

**FOREIGN-ECONOMIC-RETIREMENT
MIGRATION: PROMISES AND POTENTIAL,
BARRIERS AND BURDENS**

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As the cost of retirement in the United States continues to rise, our nation's elderly will be forced to consider alternative measures to obtain quality health care and suitable living conditions. One viable option for retirees is to relocate to a country where their limited incomes will provide a superior quality of life than they could otherwise enjoy in the United States. The inviting climates, welcoming governments, and relative proximity to the United States enjoyed by many Latin American countries place them at the top of the list of desirable retirement locations. While foreign retirement offers many benefits to those elderly individuals operating on fixed incomes, there has yet to be a massive retirement migration from the United States. Mr. Zeltzer examines the possible economic and cultural reasons that explain why such a migration has not occurred, and offers a variety of realistic measures that could, and should, be implemented to ensure that retirees are aware of their numerous options across the border.

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I. Introduction

While the United States has a long history of foreign retirement,¹ the number of American citizens retiring abroad has never approached that of other first-world countries.² However, as the elderly are increasingly forced to subsist on economically insufficient financial resources to purchase adequate housing or medical care domestically, they will be forced to consider radical options.³ These “economic retirees” will be drawn to regions where their limited incomes can purchase full-time retirement. Some of the most alluring of these regions lie just outside of the United States in countries such as Costa Rica, Panama, Nicaragua, Mexico, and the Dominican Republic.

As Part II discusses, foreign expenditure of U.S. Social Security benefits represents, at least in the short-term, a maximization of that system’s economic potential. Elderly pensioners retiring to Latin America are poised to take advantage of increased buying power to secure for themselves a higher quality of life and better medical care than they might otherwise be able to afford within the United States. Furthermore, many Latin American countries offer U.S. retirees additional incentives to relocate through generous packages, such as exemptions from import duties; fees for construction materials and equipment; and income, real estate, and other taxes.

Correspondingly, economic analysts, retirement advisors, and social scientists have begun to question whether the financial and health care issues facing the forthcoming retirement population might be addressed in part by encouraging some elderly individuals from the United States to retire abroad.⁴ The economic crux of this argument lies in a favorable wage-labor ratio prompting an analogy to the offshoring of labor: the offshoring of the United States’ retirees.

The economic calculus suggests the potential for an imminent and necessary surge in the number of foreign retirees: a foreign-economic-retirement boom. However, despite several factors, includ-

1. See Sara B. Miller, *U.S. Seniors Go South—Way South*, CHRISTIAN SCI. MONITOR, Apr. 28, 2004, World, at 1.

2. See Joel Millman, *The Outlook: Developing Nations Lure Retirees, Raising Idea of ‘Outsourcing’ Boomers’ Golden Years*, WALL ST. J., Nov. 14, 2005, at A2. For example, in the United Kingdom it is normal for retirees to relocate, at least for a period, to another country upon retirement. *Id.*

3. See Andres Oppenheimer, *Help U.S. Retirees—and Mexico, too*, ORLANDO SENTINEL, May 25, 2006, at A23.

4. See, e.g., Millman, *supra* note 2.

ing a favorable wage-labor ratio, rising costs in the United States, the continental proximity of Latin American countries, ever-evolving telecommunications technology, increasingly inexpensive international travel, and popular culture's long affection for "tropical paradises," thus far there have been no fireworks.

Large-scale foreign-retirement migration has been hampered by a variety of barriers: cultural, economic, and legislative. Absent proactive legislative efforts in the United States to ease the retirement transition, a large-scale migration movement will never be a reality. Ultimately, removal of these barriers will require Congress to balance the immediate economic consequences of foreign retirement against what are currently only speculative benefits. The current state of political affairs and the emphasis on quantifiable methods of measuring the health of Social Security do not bode well for legislative encouragement in the absence of sufficient evidence of these benefits' certainty.

Part III briefly considers the beneficial labor-wage ratio that serves as the underlying justification encouraging the hypothetical foreign-economic-retirement migration movement. The goods-oriented nature of the incentives that distinguish economic retirees from previous wealth-motivated emigrants is explored as well. Part IV outlines the various economic and cultural burdens that prevent a foreign-retirement explosion from developing, the most important of which is the average retiree's reliance on Medicare, which through a foreign exclusion operates as a disincentive to retire abroad. Part IV also considers potential congressional barriers that may discourage a foreign-retirement movement, were it to develop naturally. Part V explores secondary benefits that hypothetically might provide a basis for congressional encouragement of foreign-retirement migration.

Part VI suggests a variety of low-impact measures that could be implemented to address the information gaps preventing meaningful analysis of the benefits and burdens of large-scale foreign-retirement migration. Of primary importance is both countering the passive disapproval of foreign emigration that plagues the popular conscience and providing an objective basis to evaluate the relative quality of continental health care providers in individual countries.

II. Background

A. Ships in the Night: The Decline of Retirement and the Privatization of Social Security

Over the last twenty years, the average elderly person has increasingly been forced to rely on partial or full-time employment to cover their living expenses.⁵ Since 1987, the number of elderly individuals between the ages of seventy and eighty-four working to supplement their income has nearly doubled.⁶ For many of America's elderly, retirement is being pushed later and later into life in an ongoing struggle to make ends meet.

On average, Social Security benefits account for nearly half of an elderly American's income.⁷ The remainder is typically a combination of private pensions, retirement plans, and personal savings.⁸ Together, Social Security and these other sources comprise the fixed income on which 80% of the elderly population relies.⁹ Despite the elderly's increased work activity, over the past five years their average income has declined to just over \$15,000 annually; falling 3% after twenty years of steady gains.¹⁰ Congress is currently focused on long-term plans to guarantee the solvency of Social Security and to increase the rate of return on Social Security investments.¹¹ Solvency, in particular, is necessary to avoid cuts in Social Security benefits.¹² One

5. See Ken McDonnell, *Income of the Elderly Population, Age 65 and Over, 2004*, EBRI NOTES, Jan. 2006, at 9, 11.

6. *Id.* at 11.

7. *Id.* at 9 (explaining that 42% of elderly recipients' income comes from Social Security and 20% of elderly recipients get 90% of income from Social Security). These final 20% are totally reliant on Social Security, and may be beyond the reach of economic retirement; most countries have set a minimum amount of government or private pension income necessary to retire into their borders. See DAVID DIXON ET AL., MIGRATION POLICY INST., AMERICA'S EMIGRANTS: US RETIREMENT MIGRATION TO MEXICO AND PANAMA 53 (2006).

8. McDonnell, *supra* note 5, at 11.

9. *Id.* at 9.

10. *Id.*

11. See Gregory N. Filosa, Note & Comment, *International Pension Reform: Lessons for the United States*, 19 TEMP. INT'L & COMP. L.J. 133, 133 (2005).

12. See John F. Cogan & Olivia S. Mitchell, *Perspectives from the President's Commission on Social Security Reform*, 17 J. ECON. PERSP. 149, 149 (2003) (explaining Type II privatization, one of three privatization proposals advocated by the George W. Bush administration). Type II privatization is a partial privatization scheme in which a relatively small amount of the Social Security investment is placed into a privately managed account. *Id.*

plan in furtherance of this goal, with which most people are familiar, is partial privatization.¹³

Conceptually, privatization involves the transfer of Social Security responsibilities from the government to the private sector.¹⁴ A full, or pure, privatization scheme would make individual citizens responsible for the management of their own Social Security investments.¹⁵ Individuals would then cultivate their Social Security benefits through personal investment decisions.¹⁶ Partial-privatization schemes limit the amount of risk inherent in individualized decisions by restricting the scope of the investor's control to something less than the entirety of his investment potential.¹⁷

The most popular models of privatization involve both a limited number of viable investment opportunities—subject to government oversight and regulation—and a maximum, or cap, on the total amount of the investment available for personal experimentation.¹⁸ The purpose of these limitations is to guarantee that mismanagement or unforeseen market conditions do not leave the individual completely bereft of benefits upon retirement.¹⁹ The goal of all privatization systems is to increase the amount of return on the Social Security investment.²⁰ Ostensibly, this would provide Social Security recipients with a greater amount of money upon retirement and reduce the strain on the current Social Security system.

However, partial privatization cannot compensate for the difficulties of the current and immediately forthcoming retirement population who are bound to the current rate of return.²¹ In today's market, the income of the average elderly person does not provide adequate purchasing power to ensure comfortable retirement.

13. Filosa, *supra* note 11, at 156.

14. See Jody Freeman, *Public Values in an Era of Privatization: Extending Public Law Norms Through Privatization*, 116 HARV. L. REV. 1285, 1287–92 (2003).

15. See *id.*

16. See *id.*

17. See *id.* In practice, even full privatization schemes are actually only partial; a “pure” privatization would allow citizens unlimited control over their investments. See *id.*

18. See *id.* (relying on author's collection of different privatization methods rather than his thesis argument).

19. See *id.*

20. See *id.*

21. Filosa, *supra* note 11, at 159. Social Security benefits are locked into the current rate of return for those currently fifty-five and older. *Id.* at 135. Obviously, privatization reform does not directly affect personal savings and pensions. *Id.* at 159.

B. Secondary Economics: The Affordability Crisis

As the elderly population increases, so does the demand on the goods and services they require.²² This increased demand has sent government, consumer, and industry groups scurrying to develop assistive programs,²³ but limited resources compound the difficulties of providing necessary services by forcing costs upwards.²⁴ The health, safety, and economic security of older Americans are directly linked to practical concerns.²⁵ Correspondingly, one of the growing obstacles to retirement is the cost of adequate housing for the elderly.²⁶

While older Americans have access to adequate housing within the United States, the cost of housing demands a significant portion of their monthly income.²⁷ Already, the median monthly housing cost for older homeowners is \$543 nationally.²⁸ Higher housing costs increase the likelihood of eviction and default and “make it harder for householders to buy groceries and other non-housing goods.”²⁹ The result is a growing gap between the average retiree’s resources, which are relatively fixed,³⁰ and expected costs, which are quickly rising.³¹

While living costs continue to rise, the cost of medical care is already well beyond the average retiree’s reach. Medicare assistance is simply not sufficient to provide for the majority of elderly Americans’ health care needs.³² By supplementing federal assistance with their own savings, retirees only further strain their limited resources.³³ Personal care, a necessity for many elderly citizens, remains out of reach

22. See Oppenheimer, *supra* note 3.

23. Miller, *supra* note 1.

24. Oppenheimer, *supra* note 3.

25. Charlotte Muller et al., *Older Homeowners and Renters in Six U.S. Cities: Housing and Economic Resources 17* (2002) (unpublished manuscript, available at http://www.ilcusa.org/media/pdfs/rpt_oldpeoplehousing.pdf).

