

# Disability, Unemployment, Immigration: Does Solidarity Matter in Times of Crisis in France?

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## *Introduction*

This chapter focuses on three particular fields of socio-economic disadvantage, namely, disability, unemployment, and immigration, with the aim of assessing the concrete applications of solidarity, and their potential cross-field variations. In these three fields, policies are expected to have been shaped by the traditional French welfare agenda to allow the best combination of ‘Freedom’ and ‘Equality’, through the working of the principle of solidarity itself. Solidarity has historically emerged as a concrete operationalisation of the third Revolutionary pillar of French Republicanism, namely, Fraternity. Right at the beginning of its Revolutionary roots, Fraternity referred especially to national identity and the cohesion of French people against foreign anti-revolutionary forces. Yet it later stood out as the crucial principle to avoid a potential short-circuit between Freedom and Equality (Spitz 2005). These latter could hardly be under a worse threat than the constitution of “groups” of low freedom and equality; hence, solidarity came to guarantee various forms of redistribution in favour of certain “groups” suffering from long-term social and economic disadvantage. The first determined intervention of Republican institutions through top-down organised social action can be traced as far back as in the 19th century, as soon as industrialisation and the liberal market produced the worst miseries, and their ‘*miserables*’ (Hugo 1849, 1862): this was the time, for example, when government established some minimal protection of children in the labour market in terms of minimum age, working times, and school attendance.

The main aim of this chapter, therefore, is to see whether solidarity as a well-functional structure to fill in the gap between freedom and individual equality, can still be taken today as a powerful and viable tool to readdress the potential marginalisation of most disadvantaged groups such as the disabled, the unemployed, and immigrants. Indeed, throughout the 2000s and the 2010s, an overall process of retrenchment has affected all the main

branches of French welfare, with family benefits representing the only exception. The substantial stability of policies concerning the family shows the importance given to family-related solidarity in the political agenda, as well as the key role played by the state services devoted to the family, including the large network of CAFs, (*Caisse d'allocations familiales*) that manage welfare state provisions. In a sense, family under the Republican framework is still seen as a nucleus of 'marital bond of solidarity' that deserves to be protected. Suffice it to say, family services manage the provision of the RMI, (*Revenu minimum d'insertion*, Minimum Income Benefit) for more than one million households, while public expenditure on the family is substantially higher than the EU-27 average (Eurostat 2010) even without taking into account the fiscal support also available to families. However, we will also see that, behind a general commitment to the family, welfare retrenchment has also regarded family policies. This is evident only when studying more closely specific fields of marginalisation.<sup>1</sup>

The potential role of solidarity for contemporary France is evident when considering the social, political, and economic burden of this country. France's economy is the fifth largest in the world (or the 9th largest economy by purchasing power parity) and represents around one fifth of the GDP in the Euro zone. France maintains today a leading role in European politics and economics in spite of the recent economic crisis, which was the deepest since the Great Depression of 1929. Findings in Table 1 put the French case in a mid-term perspective over the last five years. The largest sector in the economy is services (e.g. banking, energy, tourism, transport and health) providing 78.9 % of the GDP; the manufacturing sector accounts for 19.3% and agriculture for less than 2%. In manufacturing, France is one of the global leaders in the automotive, aerospace and railway sectors as well as in cosmetics and luxury goods. Furthermore, France has a highly educated labour force and the highest number of science graduates per thousand workers in Europe. International trade is strong, France being the sixth-largest exporter and the fourth-largest importer of manufactured goods. The specific composition of the French economy is a combination of an extensive private sector with strong government intervention. Having a large population in public employment, France also has natural protection from sudden job losses. Yet, the drawback of this

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1 Cf. the restrictive reforms to (un)validate family solidarity in the section dedicated to immigration

French mixed economy is a chronic public deficit, responsible for high public debt (67.5% of the GDP in 2008) and unbalanced social costs (part of government spending is for supporting healthcare, pension and unemployment).

The strong public intervention in welfare, however, provides hardly sufficient recovery for vulnerable groups such as people with disabilities, immigrants, and the unemployed. Starting with unemployment, emphasis should be put on its consistently high rates through time. In fact, France's unemployment rate fell below 10% for the first time in 2012. Yet unemployment has since then declined more slowly than in other leading European economies, as a gradual recovery in economic growth and job creation has been offset by the high number of young people entering the labour force every year. Thus, although unemployment has been decreasing in all age categories, particularly among younger people, rates of youth unemployment are still significant today, with approximately a quarter of young people unemployed. The government has increasingly weakened its commitment to unemployment benefits, although these latter remain relatively high for European standards (up to 75% of previous salary for the first year).

As regards refugees, and immigrants more generally, there has been a similar worsening of policy protection (further reinforced with the economic crisis between the late 2000s and the early 2010s). The traditional generosity of the French system, both in terms of welcoming the displaced in the short term, and integrating them as full citizens in the long term, has been replaced by a series of restrictive twists. Accordingly, new 'reforms' have prevented immigrants from accessing the country by making it more difficult for them to attain citizenship (Cinalli 2017), while at the same time nurturing anti-immigrant discourses which push the idea that immigrants are a burden on society (*immigration subie*). Perhaps the strongest symbol of the immigration crisis has been the 'Calais Jungle', a camp near the Northern city of Calais. Many immigrants living in this camp have pursued the objective of crossing the Channel and entering Britain. The camp gained global attention during the European refugee and migrant crisis, particularly with respect to mass evictions which French authorities have been carrying out since October 2016 (Baumard 2016).

Lastly, there has also been a worsening of policy protection for sick people and the disabled, particularly when considering the policies of public expenditure rationalisation and the reduction in all spheres of government. While public authorities control a generous healthcare system, they

dedicate only 1.8% of the GDP to disability policy (figure for 2014). Suffice it to say that the disability aid has met with regular cuts amid outcries from French disability groups; and that the FNATH (*Fédération Nationale des Accidentés du Travail et des Handicapés*) has stated that “choosing the most fragile and excluded people in society for budget cuts is unacceptable”.<sup>2</sup> In addition, the two million people with disabilities in France are the first victims of unemployment: their unemployment rate at 21% shows a level that is more than double the percentage of people of the same working age (Dares 2016). To this, one needs to add that people with disabilities are also older and less educated than the average French population.

