrés qui lui a rendu et continue de lui rendre d’immenses services. (M. Barnier (RPR), J.O., A.N., Lois et Débats, 14/6/83, p.2515)

As for specific obligations deriving from the colonial past, they were restricted to Algerian nationals. Legal obligations also derived from international agreements such as the Geneva Convention, which, for example, “obliged” France to accept an influx of Vietnamese refugees in the 1970s and 1980s (see J.O., A.N., Lois et Débats, R. n.21382, 25/4/83, p.1924).

Apart from the extreme-right, neither the Left nor the Right ever really questioned French obligations to refugees, not only because of the small number of people involved (in comparison with the overall rate of admission of regular immigration) but above all because it was part of the traditional and historical asylum right embodied in the French constitution.

Thirdly, as a direct consequence of the 1974 ban, tighter control at borders as well as intensified action against illegal entry and overstaying were the necessary corollaries of any strict enforcement of the provisions on immigration control. However, business men, visitors, students and others coming on a short term basis should still be allowed to come.


The term “consensus” did not have the same meaning in the British case since it referred to some form of tacit agreement not to use race relations and immigration issues for
purely electoral manoeuvring. In Britain, by contrast to the French situation, the existence of a bipartisan consensus on the immigration and race relations issues had been a dominant feature of the policy during the 1960s and the 1970s (Rich 1986). However, by the end of the 1970s several episodes signalled that the tacit consensus that the British political elite had observed for decades was slowly fading under the Conservatives’ initiatives. In March 1977 a Conservative candidate for the Stechford by-election distributed a leaflet calling for a complete halt of further immigration. On that occasion Prime Minister Callaghan declared that a policy of ending immigration altogether would be:

> clearly inhuman and has not so far been Conservative Party Policy. I understand Conservative policy is that they do not want to stop the immigration of dependants joining their relatives here. I trust that is still the position. (Guardian, 25/3/77)

Even more clear was Margaret Thatcher’s famous statement on the people’s fear of being swamped by foreigners: “People are really rather afraid that this country might be rather swamped by people with a different culture (...) we do have to hold out the prospect of an end to immigration except, of course, for compassionate cases (Quoted by Layton-Henry 1992: 94; see also Behrens 1980). The “swamping” argument was not in itself a novelty in the Conservatives’ ranks but for the first time a Conservative leader dared tackle the subject with rather extreme expressions. Labour MPs had the feeling that Mrs Thatcher’s declaration just before the publication of the Select Committee report was calculated for political gain (Layton-Henry 1979).

Certainly, on the subject of repatriation the divergence between Labour’s and the Conservatives’ views was sharper than ever. From the very beginning the subject had distinguished the two parties. While Labour never did support the idea, the Conservatives on the contrary according to Mrs Thatcher’s words hinted at repatriation (Miller 1980). However,

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24 Andrew Mackay’s leaflet read: “STOP IMMIGRATION. Your prospective Conservative Parliamentary Candidate Andrew Mackay has said that immigration should be stopped in the interest of: good race relations in the future; our weak economy; our overcrowded island; our stretched social services” (Guardian, 25/3/77).

those arguing for more extreme solutions, such as the launching of a voluntary repatriation scheme to be made more attractive to those immigrants “who are not happy here instead (..) of trying to persuade them to stay”, represented nonetheless a minority (Roy Galley, Dewsbury, *Verbatim Report, 93rd Conservative Conference*, 1976: 41).

On specific points, both parties continued to stick to similar basic policy principles, as can be seen from a close comparative examination of the political discourse of Labour and Conservatives politicians during that period. On the subject of primary immigration both Labour and the Conservatives were determined to bring to an end this source of immigration:

> We can therefore confidently say that, subject to commitments to U.K.P.Hs under the special voucher scheme, which have been accepted and confirmed by successive Governments, and to those arising out of the Immigration Act 1971 and from our membership of the EEC “there will be no further major primary immigration in the foreseeable future”. (Home Office 1978: 1)

This Conference believes that it is in the interests of both indigenous and immigrant communities that the following principles are accepted as the basis of our immigration policy: (a) all efforts must be made to ensure that immigrants now in Britain are equal and welcome members of our society; (b) no further immigration except of the close and proven dependants of immigrants already in this country will be allowed. (*Verbatim Report, 93rd Conservative Conference*, 1976: 5)