26. *Id.*

27. See *id.* at 19. The study explains that a disproportionate amount of the elderly population’s income is spent on housing in comparison to the rest of the population. *Id.* This is largely because, for an elderly person, adequate housing requires more than the bare minimum. *Id.* The study considered many factors, including access to medical facilities, functional kitchen spaces, hot and cold running water, easy street access, a low crime rate, and the proximity of facilities and services that cater to their needs. *Id.* at 20–25.

28. *Id.* at 18.

29. *Id.* at 17.

30. *Id.* at 18.

31. *Id.* at 48.

32. *Fourth in Series on Medicare Reform: Medicare+Choice: Lessons for Reform: Hearing Before the Subcomm. on Health of the H. Comm. on Ways & Means*, 107th Cong. 68 (2001) (statement of Marilyn Moon, Senior Fellow, Urban Institute).

33. Muller et al., *supra* note 25, at 18–31.

for all but the wealthiest.³⁴ These expenses force many to consider nursing homes and other structured communities, which can consume the entirety of their assets while not constituting an appropriately rewarding end to a lifetime of labor.³⁵

Even those who have prepared themselves for retirement through private and public pension plans will likely be forced to adjust their lifestyles upon retirement. According to a 2006 study by Boston College's Center for Retirement Research, 35% of U.S. citizens born between 1946 and 1954 and 44% of those born between 1955 and 1964 will encounter difficulty maintaining their standard of living upon retirement.³⁶

C. Latin America: Proactive Incentive Programs

Increasingly, Latin American countries are targeting U.S. retirees with retirement incentive packages.³⁷ Costa Rica, Panama, Mexico, and the Dominican Republic have all enacted legislation that encourages foreign retirees, and their retirement income, to relocate within their borders.³⁸ In exchange, the foreign government provides substantial discounts on local goods and services to retirees, allowing them to take advantage of the relatively depressed local economies.³⁹

Costa Rica was an innovator in foreign-retirement incentives and achieved unexpected success with its early programs.⁴⁰ Encouraged by substantially lower living costs and the intangible charms of tropical retirement, U.S. retirees flocked to Costa Rica.⁴¹ Today, Costa Rica

34. Oppenheimer, *supra* note 3.

35. Richard L. Kaplan, *Cracking the Conundrum: Toward a Rational Financing of Long-Term Care*, 2004 U. ILL. L. REV. 47, 71–72.

36. Penelope Wang, *The "R" Moment Looms Closer Than Ever, but If You Get Serious Now, You Can Still Catch the Magic Bus*, MONEY, Mar. 2007, at 76, 76 (interviewing Alicia Munnell, head of Boston College's Center for Retirement Research).

37. See, e.g., Doreen Hemlock, *Panama Courts Real Estate Shoppers*, SUN-SENTINEL (Fort Lauderdale), June 26, 2006, at B9; Kathleen Peddicord, *The World's Best-Kept Retirement Secret*, MSN MONEY, <http://articles.moneycentral.msn.com/RetirementandWills/RetireInStyle/TheWorldsBestKeptRetirementSecret.aspx> (last visited Jan. 12, 2008).

38. See Hemlock, *supra* note 37.

39. *Id.* The qualified term, "relatively depressed" is used here to avoid the implication that these economies have slipped from some higher state of economic security, fostering the image of economic decay or instability that tends to color popular perceptions of foreign cultures. See *id.*

40. Millman, *supra* note 2; see DIXON ET AL., *supra* note 7, at 53.

41. See Hillary Chura, *More American Retirees Seek Havens Abroad*, N.Y. TIMES, July 30, 2005, at C5; Jill Hamburg Coplan, *Moving South-Way South; Tropical and*

continues to epitomize an ideal retirement country for most U.S. citizens.⁴² At current costs, a retired couple can live comfortably in Costa Rica for less than \$1600 a month, which is well within the budget afforded by many couples' combined Social Security benefits.⁴³ However, the quality of living that foreign retirement can provide is often more important for retirees than even the cost of living.⁴⁴ As one expert observed, "You could also retire in Arkansas or Oklahoma for very little, but living in Mexico or Costa Rica on a fixed income gives you a much higher quality of living For \$1,500 a month [retirees can] have a full-time maid and gardener [and] live in a much nicer place."⁴⁵

Retirees typically access foreign-retirement incentives through a multitiered visa program, eligibility for which is largely predicated on the would-be retiree's retirement income. For example, Panama offers at least two different types of visas suitable for retired foreign citizens: the *pensionado* and the *rentista*.⁴⁶ Of these, the *pensionado* is particularly well suited to economic retirees.⁴⁷ To qualify, a retiree must merely be the recipient of at least \$500 a month in private or government pensions.⁴⁸ For married couples the rate is \$600.⁴⁹ This makes the Panamanian *pensionado* visa instantly accessible to the average U.S. retiree.⁵⁰ Under a similar system, foreign retirees in Costa Rica can opt

Economical Retirements in Latin America, NEWSDAY, Sept. 18, 2004, at B06; Miller, *supra* note 1.

42. Coplan, *supra* note 41.

43. Chura, *supra* note 41.

44. Coplan, *supra* note 41.

45. *Id.* (internal quotation marks omitted) (quoting John Howells, author of several retirement books). Costa Rica's experiments with retirement legislation revealed that the country's natural geographic and economic benefits rendered the scale of its incentive packages insignificant in luring a steady stream of full- and part-time retirees. Millman, *supra* note 2. The country attracted over 20,000 retirees, despite scaling back its incentives program in the 1980s. DIXON ET AL., *supra* note 7, at 15; Coplan, *supra* note 41. Encouraged by this success, Costa Rica is now considering new legislation that would encourage a wealthier class of elderly citizens to consider retirement within its borders. Millman, *supra* note 2.

46. DIXON ET AL., *supra* note 7, at 15.

47. *Id.* at 16. Retirees not receiving regular pension payments are eligible for the *rentista* visa. *Id.* However, this visa requires a deposit of \$225,000 into the National Bank of Panama, producing around \$750 in interest per month. *Id.* As the typical economic retiree is unlikely to have instant access to this sort of capital, the *rentista* is an unlikely choice for economic retirees.

48. *Id.*

49. *Id.*

50. *Id.* at 43. The *pensionado* visa is already the most popular, accounting for 90% of the visas issued to U.S.-born immigrants between 2003 and March of 2006. *Id.*

into the country's Social Security system for less than \$40 a month, allowing them access to basic government-provided health and medical services.⁵¹

According to the Social Security Administration, there were officially more than 400,000 beneficiaries living abroad in 2001, and the actual figure is likely much higher today.⁵² Mexico is currently the most popular foreign-retirement location for U.S. retirees, with the count at 28,000 and rising.⁵³ However, Mexico's role in foreign-economic retirement is unique given the large number of Mexican immigrants who remain in the United States until reaching retirement age and then return home.⁵⁴ Because there is no reliable way to distinguish Mexican-born U.S. retirees in Mexico from nonnative retirees,⁵⁵ gauging the broad-based impact of Mexico's incentives poses considerable difficulties.

Retirement incentives also seem to be having a measurable effect elsewhere in Latin America.⁵⁶ Nicaragua, a country once considered politically and economically unstable, is now estimated to host over 5000 foreign-born retirees.⁵⁷ Panama, which has only just begun to aggressively pursue retirees,⁵⁸ seems to be experiencing a miniature

51. Millman, *supra* note 2 (“Costa Rica allows U.S. citizens registered under its *pensionado* system to pay into the country's social-security system, for as little as \$37 a month, qualifying for full hospitalization and pharmacy coverage[.]” but “[m]ost . . . use the local public-health administration as a backup for emergency care and rely on private clinics for most care.”).

52. Miller, *supra* note 1. For more information on the difficulty of obtaining accurate figures for U.S. retirement abroad, see DIXON ET AL., *supra* note 7, at 23 (explaining the incompleteness of U.S. Census Bureau information and that of the State Department).

53. DIXON ET AL., *supra* note 7, at 27. Considering the large number of Mexican immigrants, both legal and illegal, that move through the United States for labor purposes, it is likely that a considerable number of U.S. retirees in Mexico originally came from Mexico. *Id.* It is worth noting, inasmuch as these retirees are returning home to maximize the economic benefits they accrued while employed in the United States, they do demonstrate the same sort of “market-shopping” that this Note considers.

54. See generally *id.* (describing possible reasons why the American retirement number is inflated).

55. *Id.*

56. *Id.* at 51. Three-fifths of those interviewed cited some economic measure as having been crucial to their retirement decision. *Id.*

57. Miller, *supra* note 1.

58. DIXON ET AL., *supra* note 7, at 15–16. Panama benefits from stable weather and long-term relations with the United States. See *id.* at 14–15. While the United States officially ceded control of the Panama Canal to the Panamanian government in 1979, an American military presence remained until 1999, and the United States continues to monitor Panama's political and economic climate carefully. *Id.* Panama also has the advantage of not having a central bank of its own. *Id.* at 14. The

surge of U.S. retirees. Panamanian government officials and private service providers have testified to a sudden spike in the number of U.S.-born retirees in Panama over the last five years.⁵⁹ The number of *pensionado* and *rentista* visas that were granted to U.S. citizens tripled between January 2003 and March 2006.⁶⁰ The number of visas issued in the first few months of 2006 nearly equaled the total number distributed in all of 2003.⁶¹

The potential benefits of Latin American retirement to would-be retirees, the rising costs of the elderly's necessities within the United States, and the growing number of U.S. citizens living or retiring abroad have elicited comparisons to the offshoring of labor forces.⁶² This has prompted the suggestion that America's elderly "outsource" themselves and enjoy a quality of retirement abroad that has become elusive, perhaps even impossible, in the domestic market.⁶³

III. Potential Unrealized: The Promises of Foreign-Economic Retirement

The lower cost of goods and services in Latin American countries, combined with receptive government retirement programs, suggests that, under a purely economic model, the U.S. elderly population should be leaving the country in record numbers.⁶⁴ However, while the current number of U.S.-born retirees abroad is substantial, it is also far from staggering.⁶⁵ Despite reoccurring popular predictions to the contrary,⁶⁶ the foreign-retirement boom has never occurred. As more countries begin to explore the reciprocity of immigration and the

local currency, the Balboa, is the U.S. dollar. *Id.* This eliminates foreign-exchange risk.

59. *Id.* at 44.

60. *Id.* at 44 tbl.1. Over 1200 of these two types of visas alone were granted to U.S. citizens between January 2003 and March 2006. *Id.*

61. *Id.* at 43.

62. *Id.* at 7.

63. Millman, *supra* note 2.

64. DIXON ET AL., *supra* note 7, at 2, 51; cf. Thomas R. McLean, *The Offshoring of American Medicine: Scope, Economic Issues and Legal Liabilities*, 14 ANNALS HEALTH L. 205, 213-14 (2005) (discussing the offshoring of white collar American jobs to cut costs).