Table 1: General economic statistics, France 2012-2016 (Source: OECD data)

	2012	2013	2014	2015	2016
<u>Population (million)</u>	63.4	63.7	64.0	64.3	64.5
<u>GDP per capita (EUR)</u>	32,929	33,221	33,469	33,934	34,433
<u>GDP (EUR bn)</u>	2,087	2,116	2,141	2,181	2,222
<u>Economic Growth (GDP, annual variation in %)</u>	0.2	0.6	0.7	1.2	2.5
<u>Domestic Demand (annual variation in %)</u>	0.4	0.5	0.6	1.3	1.4
<u>Consumption (annual variation in %)</u>	-0.2	0.6	0.7	1.5	-
<u>Investment (annual variation in %)</u>	0.4	-0.7	-0.4	0.9	-
<u>Exports (G&amp;S, annual variation in %)</u>	2.7	1.9	3.4	6.0	-
<u>Imports (G&amp;S, annual variation in %)</u>	0.8	2.2	4.8	6.4	-
<u>Industrial Production (annual variation in %)</u>	-2.2	-0.5	-0.9	1.8	-
<u>Retail Sales (annual variation in %)</u>	1.9	1.8	2.3	3.8	-

2 <http://www.connexionfrance.com/social-benefits-student-housing-disability-home-help-cut-income-support-rsa-11820-view-article.html>.

	2012	2013	2014	2015	2016
<u>Unemployment Rate</u>	9.8	10.3	10.3	10.4	10.0
<u>Fiscal Balance (% of GDP)</u>	-4.8	-4.0	-4.0	-3.5	-
<u>Public Debt (% of GDP)</u>	89.5	92.3	95.3	96.2	-
<u>Inflation Rate (HICP, annual variation in %, eop)</u>	1.5	0.8	0.1	0.3	-
<u>Inflation Rate (HICP, annual variation in %)</u>	2.2	1.0	0.6	0.1	-
<u>Inflation (PPI, annual variation in %)</u>	2.8	0.3	-1.4	-2.2	-
<u>Policy Interest Rate (%)</u>	0.75	0.25	0.05	0.05	-
<u>Stock Market (annual variation in %)</u>	15.2	18.0	-0.5	8.5	-
<u>Exchange Rate (vs USD)</u>	1.32	1.38	1.21	1.09	-
<u>Exchange Rate (vs USD, aop)</u>	1.29	1.33	1.33	1.11	-
<u>Current Account (% of GDP)</u>	-2.1	-1.3	-0.7	-	-
<u>Current Account Balance (EUR bn)</u>	-44.0	-28.0	-23.0	-4.0	-
<u>Trade Balance (EUR billion)</u>	-70.6	-62.3	-58.0	-44.8	-

## Disability

There are five million disabled people living in France, two million of whom are less mobile. Thirty percent of motor disabilities are caused by accidents. Some 135,000 disabled children attend ordinary schools and 110,000 are registered at specialised institutions. Disability spending increased by 13.5 billion euros from 2005 to 2014 (DRESS 2017). The effort has amounted to € 46.6 billion in 2014, or 2.2% of the gross domestic product (GDP). This effort relies first and foremost on the social protection system. The tax and social benefits in addition amounted to € 3.4 billion in 2014. The overall budget for the mission "*solidarité, insertion et égalité des chances*" amounted to 18 billion euros for 2016, showing governmental commitment to disability.<sup>3</sup> From a legal viewpoint, the Act No. 2005-102 of 11 February 2005 on 'equal rights and opportunities, partici-

3 <https://informations.handicap.fr/decret-loi-fevrier-2005.php>.

pation and citizenship of people with disabilities’<sup>4</sup> amended the 1975 acts on the disabled (Act No. 75-534 of 30 June 1975) and social and medical institutions (Act No. 75-535 of 30 June 1975). In particular, the new law strengthened some existing measures, but it also introduced new ones based on the principle of national equality and solidarity

Prior to the latest reforms, the disabled were looked after as a part of a to-be-protected “group”. The developments in legislation and consequent policies have meant that today, the disabled are active subjects of their own lives, and responsible citizens who have an equal place in society. Thus, the disabled people, just like any other group at risk of socio-economic disadvantage, have been put back at the core of traditional French concern to strike the balance between the two fundamental pillars of freedom and individual equality. The principle of full “individual” equality is at the heart of the welfare state’s mission; most crucially, it is supposed to be achieved through various forms of redistribution in solidarity with certain “groups” suffering from long-term social and economic disadvantage. This process is also grounded on the strict duty of each individual towards the community, or social solidarity. It is indeed this commitment that guarantees the Republican affiliation of citizens and their unity as a sustainable national body, not only vis-à-vis other national communities beyond French borders (Fraternity in the main meaning of Revolution), but also vis-à-vis the worst outcomes of individualism and liberal markets for internal social cohesion. The priority that France puts on top-down state agency completes the specific French approach to welfare: that is to say, solidarity is implemented as social action organised by the state. Accordingly, disability is for us a first crucial field of solidarity to retrace the idea that the state is indeed at the service of society.

### *Labour Market Access for Disabled Workers*

The 2005 Act is the most important legislation regarding measures to support disabled workers in France. In line with the 1987 Disability Employment Act,<sup>5</sup> the law has introduced the employment of disabled persons to

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4 *Loi numero 2005-102 du 11 février 2005 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées.*

5 *Loi numero 87-517 du 10 juillet 1987 en faveur de l'emploi des travailleurs handicapés.*

the field of contractual policy, and finally, it has extended this legal obligation to the whole world of work, public and private sectors combined (Blanc and Stiker 1998, 56). The law thus represents a major step forward in the recognition of disabled workers, and more generally it stands for the virtues unanimously recognized and defended by the Republic such as the principle of equality. The idea of solidarity is strong: workers with disabilities are entitled to adjustments and arrangements in their working hours and shifts. They also receive priority access to further training and continuing education as part of their current position. In case of redundancy, the notice period concerning a disabled worker is double that which is otherwise used in the company. Disabled workers are also entitled to early retirement from the age of 55 on the basis of 30 working years with disabled worker status.