Labour’s policy, although sometimes presented with more veiled words, was nonetheless particularly firm on immigration control. In the particular case of workers, Labour invoked the state of the economy to legitimise its choice to give priority to the national workforce before resorting to a foreign workforce, preferably skilled or experienced: “At a time of high unemployment it is obviously more difficult for an employer to satisfy the Department of Employment that a suitable worker is not available in Great Britain” (Home Office 1978b: 19). Scholars often pointed out that Britain failed to recognise and therefore honour the work and economic contribution of the Commonwealth populations who had migrated for economic motives (Mayhew 1978; Layton-Henry 1979). Thus, the fall of the total number of work permits by 44 per cent between 1974 and 1977 clearly indicated the government’s view that the needs of the labour market should not rely too heavily on overseas
workforce: “there is no doubt that the number of people coming here from the Commonwealth with work permits has fallen to almost nothing (M. Rees, HC, vol.919, 18/11/76, col.1542-44). Still, the Conservatives’ position was somewhat more radical for they made a straightforward connection between unemployment rates and the arrival of prospective immigrants:

During the present economic state with one and half million unemployed this country cannot afford any more immigration. (Dr Raja Chandran, Ashfield, Verbatim Report, 93rd Conservative Conference, 1976: 43)

There must be a total ban on all forms of immigration from now (...) I believe if we strain the resources any further, we risk bitterness, recriminations and wounds that will take years to heal until we put the position right. (John Carlisle, Luton West, Verbatim Report, 93rd Conservative Conference, 1976: 44)

Labour and the Conservatives had more divergent views on the issue of family reunification for dependants from the Indian sub-continent. We have already seen that many of the political statements made on that topic were related to the concept of Britain’s commitment towards foreign populations from the New Commonwealth. On both sides, there was a slight evolution of the respective positions of the Labour and Conservative parties in that respect. Whereas Conservatives asserted that Britain’s commitments had come to an end and that they would work on that assumption, Labour took a very similar stance, but this was as a defence against the familiar accusation of their being too soft, rather than as a radical policy line. These two quotations are illustrative of these differences:

Britain doesn’t have unlimited immigration or anything like it. Nor do we have unlimited commitments for the future. The Home Office estimated that all U.K.P.Hs in East Africa who want to come here will have arrived by 1979. Virtually all West Indian families in Britain are now complete that is nearly all the dependants wanting to come in have settled. (Labour Party 1976: 6)

So if the British people are to get a realistic and common-sense policy which faces the facts from any party, they must look to us. That is our

26 Detailed figures on the total number of work permits: from 33,045 in 1974 to 18,414 in 1977, mostly of these being short term permits. Long term permits, initially issued for 12 months also fell by 49 per cent from 20,695 in 1974 to 10,613 in 1977. Long term permits for workers originating from the New Commonwealth and Pakistan fell by 48 per cent from 5,971 to 3,074 for the same period. (Home Office 1978b: 19).
Labour’s discourse was not exempted from ambiguity since, while it was repeated that Britain would honour its commitments (albeit recognising that that would generate difficulties), at the same time the government contended that Britain’s commitments were not unlimited and were coming to an end.

As far as this last phase of British and French immigration policy is concerned, the U-turn that the Labour and the Socialist governments made in some areas of controls could not be anticipated from their initial liberal reforms. During that period French and British policy on immigration were formulated within a series of policy options that had to take into account the several types of constraints presented above, such as the rising influence of new political actors from the far-right and the pressures that came from opposition parties (the Conservative challenge to Labour) or from the government itself (internal dissent in the Socialist ranks). The governments’ initial objectives also varied in response to socio-economic factors, such as the deepening of the economic crisis and the worsening of the social context in inner-city areas in France (episodes of violence in the “banlieues chaudes”, summer 1982) and public hostility to immigrants following the arrival of small numbers of refugees in Britain (Malawian Asian crisis in spring 1976). Discrepancies between the policies implemented and the official policy line existed in both cases but were more easily discernible in the British case because of the clear contrast between the respective positions of the grass-roots Labour Party, its members in government and the parliamentary party. In France internal clashes in the government demonstrated that the personal position of each minister and its weight within the government could contradict the general governmental stance on specific issues.
CONCLUSION