65. See Miller, *supra* note 1 (noting there were more than 400,000 Social Security beneficiaries abroad in 2001).

66. See, e.g., Millman, *supra* note 2.

incentives of establishing nursing care abroad,⁶⁷ it is worth considering the impact a foreign-retirement movement might have within the United States and the barriers preventing its arrival.

To appreciate the actual and potential barriers to foreign-economic-retirement migration, it is necessary to first identify the incentives that foreign retirement offers. Economic retirees will not likely relocate to evade taxation or otherwise harbor wealth.⁶⁸ The declining value of the U.S. dollar abroad and the continental proximity of Latin American countries (rather than their historical character as tax havens) suggest the most likely destination for economic retirees is just south of the border. Just as the increased earning potential of the U.S. economy lures millions of immigrants every year, the depressed economies of some foreign nations promise the economic retiree increased buying power, and correspondingly, a higher quality of retirement.

A. Foreign-Economic Retirement Is Not Wealth-Motivated

The congressional approach to both retirement and foreign migration has traditionally been focused on quantifiable economic incentives.⁶⁹ In recent years, emigration outside of the United States has been predominately tax-motivated; correspondingly, Congress has approached emigration movements with suspicion and discouraged them by eliminating the motivating incentives.⁷⁰ However, approaching foreign retirement from a perspective founded on abstract principles of wealth misconstrues the complex play of forces that give rise to the phenomenon.

Foreign-economic retirement is not tax-motivated. Economic retirees, by definition, do not move abroad in search of employment; they survive largely on personal savings and Social Security benefits.⁷¹

67. See, e.g., Timothy Aepfel, *Top Economists Square Off in Debate over Outsourcing*, WALL ST. J. ONLINE, May 20, 2004, <http://www.careerjournal.com/hrcenter/articles/20040520-aepfel.html>.

68. See Beckett G. Cantley, *Taxation Expatriation: Will the Fast Act Stop Wealthy Americans from Leaving the United States?*, 36 AKRON L. REV. 221, 222–24 (2003).

69. See Richard A. Westin, *Expatriation and Return: An Examination of Tax-Driven Expatriation by United States Citizens, and Reform Proposals*, 20 VA. TAX REV. 75, 79–97 (2000) (generally discussing the laws and incentives that the United States has furthered over the years to discourage expatriation).

70. See Cantley, *supra* note 68, at 222–24; Westin, *supra* note 69, at 138–42.

71. See Muller et al., *supra* note 25, at 43. It is perhaps common sense to say that a retiree is retired, but increasingly those who are only partially retired (those working part-time to supplement their income) are being grouped with retirees in

The United States does not impose taxes on foreign-bound Social Security payments beyond those incurred if the benefits were received in the United States.⁷² Even if economic retirees were to use their retirement as an opportunity to pursue new business ventures, they would not be released from their domestic tax burdens; as long as foreign retirees maintain their U.S. citizenship, they will continue to pay U.S. taxes.⁷³

While renouncing their U.S. citizenship may free non-Social Security reliant, foreign retirees from paying income tax on interest from their personal savings, the disadvantages of doing so are substantial and likely outweigh any benefit. Obtaining citizenship in most foreign countries is difficult,⁷⁴ and renouncing citizenship can render a retiree unable to return to the United States.⁷⁵ Considering the likelihood of a retiree's family remaining in the United States, this alone is likely to render renouncement of U.S. citizenship undesirable.⁷⁶

Furthermore, while there may be a few tax incentives to foreign retirement, there are potential penalties. Currently, most Latin American countries exempt foreign retirees from paying tax on private pensions, investment portfolios, or inheritances, and the United States does not subject foreign-bound Social Security benefits to any penalties.⁷⁷ But Social Security payments may be subjected to income

general; this suggests a cultural re-imagining of what it is to be a retiree. See, e.g., Roberta Rand, *Zoomer Boomers Explode the Retiree Stereotype*, TROUBLEDWITH.COM, 2002, <http://www.troubledwith.com/transitions/A000000603.cfm> [hereinafter *Retiree Stereotype*] ("A third of boomers say they'll keep working after they officially retire, they want to stay close to professional contacts.").

72. SOC. SEC. ADMIN., YOUR PAYMENTS WHILE YOU ARE OUTSIDE THE UNITED STATES 28–30 (2006), available at <http://www.socialsecurity.gov/pubs/10137.pdf>.

73. Michael P. Lewis, *Addressing Inequities in the Collection of Social Security Taxes for U.S. Citizens Working Abroad*, 37 SAN DIEGO L. REV. 853, 855 (2000).

74. DIXON ET AL., *supra* note 7, at 15–16. The author explains that while the *pensionado* visa allows indefinite residence in Panama, it does not render the holder eligible for Panamanian citizenship. *Id.* However, naturalization is an unlikely choice for economic retirees; it requires five years of permanent residency and the renouncement of U.S. citizenship. *Id.*

75. Coplan, *supra* note 41.

76. See DIXON ET AL., *supra* note 7, at 53 (explaining that the distance of family is a constant concern for the foreign retiree and most intend to return home if faced with the death of a spouse or serious illness); Cindy Glover, *About Half of South Florida's Charitable Dollars Leave Region: Immigrants, Retirees Send Money Home*, SUN-SENTINEL (Fort Lauderdale), Nov. 21, 1999, at 2B (stating that a considerable portion of retiree and immigrant capital is directed back to home states and countries). This relationship demonstrates that members of retirement and immigrant communities are still closely associated with their origins and do not cut ties when relocating for economic or retirement purposes.

77. Coplan, *supra* note 41.

tax in some countries, effectively resulting in double taxation.⁷⁸ Therefore, while the idea of foreign retirement as an escape from taxation remains fixed in the public imagination,⁷⁹ tax incentives cannot be the sole force driving foreign retirement.

Similarly, despite the economic impetus, foreign retirement is overwhelmingly not wealth-motivated. The current debate over privatization demonstrates that the cash value of Social Security benefits is increasingly construed as indicative of Social Security's overall health.⁸⁰ However, the emphasis on quantifiable wealth promotes an incomplete, if not wholly flawed, line of welfare reasoning. While cash assets embody tremendous investment potential, for the average elderly individual (who is not engaged in long-term wealth harvesting),⁸¹ the cash nature of Social Security's return is valuable only inasmuch as it can be exchanged for goods and services.⁸² Ultimately, the quality of retirement is dependant on the transactions of Social Security recipients in the marketplace.⁸³ It is the availability of goods, both necessary and desirable, that encourages foreign retirement.

78. *Id.*

79. See Westin, *supra* note 69, at 78–79.

80. U.S. GEN. ACCOUNTING OFFICE, SOCIAL SECURITY: ISSUES IN EVALUATING REFORM PROPOSALS 2 (2001), available at <http://www.gao.gov/new.items/d02288t.pdf>.

81. The author defines “wealth harvesting” as the cultivation of monetary wealth or liquid assets. A typical example of wealth harvesting is a savings bond, the possession of which provides no incidental or practical benefit beyond the accrual of greater financial reserves. While wealth harvesting is an integral part of the preparation for retirement, the practice theoretically should end, or at least diminish, upon retirement when the retiree begins to rely on accumulated wealth in lieu of a regular income.

82. The alternative to the Social Security model of wealth accumulation is for the government to provide the necessary goods and services directly. Not only would this be administratively impractical, it would also ignore the individualized nature of the elderly population's needs. It is the structure of the Social Security system, with its emphasis on late-stage personal purchase decisions, that allows for options such as foreign retirement.

83. Simply put, most retirees deplete their savings to survive. However, some elderly individuals may benefit from sufficient cash reserves or continue to derive income from other sources so they may continue to harvest wealth indefinitely. Thus, their survival does not depend on the depletion of capital. This is frequently tied to long-term plans for post-mortem wealth distribution—the domain of wills, estates, and trusts.

B. Foreign-Economic Retirement Is Marked by Pursuit of Goods and Services Unaffordable in the Domestic Marketplace

The full-time retiree benefits from greater geographic flexibility than the average working adult. The proximity to his or her place of employment or the availability of employment is no longer a factor. Therefore, many of America's elderly choose to relocate upon retirement. Some prefer to move to popular retirement states, such as Florida, seeking out the company of other retirees. Others relocate to be close to their family. However, some members of America's elderly may be faced with a more difficult choice: whether to retire at all.

If an elderly citizen has reached the age of retirement but cannot survive on Social Security income and other savings, retirement must be delayed.⁸⁴ However, for potential foreign retirees, a choice exists: they can continue to labor within the United States to supplement their income, achieving a sort of pseudoretirement, or they can relocate entirely to a region where it is affordable on their current income. Such regions do exist within the United States, but the least expensive places within the United States are also those least suitable for elderly habitation—primarily because of temperature extremes, poor housing quality, and general accessibility concerns.⁸⁵ Foreign retirement is an option for these elderly citizens. It is also a viable option for mid-income retirees—those who can sustain themselves comfortably with their retirement income, but might prefer the step-up in lifestyle opportunities foreign retirement offers.

However, the declining value of the U.S. dollar abroad has limited the number of foreign countries where U.S.-born retirees can provide comfortably for themselves.⁸⁶ By relocating to countries such as Panama, Nicaragua, Mexico, and, to a lesser extent, Costa Rica, many elderly Americans can afford to retire on incomes that would not be

84. McDonnell, *supra* note 5, at 9 (“In 2004, the lowest-income quintile received 1.9 percent of its income from pensions and annuities, 3.0 percent from assets, and 0.5 percent from earnings. By comparison, the highest-income quintile received 25.5 percent from pensions and annuities, 17.5 percent from income from assets, and 35.7 percent from earnings.”).

85. See generally Muller et al., *supra* note 25 (discussing factors that make certain cities more habitable and accessible for elderly residents).

86. Evelyn Tan Powers, *Bruised Dollar Still Buys Cheap Digs*, USA TODAY, Mar. 29, 1995, at 2A (explaining that even as of 1995, the options for retirees were between an economical retirement to Latin America or a limited lifestyle in Europe). Given that the value of the U.S. dollar has declined significantly over the last decade, it is even less likely that U.S.-born retirees could stake out a decent quality of life in Europe today without seeking supplemental employment.

sufficient to purchase a quality retirement lifestyle in the United States or a more affluent foreign country.⁸⁷ The majority of the purchasing potential for economic retirees comes in the form of lower costs for goods and services, particularly those related to housing and labor.