The 2005 law has also asserted once and for all the responsibility of employers (Bardoulet and Igounet 2007). This follows previous legal acts, in 1987 and in 1999 respectively, by which firms had to employ people with disabilities, or otherwise pay penalties in cases of non-compliance.<sup>6</sup> In particular, private companies and public employers with more than 20 employees have today the obligation to employ 6% of disabled people, subject to paying a financial contribution. This system of quotas was dictated by practical considerations, since employers do not naturally tend to hire workers with disabilities. Without this policy, people with disabilities would not be competitive: *‘les personnes handicapées ne sont pas capables d’entrer en compétition pour un emploi sur un pied d’égalité avec les personnes valides et de l’emporter sur la base de leurs seuls mérites’*.<sup>7</sup> In the absence of direct recruitment, however, the company can sign a plan with the unions or use subcontractors who employ persons with disabilities. This form of indirect recruitment is considered to be enough to fulfil solidarity with the disabled, and hence, avoid the payment of penalties.

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6 Conseil de l’Europe, Groupe de travail sur l’évaluation des critères individuels régissant l’octroi d’allocations et d’aides personnelles aux personnes handicapées Evaluation du handicap en Europe – similitudes et différences: rapport, 2002, p.128. The French law of 1987 introduced the hiring of workers with disabilities into contract law, extending the legal obligation to hire workers with disabilities in both the public and the private sectors (Blanc and Stiker 1998).

7 Interview realised on the 8th July 2016. ‘It is impossible for disabled workers to compete on an equal footing with able-bodied people and to succeed on the sole basis of their personal merit’.

Employers also have another third option. They can pay a contribution fee to the ‘fund for the professional inclusion of disabled people’ (*association de gestion du fonds pour l’insertion professionnelle des personnes handicapées*), an organisation which is dedicated to furthering professional inclusion in the private sector. Unfortunately, recourse to this third option has largely been abused by employers, who have transformed it into a devious practice for avoiding direct or indirect recruitment as in the other two options (Coulibaly and Fardeau 2004, 25). Thus, in spite of significant progress on the legislative front, some employers still consider workers with disabilities as fundamentally unfit to operate in a professional environment. François Bloch-Laine aptly summarises this attitude in his analysis of the issues associated with integrating people with disabilities: “*Il paraît anormal d’embaucher des handicapés dans des entreprises ordinaires lorsqu’il y a tant de demandeurs d’emploi parmi les personnes valides*”. Large companies are aware of their legal obligations, but they usually prefer to pay penalties rather than hire workers with disabilities. In the private sector, more than 60% of employers adopt this strategy to avoid direct solidarity with the disabled.

At the same time, the 2005 law has matched an increasing recognition and attention paid to persons with disabilities in terms of public policies. The creation of Departmental Houses for Persons with Disabilities (MDPH is worth reiterating here. Their mission is to welcome, inform, support and advise persons with disabilities, and their families. Moreover, beyond the purely medical approach, accessibility and the right to compensation have become essential pillars of policies for people with disabilities. Hence, the objective of the 2005 Act has been to promote the participation of people with disabilities in all spheres of economic and social life. A number of tools to promote vocational training and the integration of people with disabilities have been strengthened, notably through the creation of the ‘Fund for the Integration of People with Disabilities in the Public Service’. The main obstacle in this case is the lack of workers with disabilities with the right professional and educational qualifications, which also explains why some employers prefer to pay penalties instead of hiring such workers. The main way to stimulate the effective participation of people with disabilities in working life is by promoting better access to transport, schools and businesses. The main aim is to open up society and shrink the possibilities for exclusion and stigmatisation.



### Education Access for Disabled Pupils

Education represents a necessary precondition for workers with disabilities to enjoy equal opportunities and equal treatment on the labour market. Hence, the Act of 11 February 2005 has put some crucial emphasis on the right for any children with a disability to attend their local primary and secondary schools.<sup>8</sup> The right to schooling is part of the personalised education plan which ensures that the necessary adjustments are made to the school infrastructure and to timetables to allow alternate attendance at a specialised institution if required. Among the main issues there is the fact that the two million disabled people in France are older and less educated than the average French population. In fact, 90% of jobseekers with disabilities have a degree that is equal or inferior to a CAP (Bardoulet and Igounet 2007, 81). This low level of qualification can be explained by the many obstacles encountered by pupils with disabilities in the course of their schooling, which often translates into the fact that disabled pupils make common recourse to special schools and medical institutions. The 2005 law seems to give some primary attention to this when stating that *"le service public de l'éducation assure une formation scolaire professionnelle et supérieure aux enfants, aux adolescents et aux adultes présentant un handicap ou un trouble de santé invalidant"*. Hence, this law reasserts the right of people with disabilities to receive an education in an institution located as close as possible to their dwellings.

The law posits the principle that personalised solutions should be developed on a case-by-case basis. It appeals to the principle of non-discrimination, by arguing that disabilities should not be turned into insuperable obstacles because of some environments that do not meet accessibility standards. In simpler words, the legislator seems to be aware that, even if the right of children with disabilities to attend an ordinary school has been recognised, the availability of specialised teaching staff and the issue of accessibility are still huge problems that need solutions. Suffice it to say that many school buildings are still not accessible for children with severe disabilities. This is the first obstacle that has to be removed in order to integrate children with disabilities, together with the need to increase the

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8 This is in line with the Act No. 75-534 of 30 June 1975 made education, training and career guidance for disabled children and adults a national obligation. Cf. also the circular of January 1982 that reaffirmed the principle that adolescents with disabilities were, as far as possible, to benefit from ordinary schooling.

number of specialised teachers and specialised training for teachers in general. Following the limited recruitment of teaching assistants with a dedicated training, France is still struggling to meet the needs of the ca. 80,000 children with disabilities attending its public schools. This goes clearly against the ambition to increase the number of children with disabilities in the education system (Vuibert 2007).