The study of French and British immigration policies over the period from 1970 to 1986 sheds light on the role and weight of the sets of political actors involved in the process of formulating and implementing policies on border control. This analysis forms a revealing tool for understanding the migratory process, focusing in particular on the phase of admission, not only in the domestic contexts of Britain and France but also in a comparative perspective. It improves our comprehension of the principles and values of the two nation-states, their conception of sovereignty and the close links between their national identities and complex rules on citizenship. In addition, the comparative approach has highlighted the peculiarity of certain regulatory aspects of controls mechanisms – notably the predominance of external controls and traditional reluctance to establish internal controls in Britain as opposed to the French preference for internal administrative controls on its foreign population. On the other hand, it has shown the existence of shared political and moral principles behind the policymakers’ decisions on immigration matters.

The chronological, binary division between right-wing and left-wing governments that was adopted in this reflection on French and British immigration policies has served to highlight the continuity as well as the points of rupture between the different periods considered. Thus, the sequential analysis of the different sets of measures adopted and implemented by successive British and French governments allowed us to reconstruct the major guiding principles, as well as some of the basic regulations on control at entry, that were laid down under the Heath government and the Giscard d'Estaing presidency. The first period was therefore a fundamental reference point, against which to set the policies and regulations adopted during the two subsequent periods. The sudden but not completely unexpected closure of borders in 1974 in France, one year after the entry into force of the most severe Immigration Act ever voted in Britain, represented in both cases a firm starting
point for the governments of the day and others that followed to apply a series of harsher measures to restrict primary and to a lesser extent, secondary immigration. Thus, British policy-makers followed the broad guidelines established by the Immigration Act 1971, which led to a severe reduction of primary immigration, focusing in particular on the source of immigrants constituted by heads of household from the Indian sub-continent while fewer and fewer work permits were issued to prospective workers. Secondary immigration was constantly limited as much as possible by restricting the number of dependants to the nuclear family. Similarly in France the severe curtailment of the number of work permits issued to new immigrants went in parallel with a stricter policy towards the admission of family dependants.

It is relevant to add that beyond the period studied in the thesis, the management of immigration and race relations issues in Britain continued to be dominated by the commitments the Conservative maintained, under the leadership of Margaret Thatcher, to apply firm immigration controls. The adoption of the British Nationality Act in 1981 which introduced a more restrictive British citizenship and gradually removed the entitlement of Commonwealth citizens to automatic registration for UK citizenship went in parallel with the vote of several sets of immigration rules to curb the rate of admission of certain categories of immigrants (male fiancés and husbands, dependants from the Indian sub-Continent): HC394 (1980), HC66 (1982), HC169 (1983), HC293 (1985). In parallel, greater pressure was put on illegal immigration. In France the alternation in office of right-wing and left-wing governments led to several modifications of the ordonnance of 1945: "Loi Pasqua" (L. n.86-1025, 9/9/86), "Loi Joxe" (L. n.89-548, 2/8/89), L. n.90-34 (10/1/90) while, repressive action against illegal immigration was intensified as in Britain (L. n.91-1383, 31/12/91).

Beyond the similarities observed in the declared objectives, the specificity of the governmental structures, the preponderance of the legal systems and the administrative

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1 Other important circulaires and décrets issued throughout that period: C. n.86-279 (17/9/86); C. n.8800455C (23/12/88); D. n.90-93 (25/1/90); C. n.INT/D/91/00235/C (29/10/91).
processes accounted for most of the differences between the two sets of rules on immigration control. The various kinds of legal devices adopted in the two countries to regulate the practical side of immigration control owe much to the specificity of each legal system. However beyond the complex distinction between the civil law system and the common law system, a common feature of both systems of immigration law was the adoption of a "mixture" of multiple and varied legal norms, combining the most advantageous features of each body of rules to ensure the most effective system of immigration control.

This was made possible not only because of the traditional governmental control over immigration rules, but also because these rules were only applicable to the least favoured categories of people, those whose presence and legal status depended entirely on the good will of the political and administrative authorities of the host countries. The wide discretionary powers in the administrative practice of immigration control proved to be a concrete and daily proof of the severe infringements of civil liberties suffered by the immigrant population.