Foreign retirees can purchase land in most Latin American countries outright (although some countries do impose limitations on the purchase of coastal and border property).⁸⁸ Property costs and taxes are considerably lower in most of these countries than in the United States, thus increasing the rate of home ownership.⁸⁹ In Panama, homes benefit from a twenty-year exemption on property taxes, the remainder of which is freely transferable.⁹⁰ Mexico, on the other hand, does impose a regular property tax, but at 0.01–0.04%, it is only a fraction of that incurred in the United States.⁹¹

The costs of owning and maintaining a home are also considerably less in Latin America than in the United States.⁹² In Boquete, a small retirement enclave several hours from Panama City, the cost of family-sized homes run the full gamut from \$50,000 to \$375,000.⁹³ In new developments just outside Panama City, lots can range from \$30,000 to \$100,000, with building costs of \$45 to \$50 per square foot.⁹⁴

Heating and cooling costs have a considerable impact on the housing costs of retirees in the United States. Optimally, an American over the age of sixty-five should avoid temperature extremes, and institutions studying the quality of housing for the elderly in the United States maintain that control over temperature in the home is a necessary criterion for quality housing.⁹⁵ The cost of temperature regulation can be considerable, especially in the summer and winter

87. See Chura, *supra* note 41. Costa Rica's interest in a wealthier class of retirees suggests that it may soon cater exclusively to this population, thus rendering it unsuitable as an economic-retirement destination. Andrea Peterson, *Retirement Havens for the Intrepid*, WALL ST. J., June 9, 2004, at D1.

88. DIXON ET AL., *supra* note 7, at 16.

89. *Id.* at 48 tbl.12 (sampling of U.S. retirees residing in Panama found that while nearly one-third of them rent their homes, over two-thirds have chosen to purchase outright).

90. JULIO CÉSAR CONTRERAS III & ARISTEDES BATISTA, PANAMA TAX DESKBOOK 9 (2002), available at <http://www.lexmundi.com/images/lexmundi/PDF/Panama.pdf>.

91. DIXON ET AL., *supra* note 7, at 52 (explaining the lower property taxes in Mexico).

92. *Id.* at 48–52; Coplan, *supra* note 41; Miller, *supra* note 1; Powers, *supra* note 86.

93. DIXON ET AL., *supra* note 7, at 52.

94. *Id.* at 50.

95. Muller et al., *supra* note 25, at 21–24.

months.⁹⁶ The generally temperate conditions in most Latin American countries can reduce or eliminate these costs entirely.⁹⁷

A recent study by the Migration Policy Institute observed that the cost of labor in Panama and Mexico allows the low-income retiree to easily afford maids and gardeners.⁹⁸ The costs of health insurance, food, clothing, and real estate are also considerably less expensive than their U.S. equivalents.⁹⁹ Special benefits for retirees also provide discounts on popular goods and services.¹⁰⁰ For example, Panama's incentive package for retirees allows a 10–50% discount on most forms of entertainment, meals, medical consultations, and even weekend stays at local resorts.¹⁰¹ Costa Rica offers similar benefits to its foreign retirees.¹⁰² These discounts further drive the cost of living downward, allowing retirees to maximize their income.

IV. Barriers and Burdens: Confused Incentives, Ethereal Concerns, and Cultural Misconceptions

Foreign-economic retirement is easily analogized to other offshoring efforts. Businesses are inclined to send jobs offshore as a method of controlling labor costs because lower wage-labor ratios yield greater profitability.¹⁰³ Similarly, by relocating to another country, the elderly are able to reduce their expenditures, operate within limited budgets, and secure a higher rate of return on their economic investments.¹⁰⁴ However, despite this favorable wage-labor ratio, there has been no wide-scale economic exodus of retirees into Latin America. A variety of factors, both economic and cultural, prevent any large-scale migration—most importantly, the disincentive of

96. *Id.*

97. DIXON ET AL., *supra* note 7, at 51.

98. *Id.*

99. *Id.* at 52.

100. *Id.* at 17. Retired men over sixty and women over fifty-five are eligible for additional benefits, including 50% off the prices of most popular entertainment and 25% off of restaurant meals. *Id.* These incentives are perhaps the most often overlooked, and yet they have a significant impact on the cost of retirement. While retirement is often thought about in terms of necessity, this misses the point, because retirement should be something greater than mere subsistence.

101. *Id.*

102. DIXON ET AL., *supra* note 7, at 15–16. Costa Rica has significantly scaled back some of these benefits, which has resulted in some retirees moving to Panama instead. *Id.*

103. McLean, *supra* note 64, at 205.

104. DIXON ET AL., *supra* note 7, at 7–9.

Medicare, the difficulties of integration, and the lack of reliable information.

A. The Medical Care (Dis)Incentive

The cost of living for an elderly person is closely tied to the cost of medical care.¹⁰⁵ Medical access remains a long-term problem in the United States.¹⁰⁶ While emergency medical care is available regardless of whether the patient has health insurance, preventive, primary, and long-term care is not.¹⁰⁷ Studies have shown that comprehensive medical care is available at a substantially reduced cost in most Latin American countries.¹⁰⁸ In particular, nursing and other live-in care is vastly cheaper than the same type of care within the United States.¹⁰⁹ For example, \$160 a month in Panama can secure the equivalent of over \$5000 a month of live-in care in the United States.¹¹⁰

Not surprisingly, medical care is one of the first factors considered in most retirees' decision to relocate abroad, and discounted costs are a considerable motivation.¹¹¹ However, as a result of the Medicare foreign exclusion, the savings potential is curtailed dramatically by a retiree's necessary reliance on private health insurance abroad.

105. *Id.* at 56.

106. See Timothy Stoltzfus Jost, *Our Broken Health Care System and How to Fix It: An Essay on Health Law and Policy*, 41 WAKE FOREST L. REV. 537, 537–38 (2006).

107. *Id.* at 545.

108. DIXON ET AL., *supra* note 7, at 52 (explaining that this is, of course, a primary motivation for many retirees). However, the difference between the costs of domestic and foreign medical services is only valuable insofar as there is no equivalent discrepancy in their quality; getting what you pay for does not constitute a genuine migration incentive.

109. *Id.* at 67–83; cf. McLean, *supra* note 64, at 215 (discussing how the reduced costs of labor and utility expenses encourage domestic medical care providers to consider establishing offshore doctors' offices through telecommunications systems).

110. DIXON ET AL., *supra* note 7, at 52 (recounting the experiences of a single individual who chose Panama as a retirement location for his elderly mother for exactly this reason; had she remained in the United States, she would not have been able to afford the amount of care required and would have been forced to rely on government assistance). Of course, while this person's motivation may have been to secure what he conceived as higher quality services than those his mother would have obtained through Medicare, it is worth noting that his decision to pursue a foreign market did relieve the insurance system of the cost of his mother's care.

111. *Id.* (explaining that the availability and quality of local medical facilities are often at the very top of potential retirees' concerns).

1. THE MEDICARE FOREIGN EXCLUSION

In the United States, populations with high insurance costs, such as the elderly and poor, are primarily covered under public insurance programs such as Medicare and Medicaid.¹¹² While Social Security payments are unrestricted and may be received overseas without penalty, federal health insurance programs and other welfare benefits are not universally available outside of the United States.¹¹³ For example, Supplemental Security Income, a federally funded welfare program, ceases to provide benefits after the recipient has been outside of the country for more than thirty days.¹¹⁴ In addition, Medicare benefits are contingent on the use of a domestic medical provider.¹¹⁵

Medicare benefits are subject to a foreign exclusion,¹¹⁶ rendering recipients abroad ineligible for payments, even on emergency services, unless they fit into one of the narrow exceptions intended for border residents and citizens traveling between Alaska and the continental United States.¹¹⁷ Limited coverage for Medicare recipients abroad is available through Medigap,¹¹⁸ but this coverage is limited to medical emergencies, and the corresponding restrictions render this coverage wholly unsuitable for the elderly retiree.¹¹⁹

The foreign exclusion for Medicare has received surprisingly little attention in either academic literature or judicial decisions,¹²⁰ de-

112. Jost, *supra* note 106, at 545.

113. James R. Whitman, *Venturing Out Beyond the Great Wall of Medicare: A Proposal to Provide Coverage Outside the United States*, 8 *ELDER L.J.* 181, 182 (2000).

114. *Id.* at 208.

115. *Id.* at 203.

116. *Id.* at 183 (explaining “how the foreign exclusion works, why it works the way it does, and suggest[ing] how it might be amended to work better”).

117. *Id.* at 189–90. The Senate Amendment is limited “to provid[ing] benefits for emergency hospital services furnished in hospitals located outside the United States if the emergency occurred within the United States, and the foreign hospital was closer or more accessible from the site of the emergency than a domestic hospital.” *Id.* at 188. Border residents and U.S. citizens traveling between Alaska and the continental United States are subject to an additional exception from the foreign exclusion added by amendment in 1972. *Id.* at 189–90.

118. *See id.* at 192–93. Supplemental insurance is sold by private carriers and heavily regulated by the federal government. *Id.* at 191.

119. *Id.* at 192. Coverage is limited to the first sixty days of travel and is inapplicable towards the regular health and medical care the average retiree needs. *Id.* at 193.

120. *Id.* at 186–87 (“[The] dearth of attention paid to the Medicare foreign exclusion, both in its infancy and then later when Congress specifically amended the exclusion.”). Sadly, little has changed since this Note was published in 2000. Whitman’s Note remains the only journal article to have given any serious consideration to the history or purpose of the foreign exclusion.

spite its presence within the Social Security Act since the health insurance program's inception.¹²¹ The legislative history reveals no debate over the foreign exclusion. The addition of Senate amendments in 1965 and 1975, providing the limited exceptions, suggest the exclusion was not included without consideration.¹²² In the absence of legislative history, the motives behind the Medicare foreign exclusion are unclear. Difficulties with administering and monitoring foreign medical services and the problems of fraudulent claims by foreign providers may have made drafters wary of extending Medicare coverage abroad.¹²³ In particular, fraudulent claims seem to have had a dramatic effect on the development of the Medicare system. Considerable effort, both by legislators and academics, has been extended in an attempt to combat the impact of fraudulent medical claims.¹²⁴ Until these concerns are addressed, retirees living abroad will be forced to rely either on private health care or the government-funded systems of their host countries. Neither of these alternatives are satisfactory substitutes for Medicare coverage abroad.

While both Costa Rica and Panama offer retirees access to their health care programs, the quality and availability of medical care varies.¹²⁵ Navigating the purchase of private insurance in the United States can be daunting and may explain why so many of the elderly prefer to rely on Medicare.¹²⁶ Negotiating for private insurance in a foreign country poses a significant obstacle when the would-be purchaser is unfamiliar with even the basic principles of private-insurance programs. Correspondingly, the elderly population's extensive reliance on Medicare coupled with the lack of coverage abroad

121. *Id.* at 187–88 (explaining that “the idea . . . that an individual’s entitlement to benefits would be conditioned upon the services being furnished within the United States” was already present in “the original proposals . . . [w]hen Congress first commenced hearings in 1963, seeking to provide a health insurance program for the aged under the Social Security Act” and that “[w]hen Congress finally passed the Medicare bill two years later, it had undergone various drafting changes, but the final version retained the entitlement language”).