### *Disability Guidelines Laid Out in the 'Loi Travail'*

The *Loi Travail* covers the whole labour market, ruling in particular the intricacies of its operations. In so doing, it has also developed a number of specific measures concerning disability. These measures are part of a broader concern with people for whom an incapacity occurs, and with caregivers of disabled children or dependent persons. The fact that the law is also designed to support caregivers follows the fact that some disabilities require constant assistance from family members or close friends. In particular, the provisions of the *Loi Travail* have established that:

- The remit of Cap Emploi, the employment agency working with people with disabilities, is extended to include work retention. The aim is to offer targeted, long-term help for people with disabilities by promoting integration and a greater continuity in the provision of services from looking for employment to overcoming obstacles in the workplace.
- From the moment they are hired, workers recognised as having disabilities will be referred to the company's occupational physician so they can benefit from a close and personalised follow-up, starting with the first information and accident prevention visit.
- Each company's CHSCT (*Comité d'hygiène, de sécurité et des conditions de travail*, that is, the Committee for workplace hygiene, security and working conditions) is entrusted with additional responsibilities to better care for workers with disabilities.
- A system of employment support for workers with disabilities has been introduced. This support includes a series of socio-medical follow-ups and help to promote professional integration, in order to enable workers with disabilities to gain and maintain employment. Its implementation also includes specific support and guidance from employers.

As regards families specifically:

- If a disabled child or adult is present in the home, a derogation from the prohibition to take more than 24 working days of paid vacation in a row will be put in place.

- In the criteria for departures on leave, the presence of a disabled child or adult within the families of employees will be taken into account. As far as caregivers are concerned, if they care for a child or an adult with a disability, then they are exempt from the general rule that prohibits workers from taking more than 24 consecutive working days of paid vacation. If an employee cares for a disabled child or adult, this is also taken into account in the case of a dismissal.

### *Unemployment*

French policy reforms throughout the 2000s have also had an important influence on the situation of the unemployed. Once again, it is interesting to assess the extent to which policies have remained faithful to the traditional agenda governing French welfare from the point of view of striking the right balance between freedom and (individual) equality. As said, a state-driven social action has been a long-term characteristic of the French Republican system, which can be retraced as far back as in the 19th century, when the state emerged as the source of “public service” through its own institutions and decision-making (Duguit 1913, 15). Since then, naturally, many developments have taken place, especially with the strengthening of a fully-fledged welfare state in the aftermath of WWII, which has combined elements from the Beveridgean and Bismarckian models (Esping-Andersen 1990). Yet, if we focus more specifically on unemployment protection, we notice that it has changed considerably in France over the course of the 2000s, in line with the overall retrenchment of the welfare state.

Not only were benefits quite radically restructured, but there was also a significant shift with respect to the instruments used for unemployment protection, with an increasing emphasis being laid on “active” measures for labour market integration compared to the “passive” provision of income maintenance. While French unemployment benefits have remained relatively generous, and while there has been substantial stability in terms of the investments made for every percentage point of unemployment, the target group of benefit-based efforts has been progressively reduced, with

a decreasing proportion of the unemployed population benefitting from this type of protection.

These changes in the unemployment field date back to the end of the *Trente Glorieuses* in the mid-1970s. Indeed, the necessary self-financing aspects of the previously generous system became less and less viable as unemployment started to dramatically rise. Faced with the growing reticence of employers to accept further increases in contribution rates, social partners increasingly latched on to the idea of asking the state for fiscal help in order to keep the system afloat. On the one hand, social partners increasingly accused the government of failing to properly scale up its participation in a context of rapidly increasing unemployment. On the other hand, the government increasingly objected to the fact that it could contribute any more to a system over which it exercised so little control. Most crucially, the idea of solidarity as a one-way right to be helped that is given to the needy started to weaken in an era when neo-monetarism replaced Keynesian policies in major world economies, progressively introducing an idea of solidarity that was more in line with growing neo-liberal ideology in general. The final development was soon to be bring about a new approach to welfare rights, whereby solidarity was rather a two-way process involving some strong responsibilities on the side of welfare recipients. While the finalisation of this process came about only in the 1990s with the establishment of rights and responsibilities (Giddens 1998), the 1980s provided a decade of economic innovation calling for the imminent adaptation of ideas.

In fact, the provision of new resources under the Mitterrand presidency was interpreted by many social partners, and by the unions in particular, as an attempt on the part of the government to gain more managerial leverage. In 1982, employers announced that they would not accept any further increase in their contribution rate, suspending their cooperation with the unemployment insurance system. The CNPF (*Conseil National du Patronat Français, the National Council of French Employers* now known as the MEDEF, *Mouvement des Entreprises de France, the Movement of French Enterprises*) suggested that the system needed to be reformed by introducing a distinction between insurance expenditures (*régime d'assurance*) available to employees having worked and contributed to the system for a long time, and the solidarity expenditures (*régime de solidarité*) available to other job seekers who could not rely on the insurance regime to intervene on their behalf. The *régime d'assurance* had to remain under the control of social partners, while the *régime de solidarité* would fall un-

der the full control of the state. It was at this stage that this new division of costs and responsibilities between the social partners and the state was introduced, transforming the unemployment protection system into what it looks like today.

Since the more generous benefits of the *régime d'assurance* were only accessible to those having contributed for a long time, this change represented the first important restriction affecting the unemployed. In addition, benefits were also restructured, with the introduction of a “single decreasing benefit” (*allocation unique dégressive*), which declined, by a certain percentage over time, and at a faster rate for younger beneficiaries. There was also a drastic reduction in the maximum period of compensation for those with short contribution histories, while eligibility requirements were tightened for different types of compensation, and especially for minimum benefits. These measures, which were increasingly framed throughout the 1990s as a form of ‘activation’, made it progressively difficult for unemployed people to access the main tier of unemployment protection under the *régime d'assurance*. In a context of rising unemployment, these interventions led to a steep decrease in the rate of unemployed people benefiting from unemployment insurance, and in the increasing ‘eviction’ from the system of those with limited contribution histories.

