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.