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Pressured Exit

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Pressured Exit

Jayesh Rathod*

This Article upends the traditional framing of the United States as a migrant-receiving country by examining a growing category of emigrant outflows: U.S. citizens who have been compelled to depart permanently because of conditions of vulnerability. Eschewing use of the generic term “expatriate,” this Article contends that these U.S. citizens are most accurately described as pressured migrants who have exited due to identity-based mistreatment, gaps in the social safety net, or concerns about deteriorating social and political conditions in the United States. By focusing on these departures, this Article aims to further theorize and provide a lexicon for a subtype of human mobility that lies at the interstices of refugee flows and lifestyle migration, somewhere between involuntary and voluntary migration.

The Article presents a typology of U.S. citizen pressured migrants and catalogs the migratory vehicles they have used to gain entrance to other countries, including programs for diasporic descendants, retirees, and investors, as well as conventional immigration pathways. This Article also explores the prominent role that private immigration brokers play in facilitating exit from the United States. It concludes by examining the broader significance of these departures for scholarly debates about U.S. citizenship, the relationship between overseas citizens and the state, the influence of privilege and coloniality in migratory moves, and the creeping clout of the “exit industry.”

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I. INTRODUCTION

In recent decades, the United States has experienced substantial social and political upheaval, with increasing polarization between conservative and progressive segments of the population and a widening class divide.¹ The COVID-19 pandemic has brought into relief the

1. See Juliana Menasce Horowitz, Ruth Igielnik & Rakesh Kochhar, *Trends in Income and Wealth Inequality*, PEW RSCH. CTR. (Jan. 9, 2020), <https://www.pewresearch.org/social-trends/2020/01/09/trends-in-income-and-wealth-inequality> [<https://perma.cc/M6KV-D36F>] (“As of 2016, upper-income families had 7.4 times as much wealth as middle-income families and 75 times as much wealth as lower-income families. These ratios are up from 3.4 and 28 in 1983 respectively.”); Drew Desilver, *The Polarization in Today’s Congress Has Roots That Go Back Decades*, PEW RSCH. CTR. (Mar. 10, 2022), <https://www.pewresearch.org/fact-tank/2022/03/10/>

precarity of large swaths of the population who struggle to afford basic life expenses, including the cost of housing, health, and elder care.² Moreover, prior to and during the pandemic, calls for racial justice underscored the long-standing inequities and patterns of violence that many communities of color, especially Black Americans, have suffered.³ And in the current moment, simmering political tensions and a cascade of regressive U.S. Supreme Court decisions have further rent the nation's fraying social fabric.⁴

In this context of significant, entrenched inequalities and a growing sense of instability, many U.S. citizens have left the country permanently or are exploring exit options in the hopes of finding a more secure and hospitable environment for themselves and their loved ones.⁵ Reports of

the-polarization-in-todays-congress-has-roots-that-go-back-decades [<https://perma.cc/5W86-CW2D>] (asserting that both the Democratic and Republican parties have “moved further away from the ideological center since the early 1970s”).

2. See CTR. ON BUDGET & POL'Y PRIORITIES, TRACKING THE COVID-19 ECONOMY'S EFFECTS ON FOOD, HOUSING, AND EMPLOYMENT HARDSHIPS 1-5, <https://www.cbpp.org/sites/default/files/8-13-20pov.pdf> [<https://perma.cc/N4WR-L897>] (Feb. 10, 2022) (finding that, during the COVID-19 pandemic, “between 5 and 9 million children . . . didn't eat enough because the household couldn't afford it” and that in January of 2021, one in five adult renters was behind on rent); Anne Helen Petersen, *The Staggering, Exhausting, Invisible Costs of Caring for America's Elderly*, VOX (Aug. 26, 2021, 8:00 AM), <https://www.vox.com/the-goods/22639674/elder-care-family-costs-nursing-home-health-care> [<https://perma.cc/G2NL-YSJK>] (stating that in 2020, the median yearly cost of in-home elder care with a health aide was \$54,912).

3. Kwadwo Frimpong, *Black People Are Still Seeking Racial Justice—Why and What to Do About It*, BROOKINGS INST. (Nov. 12, 2020), <https://www.brookings.edu/blog/how-we-rise/2020/11/12/black-people-are-still-seeking-racial-justice-why-and-what-to-do-about-it/> [<https://perma.cc/MJD8-LSQQ>] (highlighting protests against racial injustice as the culmination of centuries of mistreatment rather than an isolated phenomena).

4. Greg Stohr, *US Braces for New Round of Divisive Supreme Court Clashes*, BLOOMBERG L. NEWS (Sept. 26, 2022, 3:00 AM), <https://news.bloomberglaw.com/us-law-week/us-braces-for-new-round-of-divisive-supreme-court-clashes> [<https://perma.cc/GH8N-ZWLZ>] (predicting that the Supreme Court Term beginning in fall 2022, like the preceding Term, would exacerbate political divides rather than quell them).

5. A poll of 1,500 U.S. citizens conducted by the *Economist* and YouGov in January 2022 revealed that thirty-eight percent had considered leaving the United States permanently. ECONOMIST/YOUGOV POLL, JAN. 2-4, 2022—1500 U.S. ADULT CITIZENS 270 (2022), <https://docs.cdn.yougov.com/g43s025yft/econTabReport.pdf> [<https://perma.cc/Q5N2-VZ5J>]. Among self-identified “liberals” the percentage was fifty-nine percent. *Id.* When asked how likely it was that they would leave the United States in the next five to ten years and move permanently to another country, only forty-four percent responded that they “[w]ould not consider leaving” while the majority reported that there was at least a small chance that they would leave. *Id.* at 273. See also Alaric DeArment, *The Americans Who Are Fleeing the United States*, NEW REPUBLIC (Feb. 2, 2023), <https://newrepublic.com/article/170259/american-emigration-far-right-violence> [<https://perma.cc/E2QL-KA9H>] (describing departure planning among vulnerable U.S. citizens, and opining that “America could quickly become a very frightening place for anyone who belongs to a disfavored minority group”).

exit planning are now ubiquitous in opinion pieces and in online forums,⁶ and mainstream news coverage has begun to examine the phenomenon of out-migration by U.S. citizens.⁷ As these migratory flows grow in volume, they destabilize the traditional framing of the United States as the premier destination country for immigrants.⁸ Although this long-standing narrative is still empirically accurate in many respects,⁹ it overlooks the significant numbers of U.S. citizens who have moved in the opposite direction and permanently exited the country.

While numerous factors might drive U.S. citizens to depart,¹⁰ this Article focuses on departures—whether actual or planned—linked to conditions of vulnerability in the United States.¹¹ Migrants within this

6. See, e.g., Wajahat Ali, *Is It Time for Me to Leave America?*, DAILY BEAST (June 7, 2022, 8:06 AM), <https://www.thedailybeast.com/is-it-time-for-me-to-leave-america> (advocating for “person[s] of color” to “have an exit plan” because of the “political and cultural landscape” in the United States); Tiffanie Drayton, *I’m a Black American. I Had to Get Out*, N.Y. TIMES (June 12, 2020), <https://www.nytimes.com/2020/06/12/opinion/sunday/black-america-racism-refugee.html> (citing the murder of Trayvon Martin as the triggering event that led the author to leave the United States). Additionally, the Reddit community *r/AmerExit*, which focuses on emigration from the United States, is an active forum with over 52,000 members. See *r/AmerExit*, REDDIT, <https://www.reddit.com/r/AmerExit/> (last visited Mar. 27, 2024).

7. See, e.g., Andrew Van Dam, *Why Have Millions of Americans Moved to These Countries Instead?*, WASH. POST (Dec. 23, 2022, 6:00 AM), <https://www.washingtonpost.com/business/2022/12/23/american-emigrants/> [<https://perma.cc/52M3-37CT>]; DeArment, *supra* note 5.

8. See, e.g., Jimmy Carter, President, Hickam Air Force Base, Hawaii, Remarks at a Reception (July 1, 1979), in 1979 PUB. PAPERS, at 1217, 1220 [hereinafter Jimmy Carter Remarks] (“Ours is a country of immigrants. It’s a country of refugees. My parents and all of yours . . . came here from other countries seeking a better life.”); Rita J. Simon, *Immigration and Public Opinion*, 18 DEF. ALIEN 58, 58 (1995) (“The United States describes itself as a country of immigrants, and we proudly refer to that heritage.”).

9. See Abby Budiman, *Key Findings About U.S. Immigrants*, PEW RSCH. CTR. (Aug. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants> [<https://perma.cc/JDD5-M5RV>] (asserting there are more than one million immigrant arrivals to the United States each year); Abby Budiman, Christine Tamir, Lauren Mora & Luis Noe-Bustamante, *Facts on U.S. Immigrants, 2018*, PEW RSCH. CTR. (Aug. 20, 2020), <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants> [<https://perma.cc/TZS2-6ZQU>] (reporting a record-breaking 44.8 million immigrants were living in the United States in 2018).

10. These factors include the desire for tax-related advantages or the presence of loved ones overseas. See Jo Craven McGinty, *More Americans Are Renouncing Their Citizenship*, WALL ST. J. (Oct. 16, 2020, 5:30 AM), <https://www.wsj.com/articles/more-americans-are-renouncing-their-citizenship-11602840602> (reporting that nearly 37,000 U.S. citizens expatriated from 2010 to 2020, often for tax related or other financial reasons); Debbie Slobe, *Why Are More Families Immigrating to Mexico?*, MEX. NEWS DAILY (Dec. 1, 2022), <https://mexiconewsdaily.com/lifestyle/why-are-more-families-immigrating-to-mexico> [<https://perma.cc/SU7B-NBJH>] (averring some families are moving to Mexico, given pre-existing ties to the country including “a Mexican partner or spouse[,] extended family in Mexico, Mexican heritage, or Mexican-born children”).

11. See *infra* Part III.

category might wish to avoid mistreatment based on race, religion, or gender identity; to securely and affordably retire or care for their health; or simply to have an exit pathway for their family should societal violence or political strife intensify over the coming years. Actual or imminent harm may prompt the decision to exit, or it may simply be an anticipatory move by those concerned about the country's future trajectory. Although thousands of U.S. citizens have sought asylum in other countries in recent decades, this Article explores the complementary phenomenon of persons who relocate because of adverse circumstances, yet do not invoke the refugee protection system.¹²

This Article eschews the use of the generic term “expatriate,”¹³ arguing instead that these U.S. citizens are most accurately described as *pressured migrants*: people who are compelled to leave the United States because of conditions of vulnerability, yet who exercise varying degrees of agency in the process. Stated differently, the existence of the condition(s) is a “but-for” factor leading to departure, yet the timing, manner, and destination of the exit are mediated by individual choice—in short, a *pressured exit*. Certainly, out-migration of this type occurs worldwide and even has some precedent in United States history.¹⁴ And for many U.S. citizens who have faced the types of adverse circumstances described above, internal migration, whether within a state or across state lines, has been a suitable palliative.¹⁵ Technological change and the forces of globalization, however, are now enabling cross-border flows of U.S.

12. Indeed, in many instances, the circumstances surrounding their departure are unlikely to qualify them for refugee protection. In a separate work, I explore the phenomenon of U.S. citizens who have applied for asylum overseas, providing a quantitative overview of claims, a typology of the claims presented, and a discussion of the implications of that trend along with avenues for future research. See Jayesh Rathod, *Fleeing the Land of the Free*, 123 COLUM. L. REV. 183, 188-9 (2023) (reporting that U.S. citizens filed 13,857 asylum claims from 2000 to the end of 2021 in ninety-one different countries).

13. See Yasmeen Serhan, *‘Expat’ and the Fraught Language of Migration*, ATLANTIC (Oct. 9, 2018), <https://www.theatlantic.com/international/archive/2018/10/expat-immigrant/570967/> [<https://perma.cc/8DME-G847>] (discussing class and privilege dynamics surrounding contemporary use of the terms “expat” or “expatriate”).