Throughout the 2000s and the 2010s, reforms of the unemployment system have been complemented by a number of insertion programmes meant to increase “activation”, in line with a more explicit idea of solidarity as something that needs to be deserved as well as requiring a number of obligations on the side of recipients of solidarity.<sup>9</sup> The introduction of special subsidised contracts (*contrats aidés*), an important aspect of French employment policy, was extended to the private sector. Many of these special contracts, both in the private and the public sectors, have included provisions that circumvent labour laws and the collective agreements governing normal employment, with an extensive reliance on “atypical” contracts based on short-term and part-time arrangements. The “active turn” of recent years has not suppressed a number of specificities of the French labour market, in which jobs and skills are typically highly firm-specific, and in which the initial entrance into the workforce is rarely easy or

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9 It should be noted that some Keynesian logic was still alive in the 1990s as a result of the political force of the left in France. For example, in 1997, the NSEJ program (Nouveaux Services- Emploi Jeunes) offered contracts of five years in the public and voluntary sectors to ca. 350,000 young people with low qualifications.

straightforward. It is not uncommon for young people to move from one short-term, entry-level position to another until they finally manage to secure a permanent job or fall back into unemployment. Overall then, one notes that in spite of a few remnants from France's earlier Keynesian approach, the interventions in French unemployment policy have sought to emphasise 'activation' elements, in accordance with the broader supply-focused trend characterising European unemployment policies throughout the 2000s and the 2010s.

Meanwhile, the conditions governing insurance compensation have become more restrictive. Today, the substitute income known as the ARE (*allocation d'aide au retour à l'emploi*, the return-to-work allowance) is granted to the unemployed on the basis of their age and how long they have been affiliated. These types of benefits are only paid to workers who lose their job in certain specific conditions. For instance, they need to have worked for at least six out of the previous 22 months. Another crucial condition is that such benefits can only be granted in cases of involuntary unemployment; only in some very limited cases are resignations considered to be legitimate and thereby entitle workers to benefits. It is also necessary to register (that is, the unemployed have to officially declare themselves to be job-seekers), which makes it easier for the employment agency to assess whether they are "actively seeking employment". The level of coverage nevertheless remains quite generous, since for a person earning the minimum wage, the ARE it corresponds to is up to three quarters of their lost earnings. The use of sanctions has increased in recent years, particularly following the 2008 law that introduced more frequent controls and more severe sanctions for those rejecting job offers. In spite of this, the amount of people benefitting from unemployment insurance remains significant, as can be deduced from the ca. 25,000 people removed from the register every year, out of an overall insured population of two and a half million people.

For a long time, the UNEDIC<sup>10</sup> has been in charge of the entire system of unemployment insurance, while the CGT (*Confédération générale du travail*, *General Confederation of Labour*) has relied on its own unemployment committee. Unions have significant powers when it comes to finalising collective contracts, establishing subsidiary branches within com-

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10 According to the Unedic report (Les Echos, 26 January 2007), 24 800 sanctions have been established in 2006.

panies, and, to some extent, influencing life within these companies (for instance during elections for employee representatives). In membership terms, the French trade union movement is one of the weakest in Europe, since no more than 11% of employees are unionised and since the movement is divided into rival confederations competing for leadership and membership. Nevertheless, trade unions enjoy strong public opinion support and are able to significantly mobilise French workers, which means that they sometimes have a decisive impact on government policy (for example, in 2006 they pressured the government into withdrawing a new type of employment contract for young workers). Attention can also be focused on the provisions targeting the unemployed, especially the young, within the broader framework of the national education system. In particular, it has repeatedly been pointed out that too many young people are channelled into general education, when the labour market (at least in some areas), is in need of highly specialised workers. So a greater emphasis has therefore been placed on the students' need to receive specialised training, to prepare them for entering work sectors with better employment opportunities.

As a consequence, throughout the 2000s one notes a growing professionalisation of diplomas, and the introduction of new professional curricula leading to various masters and certificates. In addition, more resources have been devoted to apprenticeship programmes, in order to improve the articulation between the training and production systems, for instance by introducing professional development training and support for courses alternating formal education with work placements. Measures designed to promote a large variety of different training programmes have thus been at the heart of the government policies designed to tackle youth unemployment. "Learning and certification contracts" (*contrats d'apprentissage et de qualification*) have indeed proved to be quite effective, with a number of studies confirming that they increase trainees' chances of successfully entering the labour market compared to students from vocational schools such as the *lycées professionnels*. Similar conclusions have been drawn about the "certification contracts" (*contrats de qualification*), which also increase its beneficiaries' chances to quickly find employment that is both stable and not subsidised by the state.

Lastly, some emphasis needs to be put on the jurisprudence and the relevant role of the courts in the field. Looking at the most recent developments, an eventful case consisted of the demand by the Haut-Rhin County Council to recipients of the 'solidarity labour income' (*Revenu de solidar-*



*ité active*) to carry out seven hours of weekly ‘solidarity’ work for associations, local authorities, retirement homes or public institutions starting from January 2017. This highly controversial request was successively considered to be unlawful by the Strasbourg Administrative Court (judgement n° 1304888, 29 octobre 2015). But the motivation referred simply to the fact the Haut-Rhin County Council was not the competent authority for paying the ‘solidarity labour income’. As a consequence, this motivation has safeguarded the principle of conditional solidarity even if this is linked to the willingness of parties involved, including recipients (“*la situation particulière de l'intéressé*”).<sup>11</sup> In fact, one may argue that the principle of conditionality has gone through a further twist in the request of institutional actors, reversing the obligation of solidarity on the shoulders of solidarity recipients. In other words, solidarity is seen as an obligation that exists on the shoulders of the needy, who must commit to giving back solidarity to reciprocate for the help which they receive. Under this understanding of solidarity, the contract is *des ut do* rather than *do ut des*. Only more time will tell if this specific piece of jurisprudence will be essential to delete once and for all the idea that solidarity is a one-way act of unreciprocated generosity in favour of the opposing idea that looks at solidarity as a two-way relationship that engages beneficiaries of help to provide solidarity vis-à-vis the broader community that welfare providers represent.