The whole period (1970-1979 for Britain and 1974-1986 for France), considered not as a sequence of separate elements of policy-making processes but examined distinctively as a distinct span of time, represented a key era for the transformation of French and British immigration policy. During these years, policies on immigration control were characterised by the convergence of French and British objectives to restrict access to their territory to some categories of immigrants: workers and family dependants. In addition, the initial divergence observed between the French and British perceptions of the immigration question ("French economic perception" versus "British social perception") gradually disappeared as French policy-makers started to consider immigration not only as an economic issue but also in its social dimension, as the British had always done. The transformation of French society into a multiethnic society, or rather the growing "visibility" of the foreign population, created a different perception of the immigration phenomenon and therefore a set of new reactions among French policy-makers. Questions on the economic utility of foreign manpower were progressively replaced by queries on the nature of French society, on its structure and on its
likely future with an increasingly large second generation born of foreign residents. Thus, gradually the "economic" vision of the immigration issue (thought of as a positive asset for France) lost its predominance to be overwhelmed by a more negative and in turn xenophobic perception of the immigration issue, soon labelled a problem.

Political discourse on immigration matters and in particular the use of rhetorical arguments to legitimise policy choices illustrated that evolution in the French case. In the British case, the vision of the immigration issue persisted in terms of a "race relations problem". In each of the periods examined British and French policy-makers were particularly keen to highlight in their public discourse the novelty and the long-term consequences of the new policies. The analysis of the use of two kinds of arguments, the "economic arguments" and the "social arguments", has demonstrated that the rationale behind public policies changed in the course of the periods under study. Thus, policy-makers adopted the "economic" or the "social" argument depending on economic conditions in order to present and justify new restrictive proposals. We saw that the predominance of "social arguments" in Britain and of "economic arguments" in France had its roots in the historical development of the immigration control mechanisms in each of the two countries and much depended on the dominant perception of the immigration phenomenon that prevailed in the immediate post war years.

A major difference between the French experience and that of Britain was that whereas in France the perception of the immigration question evolved throughout the period under study so that immigration finally began to be perceived as a social issue rather than an economic one, in Britain the perception of immigration remained static: it continued to be viewed as a social matter which was qualified as a "race relations problem", to be solved accordingly. The difference stemmed principally from the different kinds of immigration that the two countries experienced: immigration into Britain was essentially postcolonial, whereas France combined guestworker immigration with postcolonial immigration.
Some final comments need to be added on the subject of British and French immigration. Britain's policy has often been qualified as an *ad hoc* policy. Commentators have insisted on the "reactive" aspects of British policy-makers' decisions in immigration matters, emphasising that the regulation to control sudden and unexpected migratory flows was incoherent. A blatant example is the Commonwealth Immigrants Act 1968, for which the vote was rushed through the different parliamentary stages to prevent the arrival of East African Asians holding British passports. However, these studies do not consider the whole set of public choices to regulate migratory flows. More recent studies made by Paul (1997) and Spencer (1997) have demonstrated that in the immediate post-war period a continuing and relatively coherent set of ideas guided British leaders in formulating their immigration policy.

Historical developments showed that these principles were not immediately applied nor were they coherently co-ordinated because of the coexistence of many obstacles such as outdated nationality legislation in particular and the decolonisation policies which formed the international political dimension of the immigration question. But the principles survived throughout the 1960s up to the 1970s and formed the basis of the Immigration Act 1971 as well as the immigration rules voted thereafter. Throughout the whole period studied from 1970 to 1979, there was a relatively coherent and consistent set of political and ethical considerations on the immigration question, which embraced the whole political elite, Conservatives and Labour.

The dilemma that confronted both Conservatives and Labour, namely how to honour remaining commitments towards overseas populations still holding British passports, was solved in more or less the same way during the Ugandan (1972) and Malawian Asians (1976) crises. These crises tested the governments' strength in relation to a rather hostile domestic public opinion. They also revealed the degree of consensus existing at the time between the two major parties, bound by the same moral and ethical considerations to accept these populations.
In the French case what dominated the period was the consensus that political elites reached gradually on the main orientation of immigration policy. Particularly illustrative is the U-turn that the Socialist governments performed when they revised their initial objectives in a restrictive direction in the mid-eighties. Such a drastic evolution of the policy objectives questions the validity of political principles on immigration control when they are tested against reality. It also challenges common assertions, which tend to label immigration policies originating from the Left as liberal and policies made by the Right as restrictive. A close observation of the rules, the political principles and of arguments put forward to defend the policy objectives reveals that this binary delimitation might not be as clear-cut as it at first appears.