14. See *infra* text accompanying notes 273-275.

15. See, e.g., BLACK EXODUS: THE GREAT MIGRATION FROM THE AMERICAN SOUTH, at viii (Alferdteen Harrison ed., 1991) (asserting that the threat of racial violence, in combination with other factors, contributed to the Great Migration of Black Americans); Friederike Seifert, *The Affordable Care Act Medicaid Expansion and Interstate Migration in Border Regions of US States*, 42 REV. REG’L RSCH. 49, 72 (2022) (finding small but significant numbers of interstate migrants from border regions seeking enhanced health care benefits in neighboring states).

citizen emigrants,¹⁶ aided by a burgeoning network of private immigration brokers.¹⁷

In examining these departures, this Article seeks to further theorize and provide a lexicon for a subtype of human mobility that lies at the interstices of refugee flows and lifestyle migration, somewhere between involuntary and voluntary migration. While scholars have long acknowledged the multicausality of most migratory movements, this particular strand of migration—from highly developed countries, due to conditions of vulnerability—has received minimal academic attention, especially among legal scholars. This Article hopes to catalyze broader dialogue about migratory outflows that are often occluded by the rhetoric of American exceptionalism and by the portrayal of the United States as an immigrant haven.¹⁸

This Article opens with a brief literature review, outlining a theoretical framework for exit migration articulated in economist Albert O. Hirschman's seminal work, *Exit, Voice and Loyalty*, and explores other forces and circumstances that contribute to migratory outflows. The Article then engages with some of the conditions of vulnerability prompting departure from the United States and presents a typology of U.S. citizens who have been, or feel, pressured to exit because of such conditions. Following that examination of *why* U.S. citizens are compelled to exit, the Article catalogs the legal and policy vehicles used by the departing individual to gain a foothold in another land—that is, on the migratory pathways themselves. The Article concludes with some observations about the broader implications of this trend to scholarly debates in the fields of migration studies and citizenship.

II. BACKGROUND AND LITERATURE REVIEW

This literature review begins with a description of Hirschman's influential monograph, *Exit, Voice and Loyalty*, and sketches its ongoing relevance to international migration scenarios. From there, this Part engages the limited existing literature on what this Article terms *pressured exits*: a sliver of human mobility prompted by conditions of vulnerability and which rests along the continuum between refugee flows and lifestyle migration. This exposition offers a working definition for “vulnerability”

16. See, e.g., Carolina Feliciano Machado, *Self-Initiated Expatriation: A 'New' Management Challenge—An Analysis Based on Bibliometrics*, 12 ADMIN. SCIS. 1, 4 (2022) (recognizing the increase in expatriation since roughly the 1990s due to internationalization of companies, markets, and technology).

17. See *infra* Parts II.D, V.E.

18. See Jimmy Carter Remarks, *supra* note 8, at 1220.

and provides examples of such exits from distinct jurisdictions. Since some of these pressured migrants experienced identity-based harms and have chosen to depart to ostensibly more “welcoming” environments, this Part examines the phenomenon of diasporic return migration. This literature review concludes by briefly describing the robust private industry that promotes and facilitates various forms of cross-border exit migration.

A. *Exit, Voice, and Loyalty*

In seeking to understand the decision-making process of U.S. citizens who emigrate to ameliorate conditions of vulnerability, this Article engages with the theoretical framework presented by Hirschman in his work *Exit, Voice and Loyalty*.¹⁹ Although Hirschman’s primary focus was on dynamics within firms and organizations, scholars have applied the model extensively to international migration.²⁰ Per Hirschman’s framework, when individuals within organizations witness a “deterioration” in the performance of the organization, they have two primary options. First, they may choose to *exit* that space for a more optimal environment²¹—in the case of migration, for another country. Alternatively, they may use their *voice* to agitate for change and to encourage leadership to address the perceived challenges.²² Hirschman frames exit and voice as interrelated options, noting that the decision to exit will often turn on whether using voice will be effective in a given context.²³ For persons who find themselves in conditions of vulnerability,

19. ALBERT O. HIRSCHMAN, *EXIT, VOICE, AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES* 4 (1970).

20. See, e.g., Thierry Baudassé, Rémi Bazillier & Ismaël Issifou, *Migration and Institutions: Exit and Voice (From Abroad)?*, 32 J. ECON. SURVS. 727, 728 (2018) (applying Hirschman’s framework to the effect that domestic institutions may play on one’s choice to migrate); Jonathon W. Moses, *Exit, Vote and Sovereignty: Migration, States and Globalization*, 12 REV. INT’L POL. ECON. 53, 69-71 (2005) (using a modified version of Hirschman’s framework to explain the effect of globalization and increased migration on politics and state sovereignty).

21. HIRSCHMAN, *supra* note 19, at 4.

22. *Id.* Hirschman defines voice as:

any attempt at all to change, rather than to escape from, an objectionable state of affairs, whether through individual or collective petition to the management directly in charge, through appeal to a higher authority with the intention of forcing a change in management, or through various types of actions and protests, including those that are meant to mobilize public opinion.

Id. at 30.

23. *Id.* at 37. Hirschman broadly characterizes exit as a type of economic move (i.e., moving to a competitor), while he casts voice as a quintessential form of “political action.” *Id.* at

an assessment of one's bargaining power—including the strength of one's voice and the costs of exercising it—will necessarily inform this calculus.²⁴ Conversely, if the costs that accompany exit are simply too great, people may be motivated to use voice.²⁵ He concedes, however, that those in power may encourage critics to leave, thus limiting the use of voice.²⁶

Hirschman articulates somewhat differing views on the potency of voice *after* exit. On the one hand, he asserts plainly that once people have made an exit, they “have lost the opportunity to use voice.”²⁷ Later in his work, however, he acknowledges that individuals may use exit as a vehicle to express their views (e.g., “resign[ing] under protest”) and may wish to “fight the organization from without instead of working for change from within.”²⁸ Hirschman even posits that an individual may become even more influential *after* exit, particularly if the departure was unexpected.²⁹ Overall, however, Hirschman's original work suggests that effective voice after exit is possible only under limited circumstances.

Finally, in Hirschman's view, both exit and voice are mediated by a third principle: loyalty. “[L]oyalty holds exit at bay and activates voice.”³⁰ Those who postpone exit because of loyalty may agitate for change themselves or step back in the hopes that other people or forces will effect the desired change.³¹ The power of loyalty is palpable when suitable exit options become available, yet the individual postpones exit.³² Moreover, if significant barriers stand in the way of both exit and voice, loyalty may become a default option.³³ Loyalty may also lead people within a state to engage in self-deception, resisting the conclusion that some deterioration

15-16. Hirschman further observes that “[t]he presence of the exit alternative can . . . tend to atrophy the development of the art of voice.” *Id.* at 43.

24. *Id.* at 40.

25. Josep M. Colomer, *Exit, Voice, and Hostility in Cuba*, 34 INT'L MIGRATION REV. 423, 425 (2000).

26. HIRSCHMAN, *supra* note 19, at 60-61 (offering the example of Latin American leaders who encourage opponents to pursue voluntary exile).

27. *Id.* at 37.

28. *Id.* at 104.

29. *Id.* at 126.

30. *Id.* at 78.

31. *Id.* at 38, 78.

32. *Id.* at 81. Here, Hirschman explicitly applies his framework to transnational migration, noting: “Only as countries start to resemble each other because of the advances in communication and all-round modernization will the danger of premature and excessive exit arise, the ‘brain drain’ being a current example. At that point, a measure of loyalty will stand us in good stead.” *Id.*

33. *Id.* at 80.

has occurred.³⁴ Indeed, organizations and states may have incentives to promote loyalty in order to repress both voice and exit.³⁵ But eventually, loyalty is likely to reach a “breaking point,” resulting in exit.³⁶

Hirschman’s triad offers a very helpful, if imperfect, framework for understanding the circumstances surrounding human mobility. When conditions deteriorate in a country, persons rendered vulnerable may choose to exit or advocate for change, and loyalty to one’s country can also play a role in their choice. Countries may have different incentives to suppress dissent and use harsh tactics to command loyalty to the government. Even following exit, emigrants might express their “voice” through ongoing economic and political engagement³⁷ even when they experienced marginalization in their homeland. Along these lines, scholars have explored how Hirschman’s framework applies to the sending of remittances³⁸ and the relationship between emigration and social reform movements,³⁹ *inter alia*.

With the rise of transnationalism, it is clear today that people may depart a country yet continue to vocalize calls for change from overseas.⁴⁰ The experience of the Cuban diaspora in Florida epitomizes this practice.⁴¹ Writing in 1970, Hirschman simply could not have contemplated the potency of an internationalized voice following exit, free from domestic constraints and buoyed by the Internet and social media.⁴² More than two decades later, as he digested global developments following the fall of the Iron Curtain, Hirschman did offer a postscript to his framework, acknowledging that exit might occur publicly and thus fuel and strengthen the exercise of voice.⁴³ Moreover, in the present, many

34. *Id.* at 93.

35. *Id.* at 92.

36. *Id.* at 88.

37. See, e.g., Roger Waldinger, *Between “Here” and “There”: Immigrant Cross-Border Activities and Loyalties*, 42 INT’L MIGRATION REV. 3, 14-26 (2008) (assessing the prevalence of different forms of cross-border engagement by emigrants from certain Latin American countries).

38. Katrina Burgess, *Migrants, Remittances, and Politics: Loyalty and Voice After Exit*, 36 FLETCHER F. WORLD AFFS. 43, 48 (2012).

39. Steven Pfaff & Hyojoung Kim, *Exit-Voice Dynamics in Collective Action: An Analysis of Emigration and Protest in the East German Revolution*, 109 AM. J. SOCIO. 401, 402-03 (2003).

40. Bert Hoffmann, *Bringing Hirschman Back in: “Exit”, “Voice”, and “Loyalty” in the Politics of Transnational Migration*, 54 LATIN AMERICANIST 57, 66 (2010) (proposing that Hirschman’s framework be reconfigured and applied in modern scenarios not as mutually exclusive phenomena).

41. *Id.* at 61.

42. *Id.* at 59-60.

43. Albert O. Hirschman, *Exit, Voice, and the Fate of the German Democratic Republic: An Essay in Conceptual History*, 45 WORLD POLS., 173, 198-99 (1993).

structures exist for political participation beyond borders, including protocols for remote voting.⁴⁴

Hirschman's framework remains relevant, particularly if exit, voice, and loyalty are viewed not as rigid categories but rather as a more flexible set of choices that can be deployed to different degrees, at different times—or even simultaneously. Additionally, migration decisions cannot be reduced to an individual decision on exit versus voice; rather, they emerge from a context in which both situational factors and deeper structural forces—including differences in income levels and the existence of transnational networks—shape migratory moves.⁴⁵ Destination states or other stakeholders might also seek to influence migratory decisions and encourage the use of voice instead of exit, or vice versa.⁴⁶ As explored below, this more flexible and contextual rendering of Hirschman's framework is helpful for understanding the choices that U.S. citizens make in the face of conditions of vulnerability.

B. *Between Refugee Flows and Lifestyle Migration*

The conditions of vulnerability that lead to pressured exit comprise a broad-ranging set of circumstances. Indeed, as the very concept of migrant “vulnerability” has gained significant traction in academic and policy circles, definitions have expanded and proliferated.⁴⁷ The evolving use of the term has led scholars to catalog the distinct dimensions of vulnerability, including the experience of risk, limited capacity, and diminished autonomy.⁴⁸ This Article embraces a broad understanding of vulnerability, adopting a version of an International Organization for Migration definition. Specifically, *vulnerability* equates with *being at a higher risk of being subjected to discriminatory practices, violence, social*

44. See *infra* notes 385-387 and accompanying text.

45. Hoffmann, *supra* note 40, at 66-67.

46. Colomer, *supra* note 25, at 426-29 (examining U.S. policies toward Cuba and the United States' relative preference for voice over exit).

47. Veronika Flegar, *Who is Deemed Vulnerable in the Governance of Migration? Unpacking UNHCR's and IOM's Policy Label for Being Deserving of Protection and Assistance*, 8 ASIEL & MIGRANTENRECHT 374, 375 (2018) (“Vulnerability seems to have become a buzz-word in law and policy and some even speak of ‘[a] vulnerability zeitgeist.’”); Kate Brown, *The Governance of Vulnerability: Regulation, Support and Social Divisions in Action*, 37 INT'L J. SOCIO. & SOC. POL'Y 667, 667 (2017) (“[U]se of the term has been increasing significantly since the 1950s.”); Amalia Gilodi, Isabelle Albert & Birte Nienaber, *Vulnerability in the Context of Migration: A Critical Overview and a New Conceptual Model*, HUM. ARENAS, Apr. 19, 2022, at 2 (“The terms ‘vulnerability’ and ‘vulnerable groups’ have become increasingly prominent in academic literature, policymaking, political debates, and everyday discourses on migration and asylum.” (citations omitted)).