### *The Loi Travail*

The most recent key reform of the French labour market, the *Loi Travail*,<sup>12</sup> was undertaken in the summer of 2016 – after strong opposition and several struggles taking place across the political domain and civil society. This law is a piece of national French legislation that relates to employment. It is also known as the El Khomri law, since it was first presented to Parliament on 17 February 2016 by the labour minister Myriam El Khomri. It was passed into law on 8 August 2016, and came into force on 1 January 2017, following huge waves of protest throughout 2016. While the legal

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11 <http://www.lefigaro.fr/social/2016/10/05/20011-20161005ARTFIG00086-rsa-contre-benevolat-pour-la-justice-le-dispositif-est-illegal.php>.

12 *Loi n° 2016-1088 of 8 August 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels*.



workweek is still 35 hours long, the law gives specific company agreements precedence over branch agreements. The maximum number of hours worked in a day (10 hours) can thus be extended to a full 12 hours, in cases of increased activity or for reasons pertaining to the company's organisation. It is thus possible to raise the weekly number of hours worked to 46 hours, instead of 44, over 12 weeks. Specific company agreements can reduce the rate of overtime compensation from 25% to 10% of the base salary. However, company agreements must have been ratified by the "majority" of workers (that is, signed by unions representing more than 50% of employees). In the absence of such a majority, minority trade unions (representing more than 30% of employees) can organise an internal referendum to validate the agreement.

Overall, it can be argued that the large space that the law gives to spell out the conditions under which employers can use economic redundancy (for example, operating losses for several months, deterioration in cash flow, technological change, reorganisation for competitiveness, and refusal of wage contract by employees), weakens any progressive and solidarity element that may be singled out. Accordingly, the law allows companies to adjust their organisation in order to "preserve or develop employment". Majority agreements take precedence over employment contracts, including when it comes to questions of remuneration and working hours. The employees' monthly salary cannot be reduced, but premiums can, for example, be abolished. Employees who refuse to accept such agreements can be dismissed for economic reasons. These employees then benefit from a "personalised support programme", provided by *Pôle Emploi* and mainly financed by the state. The criteria for economic redundancies are laid out according to the size of the companies. Companies are allowed to lay off workers in the event of a "significant reduction in orders or in turnover", compared to the same period during the previous year.

Some emphasis, however, should be put on the promotion of gender equality and the protection against overly strenuous work. The period during which workers returning from their maternity leave cannot legally be dismissed has been extended from four to ten weeks. In addition, for young people who are neither in employment, enrolled in a course of studies or in training, the law extends a type of protection that is subject to resources and that includes help to find employment and a monthly allowance of 461 euros for one year. For those under the age of 28 and having graduated less than three months earlier, a four-month job search assistance programme has been put into place. It is also important to mention

the '*garantie jeunes*' aimed at better training for unemployed young people. Most crucially, the *Loi Travail* establishes a day of solidarity that is to say, the work of an additional day (seven hours) by the employees without additional compensation. This is a controversial way of interpreting solidarity, since to many commentators it seems to flow especially from those who can least afford it. The day of solidarity is fixed by a company or establishment agreement or, failing that, by branch agreement. In the absence of such agreements, the employer unilaterally fixes the day of solidarity after consulting the work's council or, failing that, the PDs (Personnel Delegates).

### *Migration*

Immigration offers the third field to evaluate the state of solidarity in contemporary France: this is indeed a very complex field characterised by intense policy reforms over at least two decades. The French Office for Immigration and Integration (OFII), established in 2009, is today the State operator responsible for the integration of newly-arrived migrants. It also manages family and economic migration procedures, national reception of asylum seekers, as well as assisted return and reintegration. The French Office for the Protection of Refugees and Stateless Persons (OFPRA) handles asylum cases. A number of organisations work as partners of public authorities in handling reception and integration of legally staying foreigners. Major legislative reforms have been implemented across the 2000s and the 2010s including new tools for promoting access to citizenship, socio-economic integration, and the fight against crime over migration. These policies have thus far taken into account various economic, social and cultural aspects, which have often forced different stakeholders to engage with the concept of solidarity, both in terms of their first steps and integration into the labour market, and willingness to make it easier for them to walk along the pathway between immigration and citizenship.

Starting with the final step of immigrants' access to citizenship, Republican France is renowned for its civic traditions, whereby group distinctions in general are not made in the public space and play no hard role in the distinction between citizens and non-citizens (Cinalli 2017). Yet, it is interesting to see how French authorities, through their latest reforms, have extended the notion of the public sphere to include more traditional areas such as family. This is an important point for the argument of this

chapter since family itself is supposed to be rooted in the most solidaristic relationship that two individuals may reciprocally commit to. Accordingly, legal reforms over acquisition of French citizenship through marriage represents a crucial indicator of the intrusion of the French state into the most intimate site of solidarity indeed with the aim to evaluate and (in)validate the intimate bond of marital solidarity. Provisions governing marriage with a foreign spouse are obviously relevant for immigrants and citizens with a migrant background since they are more likely to marry a foreigner than the average French citizen.

A previous law from 1988 stated that citizenship could not be requested until one year after the marriage. In 2003 and 2006, however, laws were passed that further restricted access to citizenship through marriage, by mandating that the spouse of a French citizen could only apply for citizenship after two years of married life, a period which was then increased to four years in 2006. This period of time has been extended to five years if the foreign spouse has continuously resided in France for at least one year following the wedding. In all these cases, it is easy to see how the authorities have come to distrust marriage as a self-evident indicator of a truly solidarity bond, but consider time to be the test of that bond's sincerity. To this cautious distrust, the French state has added more stringent conditions to evaluate cultural proximity between the foreign spouse and the broader national context, for example through the assessment, since 2003, of a "sufficient mastery of the French language". Applicants are also expected to have a basic knowledge of France's civic norms, including the "rights and duties conferred by French citizenship". And since 2006, the law has put a minimal income requirement for sponsors to be considered eligible for family reunification procedures. This required income is based on the minimum wage (RMI), and must be earned through employment and increases depending on the applicant's number of children and/or family members.<sup>13</sup> Given that immigrants in France are more likely to be unemployed or in more low-skilled work than nationals, this set of policies have especially restricted the scope of redistributive and solidarity policies in the migration field.