Many aspects of the research which were only touched upon merit further study. Thus, the device of bilateralism which in the British case functioned for a short period between Britain and governments in the Indian sub-Continent as well as in the West Indies could be compared to the many agreements concluded by the French governments during more or less the same period (end of the 1950s to 1960s) to measure the weight of the different partners, the real issues at stake when officials of both sides were "bargaining" to impose their point of view. Research on that topic would embrace many related aspects of the immigration issue and in particular the process of decolonisation and the international status of France and Britain during that period. It could also feed the debate on the political considerations of policy-makers at the time, their vision for the future and their concept or absence of concept of a French and British multiracial society. As for the period itself under study, in the case of Britain more will probably be known after Home Office documents and Cabinet papers are released and it will then be possible to trace the real influence of policy-makers in the early 1970s and to understand and compare the role and weight of the various actors involved. In addition, other interesting questions still to be elucidated concern, from a strictly comparative point of view, the reciprocal influence of the British and the French immigration experience on each other's policies. It remains to establish whether the French and British political elites
were looking across the Channel to find in their neighbours' immigration experience solutions to their own immigration problems.
BIBLIOGRAPHY OF WORKS CITED

Books, articles, pamphlets, official publications


Etudes dédiées à la mémoire du Professeur Gérard Dehove, Ancien doyen de la faculté de droit et des sciences 


française.


London, C.R.E.


Conservative Campaign Guides for the 1970 and 1974 (February and October) General Elections.


Committee of the Society of Conservative Lawyers.


Stanford (Calif.), Stanford University Press.

Migrations, 1: 1-11.

discrimination raciale”, Droit social, 5: 181-7.

15.

Documentation Française.

européenne des migrations internationales, 5.2: 161-77.

Paris, Publisud.


the Practice of Immigration Control in the UK”, International Migration Review, 18.3: 437-52.


Department of Employment (1977) – *The Role of Immigrants in the Labour Market*. Project Report by the Unit for Manpower Studies.


House of Commons (1971) - Population of the UK. First Report from the Select Committee on Science and Technology. HC 379. London, HMSO.

House of Commons (1978) - First Report from the Select Committee on Race Relations and Immigration. HC303-I, HC303-II (2 vol.). London, HMSO.


Jenkins, R. (1967) - “Address by the Home Secretary to the Institute of Race Relations”, Race, 8.3: 215-21.


Labour Party (1973) — *The Present Government won't listen to you. The Next will*.


Labour Party (1980a) — *Labouring under the Tories? Or a Socialist Alternative*.


Miller, W.L. (1980) - "What was the Profit in following the Crowd? The Effectiveness of Party Strategies on Immigration and Devolution", British Journal of Political Science, 10: 15-38.


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LEGISLATION

This does not constitute an exhaustive list but includes the main texts for the period covered by the thesis. Immigration rules generally enter into force on the day they are laid in Parliament (date into brackets) otherwise when they are two dates, the first indicates the presentation in Parliament while the second indicates the entry into force of the rule. Similarly the date mentioned into brackets for French legislation indicates its date of publication in the J.O. (but not necessarily that it enters into force on that date) unless otherwise stated (second date added).

**Britain**

**Statutes**

- Aliens Restriction Act 1914
- British Nationality Act 1948
- Commonwealth Immigrants Act 1962
- Race Relations Act 1965
- Commonwealth Immigrants Act 1968
- Race Relations Act 1968
- Immigration Appeals Act 1969
- Immigration Act 1971
- European Communities Act 1972
- Race Relations Act 1976

**Immigration rules**

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HC 239 (22.3.77) Statement of change in immigration rules: Commonwealth nationals: control after entry.

HC 240 (22.3.77) Statement of change in immigration rules: EEC and non-other commonwealth nationals: control on entry.

HC 241 (22.3.77) Statement of change in immigration rules: EEC and non-other commonwealth nationals: control after entry.