48. Gilodi et al., *supra* note 47, at 3-7.

*disadvantage, or economic hardship.*⁴⁹ Consistent with this expansive definition, the conditions of vulnerability that U.S. citizens experience may be innate (i.e., a natural condition such as advanced age or medical frailty), situational (emerging from particular situations or experiences, whether past, current, or anticipated), and/or structural (rooted in deeper social, economic, or legal conditions).⁵⁰ The experience of vulnerability is also context specific.⁵¹ And although the term vulnerability might be associated with weakness or passivity, individuals subject to these conditions can engage in strategic, agentic action—including the thoughtful pursuit of exit in the face of domestic pressures.⁵²

When U.S. citizens opt to exit due to vulnerability, their migratory choices raise interesting conceptual questions. Specifically, which of the existing categories from the literature most appropriately captures this migratory flow? Some of these individuals might qualify as refugees if one can identify either expressed or structural animus based on a protected ground.⁵³ Scholars have mapped out arguments for how environmental migrants might satisfy the “refugee” definition, and a similar case could possibly be made here.⁵⁴ Generally speaking, however, the rubric of forced migration—which has traditionally included refugees and internally displaced persons⁵⁵—seems inapt, given the highly variegated spectrum of vulnerable conditions. Indeed, scholars have consistently

49. This definition derives from the IOM’s definition of “vulnerable group”: “Depending on the context, any group or sector of society . . . that is at higher risk of being subjected to discriminatory practices, violence, social disadvantage, or economic hardship than other groups within the State.” INT’L ORG. MIGRATION, INTERNATIONAL MIGRATION LAW: GLOSSARY ON MIGRATION 230 (2019).

50. Gilodi et al., *supra* note 47, at 7-11; *see also* Flegar, *supra* note 47, at 381 (outlining a similar set of factors, including “visible embodied factors[,] . . . invisible embodied factors . . . , situational factors[,] . . . and structural deficits”).

51. Flegar, *supra* note 47, at 381; Gilodi et al., *supra* note 47, at 19.

52. Brown, *supra* note 47, at 786 (“[V]ulnerable’ people [can be] presumed agentic just as other citizens are.”); Gilodi et al., *supra* note 47, at 12 (protection frameworks “often fail to recognize the agency and capabilities individuals in vulnerable conditions still possess”).

53. *See, e.g., Nexus/(For Reasons Of)*, EUR. UNION AGENCY FOR ASYLUM, <https://euaa.europa.eu/easo-practical-guide-qualification-international-protection/nexusfor-reasons> [<https://perma.cc/KN7Q-XKVH>] (last visited Mar. 27, 2024) (“Acts of persecution as such do not qualify a person as a refugee unless they are committed for one (or more) of the five [enumerated] reasons.”).

54. *See, e.g., MATTHEW SCOTT, CLIMATE CHANGE, DISASTERS, AND THE REFUGEE CONVENTION* 143-49 (2020).

55. *Forced Migrant*, EUR. COMM’N MIGRATION & HOME AFFS., https://home-affairs.ec.europa.eu/pages/glossary/forced-migrant_en [<https://perma.cc/9VUT-2QZM>] (last visited Feb. 4, 2024).

acknowledged the difficulty of drawing precise boundaries between forced migration and other forms of human mobility.⁵⁶

At the other end of the continuum, migration scholars have birthed a diverse category termed *lifestyle migration*, which covers various migratory flows, including international retirement migration and leisure migration.⁵⁷ Sociologists Michaela Benson and Karen O'Reilly define lifestyle migrants as “relatively affluent individuals of all ages, moving either part-time or full-time to places that, for various reasons, signify, for the migrant, a better quality of life.”⁵⁸ Lifestyle migrants are seeking an improvement from the status quo in their country of origin, and some describe their migratory journey as “getting out of the trap” or “making a fresh start.”⁵⁹ In defining lifestyle migration, scholars have emphasized the migrants’ desire to escape to a rural idyll,⁶⁰ immerse themselves in an “exotic” environment,⁶¹ and leave behind the excesses of urban settings.⁶² For some, lifestyle migration provides a pathway back to a simpler, less frenetic way of living that they experienced in their country of origin several decades prior.⁶³

As these motivations reflect, differentials in power and privilege lie at the core of lifestyle migration. Many lifestyle migrants possess highly coveted passports that grant them access to much of the globe.⁶⁴

56. Etienne Piguet, *Theories of Voluntary and Forced Migration*, in ROUTLEDGE HANDBOOK OF ENVIRONMENTAL DISPLACEMENT AND MIGRATION 17 (Robert McLeman & François Gemenne eds., 2018).

57. Michaela Benson & Karen O'Reilly, *Migration and the Search for a Better Way of Life: A Critical Exploration of Lifestyle Migration*, 57 SOCIO. REV. 608, 609 (2009).

58. *Id.*

59. Karen O'Reilly & Michaela Benson, *Lifestyle Migration: Escaping to the Good Life?*, in LIFESTYLE MIGRATION: EXPECTATIONS, ASPIRATIONS AND EXPERIENCES 1, 3 (Michaela Benson & Karen O'Reilly eds., 2009).

60. Ozlem Nudrali & Karen O'Reilly, *Taking the Risk: The British in Didim, Turkey*, in LIFESTYLE MIGRATION, *supra* note 59, at 137, 141.

61. John Pickering, Valorie A. Crooks, Jeremy Snyder & Jeffery Morgan, *What is Known About the Factors Motivating Short-Term International Retirement Migration? A Scoping Review*, 12 POPULATION AGEING 379, 387 (2018) (“The desire to experience the ‘exotic’ is a powerful motivating factor for many [international retirement migrants] . . .”).

62. Benson & O'Reilly, *supra* note 57, at 614-15.

63. Michaela Benson, *A Desire for Difference: British Lifestyle Migration to Southwest France*, in LIFESTYLE MIGRATION, *supra* note 59, at 122, 123 [hereinafter Benson, *A Desire for Difference*]. This narrative of “turning back the clock” oddly resonates with right-wing narratives that romanticize unspecified earlier eras in countries (e.g., the “Make America Great Again” trope). Unfortunately, few scholars in the field of lifestyle migration engage directly with questions of race, though some do acknowledge the anti-immigrant tone of lifestyle migrants’ narratives. Nudrali & O'Reilly, *supra* note 60, at 142.

64. Michaela Benson, *Negotiating Privilege in and Through Lifestyle Migration*, in UNDERSTANDING LIFESTYLE MIGRATION: THEORETICAL APPROACHES TO MIGRATION AND THE

Moreover, lifestyle migration has resonant historical antecedents, including the Grand Tour, similar types of elite travel, and colonialism itself.⁶⁵ Indeed, the legacy of colonialism often informs how lifestyle migrants imagine their destinations and the way they lead their lives upon arrival.⁶⁶ The category of lifestyle migrant also places significant emphasis on the migrants' agency and goals. As Benson and sociologist Nick Osbaldiston offer, "lifestyle migration is characterised by the reflexivity unique to post-, late- or liquid modernity, an articulation of the project of the self."⁶⁷

Notwithstanding this emphasis on autonomy and privilege, the lifestyle migration literature acknowledges that experiences or conditions of structural vulnerability in the country of origin may lead to exit,⁶⁸ consistent with Hirschman's framework. In particular, concerns about safety and crime have informed many lifestyle migrants' decisions,⁶⁹ as have economic determinants, including the availability of more affordable health care and housing.⁷⁰ Class, gender, and nationality can also shape migratory trajectories.⁷¹ Given these underlying factors, scholars have asserted that the affluence that lifestyle migrants enjoy in destination countries is relative, and that their positioning may belie economic

QUEST FOR A BETTER WAY OF LIFE 47, 49 (Michaela Benson & Nick Osbaldiston eds., 2014) [hereinafter Benson, *Negotiating Privilege*].

65. Michaela Benson & Nick Osbaldiston, *New Horizons in Lifestyle Migration Research: Theorising Movement, Settlement, and the Search for a Better Way of Life*, in UNDERSTANDING LIFESTYLE MIGRATION, *supra* note 64, at 1, 1 [hereinafter Benson & Osbaldiston, *New Horizons*]. Indeed, the power and resource asymmetries that stem from colonialism enable contemporary forms of lifestyle migration. *Id.* at 12.

66. Benson, *Negotiating Privilege*, *supra* note 64, at 50 ("[C]olonial traces are writ large on these new lifestyle flows, both in terms of how destinations are imagined and how they are lived by migrants.").

67. Benson & Osbaldiston, *New Horizons*, *supra* note 65, at 5.

68. See, e.g., Benson, *A Desire for Difference*, *supra* note 63, at 124 (noting British migrants to France were attracted by "a slower pace of life and a simpler way of living, a less stressful and healthier lifestyle, . . . less crime and thus . . . a greater sense of security and freedom"); Mari Korpela, *Lifestyle of Freedom? Individualism and Lifestyle Migration*, in UNDERSTANDING LIFESTYLE MIGRATION, *supra* note 64, at 27, 42 ("They are not free-floating agents, but make their choices within conditions they have not been able to choose.").

69. Benson, *A Desire for Difference*, *supra* note 63, at 124 (recounting the views of a British couple in their sixties who retired to France after having been burgled three times, and who felt safer walking their dog at night in France).

70. See, e.g., Per Gustafson, *Your Home in Spain: Residential Strategies in International Retirement Migration*, in LIFESTYLE MIGRATION, *supra* note 59, at 69, 73 (noting how lower living costs were relevant for Swedish lifestyle migrants in Spain); Nudrali & O'Reilly, *supra* note 60, at 141 (reporting that "low property and living costs" drove British lifestyle migrants to Turkey); Pickering et al., *supra* note 61, at 388.

71. Korpela, *supra* note 68, at 44.

struggles in the country of origin.⁷² In this vein, scholars have noted the interplay between agentic decision making by lifestyle migrants and the deeper political and economic forces that propel their migration.⁷³

The relative vulnerability of lifestyle migrants and their susceptibility to structural forces is illustrated vividly in sociologist Matthew Hayes's qualitative work on North Americans who have moved to Cuenca, Ecuador.⁷⁴ As Hayes recounts, these individuals might present as quintessential lifestyle migrants, as they are mostly white North Americans moving to Latin America for retirement.⁷⁵ Yet many faced economic challenges back home, including the loss of employment or savings, and some even struggled to cover basic expenses such as food and rent.⁷⁶ Several of Hayes's interview subjects explicitly referred to themselves as "economic refugees."⁷⁷ Hayes positions this migratory flow as stemming from a collective failure to provide income security and other structural support for an aging population.⁷⁸ He frames the migration as an act of "geographic arbitrage," wherein the migrants capitalize on the relative differences in cost of living between Ecuador and their home jurisdictions.⁷⁹ Sociologist T.S. Sunil and coauthors, in a study of U.S. citizen retirees in Mexico, have similarly demonstrated how U.S. citizens are drawn to Mexico so that their savings and retirement income can be stretched further.⁸⁰ Those U.S. citizen research subjects affirmed that economic considerations, including the comparatively lower cost of health care and housing, were primary drivers of their decision to move.⁸¹

72. See, e.g., Michaela Benson & Karen O'Reilly, *From Lifestyle Migration to Lifestyle in Migration: Categories, Concepts and Ways of Thinking*, 4 *MIGRATION STUD.* 20, 29-30 (2016) [hereinafter Benson & O'Reilly, *From Lifestyle Migration to Lifestyle in Migration*].

73. Michaela Benson & Nick Osbaldiston, *Toward a Critical Sociology of Lifestyle Migration: Reconceptualizing Migration and the Search for a Better Way of Life*, 64 *SOCIO. REV.* 407, 412-15 (2016); Benson & O'Reilly, *From Lifestyle Migration to Lifestyle in Migration*, *supra* note 72, at 30-33.

74. See generally Matthew Hayes, *'We Gained a Lot Over What We Would Have Had': The Geographic Arbitrage of North American Lifestyle Migrants to Cuenca, Ecuador*, 40 *J. ETHNIC & MIGRATION STUD.* 1953 (2014) (reporting on sixty-nine individual qualitative interviews conducted with lifestyle migrants in Cuenca, Ecuador).

75. *Id.* at 1953.

76. *Id.* at 1959, 1961.

77. *Id.* at 1961.

78. *Id.* at 1963, 1965.

79. *Id.* at 1954, 1962.