122. *Id.* at 189–90.

123. *Id.* at 202–03.

124. *Id.* at 212–14.

125. Millman, *supra* note 2 (“It took between 10 and 15 years for Costa Rica to strengthen its private health-care network after the retirees started coming’ . . . despite the excellent public-health system Costa Rica already had in place . . . [and countries] such as Honduras or Nicaragua are going to require huge investments.” (quoting Dr. Tomas Engler)).

126. See generally DIXON ET AL., *supra* note 7, at 49 (discussing retirees’ reliance on Medicare as a serious consideration in deciding whether to retire abroad).

has a dampening effect on an elderly person's impetus to retire outside of the country.

2. THE PORTABILITY PROBLEM: PRACTICAL EXPERIMENTS IN GLOBAL CARE

Making Medicare benefits portable would allow U.S.-born retirees to use their benefits in regions where the cost of medical care is substantially less than in the United States. This could reduce the amount of money paid out yearly by Medicare. At the very least, even if benefits were used to their current extent, it would provide increased medical coverage for Medicare recipients who chose to seek medical care in foreign regions. The TRICARE health care system, run by the Department of Defense, has been looked to as a real-world example of how to circumvent the potential hurdles of providing global health care benefits.¹²⁷ However, recent experiments with the TRICARE system suggest that increasing the portability of Medicare benefits may be problematic.¹²⁸

TRICARE is a Medicare-equivalent program¹²⁹ catering exclusively to the U.S. military. The program provides medical coverage abroad to military personnel and their dependents.¹³⁰ The TRICARE Overseas Program (TOP) implements TRICARE coverage abroad and operates through more than 1200 health care providers worldwide,¹³¹ including providers in Latin American countries such as Panama, Mexico, Costa Rica, Nicaragua, and the Dominican Republic.¹³² The administrative and regulatory structure of TRICARE has allowed it to circumvent most of the obstacles confronting the foreign distribution of Medicare benefits.¹³³

127. Whitman, *supra* note 113, at 209–11.

128. *National Defense Authorization Act for Fiscal Year 2001: Hearing on H.R. 4205 Before the H. Comm. on Armed Serv.*, 106th Cong. 56 (2000) (statement of Raymond Mouse, Regional Vice President, Anthem Alliance Health Insurance Company) (“Portability has been a problem . . . when people were assigned to regions where there were TRICARE Prime Contracts . . . [I]t is a problem. I won’t state that it’s not.”).

129. That is, it offers equivalent services. However, whereas Medicare benefits are derived from taxes, the TRICARE system is funded from the Department of Defense’s general revenue. Whitman, *supra* note 113, at 208–09.

130. *Id.*

131. *Id.* at 210.

132. InternationalSOS.com, TRICARE Global Overseas Health Care Program Provider Search, <http://www.internationalsos.com/private/tricare/latinamerica/index.cfm?page=3> (last visited Jan. 12, 2008).

133. TOP’s successful operation is the result of an extensive regulatory and administrative system. TOP claims processors translate claims submitted in for-

TRICARE coverage is not limited to active-service personnel.¹³⁴ If a TRICARE member retires abroad, benefits continue unabated.¹³⁵ However, once a member of the TRICARE program reaches the age of sixty-five, medical coverage under TRICARE ends, and Medicare coverage begins.¹³⁶ In 1998, Congress authorized the TRICARE Medicare Subvention Demonstration Project to investigate the desirability of military personnel retaining their TRICARE coverage into retirement.¹³⁷ The project was to determine, among other things, what costs the project would impose on the Department of Defense, “whether the demonstration project could be expanded without there being a cost to [TRICARE] or to the Federal Government . . . [, and] whether to extend the demonstration project or make the project permanent.”¹³⁸ The demonstration project was directly concerned with the financial and administrative interrelationship that would develop between Medicare and TRICARE when beneficiaries were provided with a choice.¹³⁹

eign languages and provide payment in foreign currency. Whitman, *supra* note 113, at 211. The accreditation requirement imposed on Mexican and Canadian medical service providers under the limited exceptions to Medicare’s foreign exclusion is wholly absent from TOP, and foreign providers are not held to same certification requirements as domestic TRICARE providers. *Id.*

134. *Id.* at 208.

135. *Id.* at 208–11.

136. *Id.* at 184–87.

137. The Medicare Subvention Demonstration Project for Military Retirees was authorized in 1997 (codified at 42 U.S.C. § 1395ggg (2000)), and was initially authorized through 2001. Pub. L. No. 105-33 § 4015, 111 Stat. 251, 337 (1997). In October of 2000, the project was extended through December, 2001. Pub. L. No. 106-398 § 712, 114 Stat. 1654, 1654A-176 (2000).

138. Subsection (k)(2), requiring a “final report by . . . the administering Secretaries . . . containing their recommendation[s]” was repealed in 2002. Pub. L. No. 105-33 § 4015, 111 Stat. 251, 337 (1997), *repealed by* Bob Stump National Defense Authorization Act for Fiscal Year 2003, 107 Pub. L. No. 314, 116 Stat. 2458, 2589 (2002). The repeal came after the Department of Defense delivered the final report on the program’s feasibility in February of 2002. See U.S. GEN. ACCOUNTING OFFICE, MEDICARE SUBVENTION DEMONSTRATION: PILOT SATISFIES ENROLLEES, RAISES COST AND MANAGEMENT ISSUES FOR DOD HEALTH CARE 19–22 (2002) [hereinafter DOD SUBVENTION PILOT REPORT].

139. Under section (k)(1), reports evaluating the TRICARE demonstration project are to include “savings or costs to the medicare program,” 42 U.S.C. § 1395ggg(k)(1)(A), “[t]he number of medicare-eligible military retirees and dependents opting to participate in the demonstration project instead of receiving health benefits through another health insurance plan,” 42 U.S.C. § 1395ggg(k)(1)(G), “[a] list of the health insurance plans and programs that were the primary payers for medicare-eligible military retirees . . . prior to their participation in the demonstration project,” 42 U.S.C. § 1395ggg(k)(1)(H), and “[a]n analysis of whether, and in what manner, easier access to the uniformed services

However, the Medicare subvention experiment demonstrated that worldwide coverage for retirees is simply too expensive to be practical. The Department of Defense's final report explained that, while TRICARE beneficiaries had been uniformly satisfied with the project, administrative difficulties made further expansion untenable.¹⁴⁰ The project demonstrated that costs of expanding the system are substantial.¹⁴¹

The issue of medical care abroad is fraught with practical and analytical difficulties. While TRICARE does provide a functional example of worldwide health service, it is the result of necessity. The United States must be able to provide its military service personnel with a flexible system to process medical claims worldwide.¹⁴² In the absence of some unforeseen economic or social motivation, the U.S. government is unlikely to develop a similar system for the Medicare recipient. Therefore, foreign retirees will continue to bear the bulk of their medical costs abroad.

Whether the costs of foreign medical care are sufficiently reduced to entice retirees to relocate is a complex question, the answer to which is dependant on a variety of individual factors. Retirees must balance a host of hard and soft factors against the inapplicability of their Medicare coverage. This calculus is further complicated by the limited and often contradictory information on which retirees must base their decisions.

While retirees have largely been satisfied with the quality of medical care they receive abroad—citing the generally high quality of the medical facilities and the ready availability of English-speaking doctors¹⁴³—it has been difficult for researchers to draw direct comparisons between the quality of foreign and domestic health care providers.¹⁴⁴ This is largely because reliable methods of measuring health care quality are not universally available¹⁴⁵—even those commonly

treatment system affects the number of medicare-eligible military retirees and dependents receiving medicare health care services," 42 U.S.C. § 1395ggg(k)(1)(K).

140. DOD SUBVENTION PILOT REPORT, *supra* note 138, at 19–27.

141. In 1996, "the Department of Defense spent approximately \$35 million on health care delivered by host-nation medical providers in TRICARE Europe alone." Whitman, *supra* note 113, at 210.

142. *Id.* at 209–10.

143. DIXON ET AL., *supra* note 7, at 52.

144. *Id.* at 53.

145. *Id.* at 23–24.

employed domestically are subject to criticism.¹⁴⁶ While most retirees describe the quality of their medical care as comparable with that received in the United States, accounts are not always consistent.¹⁴⁷

Furthermore, the impact of medical costs on retirees is necessarily controlled by retirees' retirement motivations. Many retirees qualify their satisfaction with the observation that if ever faced with a serious illness, they would likely return to the United States to be in the company of family.¹⁴⁸ This suggests that retirees are most interested in regular preventative medical care and not serious-issue management. Thus, the savings potential may be impacted, as most medical cost assessments take account of the reduced costs of major surgery.¹⁴⁹ However, those assessments also tend to omit nursing and live-in care costs—possibly the source of the greatest savings in medical costs abroad.¹⁵⁰

The decreased cost of medical care provides, at best, an uncertain incentive in the realm of foreign retirement. In the absence of comprehensive, reliable, and accessible data, it is unlikely that the average retiree will single-handedly navigate the issue of foreign medical incentives. As a result, a theoretically important interest is rendered frustratingly elusive.

B. Transition and Access

Early studies of offshore labor migration discovered that, in addition to a beneficial wage-labor ratio, two factors are fundamental to the en masse migration of labor overseas: cost-effective telecommunications “to link the offshore location with the home office” and “that the host country . . . have a large number of educated, English-speaking people.”¹⁵¹ Not surprisingly, these factors parallel the factors citizens consider when deciding whether to retire abroad.

While the relative cost of goods and services is of great importance to potential foreign retirees, foreign retirement also incorporates a quality factor in contrast to a pure economic model of retirement.¹⁵²

146. *Id.*

147. *Id.* at 52–53.

148. *Id.* at 8. This observation raises a relevant point because for many foreign retirees the move south of the border is not permanent. *Id.* at 40.

149. See McLean, *supra* note 64, at 245–47.

150. DIXON ET AL., *supra* note 7, at 6, 52–53.

151. McLean, *supra* note 64, at 213.

152. DIXON ET AL., *supra* note 7, at 51–55.

It is not enough that retiring abroad saves money; the weight of social and cultural values suggests ethereal factors may be the most important of all.¹⁵³ However, conflicting cultural values (both at home and abroad) affect retirees' integration potential, and the incentives of peaceful and relaxed living must overcome transitional difficulties and access burdens. The political and economic stability of the retirement country, the legal and practical difficulties of the transition, cultural and language barriers, and the proximity of family all bear heavily on the potential for foreign retirement.