France

Ordonnance and lois

O. n.45-2658 (2.11.45) Relative aux conditions d'entrée et de séjour en France des étrangers et portant création de l'Office National d'Immigration.

L. n.72-546 (1.7.72) Relative à la lutte contre le racisme.

L. n.73-626 (6.7.73) Relative aux marchands d'hommes, réprimant les trafics de main-d'oeuvre.

L. n.73-548 (27.6.73) Relative à l'hébergement collectif.

L. n.76-621 (10.7.76) Relative au renforcement de la répression des trafics et d'emplois irréguliers de main-d'oeuvre étrangère.

L. n.80-9 (10.1.80) Relative à la prévention de l'immigration clandestine et portant modification de l'ordonnance n.45-2658 du 2.11.45 relative aux conditions d'entrée et de séjour des étrangers et portant création de l'Office National d'immigration.

L. n.81-82 (2.2.81) Renforçant la sécurité et protégeant la liberté des personnes.

L. n.81-909 (9.10.81) Modifiant la loi du 1er juillet 1901.

L. n.81-941 (17.10.81) Relative à l'emploi des travailleurs étrangers en situation irrégulière.

L. n.81-973 (29.10.81) Relative aux conditions d'entrée et de séjour des étrangers en France.


L. n.84-622 (17.7.84) Portant modification de l'ordonnance n.45-2658 et du code du travail et relative aux étrangers séjournant en France et aux titres uniques de séjour et de travail.

Décrets, circulaires and arrêtés

D. n.69-243 (18.3.69) Portant publication de l'accord entre le gouvernement de la République française et le gouvernement de la République algérienne démocratique et populaire relatif à la circulation, à l'emploi et au séjour en France des ressortissants algériens et de leur famille, complété par un protocole, deux échanges de lettres et une annexe, signé à Alger le 27.12.68.

C. n.72-40 (24.1.72) Relative aux conditions d'établissement en France des travailleurs étrangers et à l'unification des procédures de délivrance des titres de séjour et de travail.

C. n.1-72 (23.2.72) Relative à la procédure de délivrance des titres de séjour et de travail aux étrangers.

C. n.18/73 (26.9.73) Relative à la normalisation de la situation des travailleurs étrangers.

C. (5.7.74) Suspension de l'immigration de travailleurs étrangers.

C. (9.7.74) Relative à la suspension de l'immigration familiale.

C. (19.7.74) Suspension de l'immigration familiale.

C. (9.8.74) Relative à la suspension de l'immigration familiale.

D. n.74-949 (12.11.74) Relatif aux conditions d'entrée et de séjour des étrangers en France.

C. (26.11.74) Relative à la régularisation de clandestins.

C. n.20-74 (30.11.74) Relative aux conditions d'emploi et de séjour en France des ressortissants malgaches.

C. n.21-74 (30.11.74) Relative à la situation des travailleurs ressortissants des pays d'Afrique du Sud du Sahara anciennement sous administration française.

C. n.22-74 (27.12.74) Relative à la suspension de l'immigration familiale.
C. n.75-29 (17/1/75) Relative aux conséquences de l'arrêt du Conseil d'Etat en date du 13 janvier 1975.

C. n.187 (21.2.75) Relative au réseau national pour l'accueil l'information et l'orientation de travailleurs étrangers et des membres de leurs familles.

C. (21.5.75) Annulation de la C. du 19.7.74., relative à la reprise de l'immigration familiale.

C. n.17-75 (18.6.75) Relative à la reprise de l'immigration familiale.

C. n.19-75 (2.7.75) Relative à l'immigration familiale.

C. n.20-75 (20.7.75) Relative à la lutte contre les trafics de main-d'œuvre.

D. n.75-1088 (21.11.75) Pris pour l'application de l'art. L.341-4 du code du travail et relatif aux autorisations de travail délivrées aux travailleurs étrangers.

D. n.76-56 (15.1.76) Modifiant certaines dispositions relatives au séjour des étrangers en France.

C. n.2-76 (24.2.76) Prise pour l'application du décret n.75-1088 du 21.11.75 "pris pour l'application de l'art. L341-4 du code du travail et relatif aux autorisations de travail délivrées aux travailleurs étrangers".