80. T.S. Sunil, Viviana Rojas & Don E. Bradley, *United States' International Retirement Migration: The Reasons for Retiring to the Environs of Lake Chapala, Mexico*, 27 *AGEING & SOC'Y* 489, 492-93 (2007).

81. *Id.* at 499.

To be clear, while some of Hayes's interviewees experienced significant precarity in their country of origin, others simply determined that they would be unable to afford the ideal retirement they had imagined for themselves and thus relocated to a lower-income country.⁸² Nevertheless, empirical work by Hayes and Sunil et al. spotlights a sliver of migrants whose decision to depart was premised, in significant part, on conditions of vulnerability in their country of origin. These pressured exits share attributes with both refugee flows and more agentic migration. As various migration scholars have identified, even when external forces prompt a need to depart, migrants often exert control over the manner of their departure and their ultimate destination.⁸³

Although the move to Latin America was not entirely voluntary for some of these North Americans, as with other lifestyle migrants, idealized conceptions of the life in the destination country led them to resettle there. For example, one U.S. citizen interviewed by Hayes referred to Ecuador's "innocent culture," which reminded her of "America in the '50s."⁸⁴ In other words, Ecuador was more upright morally than the United States today,⁸⁵ and she and other migrants embracing this view yearned for an idealized past.⁸⁶ Another interviewee, Jackie, had felt "an increasing discomfort" with the nature of life in the United States, suggesting the country was headed in the wrong direction.⁸⁷ Interestingly, Daphney, a U.S. retiree in Cuenca of Afro-Caribbean heritage who herself was an immigrant to the United States, had a different view about Ecuador.⁸⁸ As a person of color, the comparison to the 1950s U.S. was unfavorable to her, suggesting that the embrace of white supremacy, whether conscious or not, was animating the views of some of her fellow retirees.⁸⁹

Another work that explores how economic, political, and social difficulties in the country of origin intersect with lifestyle migration is Gül Üret's study of Turkish "golden visa" investors in Greece.⁹⁰ After a failed coup attempt in July 2016 led to increasingly oppressive conditions in Turkey, some Turkish nationals identified an exit strategy in the form of

82. MATTHEW HAYES, GRINGOLANDIA: LIFESTYLE MIGRATION UNDER LATE CAPITALISM 6, 14 (Susan E. Clark ed., 2018).

83. Piguet, *supra* note 56, at 22, 24.

84. HAYES, *supra* note 82, at 66.

85. *Id.* at 66-67.

86. *Id.* at 68.

87. *Id.* at 73-74.

88. *Id.* at 82.

89. *Id.* at 82-83.

90. Gül Üret, *Between Lifestyle Migration and Comfortable Exit Strategies: Turkish Golden Visa Investors in Greece*, 21 DIASPORA: J. TRANSNAT'L STUD. 166, 167 (2021).

Greece's "golden visa," which provides a pathway to permanent residence for those who invest at least €250,000.⁹¹ As Üret describes, most of these Turkish nationals were relatively affluent but were concerned about the deterioration of democratic norms, growth of political Islam, and curtailment of freedom of expression.⁹² Per Hirschman's framework, in an environment where their ability to express anti-government views was constrained, exit—or at least the creation of an exit route, should it become necessary—was an attractive option.⁹³ As Üret relays, these Turkish nationals faced growing conditions of vulnerability and were seeking a way out of a country that "no longer lived up to their expectations and hopes" and instead "creat[ed] distress [and] fear."⁹⁴ The geographic proximity of Greece, along with cultural similarities between the two countries, made it a desirable exit option.⁹⁵

C. *Diasporic Return Migration*

Üret's study highlights the importance of familiarity or comfort when planning a pressured exit.⁹⁶ One source of comfort can be a shared cultural, racial, or religious connection between migrants and the destination country. This migratory imperative can manifest as ethnic or diasporic return migration—a burgeoning trend consisting of "later-generation descendants of diasporic peoples who 'return' to their countries of ancestral origin."⁹⁷ The migration of diasporic Jews to Israel constitutes a prime example, but similar return patterns are visible in

91. *Id.* at 166-67. Greece grants permanent residence—known as a "Golden Visa" to non-European Union foreign nationals who invest at least 250,000 euros in residential property in Greece. Nomos (2014:4251) Kothikas Metanasteeses kai Koinonikes Entaxes kai loipes thiataxeis [Immigration and Social Integration Code and Other Provisions], EPHEMERIS TES KYVERNESEOS TES HELLENIKES DEMOKRATIAS [E.K.E.D.] 2014, A:80 (Greece) (granting permanent residence upon ownership, a ten-year lease, or a time share of real estate property worth 250,000 euros); *see also Residence Permits*, ENTER. GREECE, <https://www.enterprisegreece.gov.gr/en/greece-today/living-in-greece/residence-permits> [<https://perma.cc/Q2HL-YTMM>] (last visited Mar. 28, 2024) (outlining residence permit options in Greece).

92. Üret, *supra* note 90, at 176.

93. *Id.* at 182.

94. *Id.* at 177.

95. *Id.* at 178-81.

96. *Id.* at 178 (noting that cultural similarities and geographic proximity drew Turkish investors to Greece).

97. Takeyuki Tsuda, *Introduction: Diasporic Return and Migration Studies*, in *DIASPORIC HOMECOMINGS: ETHNIC RETURN MIGRATION IN COMPARATIVE PERSPECTIVE 1* (Takeyuki Tsuda ed., 2009) [hereinafter Tsuda, *Introduction*]. Other descriptors for this migratory flow include "ancestral return" and "roots migration." Andrea Pelliccia, *Ancestral Return Migration and Second-Generation Greeks in Italy*, 35 *J. MOD. GREEK STUD.* 129, 131 (2017).

multiple European and Asian countries.⁹⁸ The “Back to Africa” movement, which began during the post-Reconstruction era, is an early example of this kind of return.⁹⁹ Yet despite possessing a shared ancestry, many diasporic return migrants are essentially foreigners who, in some cases, had never previously visited their ancestral homeland.¹⁰⁰

Various forces drive diasporic return migration. While the search for economic opportunity is often a motivating factor,¹⁰¹ anthropologist Takeyuki Tsuda notes that the experience of discrimination and exclusion in one’s country of residence can strengthen one’s identification with an ancestral homeland and prompt a return there.¹⁰² Specifically, the feeling of being a perpetual foreigner in one’s country—as experienced by Asian Americans, among others¹⁰³—can lead to a perception of one’s homeland as a more favorable place where one “belongs.”¹⁰⁴ The ease of global communication and the rise in mass media also fuel the dissemination of idealized impressions of the homeland among members of the diaspora.¹⁰⁵ Even accounting for romanticized portrayals, the ability to “blend in” can be a powerful allure.¹⁰⁶ And as with all forms of migration, privilege is a

98. Tsuda, *Introduction*, *supra* note 97, at 1-2.

99. Russell King & Anastasia Christou, *Of Counter-Diaspora and Reverse Transnationalism: Return Mobilities to and from the Ancestral Homeland*, 6 *MOBILITIES* 451, 459 (2011); Alana Dillette, *Roots Tourism: A Second Wave of Double Consciousness for African Americans*, 29 *J. SUSTAINABLE TOURISM* 412, 413 (2021).

100. Stephen Cho Suh, *Racing “Return”: The Diasporic Return of U.S.-Raised Korean Americans in Racial and Ethnic Perspective*, 43 *ETHNIC & RACIAL STUD.* 1072, 1074 (2020).

101. Takeyuki Tsuda, *Why Does the Diaspora Return Home? The Causes of Ethnic Return Migration*, in *DIASPORIC HOMECOMINGS*, *supra* note 97, at 21, 21 [hereinafter Tsuda, *Why Does the Diaspora Return Home?*].

102. *Id.* at 22, 25. At times, discrimination can exacerbate one’s economic status, prompting a decision to migrate to an ancestral territory. *Id.* at 23.

103. See Nadia Y. Kim, *Finding Our Way Home: Korean Americans, “Homeland” Trips, and Cultural Foreignness*, in *DIASPORIC HOMECOMINGS*, *supra* note 97, at 305, 306; YEN LE ESPIRITU, *HOME BOUND: FILIPINO AMERICAN LIVES ACROSS CULTURES, COMMUNITIES, AND COUNTRIES* 200 (2003).

104. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 25-26.

105. *Id.* at 33. Experiences during childhood, including socialization into cultural and religious communities, can also strengthen the tie with the ancestral homeland. Anastasia Christou, *Deciphering Diaspora—Translating Transnationalism: Family Dynamics, Identity Constructions and the Legacy of ‘Home’ in Second-Generation Greek-American Return Migration*, 29 *ETHNIC & RACIAL STUD.* 1040, 1043 (2006); Pelliccia, *supra* note 97, at 138.

106. See, e.g., Takeyuki Tsuda, *Global Inequities and Diasporic Return: Japanese American and Brazilian Encounters with the Ethnic Homeland*, in *DIASPORIC HOMECOMINGS*, *supra* note 97, at 227, 248. Tsuda quotes a Japanese American who recounted the following about their experience in Japan compared to a prior visit to Spain: “I felt I blended in better because everyone looked like me and I didn’t stick out as much as a foreigner.” *Id.* As Nadia Kim describes in her work, however, phenotypical similarities may be insufficient to bridge cultural differences and gain full acceptance. See Kim, *supra* note 103, at 305 (noting that Korean Americans “are not

relevant consideration: forms of capital, including advanced education, professional qualifications, and familial wealth, can ease a transnational move by a diasporic return migrant.¹⁰⁷

The additional layer of political instability creates a fertile environment for diasporic return migration.¹⁰⁸ At a minimum, worsening conditions of vulnerability can lead members of diasporic groups to begin preparing for possible exit. For example, as conditions in Turkey began to deteriorate with antisemitism on the rise, Turkish Jews began applying for citizenship in Portugal in significant numbers.¹⁰⁹ Portuguese law provides a pathway to citizenship to the descendants of Sephardic Jews who fled Portugal during periods of historic persecution, including the Inquisition.¹¹⁰ A rise in authoritarianism in Turkey and encroachment by the state in the private sphere led Turkish Jews to seek out exit pathways.¹¹¹ As members of a minority group who could easily be sidelined or even targeted as non-integrable in the context of an authoritarian regime, they felt an acute sense of vulnerability.¹¹² Antisemitic statements, including by President Recep Erdoğan, exacerbated Turkish Jews' feelings of insecurity.¹¹³

Like the Turkish migrants interviewed in Üret's study, the Turkish Jews seeking Portuguese citizenship interviewed by Gabriela Anouck Côte-Real Pinto and Isabel David were largely well educated, westernized, and middle or upper class.¹¹⁴ At the same time, many of them

seen as authentic unless they are both racially *and* culturally Korean"). Hirschman similarly notes the challenges that can arise when minorities seek acceptance in other settings. HIRSCHMAN, *supra* note 19, at 110.

107. Pelliccia, *supra* note 97, at 143.

108. The migration of ethnic Hungarians from Romania back to Hungary is an example of the confluence of these forces. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 23.

109. Gabriela Anouck Côte-Real Pinto & Isabel David, *Choosing Second Citizenship in Troubled Times: The Jewish Minority in Turkey*, 46 BRIT. J. MIDDLE E. STUD. 781, 782 (2019).

110. *Id.* at 781; Decreto-Lei n.º 30-A/2015 de 27 de fevereiro [Decree-Law no. 30-A/2015 of 27 February], <https://dre.pt/dre/detalhe/decreto-lei/30-a-2015-66619927> (Port.) (allowing Sephardic Jews of Portuguese origin to naturalize if they are adults or emancipated under Portuguese law and have not been convicted of certain crimes); see *Nationality: Acquisition by Descendants of Sephardic Jews*, EMBASSY OF PORT. TO THE U.S., <https://washingtondc.embaixadaportugal.mne.gov.pt/en/consular-services/consular-services/acquisition-of-portuguese-nationality-by-descendants-of-sephardic-jews> [<https://perma.cc/KVD8-KJJK>] (last visited Mar. 28, 2024).

111. Pinto & David, *supra* note 109, at 784.

112. *Id.* This sense of insecurity grew over time but spiked during bombings of synagogues in the 1980s and 1990s, and rose again after the attempted coup in 2016. *Id.* at 787.

113. *Id.* at 787.