1. TRANSITIONAL DIFFICULTIES

Political stability is an important factor in the foreign-retirement decision. The political history of Latin American countries is one predominated by former military dictatorships and civil instability.¹⁵⁴ A country's political history may indicate its future stability, explaining why the history of the region is an important factor in the decision where to retire.¹⁵⁵ Countries with particularly violent histories have had only limited success in attracting retirees, despite attractive incentive packages.¹⁵⁶

Regardless of the stability of a particular country, the fact retirees are transitioning into a foreign country makes the retirement transition more difficult than it ordinarily would be if the retiree was merely relocating within the United States.¹⁵⁷ Some Latin American countries have introduced tax and import exemptions to ease the economic transitional difficulties for retirees, thus reducing the costs of relocation and eliminating the potential disincentive of having to replace the contents of one's home with alien equivalents.¹⁵⁸ For example, in Panama and Nicaragua, retirees are eligible for a one-time tax exemption on up to \$10,000 in imported household goods¹⁵⁹ and may import or purchase a car periodically, free of import duties.¹⁶⁰

153. *Id.*

154. Linn Hambergren, *Latin American Experience with Rule of Law Reforms and Its Applicability to Nation Building Efforts*, 38 CASE W. RES. J. INT'L L. 63, 65 (2006).

155. DIXON ET AL., *supra* note 7, at 13.

156. Peddicord, *supra* note 37.

157. DIXON ET AL., *supra* note 7, at 9.

158. See Peddicord, *supra* note 37. Realistically, these incentives merely compensate for the disincentive retirees would face. In the end, staying in the United States might not provide retirees with a \$10,000 discount on imported household goods, but neither would they be confronted with a bulk tax on those goods.

159. DIXON ET AL., *supra* note 7, at 17; Peddicord, *supra* note 37. This initial discount may have economic repercussions at home, as retirees attempt to purchase

However, U.S. retirees remain largely ill equipped to retire into wholly alien surroundings,¹⁶¹ regardless of the furniture they bring. One obvious difficulty facing most foreign retirees is the language barrier.¹⁶² However, linguistic difficulties may not pose as overwhelming an obstacle to foreign retirement as was originally presumed. Retirees can, and do, avoid linguistic and cultural integration difficulties by residing predominately with other retired Americans, or in larger urban settings where the number of English-speaking natives is higher.¹⁶³ Correspondingly, the presence of a previously established retirement community may be a determinative factor in the retirees' decisions whether and where to retire abroad.¹⁶⁴

American retirement and expatriate communities are prevalent throughout Latin America.¹⁶⁵ While most have occurred naturally over time as foreign retirees were drawn to each other, some Latin American governments have also begun to invest in long-term programs aimed at providing housing developments more attractive to the foreign retiree.¹⁶⁶ Similarly, corporations responsible for private retirement communities in the United States are considering the construction of equivalent communities in Latin American countries.¹⁶⁷

While these plans are encouraging, they do not constitute the whole-hearted support that some advocates of foreign retirement

or stockpile American necessities that are not available in their retirement countries.

160. DIXON ET AL., *supra* note 7, at 17. However, these incentives do not eliminate the cost of relocation. Retirees may easily bring goods into the country, but may not necessarily have the same latitude to bring them out again if they decide to return home.

161. *Id.* at 9–10.

162. *Id.* (explaining that few retirees speak the local language and citing that as one of the challenges of integration).

163. *Id.* at 53. Retirees can get by speaking only English in their adoptive countries, but this is often because they concentrate in urban centers and unofficial retirement communities where English is more likely to be spoken. *Id.* Furthermore, because retirees tend to interact with their local communities in a predominately consumer capacity, what cannot be accomplished with language can usually be achieved through simple hand signs and signals. *Id.* at 57. We can only imagine what effect this limited communication has on the local population's opinion of retirees. But it is reasonable to believe that without a concerted effort on the part of the retirement population they will perpetually be seen as outsiders, present only because their home country allows them the luxury of doing so.

164. *Id.* at 27.

165. See generally DIXON ET AL., *supra* note 7 (describing patterns and rationales for retiree migration to Latin America); Westin, *supra* note 69, at 80 (describing U.S. taxation policy as an incentive for expatriation).

166. Hemlock, *supra* note 37.

167. Chura, *supra* note 41.

would prefer. One area in which there has been little development despite years of discussion is that of nursing homes and other privately owned assistive living communities.¹⁶⁸ In the 1980s, efforts to persuade domestic companies specializing in long-term care to establish nursing homes in Latin America failed to take hold.¹⁶⁹ While advocates maintain that these plans still have merits today, they also believe the plans would require domestic insurance plans to be available in Latin America.¹⁷⁰ Unfortunately, domestic processing of health care claims arising abroad remains unavailable to most seniors.¹⁷¹

2. ACCESS BURDENS

Foreign retirement does not diminish retirees' ties to the United States,¹⁷² and bringing household goods does not necessarily equate to bringing a home. In particular, the absence of family weighs heavily on retirees' minds, making their relative proximity all the more important.¹⁷³ It is unlikely that retirees will choose a country that makes travel between their retirement homes and their children's homes difficult or expensive. Travel between Latin American countries and the United States is relatively regular and inexpensive.¹⁷⁴ However, while it might be easier to travel from Costa Rica, Nicaragua, Mexico, and Panama into the United States than from other locations abroad, this does not render the travel burden slight. Foreign travel is necessarily longer and more expensive than its domestic counterpart, and the burdens are far greater than if retirees were to relocate within driving distance of family.

Access burdens are not particularly well-suited to generalizations; they involve a variety of diverse factors, many of which are not easily quantified. While some—health and finances—are part and parcel with the initial foreign-retirement decision, these factors also have a profound impact on the quantity and quality of access retirees share with their families. Initially, retirees' relationships with their immediate families will affect how the assess access burdens. If retir-

168. Millman, *supra* note 2.

169. *Id.*

170. *Id.*

171. See generally Whitman, *supra* note 113, at 95 (describing the Medicare foreign exclusion, which bars payment for services received outside the United States).

172. DIXON ET AL., *supra* note 7, at 9.

173. *Id.* at 10.

174. See Hemlock, *supra* note 37.

ees are regularly involved with their families, then access is correspondingly a very high priority.¹⁷⁵ However, the less retirees are involved with their relatives on a day-to-day level, the less important regular access becomes.¹⁷⁶ The marital status of retirees is also relevant, as most foreign-retirement ventures are attempted by couples.¹⁷⁷

Economic factors also figure into the practicality of proximity. While retirees might prefer to be within driving distance of their children, this is not always an economic reality, even were the retirees to remain within the United States.¹⁷⁸ While some families will welcome elderly relatives into their homes, other elderly Americans must provide for their own lodging, which may or may not be affordable within the region of their children's established residence.¹⁷⁹

Medical issues may also impact the *direction* of access, as elderly retirees may be disinclined to travel.¹⁸⁰ Not only will this affect the initial retirement decision, invoking the difficult issue of medical-cost balancing, but it may control who visits whom.¹⁸¹ While physically

175. See M. Cecil Smith, Dep't of Educ. Psychology, Counseling & Special Educ., N. Ill. Univ., Address at the NIU Annuitants' Association Meeting; The Long Weekend: Transition and Growth in Retirement 4-5 (Apr. 26, 1990) (transcript available at <http://www.cedu.niu.edu/~smith/Unpubs/retirement.pdf>) [hereinafter *Transition and Growth*]. "[T]he transitional process [of retirement] affects several developmental tasks in the retiring person's life . . . [including] reexamining the role of social and family relationships during the retirement process, and deciding how one will live one's life in retirement." *Id.*; see also *Retiree Stereotype*, *supra* note 71 ("Nearness to family and friends is now a primary consideration, right up there with warm, sunny climates.").

176. But see *Retiree Stereotype*, *supra* note 71. See generally Robert L. Axtell & Joshua M. Epstein, *Coordination in Transient Social Networks: An Agent-Based Computational Model of the Timing of Retirement*, in BEHAVIORAL DIMENSIONS OF RETIREMENT ECONOMICS 161 (Henry J. Aaron ed., 1999) (expressing the general theory that seemingly irrational retirement decisions may be controlled by social networks).

177. See DIXON ET AL., *supra* note 7, at 40, 57; see also Liz Pulliam, *Changing Ideas About Retirement/Rethinking the Race*, L.A. TIMES, Aug. 1, 1999, at C1 ("[A] strong, happy marriage has been a cornerstone of a contented retirement.").

178. See generally Muller et al., *supra* note 25 (stating that upon retirement, the average retiree's income declines sharply). In comparison to retirees' children, who will likely be active in the work force, retirees have to work with considerably lesser means. *Id.* at 42. This can place retirees in a position where they cannot afford to live in proximity to their children. Of course, not all retirees must provide entirely for themselves—the wealthier their immediate family, the more likely they will receive housing assistance of some sort.

179. See generally Shelly Lundberg, *Family Bargaining and Retirement Behavior*, in BEHAVIORAL DIMENSIONS OF RETIREMENT ECONOMICS, *supra* note 176, at 253 (discussing how social structure of family controls retirement decisions and timing).

180. DIXON ET AL., *supra* note 7, at 52-53.

181. See, e.g., *id.* at 52. Clearly, those elderly citizens who require full-time live-in care are particularly ill-suited to travel.

well retirees might be willing to make periodic visits to their families, the realities of day-to-day employment suggest retirees' children will be less flexible in their visitation efforts.

C. Misconceptions and Misinformation

Subtle but persuasive misconceptions of foreign retirement also have a discouraging effect on foreign-economic-retirement migration. Congress has thus far maintained the characterization of foreign emigration as an economic evil.¹⁸² The resultant dearth of publicly available information on the subject has left retirees to navigate the process of foreign retirement in the absence of reliable and neutral information.¹⁸³ Not only does this have the unfortunate effect of reinforcing the popular misconception that foreign retirement is a tax-motivated maneuver, but it also does little to dispel the idea that exotic locales are forbidden.¹⁸⁴ When retirees announce their intent to move abroad, they are still likely to be greeted with alarm or suspicion from their families: "Why? What did you do?"¹⁸⁵

Other governments have made information readily available, discouraging both misconceptions and unfounded retirement decisions.¹⁸⁶ For example, Foreign Affairs and International Trade Canada

182. Westin, *supra* note 69, at 79.

183. See DIXON ET AL., *supra* note 7, at 55–57.

184. See Westin, *supra* note 69, at 91; see also MICHAEL CHANAN, THE OXFORD HISTORY OF WORLD CINEMA: THE DEFINITIVE HISTORY OF CINEMA WORLDWIDE 427–35 (Geoffrey Nowell-Smith ed., 1996).