D. n.76-383 (26.4.76) Relatif aux conditions d'entrée et de séjour des membres de familles des étrangers autorisés à résider en France.

C. n.6/58 (30.6.76) Relative à la situation des ressortissants libanais demandant à occuper un emploi salarié.

2 C. n.7-76 (9.7.76) Relatives à l'immigration familiale.

C. Intermin. (3.1.77) Relative à la lutte contre le travail clandestin.

C. (11.7.77) Relative aux peines encourues par les employeurs de main-d'œuvre irrégulière.

C. (27.7.77) Relative aux refus de régularisation de la situation des travailleurs étrangers.

D. n.77-1239 (10.11.77) Suspendant provisoirement l'application des dispositions du décret n.76-383 du 29.4.76 relatif aux conditions d'entrée et de séjour en France des membres des familles des étrangers autorisés à résider en France.

C. (21.11.77) Relative aux procédures d'expulsion.

C. n.137-77 (2.12.77) Relative à l'immigration des familles de travailleurs étrangers.

C. n.14-77 (2.12.77) Relative à la délivrance des titres de travail aux étrangers introduits en France en qualité de membres de families.

Notes (30.9.80, 23.12.80) du Secrétariat d'Etat à la condition des Travailleurs Immigrés suspendant l'aide au retour pour les travailleurs immigrés Espagnols et Portugais.


D. n.80-581 (24.7.80) Pris pour l'application de l'art.5-1 de l'ord. n.45-2658 du 2.11.45 modifiée relative aux conditions d'entrée et de séjour de certaines familles des étrangers et portant création de l'Office National d'Immigration.

D. n.81-405 (28.4.81) Réglementant les conditions d'entrée et de séjour en France des ressortissants des Etats membres de la Communauté économique européenne bénéficiaires de la libre circulation des personnes et des services.

C. (10.7.81) Relative au regroupement des familles des travailleurs étrangers.

C. (11.8.81) Relative à la régularisation de la situation de certains étrangers.

D. n.82-440 (26.4.82) Pris pour l'application de l'art. 24 de l'ord. n.45-2658 du 2.11.45 modifiée relative aux conditions d'entrée et de séjour en France des étrangers et portant création de l'Office National d'Immigration.

D. n.82-441 (26.4.82) Abrogeant et modifiant diverses dispositions relatives au séjour des étrangers en France.

D. n.82-442 (27.5.82) Pris pour l'application de l'art. 5 de l'ordonnance n.45-2658 du 2.11.45 modifiée relative aux conditions d'entrée et de séjour en France des étrangers en ce qui concerne l'admission sur le territoire français.

C. n.82-135 (31.8.82) Relative aux conditions d'entrée et de séjour en France des étrangers.

D. n.82-829 (27.09.82) Portant création d'un système de fabrication des titres de séjour des étrangers. Précisant la doctrine du gouvernement en matière d'extradition.


A.(10.4.84) Relatif aux conditions d'entrée des étrangers sur le territoire métropolitain et dans les départements d'outre-mer français.

D. n.84-373 (11.5.84) Portant publication de l'échange de lettres entre le Gouvernement de la République française et le Gouvernement de la République algérienne démocratique et populaire relatif au transfert des salaires des ressortissants français exerçant en Algérie dans le cadre du droit commun, signé le 11.10.83 (J.O. 18.5.83 p.1439).
D. n.84-376 (18.5.84)
Portant publication:
- 1. de l'accord sous forme d'échange de lettres entre le Gouvernement de la République française et le Gouvernement de la République algérienne démocratique et populaire relatif à la circulation des personnes, signé à Paris le 31.8.83;
- 2. de l'accord en forme d'échange de lettres entre le Gouvernement de la République française et le Gouvernement du Royaume du Maroc relatif à la circulation des personnes, signé à Paris le 10.11.83;
- 3. de l'accord sous forme d'échange de lettres entre le Gouvernement de la République française et le Gouvernement de la République tunisienne relatif à la circulation des personnes, signé à Paris le 31.8.83. (J.O. 20.5.84 p.1462).

Relatif aux conditions d'entrée et de séjour des étrangers en France.