114. *Id.* at 789.

reported differential treatment in their day-to-day lives, noting that non-Jewish Turks did not regard them as equals.¹¹⁵ Like minorities around the world, they fielded questions about their name and inquiries about where they *really* came from,¹¹⁶ and experienced other barriers to full participation in civic and political life.¹¹⁷ Importantly, these Turkish Jews did not intend to migrate to Portugal immediately despite having obtained Portuguese citizenship.¹¹⁸ Rather, most viewed it as an option of last resort, should circumstances in Turkey deteriorate further.¹¹⁹ In short, acquiring Portuguese citizenship was a utilitarian exit strategy devoid of any substantial affinity to Portugal itself.¹²⁰ This subtype of pressured migrants might be understood as a variant of the “anticipatory refugee” category dubbed by historian Egon Kunz, which includes those who leave their “home country before the deterioration of the military or political situation prevents [an] orderly departure.”¹²¹

D. *The Exit Industry*

An entire industry now caters to people who are contemplating departure from the United States or seeking an exit strategy—whether due to actual or anticipated conditions of vulnerability, or simply for personal advancement.¹²² Anchoring the industry are large firms that facilitate access to citizenship and permanent residence in other countries.¹²³ These firms offer advice to clients about suitable countries and visa categories, and even prescreen applications before they are submitted to government authorities.¹²⁴ In addition to the firms, innumerable specialized agencies and websites focus on distinct demographic populations, encouraging

115. *Id.* at 790.

116. *Id.* at 790-91.

117. *Id.* at 791.

118. *Id.* at 795.

119. *Id.*

120. *Id.*

121. E. F. Kunz, *The Refugee in Flight: Kinetic Models and Forms of Displacement*, 7 INT’L MIGRATION REV. 125, 131-32 (1973).

122. See generally Sara Kalm, *The Business of Citizenship: Investment Citizenship Firms in Global Governance*, 37 GLOB. SOC’Y 68 (2023) (exploring activities of transnational firms that “sell” citizenships to the economic elite).

123. See, e.g., *About Us*, HENLEY & PARTNERS, <https://www.henleyglobal.com/about> [<https://perma.cc/NR32-ZB43>] (last visited Mar. 27, 2024) (“The concept of residence and citizenship planning was created by Henley & Partners in the 1990s.”); *About Us*, ARTON CAP., <https://www.artoncapital.com/arton-capital> [<https://perma.cc/WB9B-K3KV>] (last visited Mar. 27, 2024) (noting the firm’s seventeen locations worldwide and proclaiming responsibility for over \$4 billion in foreign direct investment in the past five years).

124. Kalm, *supra* note 122, at 69.

them to explore relocation abroad.¹²⁵ Some service providers also link U.S. citizens with real estate agents and lawyers in destination countries.¹²⁶

Apart from helping to meet demand among would-be migrants, the exit industry also molds the supply of available migratory options. Firms such as Henley & Partners, Arton Capital, CS Global Partners, and Latitude Residency & Citizenship have received contracts from governments to develop, market, and implement programs to attract resourced migrants.¹²⁷ In crafting these programs, firms focus on brand development to accentuate the appeal of specific countries for different constituencies.¹²⁸ Some firms even engage in lobbying on behalf of government clients to counter domestic political resistance.¹²⁹ Industry groups also convene regular conferences, bringing together investors, service providers, and government representatives.¹³⁰

Given that numerous destinations could potentially meet the needs of U.S. citizens experiencing exit pressures, it is the marketing of destinations that directs migrants to specific locales.¹³¹ The magazine *International Living* and its accompanying website, which link travel to a

125. See, e.g., SHE HIT REFRESH, <https://shehitrefresh.com/> [<https://perma.cc/VKA4-ND8Y>] (last visited Feb. 9, 2024) (online community for women aged thirty and older who are considering a move abroad); Yvonne McBride, *The Overseas with Ease App Is Helping Black People Fulfill Their Dreams of Living Abroad*, ESSENCE, <https://www.essence.com/lifestyle/overseas-with-ease-app/> (Feb. 28, 2023) [<https://perma.cc/N4GH-PC6B>] (describing app that facilitates overseas moves by Black Americans), *LGBTQ+ International Relocation Strategist*, JESSICADRUCKER.COM, <https://jessicadrucker.com/> [<https://perma.cc/4QCM-TWKJ>] (last visited Feb. 9, 2024) (individual who “help[s] queer folks and their families move, live and thrive abroad”).

126. See, e.g., *International Relocation Services*, STARTABROAD, <https://www.startabroad.com/services> [<https://perma.cc/JTP6-9PGF>] (last visited Mar. 28, 2024) (offering concierge and stand-alone services for international moves, including a suite of services relating to real estate transactions); see also Cecilia Rodriguez, *Americans Moving to Europe: Portugal Still Top Place for Expats Despite Restrictions*, FORBES (Sept. 20, 2022, 9:00 AM), <https://www.forbes.com/sites/ceciliarodriguez/2022/09/20/americans-moving-to-europe-portugal-still-top-place-for-expats-despite-restrictions/?sh=35e1acc360f1> [<https://perma.cc/J5Z7-2UVL>] (industry data shows increased interest among U.S. citizens in buying real estate in European countries with golden visa and digital nomad visa opportunities).

127. Kristin Surak, *Global Citizenship 2.0: The Growth of Citizenship by Investment Programs*, 22, 25-26 (Inv. Migration Working Papers, Paper No. 3, 2016) [hereinafter Surak, *Global Citizenship*]; Kalm, *supra* note 122, at 70, 78.

128. Kalm, *supra* note 122, at 80.

129. *Id.* at 81.

130. Kristin Surak, *Who Wants to Buy a Visa? Comparing the Uptake of Residence by Investment Programs in the European Union*, 30 J. CONTEMP. EUR. STUD. 151, 156 (2022) [hereinafter Surak, *Who Wants to Buy a Visa?*].

131. Sunil et al., *supra* note 80, at 494.

vision of successful aging, are often cited as primary information sources about desirable destinations for U.S. citizens.¹³² Anthropologist Eve Bantman-Masum describes *International Living* as “the first organization to sell migration to the masses, publicizing lifestyle opportunities overseas.”¹³³ *International Living* has a range of advice that it offers to U.S. citizens and others contemplating living abroad; the website includes practical guides on health care, income, real estate, and cost of living abroad as well as columns dedicated to specific lifestyles abroad for singles, retirees, and those seeking a second passport.¹³⁴ In addition to *International Living*, television programs like *House Hunters International* generally romanticize the idea of international retirement and present it as a realistic, affordable option.¹³⁵

Similar marketing efforts promote the pursuit of dual nationality. Political sociologist Kristin Surak describes how the British Airways magazine *High Life* carried for several years a multiple-page advertising spread highlighting dual nationality as an “insurance policy” and seducing readers with appealing imagery.¹³⁶ The homepage of Henley & Partners rotates various images, including one that depicts a couple with their newborn child, exhorting would-be clients to “[i]nvest in a secure future today” and conveying the possibility of obtaining immigration status for members of the next generation.¹³⁷ These marketing efforts nurture an industry that has grown quickly; it was estimated in 2019 to be \$21.4 billion dollars in size and is expected to grow with even more international moves in 2023.¹³⁸

In addition to the larger players, other immigration brokers operating online have become important sources of information for pressured migrants. As Bantman-Masum explains, these brokers are able to

132. HAYES, *supra* note 82, at 55.

133. Eve Bantman-Masum, *Migration Machine: Marketing Mexico in the Age of ICTs*, in *DIGITAL LABOUR AND PROSUMER CAPITALISM: THE US MATRIX* 106, 115 (Olivier Frayssé & Mathieu O’Neil eds., 2015).

134. HAYES, *supra* note 82, at 56; INT’L LIVING, internationalliving.com [<https://perma.cc/ZZ97-Y54J>] (last visited Mar. 28, 2024).

135. HAYES, *supra* note 82, at 55.

136. Kristin Surak, *Millionaire Mobility and the Sale of Citizenship*, 47 *J. ETHNIC & MIGRATION STUD.* 166, 166 (2021) [hereinafter Surak, *Millionaire Mobility*].

137. HENLEY & PARTNERS, <https://www.henleyglobal.com> [<https://perma.cc/HCL2-KZB5>] (last visited Mar. 27, 2024); *see also* Kalm, *supra* note 122, at 84 (describing marketing by Henley & Partners that depicts a father and son).

138. Kalm, *supra* note 122, at 78; *see The Henley Private Wealth Migration Dashboard*, HENLEY & PARTNERS (June 13, 2023), <https://www.henleyglobal.com/publications/henley-private-wealth-migration-dashboard> [<https://perma.cc/D877-QVKX>] (forecasting the number of individuals moving to a new country in 2024 will be over sixteen percent higher than that of 2019).

cultivate interest in particular destinations and “have managed to turn isolated Internet users into virtual communities of consumers/prosumers and have connected them to migration experts, realtors, builders, doctors, and many other groups of professionals.”¹³⁹ Potential migrants are able to browse homes, participate in virtual tours on the Internet, and can visit chatrooms and websites offering information and services.¹⁴⁰ In some cases, what starts out as an informal blog can gradually attract interest and morph into a larger operation with thousands of followers.¹⁴¹ The websites connect these followers with businesses that can help individuals actualize their exit plans.¹⁴²

III. PRESSURED EXIT BY U.S. CITIZENS

Diverse push and pull factors lead U.S. citizens to effectuate, or at least plan for, a permanent move to another country.¹⁴³ U.S. citizens routinely depart the country for family or professional reasons, and some even renounce their U.S. citizenship to secure tax-related advantages.¹⁴⁴ The U.S. Department of State estimates that about nine million U.S. citizens currently reside abroad.¹⁴⁵ As previously noted, however, this Article focuses on departure or exit planning precipitated by conditions of vulnerability in the United States. And although these conditions might seem novel, the phenomenon of pressured exit is not new to the North American experience or the history of the United States.¹⁴⁶ Hirschman

139. Bantman-Masum, *supra* note 133, at 107.

140. Alex Schafran & Paavo Monkkonen, *Beyond Chapala and Cancún: Grappling with the Impact of American Migration to Mexico*, 6 MIGRACIONES INTERNACIONALES 223, 233 (2011).

141. Bantman-Masum, *supra* note 133, at 109-110.

142. *Id.* at 110.

143. In some instances, of course, U.S. citizens may opt for temporary or circular migration before committing to a long-term move out of the United States.

144. See sources cited *supra* note 10; Abigail Nguyen Rosewood, *I Moved to America for a Better Life. Here's Why I'm Leaving*, TIME (May 2, 2022, 9:03 AM), <https://time.com/6164750/leaving-america-vietnam> [<https://perma.cc/KC26-YKYJ>] (listing the “bamboo ceiling” in the corporate world as a reason contributing to the author’s decision to leave the United States).

145. Debra Kamin, *Why an Estimated 100,000 Americans Abroad Face Passport Problems*, N.Y. TIMES (May 17, 2021), <https://www.nytimes.com/2021/05/06/travel/covid-travel.html> [<https://perma.cc/CHE2-VT2X>]; U.S. DEP’T OF STATE, CONSULAR AFFAIRS BY THE NUMBERS, <https://travel.state.gov/content/dam/travel/CA-By-the-Number-2020.pdf> [<https://perma.cc/Y48P-AGXU>]. Note, however, that the Department of State does not maintain an official registry of U.S. citizens living overseas. FED. VOTING ASSISTANCE PROGRAM, STATE OF THE OVERSEAS VOTER, <https://www.fvap.gov/info/reports-surveys/overseas-citizen-population-analysis> [<https://perma.cc/5T67-2LRH>].

146. See *infra* notes 273-274 and accompanying text.

aply notes that the very founding of the United States was premised on the choice of exit over voice in the face of adversity.¹⁴⁷

The circumstances leading present-day U.S. citizens to depart would typically not justify protection under international refugee law, but many reflect significant breaches in the implied social contract between the U.S. government and its citizens—breaches that inhibit these citizens from living their lives with stability and dignity.¹⁴⁸ At the same time, complementary “pull” factors exist in certain destination countries, offering an attractive remedy for the unfavorable conditions in the United States. Technological advances and forces of globalization, including ease of transportation and communication, also fuel these movements.¹⁴⁹ Considerations of privilege and belonging, along with the whirring hum of the private exit industry, all operate powerfully in the background.