No doubt, this willingness to assess family life more closely is in line with the political hegemony enjoyed by individualist policies and the neo-

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13 Book 4, Title 1, Article R411-4 of the *Code de l'entrée et du séjour des étrangers et du droit d'asile*.

liberal executive applying them throughout the 2000s (with the exception of a short period of “*cohabitation*” at the very beginning of the decade). This same hegemony has simultaneously accounted for more stringent constraints in terms of socio-economic integration. In this case the major emphasis must be put on the ‘*contract of reception and integration*’, together with its various employment-oriented initiatives. In principle, foreigners who wish to have paid employment have a number of commitments to make, which translate in a number of clear administrative steps to fulfil.<sup>14</sup> Yet the contract pays little substantial attention to the specific conditions of immigrants (and their descendants) in low income neighbourhoods, who must face various processes with difficulties and discrimination when trying to fulfil their promise of integration. The shortcomings in terms of insufficient work-training, action plans, support of diversity-related HR need, and counselling in situations of low self-confidence or limited information over the labour market add up to a very constraining context for immigrants. Crucially, in this case, French authorities have transferred to NGOs and social firms the burden of sustaining immigrants through granting specific funding.

Once again then, the notion of subsidiarity can be used to provide a crucial framework so as to understand the developments of solidarity in France. NGOs and social enterprises can thus implement programmes that are broader in scope and deeper in outreach, targeting for example disadvantaged neighbourhoods with the highest percentages of immigrants (Escafiré-Dublet 2014). A number of organisations have thus taken the responsibility for actions that are invaluable to mediate between the ‘willingness’ of the state to welcome on the one hand and, on the other, the promise of immigrants to integrate. They may connect immigrants with firms to create job opportunities, maintain databases of potential candidates for employers, offer immigrants a course of preparation for a job search, combine group workshops, individual coaching, media training with professional communication and human resources. French authorities also favour this outsourcing of support by facilitating the creation of larger partnerships that include different actors such as local governments, universities, as well as businesses and associations of different types.

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14 Accordingly, they need a work authorisation, issued by Regional Directorates for Companies, Competition, Consumption, Work and Employment (DIRECCTE) and a medical certificate issued by the OFII.

Beside a stronger scrutiny of solidarity (as in the case of assessment of marital bonds of migrant spouses) and outsourcing of solidarity (as in the socio-economic integration of welcoming of immigrants), another relevant characteristic of the intervention of the French authorities in the field of immigration consists of the increasing fight against irregular immigration. Among the elements of this hard stance against irregular immigration (and the various dangers that are concomitant with that), a major emphasis should thus be put on the coercive measures that target those who provide spontaneous and individually-based aid to immigrants. These coercive measures have found a legal basis in Article L622-1 of the Code for Entry and Residence of Foreigners and the Right of Asylum (CESEDA) that ban any action that helps somebody enter France irregularly.<sup>15</sup> In the eyes of many pro-migrant actors, these coercive measures—which have often included the detention of people who have offered shelter or other kinds of help to immigrants (later found to be irregular)—have been applied as an implicit formalisation of a ‘solidarity crime’, the latter being based on a very vague definition that the law gives to the content of the crime itself. The vagueness of this definition is so strong that it may allow confusing human trafficking with genuine concerns and solidarity (Müller 2009 and 2015).

Most crucially, the harsh stand which government and security agencies have sometimes taken against people committed to the humanitarian aid of immigrants, including minor actions of help such as speaking up against undignified conditions, or simply recharging a mobile phone of an immigrant in situations of irregularity (Allsopp 2010), has opened room for relativising the whole concept of solidarity. And at the time of writing, a number of ordinary people, including farmers such as Cédric Herrou, or academics such as Pierre Mannoni, are going through highly contentious court trials for the most basic acts of solidarity such as offering water to migrant children in situations of severe dehydration.<sup>16</sup> Far from being a concept that is universally taken as positive, solidarity has itself become

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15 In the words of the article, “*Toute personne qui aura, par aide directe ou indirecte, facilité ou tenté de faciliter l’entrée, la circulation ou le séjour irréguliers, d’un étranger en France sera punie d’un emprisonnement de cinq ans et d’une amende de 30 000 euros*”.

16 Cf. for example the articles “Farmer on Trial Defends Smuggling Migrants: ‘I Am a Frenchman’” *The New York Times*, 5 January 2017; and “French Fraternity and Migrants”, *The New York Times*, 17 January 2017.

contentious, something that can be opposed when it does not favour the particular interests of policy-makers and main stakeholders.

### *Conclusive Remarks*

We can conclude by attempting to find an underlying thread across the many recent developments in the field of solidarity, particularly in terms of the provisions that affect vulnerable groups such as the disabled, the unemployed, and migrants. As a first (self-indulgent) comment, we can say that a first underlying thread is that accounting for some similar patterns is not an easy task not even when looking across similar fields of vulnerability. As this chapter has demonstrated, in recent years the legal and policy production in these fields has been considerable in France, yet reference to solidarity is rarely explicit, and rarely straightforward in its understanding. The main finding is indeed that the search for solidarity implies looking into fields made of complex multi-level structures of policies and institutions. France is usually considered to be a highly unified and centralised state, scoring very low on the Lijphart's index of federalism (1999). And as demonstrated in this chapter, solidarity is no doubt a concept that one finds in the Republican Constitution (most strongly, in its powerful reference to *fraternité*) as well as in the main provisions of national institutions across the different fields of vulnerability. Yet, especially as a result of the many new measures of decentralisation that were introduced in the 2000s, we did find that the shape of fields of solidarity is also influenced by the intervention of a plurality of actors at the sub-national level.