185. The United States has fostered a romantic conception of foreign retirement, at least since the 1930s when the average American began to be exposed to foreign vistas through neighborhood Nickelodeons. See CHANAN, *supra* note 184, at 427–35; FREDRICK B. PIKE, THE UNITED STATES AND LATIN AMERICA: MYTHS AND STEREOTYPES OF CIVILIZATION AND NATURE 291 (1992). This fascination continued unabated through the early 1940s, when the political climate of World War II suggested that foreign retirees were antipatriotic or otherwise in flight from the law. CHANAN, *supra* note 184, at 427–35. This tension remains in force today. See Robert Buckman, *Cultural Agenda of Latin American Newspapers and Magazines: Is U.S. Domination a Myth?*, 25 LATIN AM. RES. REV. 2, 134 (1990) (exploring the complex, and often contradictory, nature of cultural and economic dependency shared between the United States and its southern neighbors); cf. Westin, *supra* note 69 (explaining the traditional suspicion that foreign emigration has invited both socially and politically). Nor has the Latin American mystique played out exclusively on its North American neighbors. For example, in the 1920s, the famed Russian filmmaker Sergei Eisenstein expended considerable effort in his attempt to capture Mexican culture in an epic film: *Qué Viva Mexico*. Chris Dashiell, *Eisenstein's Mexican Dream*, CINESCENE.COM, 1998, <http://www.cinescene.com/dash/eisenstein.htm>.

186. See, e.g., FOREIGN AFFAIRS & INT'L TRADE CAN., RETIREMENT ABROAD: SEEING THE SUNSETS 3–31 (2006), available at <http://www.voyage.gc.ca/main/>

publishes literature explaining the burdens and benefits of foreign retirement, stressing that “[i]n general, those who consider only the financial benefits of moving overseas are more likely to experience disappointment than those who retire abroad for lifestyle or cultural reasons.”¹⁸⁷ By contrast, comparable materials available from the U. S. Internal Revenue Service and Social Security Administration consist of densely packed Web page indexes, which send the intrepid researcher through Web page after Web page of code sections, tables, charts, and treaty summaries.¹⁸⁸

V. Approaching an Uncertain Imperative: The Future of Foreign-Economic Retirement

Currently, the number of Americans that have retired abroad is estimated at less than half a million,¹⁸⁹ and correspondingly little congressional attention has been paid to their flight. But, as the number of retirees increases, the cost of services rises, and Latin American countries become increasingly aggressive in their attempts to lure U.S. retirees, it is likely Congress will be forced to address the issue. At that point it will be necessary to decide whether the balance of forces justify encouraging foreign retirement or advise against it. In addition to the social and economic barriers currently discouraging substantial retirement migration, the privatization movement suggests potential political hurdles await any attempt to advance future migration schemes. However, substantial secondary benefits may justify whatever immediate economic consequences might be caused by a significant retirement population abroad.

A. Privatization’s Secondary Objective

Foreign retirement is a personal decision made in response to the limited economic value received from Social Security contributions

pubs/PDF/retirement_abroad-en.pdf; IRS.gov, Frequently Asked Tax Questions and Answers, <http://www.irs.gov/faqs/faq-kw202.html> (last visited Jan. 12, 2008) [hereinafter Tax Questions and Answers]; Social Security Online, International Agreements—Payments Outside the United States and Social Security in Other Countries, <http://www.ssa.gov/international/index.html> (last visited Jan. 12, 2008) [hereinafter International Agreements].

187. FOREIGN AFFAIRS & INT’L TRADE CAN., *supra* note 186, at 3.

188. See International Agreements, *supra* note 186; Tax Questions and Answers, *supra* note 186.

189. Miller, *supra* note 1.

under the current welfare system. Like the proposed privatization of Social Security, foreign retirement encourages retirees to maximize their economic potential through personal purchase decisions; but privatization is concerned with management of Social Security investments, while foreign retirement is focused on management of the return.¹⁹⁰

Together, privatization and foreign retirement could solve the long-term problem of Social Security's solvency and provide affordable, quality retirement for immediately forthcoming retirees.¹⁹¹ However, while privatization and foreign retirement are theoretically sympathetic, they may be politically incompatible. The policies that encourage foreign retirement may face considerable political resistance by privatization advocates concerned with the secondary objective of encouraging domestic investment.

Advocates of privatization have an additional purpose beyond increasing the return on Social Security investments: increasing economic investment in the private marketplace.¹⁹² Economic retirement frustrates this objective by encouraging the outflow of economic capital from the United States into a foreign market. The more important this secondary goal of privatization, the more likely these contrary objectives will clash, forcing privatization advocates to enact defensive legislation discouraging foreign retirement.¹⁹³

Recent analysis of emigration for financial purposes has focused on tax incentives, to which Congress responded with tax-based solutions.¹⁹⁴ If Congress wanted to discourage foreign retirement, it would likely begin by imposing additional taxes on Social Security

190. See *supra* Part II.A.

191. See, e.g., Cogan & Mitchell, *supra* note 12, at 150; Millman, *supra* note 2.

192. Robert J. Barro, *Privatizing Social Security: Where Both Sides Go Wrong*, BUS. WK., July 3, 2000, at 29; Martin Feldstein, *Privatizing Social Security: The \$10 Trillion Opportunity*, CATO INSTITUTE, Jan. 31, 1997, <http://www.cato.org/pubs/ssps/ssp7.html>; *Social Security Privatization and the Economy*, CATO.ORG, Oct. 5, 2001, <http://www.socialsecurity.org/daily/10-05-01.html>.

193. See, e.g., David LeBron, *Attaining U.S. Effectively Connected Income in the Aftermath of the American Jobs Creation Act of 2004 and Its Aim to Repeal Extraterritorial Income Exclusion*, 21 AKRON TAX J. 101, 101-02 (2006) (providing a general history of the United States' approach to the taxation of "Effectively Connected Income" as a method "to influence, attract, retain, and generate U.S. source income, and through those investments, whether of persons foreign or domestic, to again create jobs in America").

194. Westin, *supra* note 69, at 122-23.

payments sent abroad.¹⁹⁵ In the mid-1990s, Congress was confronted with a growing number of wealthy U.S. citizens leaving the country to avoid federal taxation.¹⁹⁶ These tax-motivated expatriates prompted the enactment of defensive legislation that sought to discourage tax-motivated emigration by reducing or eliminating the economic incentives.¹⁹⁷ A similar methodology could be employed by taxing Social Security payments for those who choose to retire abroad for financial reasons. However, this poses several problems. First, it is already difficult to prove that someone is emigrating primarily for financial purposes.¹⁹⁸ There are both financial and nonfinancial advantages to foreign retirement.¹⁹⁹ Retirees can always point towards these nonfinancial reasons as their motivation for foreign retirement.

There are also potential political ramifications. The taxation of foreign-bound Social Security benefits is contrary to the long-lauded purpose of Social Security: providing for the elderly.²⁰⁰ To impose a new regime of taxation on Social Security payments could potentially invite political backlash, as politicians would be forced to provide a justification that goes beyond economic protectionism. Absent this, Congress cannot realistically impose tax penalties on foreign-bound Social Security benefits and maintain that it has retirees' interests at heart. A more politically viable option would be to provide tax-based or other incentives for remaining within the United States. However, the current problems with Social Security and Medicare suggest these incentives would be economically untenable.

Incentives encouraging retirees to remain at home are preferable to increased taxation of foreign-bound Social Security payments because these incentives would be congruent with the political purpose of Social Security.²⁰¹ However, economic retirement is attractive precisely because sufficient incentives have been all but impossible to

195. See *id.* at 79–83 (explaining that, typically, Congress employs one of three methods to utilize the income tax for discouraging unwanted behavior: taxing the unwanted behavior, encouraging contrary behavior by providing tax incentives, or a mixture of the two).

196. *Id.* at 99.

197. *Id.* at 80–102.

198. *Id.*

199. See FOREIGN AFFAIRS & INT'L TRADE CAN., *supra* note 186, at 3–31.

200. Westin, *supra* note 69, at 105–11 (stating that the problem of proof regarding emigration intent has arguably rendered efforts to battle tax-orientated emigration toothless).

201. *Id.* at 168.

implement.²⁰² While Congress could discourage economic retirement through the taxation of Social Security benefits, this is not a solution to the Social Security problem but merely a prioritization of the domestic marketplace over the retiree.²⁰³ Finally, analyzing foreign-retirement migration under a gross economic model ignores secondary benefits that a substantial retirement population might bring.

It is unclear what the legislative response would be if the number of retirees relocating abroad increased sharply over the next twenty years. Economic retirees differ from tax-driven expatriates; they are not attempting to avoid taxation on vast quantities of wealth but rather to achieve the most practicable means of exercising their remaining years in comfort. In the short-term, the outflow of U.S. retirees represents a loss of economic capital. The current Social Security privatization movement, with its dual focus on increasing the economic return of the welfare investment and stimulating the U.S. economy, might respond to this outflow with a call for defensive regulation. However, while nothing prevents Congress from legislating against such efforts, there may instead be reason to encourage foreign migration.

B. Benefits Backward: How a Foreign-Retirement Population Might Aid the United States

Migration advocates suggest that foreign retirement potentially inheres secondary benefits that might outweigh its immediate economic costs. A substantial retirement population abroad potentially offers a greater opportunity for the diffusion of cultural and economic ideas between continental neighbors. In comparison to the volume of foreign aid directed at Latin America, the economic outflow from U.S. retirees would likely be miniscule. While monetary aid may carry immediate political favor, the impact of directed capital in the hands of U.S. retirees may have subtle but significant effects on the legal, economic, and cultural development of Latin American countries. These effects are worth encouraging. However, while these benefits may be conceptually sound, they are by no means certain; problems of practicality and population abound.

202. Cf. Cogan & Mitchell, *supra* note 12, at 10–23 (addressing the economic necessity of Social Security reform).

203. *Id.*

The potential economic outflow from a migrating retirement population pales in comparison to the amount of foreign aid administered each year in the ongoing effort to combat political corruption in Latin America.²⁰⁴ The United States, along with other foreign governments,²⁰⁵ has invested tremendous amounts of money in attempting to induce stability in the region, but, in spite of this effort, corruption remains an ongoing problem.²⁰⁶ Typically, the approach to handling economic and political development in Latin America has revolved around the donation of vast sums of financial or material capital.²⁰⁷ However, it is becoming increasingly obvious that “[t]he usual donor tendency to congregate in a country and insert enormous amounts of funding all at once is simply counter-productive.”²⁰⁸ These efforts have had only a limited effect on promoting positive development and curtailing corruption.²⁰⁹ Material resources alone are insufficient to effect change in countries whose populations have

204. Compare Otto J. Reich, Assistant Sec’y of State, Remarks to Fifth Annual Andean Development Conference: New Challenges and Opportunities in Latin America (Sept. 6, 2002) (transcript available at <http://www.state.gov/p/wha/rls/rm/13362.htm>) (\$782 million to the five Andean nations; \$1.3 billion to Colombia), with SOC. SEC. ADMIN., ANNUAL STATISTICAL SUPPLEMENT TO THE SOCIAL SECURITY BULLETIN 5.35 tbl.B2 (2006) [hereinafter STATISTICAL SUPPLEMENT], <http://www.socialsecurity.gov/policy/docs/statcomps/supplement/2006/supplement06.pdf> (current average Social Security benefits: \$1,070.90 per individual). Though Social Security payments provide only a partial indicator of potential economic outflow, a retirement population of over one million average Social Security recipients would be required before the total value of benefits sent abroad would even begin to approach that of the aid directed to Colombia alone. See STATISTICAL SUPPLEMENT, *supra*, at 5.35 tbl.B2; Reich, *supra*.