What follows is a description of two broad categories of U.S. citizens facing conditions of vulnerability whose departure from the country falls under this rubric of pressured exit: (1) people, including racial, religious, and sexual minorities, who have experienced identity-based harms and (2) those who have experienced hardships because of gaps in the social safety net in the United States. This Part also describes a third category of individuals, only some of whom have departed: people troubled by deteriorating domestic conditions, including the curtailment of individual rights and growing societal violence. Although these are presented as separate categories, individual U.S. citizens may experience pressure to depart because of a combination of factors. Note that this typology below does not purport to capture all U.S. citizen pressured migrants but rather reflects prevalent trends of recent years.

A. *Identity-Based Harms and the Promise of Belonging*

A significant number of U.S. citizens are departing the country because of mistreatment and marginalization based on racial, ethnic, religious, or sexual identity. Some individuals within this category have directly experienced violence or discrimination, while others have observed growing hostility toward members of their community. Many of

147. HIRSCHMAN, *supra* note 19, at 106.

148. To the extent that the vulnerability that leads to departure reflects an underlying human rights violation, state responsibility can be inferred. *Cf.* Constantin Hruschka & Luc Leboeuf, *Vulnerability: A Buzzword or a Standard for Migration Governance?*, POPULATION & POL’Y COMPACT, Policy Brief No. 20 (Jan. 2019) (“[T]he notion of ‘vulnerability’ acknowledges that those forced to flee and seek protection are exposed to higher risks of enduring human rights violations.”).

149. Machado, *supra* note 16, at 4.

these U.S. citizens are pursuing different types of diasporic return migration, relocating to countries where a majority of the population possesses the very identity characteristic that makes them a target in the United States. In their destination countries, they are finally able to enjoy some degree of invisibility, even if their distinct upbringings render them outsiders in other ways. Others, however, are considering more conventional migration pathways, including employment-based visas. Although these individuals have opted for exit, many continue to voice concern about the conditions in the United States that prompted their departure.

This phenomenon of identity-based pressured exit is visible among Black Americans and Jewish Americans and, to a lesser extent, among Asian Americans and other ethnic minorities. Per recent reporting, members of the LGBTQ+ community, especially transgender persons, are also exploring exit pathways, given the rise in hate incidents and hostile policies adopted at the state level.¹⁵⁰ Many of these cases fall squarely within the category of pressured migration, with the experience or fear of identity-based harm being a significant or even primary motivating factor for exit. In some instances, however, the salience of identity-based vulnerability is less easily measured, given the presence of multiple push and pull factors.

In a trend known colloquially as “Blaxit,” some Black Americans have permanently exited the United States in recent years because of the systemic racism and discrimination they suffer, often at the hands of law enforcement or other government authorities.¹⁵¹ Okunini Obádélé Kambon departed the United States as part of this cohort. While living in Chicago, he had been arrested by authorities and accused of concealing a loaded gun, which was actually stored unloaded in the trunk of his car and which he used for teaching at an outdoor skills camp.¹⁵² A judge later

150. Daniel Villarreal, *A Trans Woman Founded a Group to Help Trans People Leave the U.S. due to Rising Hate*, LGBTQ NATION (Jan. 15, 2023), <https://www.lgbtqnation.com/2023/01/trans-woman-founded-group-help-trans-people-leave-u-s-due-rising-hate> [<https://perma.cc/E33P-HXFB>] (explaining TRANSport, a nonprofit founded in November 2022 to assist trans individuals seeking to exit the United States).

151. See, e.g., Kirsten West Savali, *Is Moving to Another Country the Answer?*, ESSENCE, <https://www.essence.com/news/is-blaxit-for-you> (Dec. 6, 2020) [<https://perma.cc/PE5Q-2SX8>] (defining “Blaxit” as “the term used to describe the migration of Black Americans to other countries to escape U.S. racism”).

152. Kim Hjelmgaard, *I’m Leaving, and I’m Just Not Coming Back’: Fed Up with Racism, Black Americans Head Overseas*, USA TODAY (July 1, 2020, 6:47 PM), <https://www.usatoday.com/story/news/world/2020/06/26/blaxit-black-americans-leave-us-escape-racism-build-lives-abroad/3234129001/> [<https://perma.cc/FK93-HCSM>].

dismissed the charge for lack of probable cause, but Kambon resolved to move away from a country where authorities could “decide to throw a felony charge on you on a whim.”¹⁵³ Kambon relocated to Ghana, a country that has welcomed Black Americans; he also expressed an intent to renounce his U.S. citizenship.¹⁵⁴ Along these lines, concern about treatment of young Black men led U.S.-born rapper and actor Mos Def (aka Yasiin Bey), to depart for South Africa.¹⁵⁵ Kimberly Reese, a U.S. citizen who has contemplated a move to Ghana, similarly noted the unsafe environment in the U.S. for Black Americans. In Ghana, Reese remarked, “[y]ou don’t have to worry about being [B]lack.”¹⁵⁶

Washington Post reporter DeNeen Brown recently published an essay describing her intent to leave the United States.¹⁵⁷ Brown, who has experienced discrimination as a Black American, holds little hope that the United States can meaningfully address entrenched racism.¹⁵⁸ She poignantly describes her motivations for exit as follows:

I want this kind of freedom: to live in a country where traffic stops end peacefully. I want the ability to move among people who look like me. I want to engage in intellectual debates without having to explain the history of this country’s racism. I know no place is perfect. But I want to live in a country where racism is not a constant threat.¹⁵⁹

Brown is following other Black American women who have departed for majority-Black countries because of the unique challenges and vulnerabilities they face in the United States. Among these is author and activist Tiffanie Drayton, who recently penned *Black American*

153. *Id.*

154. *Id.*; see *infra* text accompanying notes 307-310 for a discussion of laws and policies in Ghana designed to attract Black Americans.

155. Siobhán O’Grady, *Mos Def Was Arrested in South Africa for Using a ‘World Passport.’ Yes, That’s a Real Thing*, FOREIGN POL’Y (Jan. 15, 2016, 3:31 PM), <https://foreignpolicy.com/2016/01/15/mos-def-was-arrested-in-south-africa-for-using-a-world-passport-yes-thats-a-real-thing> [<https://perma.cc/6WFL-M4WR>].

156. Danielle Paquette, *Ghana to Black Americans: Come Home. We’ll Help You Build a Life Here*, WASH. POST (July 4, 2020, 7:00 AM), https://www.washingtonpost.com/world/africa/ghana-to-black-americans-come-home-well-help-you-build-a-life-here/2020/07/03/1b11a914-b4e3-11ea-9a1d-d3db1cbe07ce_story.html [<https://perma.cc/WZB9-QRTG>]. Educator Tim Swain, who also moved to Ghana, compared living in the United States, where he felt “like the bottom of the bottom, reminded every day that I’m a Black person that is a stain on the fabric of America” to living in Ghana, where he “literally exist[s] as a human being [and has] no conscience about the color of [his] skin.” DeNeen L. Brown, *The Case for Leaving America to Escape Racism*, WASH. POST (Sept. 26, 2022, 10:00 AM) <https://www.washingtonpost.com/magazine/2022/09/26/case-leaving-america-escape-racism> [<https://perma.cc/GZ2C-HELK>].

157. Brown, *supra* note 156.

158. *Id.*

159. *Id.* (emphasis removed).

Refugee.¹⁶⁰ In the book, Drayton describes her experience in the United States and the various barriers she encountered to equal opportunity and personal fulfillment.¹⁶¹ Drayton frames her decision to leave as an act of self-preservation, likening the United States to a narcissistic, abusive partner.¹⁶² The murder of Trayvon Martin was the proverbial straw that prompted Drayton to move permanently to Trinidad and Tobago, her country of birth that she had left at the age of four.¹⁶³ The difficulties that accompany Black female personhood in the United States also led Lakesha Ford to emigrate to Ghana.¹⁶⁴ In Ghana, “I don’t have to think of myself as a Black woman and everything that comes with that,” Ford remarked, “[h]ere I am just a woman.”¹⁶⁵

The “return” migration of Black Americans to Africa is not a new phenomenon. Indeed, unenslaved Black people, with the encouragement of the U.S.-government-supported American Colonization Society, began settling in present-day Liberia in 1822, with migration continuing throughout the nineteenth century.¹⁶⁶ This “Back-to-Africa” movement gained traction in the 1930s when dire economic conditions led to renewed interest in out-migration, particularly among the poor and working class.¹⁶⁷ But Black Americans have also departed for countries outside of Africa in hopes that they would suffer less discrimination there. For example, more than thirty years ago, Anthony Baggette moved to Germany after being pulled over by Cincinnati police simply because he “fit the description” of a suspect in a convenience store robbery—namely, that he was a Black male.¹⁶⁸ Despite experiencing institutional racism in Germany, Baggette contends that he feels safer there than in the United States.¹⁶⁹

160. TIFFANIE DRAYTON, *BLACK AMERICAN REFUGEE: ESCAPING THE NARCISSISM OF THE AMERICAN DREAM 2* (2022).

161. *Id.* at 183 (“It was growing increasingly apparent to me that there were no heights to which a Black woman could climb without the very real threat of a single shove or kick sending her violently tumbling down and crashing into hardship.”).

162. *Id.* at 4-5, 34.

163. Drayton, *supra* note 6.

164. Hjelmgaard, *supra* note 152.

165. *Id.*

166. Press Statement, Ned Price, U.S. Dep’t of State Spokesperson, Bicentennial of the Arrival of the First Free Black Americans to Providence Island, Liberia (Jan. 7, 2022), <https://www.state.gov/bicentennial-of-the-arrival-of-the-first-free-black-americans-to-providence-island-liberia/> [<https://perma.cc/2QV9-44TS>].

167. Michael W. Fitzgerald, “*We Have Found a Moses*”: Theodore Bilbo, Black Nationalism, and the Greater Liberia Bill of 1939, 63 J. S. HIST. 293, 293-95 (1997).

168. Hjelmgaard, *supra* note 152.

169. *Id.*

Many decades before Baggette, a cohort of prominent Black Americans, including James Baldwin, Richard Wright, and Josephine Baker, all traveled to France and spent significant periods of their lives there.¹⁷⁰ In an essay titled *The Discovery of What It Means to Be an American*, Baldwin wrote, “I left America because I doubted my ability to survive the fury of the color problem here.”¹⁷¹ Wright described Paris as a place “where your color is the least important thing about you” and expressed surprise and appreciation at the “absence of race hate” in the city.¹⁷² For these Black Americans, therefore, their moves abroad provided some relief from the racism they experienced in the United States.¹⁷³

Exit migration by U.S. minorities is not limited to Black Americans. Rising antisemitism, fueled by domestic social and political tensions, has led Jewish Americans to explore relocation opportunities in other countries.¹⁷⁴ In 2019, the Anti-Defamation League (ADL) registered the highest number of antisemitic incidents in the United States in four decades.¹⁷⁵ The lead-up to the 2020 U.S. presidential election further stoked concerns among those who feared the possibility of civil conflict and the resulting impact on Jews, particularly given the growth in extremism.¹⁷⁶ The tally of antisemitic incidents has continued to mount, with the ADL audit recording 3,697 incidents in 2022, a seventy-five

170. *Id.*

171. JAMES BALDWIN, *NOBODY KNOWS MY NAME: MORE NOTES OF A NATIVE SON* 17 (1961).

172. MICHAEL FABRE, *FROM HARLEM TO PARIS: BLACK AMERICAN WRITERS IN FRANCE, 1840-1980* 177 (1991). Today, however, many people of color in France do not share Baldwin’s sentiment, instead saying they have suffered racial discrimination. *See, e.g.*, Robin Richardot, *9 in 10 Black People in Mainland France Say They are Victims of Racist Discrimination*, LE MONDE (Feb. 15, 2023, 5:16 PM), https://www.lemonde.fr/en/france/article/2023/02/15/91-of-black-people-in-metropolitan-france-say-they-are-victims-of-racist-discrimination_6015940_7.html [<https://perma.cc/VHL7-JYKJ>] (reporting that eighty-five percent of Black and mixed-raced individuals of Black descent polled had been victims of discrimination based on their skin color).

173. Dillette, *supra* note 99, at 414.

174. Avital Chizhik-Goldschmidt, *‘If Not Now, When?’ Thousands of American Jews Apply to Move to Israel in Pandemic*, FORWARD (June 2, 2020), <https://forward.com/life/447688/american-jews-aliyah-israel-pandemic/> [<https://perma.cc/C8PZ-YFEX>].