D. n.84-442 (17.7.84)
Portant application de l'art. 6 de la loi n.84-622 du 17.7.84 portant modification de l'ord. n.45-2658 du 2.11.45 et du code du travail et relative aux étrangers séjournant en France et aux titres uniques de séjour et de travail.

Modifiant les articles D.526 et D.535 du code de procédure pénale.

D. n.84-1078 (4.12.84)
Portant modification du décret n.46-1574 du 30.6.46 règlementant les conditions d'entrée et de séjour en France des étrangers.

Relatif aux autorisations de travail délivrées aux travailleurs étrangers.

D. n.84-1079 (4.12.84)
Modifiant le décret n.76-383 du 29.4.76 relatif aux conditions d'entrée et de séjour en France des membres des familles des étrangers autorisés à résider en France.

C. (21.12.84)
Relative à la mise en oeuvre de la loi n.84-662 du 17.7.84 relative aux titres uniques de séjour et de travail.

D. n.84-1178 (26.12.84)
Modifiant le décret n.46-448 du 18.3.46 portant application des articles 8 et 24 de l'ord. du 2.11.45 relative aux conditions d'entrée et de séjour en France des étrangers et portant création de l'Office National d'Immigration.

C. (31.12.84)
Portant application de la loi n.84-622 du 17.7.84 portant modification de l'ord. n.45-2658 du 2.11.45 et du code du travail et relative aux étrangers séjournant en France et aux titres uniques de séjour et de travail et du décret n.84-1078 du 4.12.84 modifiant le décret n.46-1574 du 30.6.46 règlementant les conditions d'entrée et de séjour en France des étrangers.

C. n.85-02 (4.1.85)
Relative à la mise en oeuvre de la procédure d'introduction en France des membres de la famille des ressortissants étrangers.

D. Intermin. (29.1.85)
Relative aux conditions du regroupement familial.

Portant publication de l'accord sous forme d'échange de lettres entre le Gouvernement de la République française et le Gouvernement de la République de Colombie en date des 3 et 5 décembre 1984, relatif à la suppression des visas de court séjour et de sortie. Le présent accord entrera en vigueur le 1.2.85.

D. n.85-374 (27.3.85)
Portant publication de l'accord conclu sous forme d'échange de lettres le 24.7.84 entre le Gouvernement de la République française et le Gouvernement de la République fédérative du Brésil relatif à la suppression des visas de court séjour, de sortie et de retour. Le présent accord est entré en vigueur le 1.3.85 conformément aux dispositions de son article 10.

D. n.85-376 (28.3.85)
Portant publication de l'échange de lettres entre le Gouvernement de la République française et le Gouvernement de la République algérienne démocratique et populaire, en date du 3.12.84, concernant l'accord franco-algérien du 27.12.68 relatif à la circulation, à l'emploi et au séjour des ressortissants algériens et de leur famille. Le présent échange de lettres est entré en vigueur le 3.12.84.

D. n.85-455 (23.4.85)
Modifiant le décret n.84-640 du 17.7.84 instituant un Conseil national des populations immigrées.

C. (17.5.85.)
Portant publication de l'accord conclu sous forme d'échange de lettres les 16 et 23 janvier 1985 entre le Gouvernement de la République française et le Gouvernement de Malaisie relatif à la suppression partielle des visas. Le présent accord est entré en vigueur le 1.3.85.

D. n.85-642 (27.6.85)
Portant publication de l'accord sous forme d'échange de lettres entre le Gouvernement de la République française et le Gouvernement de la République de Singapour portant abolition des visas de court séjour entre les deux pays signé le 29.4.85. Le présent accord est entré en vigueur le 1.6.85.

D n.85-724 (12.7.85)
Portant publication de l'accord sous forme d'échange de lettres en date des 2 janvier et 18 février 1985 entre le Gouvernement de la République française et
le Gouvernement de la République d'El Salvador portant suppression des visas de court séjour et de sortie. Le présent accord est entré en vigueur le 1.4.85.
C. intermin. n. 85-196 (1.8.85) Relative aux conditions d'entrée et de séjour en France des étudiants étrangers.
C. n. 626 (6.12.85) Relative à la mise en œuvre de la procédure d'introduction des membres de la famille des ressortissants étrangers.

International Conventions

Geneva Convention on Refugees 1951
European Convention on Human Rights and Fundamental Freedoms 1953