205. See CURT TARNOFF & LARRY NOWELS, CONG. RESEARCH SERV., FOREIGN AID: AN INTRODUCTORY OVERVIEW OF U.S. PROGRAMS AND POLICY 12 (2004), available at <http://fpc.state.gov/documents/organization/31987.pdf>.

206. Patricio Maldonado & Gerardo D. Berthin, *Transparency and Developing Legal Frameworks to Combat Corruption in Latin America*, 10 SW. J.L. & TRADE AM. 243, 244–46 (2004) (explaining that corruption in Latin America is endemic and has had a continuous effect on the development of the region throughout most of twentieth century). Though the primary focus of the article is on legal and economic development by foreign nations, the authors do consider the impact of long held local conceptions of distrust and apathy that encourage political corruption in the absence of opposition. *Id.*

207. Hammergren, *supra* note 154, at 88. Material capital is most often equipment and economic aid, but it does often incorporate a limited amount of educational assistance as the donors attempt to convey to the recipient country how to integrate foreign systems into their own economic and political cultures. *Id.*

208. *Id.*

209. Maldonado & Berthin, *supra* note 206, at 259.

come to accept the status quo and produce little internal demand for either change or local reform.²¹⁰

As long as international efforts are limited to short-burst, high-intensity economic disbursements, they are unlikely to have any lasting impact.²¹¹ Substantial change requires sustained encouragement, such as the development of expectations by the general populace and protracted monitoring efforts.²¹² Long-term economic and cultural stimulation is needed to improve the social and political environments in foreign countries.²¹³ The retirement population, with its tendency towards volunteer labor and community service, may be uniquely poised to act as passive cultural and economic ambassadors in this regard. In large numbers U.S. retirees could have a profound impact on the development of their adoptive countries by communicating North American ideals to their indigenous neighbors and fostering change from the ground up.²¹⁴ Ideally, the transmission of cultural expectations would occur naturally and passively.²¹⁵

The unintentional cultural effect economic immigrants have on their adoptive communities has only begun to be studied, but the limited data available are encouraging.²¹⁶ Still, even if U.S. retirees actually can impact the culture and economies of their adoptive communities, they must be present in substantial numbers and dispersed geographically in order to be effective.²¹⁷ Furthermore, while these data sustain the theoretical allure of diffusion, retirees' strategies for overcoming integration difficulties suggest this goal might remain

210. *Id.* (“[the root of corruption] reaches deep into historical, regional and political legacies, economic structure and political culture”). This is the deep-rooted expectation of corruption that prevents resistance; where you expect only the worst, you are unlikely to be surprised with what you find.

211. Hambergren, *supra* note 154, at 73.

212. *Id.* at 78–79.

213. *Id.*

214. See generally Demetrios G. Papademetriou, *Policy Considerations for Immigrant Integration*, MIGRATION INFORMATION SOURCE, Oct. 2003, available at <http://www.migrationinformation.org/feature/display.cfm?ID=171> (explaining that contrary to the unilateral presumption, the presence of immigrants in their adoptive communities “produces social, cultural, economic, and political changes in the social fabric” of the adoptive community as well as in the foreigner).

215. See generally Stephan Dahl, *Communications and Culture Transformation* (unpublished manuscript, <http://www.stephweb.com/capstone/capstone.pdf> (last visited Mar. 9, 2008)) (detailing the basic principles and vectors of culture, both passive and active).

216. See DIXON ET AL., *supra* note 7, at 9.

217. See *id.* at 10–12 (providing statistics that prove that both the number of retirees and their geographic dispersion into the country are key factors that determine the retirees' impact on their respective communities).

elusive.²¹⁸ The potential positive impact of retirees on their adoptive communities is severely limited by the retiree population's tendency to congregate into tight clusters, largely limiting their interaction with the indigenous population.²¹⁹ And yet, these compact communities themselves fuel another potential benefit: locally directed economic stimulation.

Currently, U.S. retirees have a significant economic impact on their immediate surroundings. The capital they bring with them encourages immediate local construction, and the development of suitable retirement communities has sometimes resulted in water and electricity lines being extended to the neighboring population.²²⁰ Retirees also stimulate job growth by employing the local labor force for construction, maintenance, and medical purposes.²²¹ However, even the influx of directed capital does come at a cost: retirees tend to drive up local prices significantly.²²² The effect on the cost of real property is particularly acute, largely because foreign retirees with a language barrier do not bargain against what they perceive to be extremely discounted prices.²²³

Economic and cultural diffusion is an appealing concept, and cultural persuasion by example is likely to appeal to human rights activists.²²⁴ Economists might be drawn to the idea of a U.S. retirement population abroad fostering the development of a Latin American service economy.²²⁵ However, while secondary benefits could provide a congressionally persuasive justification for future encouragement of

218. *See id.* at 64.

219. *Id.* at 9. For example, in Panama, American retirees primarily live in one of two provinces: Panama and Cofon. *Id.* at 89. Another area of high-intensity retirement is Boquete, a small town just outside of David, about six hours' drive from Panama City. BusinessPanama.com, Tourism in Panama: Mountain & Highlands, http://businesspanama.com/tourism/mountains_highlands.php (last visited Jan. 12, 2008). Humorously, the amount of publicly available information about Boquete comes substantially from the American retirees who live there. *See, e.g.,* BoqueteGuide.com, <http://www.boqueteguide.com/> (last visited Mar. 9, 2008).

220. DIXON ET AL., *supra* note 7, at 61.

221. *Id.* at 103.

222. *Id.* at 12.

223. *Id.* at 61.

224. *See* Hammergren, *supra* note 154, at 63; Maldonado & Berthin, *supra* note 206, at 252–53.

225. *Cf.* Paul Craig Roberts, *Economists in Denial: Blind to Offshoring's Adverse Impact*, BALT. CHRON., Feb. 21, 2007, <http://baltimorechronicle.com/2007/022107Roberts.shtml> (predictions pinning United States' financial health on the development of "a high-wage service economy . . . fail[] to comprehend that all tradable services can be offshored").

foreign-retirement migration, empirical data and pragmatism suggest that these secondary solutions may play out better on paper than in practice.²²⁶ Even if these benefits do occur, the scope of their impact will necessarily scale in accordance with the size of the foreign-retirement population.

Absent a significant presence abroad, U.S. retirees will not constitute a culturally or economically influential group, but only a long-term tourist population. While growing of its own accord, the current rate of retirement migration is insufficient to elicit rewards that result from large-scale emigration. The federal government is unlikely to be swayed by “if you build it, they will come” justifications, and there is correspondingly little reason to believe that these benefits provide a meaningful incentive to change the status quo. Absent substantial and certain evidence, these secondary benefits are best relegated to the hypothetical playground of analytical optimists.

VI. Small Steps Toward Natural Results: A Recommendation

The potential impact of a migrating retirement population suggests that the issue is worth further exploration. Increased economic-retirement migration may provide a higher quality of retirement for adventurous or desperate retirees. An increase in foreign retirement may also reduce the strain on public services within the United States, and may foster better political and economic relations with Latin American countries. However, while there are a number of potential legislative measures that could encourage foreign retirement, their passage requires congressional recognition of their benefits.

Considering the enormous amount of uncertainty and speculation that surrounds the issue of economic-retirement migration, the best solution may also be the smallest: subtle experimentation. The single greatest burden to valuable analysis is the absence of reliable data. To accurately weigh the benefits and burdens of a migrating retirement population, it is necessary to have an accurate gauge of retirees' desire to retire abroad, aside from economic necessity. Integration difficulties suggest that while economics may play an important role in the decision to retire abroad, ultimately it is nonquantifiable

226. See DIXON ET AL., *supra* note 7, at 60.

factors that hold sway.²²⁷ Therefore, the scale of the potential foreign-retirement population will be directly proportional to retirees' actual desire to travel abroad. The number of retirees voluntarily engaging in economic-retirement migration under the current state of affairs is a poor indicator of interest. Layered on top of natural disincentives are unnecessary and artificial burdens that hinder the elderly population from exercising true freedom of retirement. In the presence of these restrictions, it is impossible to gauge exactly how inclined elderly U.S. citizens are to foreign retirement.

Improving the portability of Medicare is a long overdue step to reducing artificial restrictions on retirees' freedom to relocate where they will. The foreign restriction has the unnecessarily broad effect of discouraging a wide range of potential retirement decisions and locking recipients in a health care market that may not best suit their needs. While the experiments with TRICARE suggest administrative burdens render a true global health care system impractical in the absence of necessity, benefits could be made more portable. Medicare benefits should be extended in a limited fashion to health care providers either owned or headquartered in the United States. This solution would limit the burden imposed by a global administrative regime and potentially fraudulent billing practices.²²⁸

Another artificial disincentive is the prevalence of popular misconception. Domestic cultural resistance has always countered the allure of tropical retirement through suspicion of motives. While the prevalence of Web sites and books indicate an interested audience, there are no official sources of guidance on foreign retirement, and the majority of America's elderly continue to view foreign retirement as an exercise in tax evasion, antipatriotic sentiment, or other ulterior motives.²²⁹ These notions might be easily dispelled with some official recognition that one can retire abroad for respectable reasons. If the government made basic information available to potential foreign retirees, it would serve a dual purpose in this regard. First, it would remove the veil of presumptive disapproval provided by silence. Second, the government's explaining the legal, economic, and social ramifications of foreign retirement would put the average U.S. retirees

227. See *supra* Part II.

228. See Whitman, *supra* note 113, at 190–200.

229. See *supra* Part II.C.

on equal footing with retirees of other countries and in a position to make informed decisions.

A naturally developing and substantial migrating population is the only realistic method to test the viability of economic retirement. If large numbers of people begin to experiment with short- and long-term retirement in Latin America, it will invite appropriate legislative attention and action will follow.

VII. Conclusion

Analysis may reveal that foreign retirement is more trouble than it is politically and economically worth, both for the United States and for the United States' retirees. However, it is possible the most optimistic advocates are correct, and a continentally diffuse retirement population is a valuable step towards achieving meaningful secondary benefits. Even if these secondary benefits are never realized, removing artificial restrictions on foreign retirement may just be the right thing to do; economic emigration potentially offers a higher quality of retirement for current retirees, which reparative measures aimed at Social Security and Medicare simply cannot provide.