175. In 2019, the Anti-Defamation League “tabulated 2,107 antisemitic incidents throughout the United States.” *Audit of Antisemitic Incidents 2019*, ANTI-DEFAMATION LEAGUE (Apr. 2, 2020), <https://www.adl.org/audit2019> [<https://perma.cc/8XD3-2YP5>]. At the time, this was the highest rate of antisemitic incidents since ADL began tracking such incidents in 1979. *Id.*

176. Ben Sales, *Ahead of the Election, Growing Numbers of US Jews Consider Leaving*, JERUSALEM POST (Oct. 1, 2020, 7:52 PM), <https://www.jpost.com/diaspora/ahead-of-the-election-growing-numbers-of-us-jews-consider-leaving-644183> [<https://perma.cc/J9QS-ZBFS>] (noting that some Jewish leaders were drawing comparisons to Hitler’s rise to power, and that “the moment is awakening deep-seated anxiety about how to ensure [one’s] family’s safety if the worst comes to pass in the United States”).

percent increase from three years prior.¹⁷⁷ These incidents included harassment, vandalism, and assault, and occurred in all fifty states as well as the District of Columbia.¹⁷⁸

These worrisome conditions have led to increased interest among Jewish Americans in migration to Canada, Europe, and Israel.¹⁷⁹ In particular, the aforementioned domestic instability, along with the COVID-19 pandemic, contributed to a significant spike in interest regarding the process of *aliyah*, which provides for automatic conferral of Israeli citizenship to Jews who relocate to Israel.¹⁸⁰ New Jersey-based Michal Geiger and her family chose to pursue *aliyah* in part because of the waves of antisemitism and the possibility of scapegoating.¹⁸¹ Geiger explained that she “[doesn’t] see America welcoming Jews for much longer.”¹⁸² For these Jewish Americans, just like some Black Americans, fragile and increasingly hostile present-day conditions are contributing to their decision to leave the United States.¹⁸³

For others, the experience of growing up as a racial and ethnic minority in the United States can lay the foundation for a decision to depart the country during adulthood.¹⁸⁴ Sociologist Stephen Cho Suh has explored this phenomenon among Korean Americans raised in the United States who chose to relocate to Korea.¹⁸⁵ Suh’s interview subjects experienced various forms of discrimination during their childhoods in the United States, including racist taunts, threats of violence, tokenization,

177. *See Audit of Antisemitic Incidents 2022*, ANTI-DEFAMATION LEAGUE (Mar. 23, 2023), <https://www.adl.org/resources/report/audit-antisemitic-incidents-2022> [<https://perma.cc/Z8R6-4R2Z>].

178. *Id.*

179. Sales, *supra* note 176. Caitlin Hollander, who runs an agency that assists Jews with tracing their genealogies, remarked that: “[A] Jew can never have too many passports It gives you that one little piece of freedom, one little piece of being able to travel freely without having to worry about one more visa, one more restriction” *Id.*

180. Chizhik-Goldschmidt, *supra* note 174. *See infra* notes 285-288 (regarding *aliyah*).

181. Chizhik-Goldschmidt, *supra* note 174.

182. *Id.*

183. Ironically, while Jewish Americans are exploring Israeli citizenship, some Israeli citizens are pursuing citizenship by descent in Europe, as they seek an “insurance policy” in case Israel ceases to exist. YOSHI HARPAZ, *CITIZENSHIP 2.0: DUAL NATIONALITY AS A GLOBAL ASSET* 98 (2019). Additionally, interest in *aliyah* among U.S. citizens declined in early 2023, in part because of unstable political conditions in Israel, including protests against the far-right government. Judy Maltz, *Aliyah from Russia Spikes Amid Dramatic Drop in Western Immigration to Israel*, HAARETZ (May 7, 2023), <https://www.haaretz.com/israel-news/2023-05-07/ty-article/.premium/immigration-to-israel-from-west-tumbles-amid-political-instability-rising-prices/00000187-f6a4-d3d1-adc7-feed53b70000> [<https://perma.cc/V8EK-78GT>].

184. Suh, *supra* note 100, at 1079.

185. *See id.*

and microaggressions—all resulting in a sense of alienation.¹⁸⁶ At the same time, many of them were immersed in Korean culture and language during their youth.¹⁸⁷ The “othering” that they suffered led them to question their sense of belonging in the United States and to seek out fellow Korean Americans with whom they could connect and relate.¹⁸⁸ Over time, they began to explore life in South Korea through consumption of media and short-term visits to the country, strengthening their connection to the homeland.¹⁸⁹ Ultimately, employment or other professional opportunities precipitated the move to Korea, but prior life experiences—including the experience of marginalization and a connection to Korean culture—had sown the seeds for the return.¹⁹⁰

Finally, as noted above, members of the LGBTQ+ community in the United States have also sought migratory pathways out of the country. Trans people and their allies have watched with concern the proliferation of hostile legislation being introduced at the state level.¹⁹¹ Many jurisdictions have also opted to limit gender-affirming care for trans youth, a move that can have devastating physical and mental health consequences.¹⁹² These developments build upon a pattern of disproportionate societal violence targeting the trans community.¹⁹³

Accordingly, trans folks and other members of the LGBTQ+ community are exploring ways to migrate to countries that offer greater levels of societal acceptance and stronger legal protections. For example, Rynn Willgohs, a trans woman from North Dakota, has been considering ways to emigrate lawfully to Iceland.¹⁹⁴ Willgohs has also founded an organization, TRANSport, to provide assistance to other trans U.S.

186. *Id.* at 1080-81.

187. *Id.* at 1081.

188. *Id.* at 1082-83.

189. *Id.* at 1084.

190. *Id.* at 1085.

191. *Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024*, ACLU, <https://www.aclu.org/legislative-attacks-on-lgbtq-rights#categories> (Mar. 15, 2024) (reporting on bills relating to civil rights, education, health care, public accommodations, and more).

192. *Map: Attacks on Gender Affirming Care by State*, HUM. RTS. CAMPAIGN, <https://www.hrc.org/resources/attacks-on-gender-affirming-care-by-state-map> (Nov. 13, 2023) [<https://perma.cc/43YX-BHKD>].

193. Andrew R. Flores, Ilan H. Meyer, Lynn Langton & Jody L. Herman, *Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017-2018*, 111 AM. J. PUB. HEALTH 726, 728-29 (2021) (sharing findings that “evidence the disproportionate rate of transgender people’s victimization”).

194. Interview with Rynn Willgohs (Mar. 23, 2023) (on file with Tulane Law Review).

citizens who are considering departure from the United States.¹⁹⁵ Along these lines, the Rainbow Railroad, an organization that helps at-risk LGBTQ+ persons relocate to safer environs, has received hundreds of requests for assistance from U.S. citizens since the beginning of 2022.¹⁹⁶

B. Gaps in the Social Safety Net and Geographic Arbitrage

Another category of pressured U.S. citizen migrants comprises those who simply cannot afford to continue living in the United States because of indigence and inadequacies in the social safety net. For people with limited savings or who are relying on Social Security payments and anticipating medical expenses in old age, retirement in the United States without a support system is often impossible.¹⁹⁷ Others have ongoing medical or individualized care needs that are unaffordable in the United States. The conditions of economic vulnerability that these U.S. citizens experience can often be traced to deregulated financial markets that generate instability in housing prices and stock markets and in turn, reduce accrued savings and equity.¹⁹⁸ Lacking other forms of government support, they move overseas so that they can enjoy retirement, pay for ongoing medical expenses, and avoid an unwanted return to the job market.¹⁹⁹ Countries in Latin America, including Ecuador and Mexico, have become popular destinations for these U.S. citizens who are pressured to retire or seek medical care abroad.

1. Pressured Overseas Retirement

Sociologist Matthew Hayes captured the forces that have led older North Americans to relocate to Cuenca, Ecuador. For most of the U.S. citizens he interviewed, economic concerns—including the inability to cover the cost of housing or health care, or simply to enjoy a peaceful retirement—were a significant motivating factor in the decision to exit the United States.²⁰⁰ As Hayes explains, these migrants did not simply make

195. Anya Zoledziowski, *There's a New Group Helping Trans People Flee the US*, VICE NEWS (Apr. 10, 2023, 9:27 AM), <https://www.vice.com/en/article/5d9p73/trans-asylum-transport-group> [<https://perma.cc/5P4L-RN9G>].

196. Nick Logan & Jason Vermes, *This Petition Asks Canada to Grant Asylum to Transgender People from the U.S. Could it Work?*, CBC NEWS (Mar. 17, 2023), <https://www.cbc.ca/news/canada/us-transgender-asylum-petition-1.6779692> [<https://perma.cc/8PCP-DFPZ>].

197. HAYES, *supra* note 82, at 50.

198. *Id.* at 52-53.

199. *Id.*

200. *Id.* at 39 (noting that about three-fourths of the research participants specifically cited economic circumstances in explaining their relocation decision).

poor choices but rather suffered from “bank-fuelled indebtedness, shifting pension conditions, and an unsteady labour market, especially for older workers.”²⁰¹ In short, international migration was the path taken to avoid significant disruptions in the face of the failure of the welfare state.²⁰² Many of the migrants had learned about Ecuador from the magazine *International Living*, which has heavily promoted Cuenca as a retirement destination, emphasizing the desirable lifestyle and quality health care.²⁰³

In his book *Gringolandia*, Hayes shares the story of Colin and his wife, a couple from Oregon who moved abroad in order to afford the retirement they had envisioned.²⁰⁴ Colin refers to himself as an “economic refugee.”²⁰⁵ Although his conditions would not satisfy the legal definition of “refugee,” he uses the term to describe the experience of having to leave the United States with his wife because of “forces beyond their control.”²⁰⁶ In order to sustain the quality of life they had previously enjoyed in the United States, Colin would have needed to work for another ten years.²⁰⁷ Unfortunately, the economic crisis had slashed the accrued equity in their home, and the couple’s only income was from Social Security.²⁰⁸ Although they technically could have remained in the United States, it would have involved a move and a significant change in lifestyle.²⁰⁹ Instead, they left for Ecuador, almost reflexively opting for exit instead of voicing concerns about their condition.

Another couple, Mary and Grant, consider themselves “both economic and medical refugees.”²¹⁰ They had exited the United States for Ecuador in 2012 after several years of unemployment.²¹¹ With savings

201. Matthew Hayes & Rocío Pérez-Gañán, *North-South Migrations and the Asymmetric Expulsions of Late Capitalism: Global Inequality, Arbitrage, and New Dynamics of North-South Transnationalism*, 5 *MIGRATION STUD.* 116, 121 (2017).

202. *Id.* at 129.

203. Ann Miles, *Health Care Imaginaries and Retirement Migration to Cuenca, Ecuador*, 14 *J. LATIN AM. GEOGRAPHY* 39, 42 (2015).

204. HAYES, *supra* note 82, at 38. As Hayes describes, migratory decisions are often shaped by cultural ideals regarding retirement and aging. *Id.* at 37.

205. *Id.* at 36.

206. *Id.*

207. *Id.*

208. *Id.* at 36-37.

209. Hayes & Pérez-Gañán, *supra* note 201, at 120. The decision to depart the United States instead of relocating domestically relates to the concept of internal relocation under refugee law. Under U.S. law, for example, the government may rebut an asylum claim by demonstrating that the applicant could have relocated in their country of origin, provided that such relocation would be “reasonable.” 8 C.F.R. § 208.13(b)(i)(B) (2009). A relocation and major disruption to one’s quality of life, particularly for the elderly, would arguably be unreasonable.

210. HAYES, *supra* note 82, at 42.

211. *Id.*

depleted, Mary needed surgery for cancer, so the couple sold their house.²¹² Relying exclusively on Social Security, their joint income was less than \$2,000 per month.²¹³ They assert that, had they remained in the United States, they would not be able to afford ongoing health care and would have had to make substantial adjustments to their way of life.²¹⁴ Yet another couple, Ray and Simone, faced significant financial difficulties after the recession, living on savings and unemployment benefits.²¹⁵ They too acknowledged that they could have remained in the U.S. had they moved to a “rural or small-town place” but instead chose the urban environment of Cuenca, Ecuador.²¹⁶

U.S. citizens are able to obtain residency visas in Ecuador based on investment or on being a retiree with a steady income.²¹⁷ To qualify for an investment-based visa under Ecuadorian law, migrants must deposit an investment of \$45,000 into an Ecuadorian bank account.²¹⁸ For the retiree visa, the migrant must show proof of monthly income that exceeds \$1,350 per month.²¹⁹ As Hayes reports, however, several of his interviewees reported having barely enough income to meet a then-existing \$800 monthly requirement.²²⁰ Indeed, per an informal survey conducted by the Ecuadorian government in 2013, slightly more than half of the U.S.