Designed to correct the institutional imbalance between the national and the sub-national levels, these measures have had an impact on the way that solidarity is understood and practiced in France, for example by changing the access points available for vulnerable groups and by blending new sets of opportunities and constraints for bottom-up intervention of French citizens more generally (Cinalli 2004; Cinalli and Giugni 2013). In particular, by zooming in on this complex multi-level governance of solidarity, a further underlying thread that has emerged throughout the pages of this chapter consists of the growing role of French associations. This is a relevant result when analysing bottom-up intervention in the public discourse of pro-beneficiary organisations in the fields of disability, unemployment, and migration. Their aim is to increase the discursive legitimacy of justice and equality for vulnerable people. Besides being a “*bastion*

*who stands up to defend a large part of the (disabled) people*”,<sup>17</sup> the main point is that these associations have taken leading responsibilities in these current times of economic crisis, welfare retrenchment, and progressive withdrawal of the state. In particular, associations are playing a double role. On the one hand, they continue to be close to vulnerable people in a direct relationship of care and exchange with them, while at the same time, on the other hand, they fill in the solidarity vacuum left by traditional welfare agents. In the words of an associational leader “*respect, equality and dignity are the most fundamental values. The two main dimensions are subsidiarity and reciprocity*”.<sup>18</sup> The sense of purpose and the objective importance of these associations in the field is further emphasised in times of austerity policies, when solidarity as direct empathy vis-à-vis vulnerable people and as a welfare enterprise can only continue thanks to their intervention, in spite of the reduction of funds and state support.

Another essential underlying thread that has emerged in the pages of this chapter is the cross-roads at which solidarity stands today in France, both in terms of its fundamental understanding and actual practice. Most crucially, this is a finding that has emerged across all fields of vulnerability that we have examined. In very general terms, it can be argued that, following two decades of discussion on the relationship between rights and responsibilities (Giddens 1998), the project of “third way” is today stronger than ever before in France. This project, which in political terms has coincided with the decreasing appeal of traditional parties on both sides —the right and the left— of the political spectrum, has put much emphasis on self-initiative, duties, and personal commitment. And even in the French context of traditional welfare rights, the idea of contractualism has increasingly become hegemonic, thereby undermining more classic conceptions of welfare just as much as in other countries that have more famously taken a neo-liberal turn (Dwyer 2004). The pages of this chapter have given plenty of space to discussing the extensive policy investment in measures to tackle vulnerability, socio-economic exclusion, and to move more vulnerable people from welfare to autonomy. Beside these renewed practices of solidarity, however, this chapter has also demonstrated that a fundamental rethinking of solidarity is taking place. Many times this fundamental rethinking passes unobserved in the application of measures,

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17 Interview No. 5 In the field of disability

18 Interview No. 8 in the field of disability



but we have identified at least three main scenarios under which this has emerged in open contradiction with more traditional approaches to solidarity.

A first scenario of potential contradiction between old and new thinking of solidarity is the case of the ‘commodification of solidarity’, whereby solidarity has *de facto* become a tax that actors pay ‘in the name of solidarity’, which in fact is not implemented (if not indirectly). There were many examples throughout this chapter, but the most compelling example that we have singled out is the *de facto* monetization of solidarity in the field of disability into a tax that firms pay as an alternative to the recruitment of disabled people. A second scenario is the ‘inverse contractualisation of solidarity’, whereby institutional actors have attempted to reverse the “*do ut des*” formula (a formula which is itself a neo-liberal approach to solidarity, since in its traditional letter solidarity should instead be thought of as free of obligations) in a more stringent “*des ut do*” formula. In this case, solidarity becomes an obligation on the side of welfare recipients. The most compelling example that we have singled out is in the field of unemployment. It consists of the demand of the Haut-Rhin County Council to recipients of the ‘solidarity labour income’ (*Revenu de solidarité active*) to be themselves the agents of solidarity in their work for associations, local authorities, retirement homes, and public institutions in general. Finally, the third scenario —whereby contradiction between old and new approaches to solidarity is most strident— refers to the ‘situazionalisation of solidarity’, which holds that solidarity is not defined by some universal traits (and motivations) of solidarity, but rather by an external viewpoints establishing the distinction between those who do deserve help (which in this case is rightly named solidarity) and those who do not deserve any help (which, if given, would rather be accompliceship, or a ‘solidarity crime’). Under this third scenario, solidarity is really solidarity only when it has positive externalities on society according to some contingent norms. In this case, the most compelling example that we have singled out here is in the field of immigration. It consists of the *de facto* enforcement of a ‘solidarity crime’ which French security actors have been applying against a number of people willing to help needy migrants before checking on their regular or irregular entrance in the country.

Ultimately, the most provocative conclusion that one can take from this chapter is that solidarity may well be the last constraint from which a fully-fledged neoliberal programme wants to depart. This is no doubt a very ambitious goal in countries where solidarity is historically and constitutional-



ly embedded in the basic understanding that individuals have of their own citizenship community and of their own political institutions. Due to the symbiotic ties that solidarity has with Fraternity, it is normal that France is a crucial stage for the neo-liberal programme to implement its agenda. The recent economic crisis has had a significant impact on solidarity in France, both in terms of the more visible and formal dynamics of top-down welfare policies, and of the policies aiming to include the disabled, the unemployed, and migrants. This is true to such an extent that it could be said that the impact of the crisis is what most strongly unites the three fields of vulnerability in this chapter. Yet the long-term analysis of this chapter — mostly focusing on policy developments throughout the 2000s and the 2010s — allows for arguing that the economic crisis has not in fact led to outstanding policy changes. Indeed, changes often follow a rhythm that is in agreement with previous ‘reforms’ according to longer-term trends, sometimes having begun well into the pre-crisis period. In the voice of some commentators, the crisis has thus been a tool to justify restrictive reforms that were already considered “necessary” before the crisis. The monetisation of solidarity, its reversal on the shoulders of solidarity recipients in terms of obligations, as well as the idea that solidarity can be good *hic et nunc* but not necessarily everywhere and at any time, are perhaps crucial points that help us to identify the (front)line whereby neo-liberal reforms stand at the present time.

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