212. *Id.*

213. *Id.* at 43.

214. *Id.*

215. *Id.* at 44.

216. *Id.* at 45.

217. Interestingly, these more flexible migration pathways exist in Ecuador because of the 2008 Ecuadorian Constitution, which emphasizes the principle of “universal citizenship” as a response to increasingly restrictive migration regimes in many parts of the world. Hayes & Pérez-Gañán, *supra* note 201, at 118.

218. *Concesión de Visa de Residencia Temporal Inversionista*, PORTAL ÚNICO DE TRÁMITES CIUDADANOS (Sept. 27, 2023), <https://www.gob.ec/mremh/tramites/concesion-visa-residencia-temporal-inversionista> [<https://perma.cc/3PLW-6GJT>]. The law requires an investment equivalent to 100 times the monthly minimum wage for Ecuadorians. *Id.* As of January 1, 2023, that minimum wage is \$450 per month. *Gobierno Sube a \$450 el Salario Básico Para 2023*, EL UNIVERSO (Nov. 30, 2022, 7:11 PM), <https://www.eluniverso.com/noticias/economia/gobierno-sube-a-450-el-salario-basico-para-2023-nota/> [<https://perma.cc/BR4L-2Y5N>].

219. Pursuant to regulations issued in March 2022, the monthly income must be equivalent to or greater than three times the monthly minimum wage for Ecuadorians. Tercer Suplemento del Registro Oficial No. 18, marzo 10, 2022, art. 65, <https://www.gob.ec/sites/default/files/regulaciones/2022-07/Reforma%20reglamento%20LOMH-2022.pdf> [<https://perma.cc/H9YZ-4FPW>] (Ecuador). An additional \$250 in income is required for each dependent accompanying the visa-holder. *Id.*

220. HAYES, *supra* note 82, at 49; Jason Scott, *Ecuador's Visa Changes 2022*, EXPATS ECUADOR, <https://expatsecuador.com/visas/changes-2022> (Feb. 27, 2022) [<https://perma.cc/J3QR-38CX>] (noting that the monthly income requirement had been \$800 but was reduced to \$425 in 2021, and then increased to \$1,275 in 2022).

citizens seeking residency visas reported income of between \$800 and \$1,500 a month, placing these individuals below or near the poverty line in the United States.²²¹ Alex Schafran and Paavo Monkkonen similarly found that some U.S. citizens residing in Mexico had extremely low household income levels, further proving that U.S. citizens overseas include many living on the margins in conditions of economic vulnerability.²²²

As noted previously, Hayes frames this north-to-south move as a type of “geoarbitrage,” whereby individuals earn income and accrue savings in a more developed country but then relocate to a lower-income country where their money, however limited, can go further.²²³ A move to Latin America can also offer a safety net in the face of job loss and other financial challenges.²²⁴ Although some of these migrants could have gotten by in the United States with some adjustments, others were clearly living in poverty and had little choice but to exit the country.

2. Pressured Exit for Long-Term Medical Care

As reflected in the narratives above, the high cost of medical care can exacerbate the economic vulnerabilities that many U.S. citizens experience. For others, unaffordable health-related costs and insufficient insurance coverage are the primary drivers of exit.²²⁵ Indeed, paying for medical care in the United States can entail a choice between forgoing treatment or potentially finding oneself in bankruptcy.²²⁶ Crowded emergency rooms, bed and prescription drug shortages, and lack of staff further contribute to the inaccessibility of health care.²²⁷ These conditions

221. HAYES, *supra* note 82, at 49.

222. Schafran & Monkkonen, *supra* note 140, at 230.

223. HAYES, *supra* note 82, at 41.

224. *Id.* at 45-46.

225. Matthew D. Dalstrom, *Winter Texans and the Re-Creation of the American Medical Experience in Mexico*, 31 MED. ANTHROPOLOGY 162, 163 (2012). Job losses and other sequelae of market volatility can exacerbate these conditions. Andrea Whittaker, Lenore Manderson & Elizabeth Cartwright, *Patients Without Borders: Understanding Medical Travel*, 29 MED. ANTHROPOLOGY 336, 341 (2010).

226. Dalstrom, *supra* note 225, at 162.

227. *Id.* The COVID-19 pandemic has placed an enormous strain on the U.S. health care system, with surges leading to crowded facilities and acute staff shortages due to waves of staff resignations. See Ed Yong, *Why Health-Care Workers Are Quitting in Droves*, ATLANTIC (Nov. 16, 2021), <https://www.theatlantic.com/health/archive/2021/11/the-mass-exodus-of-american-health-care-workers/620713/> [https://perma.cc/K8SX-C83V]. More recently, the United States has experienced shortages of critical pharmaceuticals, including treatments for cancer and ADHD. German Lopez, *Prescription Drug Shortages*, N.Y. TIMES (May 18, 2023), <https://www.nytimes.com/2023/05/18/health/prescription-drug-shortages.html>.

have generated a burgeoning “medical tourism”²²⁸ or “medical travel”²²⁹ industry, in which U.S. citizens travel temporarily overseas to receive treatment or undergo medical procedures. Although the precise estimates vary considerably, hundreds of thousands of U.S. citizens make trips abroad for medical care each year.²³⁰

While many are making short-term visits, some U.S. citizens are permanently relocating to other countries for lower-cost medical services. Access to high-quality, affordable health care is already a key consideration in selecting an overseas retirement destination.²³¹ In some cases, anticipated long-term health care needs may tip the scales in favor of a move abroad. These permanent moves for medical reasons (along with medical travel generally) are enabled by core forces of globalization, which facilitate cross-border movement and communication, but also arguably by state failures to provide adequate support to vulnerable populations.²³²

For example, some of the U.S. citizens who relocated to Cuenca, Ecuador did so specifically because of the cost of health care.²³³ Anthropologist Ann Miles interviewed two couples in their early sixties who were not yet eligible for Medicare yet needed to support a family member with a disability.²³⁴ Providing this care while also maintaining their jobs (and thus their own health insurance) was simply untenable in

com/2023/05/18/briefing/drug-shortages-adderall-prescription.html [https://perma.cc/C6CU-GHVU].

228. “Medical tourism” describes the practice of undergoing medical procedures outside of the United States because they are substantially less expensive, even when one is required to pay out of pocket. Arthur Chambers, *Trends in U.S. Health Travel Services Trade*, U.S. INT’L TRADE COMM’N EXEC. BRIEFING ON TRADE (Aug. 2015), https://www.usitc.gov/publications/332/executive_briefings/chambers_health-related_travel_final.pdf [https://perma.cc/MXP6-BUJ3]. Procedures such as knee replacements, root canals, and even in vitro fertilization occur in countries including Mexico, Colombia, Thailand, and the Philippines. Roger Sands, *Americans Are Flocking to Other Countries for Medical Procedures*, FORBES (Aug. 6, 2021, 7:37 AM), <https://www.forbes.com/sites/rogersands/2021/08/06/americans-are-flocking-to-other-countries-for-medical-procedures/?sh=436697c17ba3> [https://perma.cc/2WBB-PD9R].

229. Some scholars have suggested that the more appropriate term for this phenomenon is “medical travel,” since tourism, if any, is incidental to the core purpose of obtaining medical services. Dalstrom, *supra* note 225, at 163.

230. *Compare Your Health Abroad*, U.S. DEP’T OF STATE, <https://travel.state.gov/content/travel/en/international-travel/before-you-go/your-health-abroad.html> (Mar. 5, 2024) [https://perma.cc/25SQ-YKKC] (“Between 150,000 and 320,000 U.S. citizens travel abroad for medical care each year.”), *with* Sands, *supra* note 228 (estimating that 780,000 U.S. residents sought dental or medical care abroad in 2019).

231. Miles, *supra* note 203, at 40.

232. Whittaker et al., *supra* note 225, at 338.

233. *Id.*

234. Miles, *supra* note 203, at 43.

the United States, whereas retirement in Cuenca was affordable.²³⁵ Mexico is another destination where less affluent U.S. citizens have begun to retire long term.²³⁶ In their study of U.S. citizen retirees in Mexico, Sunil et al. interviewed a woman who moved to Mexico to find affordable care for her husband who suffered from Parkinson's and required around-the-clock attention.²³⁷

Mexico has also become a destination where U.S. citizens can receive affordable nursing home care. The *Arizona Republic* in 2007 profiled several U.S. citizens who moved to Mexico for such care, attracted by the low costs, temperate climate, and friendly, English-speaking care providers.²³⁸ Richard Slater, for example, moved from Las Vegas to Chapala, Mexico where he received accommodations, meals, and twenty-four-hour care at a nursing home for an extremely affordable rate.²³⁹ His medical needs, including insulin for diabetes, were covered by a modest annual payment that provided him membership in the Mexican Social Security Institute (IMSS), a government entity that administers medical care throughout the country.²⁴⁰ Yet another U.S. citizen whose mother resides in a Mexican nursing home explained that placement of his mother in the Mexican home “kept [their] family finances from falling off a cliff.”²⁴¹

235. *Id.*

236. Schafran & Monkkonen, *supra* note 140, at 232.

237. Sunil et al., *supra* note 80, at 500.

238. Chris Hawley, *Seniors Head to Mexico for Cheaper Nursing Care*, ARIZ. REP. (Aug. 16, 2007), <http://www.banderasnews.com/0708/hb-nursingcare.htm> [<https://perma.cc/NBZ9-SS2X>].

239. *Id.* At the time, Slater was paying only U.S. \$550 per month. *Id.*

240. *Id.* Per the *Arizona Republic*, Slater was paying \$150 for annual membership in IMSS in 2007. *Id.* Despite Slater's satisfaction, the IMSS has struggled to provide essential health services in a timely fashion. Svetlana V. Doubova, Zoé Alejandro Robledo-Aburto, Célida Duque-Molina, Gabriela Borrayo-Sánchez, Margot González-Léon, Ricardo Avilés-Hernández, Saúl Eduardo Contreras-Sánchez, Hannah H. Leslie, Margaret Kruk, Ricardo Pérez-Cuevas & Catharine Arsenault, *Overcoming Disruptions in Essential Health Services During the COVID-19 Pandemic in Mexico*, 7 *BMJ GLOB. HEALTH* (2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8905410> [<https://perma.cc/SR2W-HWVP>]. Prior to the pandemic, “IMSS faced fundamental challenges that resulted in downward trends in essential services.” *Id.* The pandemic only accelerated this trend and caused the backlog in services to increase. *Id.*

241. *Id.* Scholars from Europe have documented the similar outsourcing of long-term elderly care to countries including Poland and Thailand, enabled by disparities in wealth and cost of living between Western Europe and these countries. *See, e.g.*, Karin Schwiter, Jill Brüttsch & Geraldine Pratt, *Sending Granny to Chiang Mai: Debating Global Outsourcing of Care for the Elderly*, 20 *GLOB. NETWORKS* 106, 106, 117 (2020) (noting the growing elderly population in Germany, the substantial costs involved, and the allure of relatively affordable care in Thailand).

More recent accounts confirm that basic affordability continues to drive economically vulnerable U.S. citizens to nursing facilities in Mexico.²⁴² San Diego resident Susan Cusick found herself unable to cover the cost of care in the United States and placed her mother in a facility across the border in Rosarito, Mexico.²⁴³ Peter Fowler, a nonagenarian resident of a care facility in Mexico, quipped that he sought care in Mexico because he “was running out of money before [he] ran out of months.”²⁴⁴ Currently, most assisted living facilities in Mexico charge between U.S. \$1,000-\$2,000 per month²⁴⁵—substantially less than the cost of comparable facilities in the United States.²⁴⁶ The current fee for individuals in their sixties to obtain an annual membership in Mexico’s IMSS is \$19,050 pesos,²⁴⁷ or approximately U.S. \$1,140. Additionally, Mexican law provides for a specific migration pathway for U.S. citizen retirees, allowing for conferral of temporary permanent residence upon showing sufficient earnings to cover their expenses while in Mexico, including proof of a job or pension that has provided at least U.S. \$5,458.95 in monthly income, after taxes, for the previous six months.²⁴⁸

242. In a related phenomenon, some U.S. citizens are consistently departing the country (but not permanently relocating) to address their medical needs. Anthropologist Matthew Dalstrom has examined the phenomenon of Texas residents who reside near the U.S.-Mexico border and who travel to the Mexican city of Nuevo Progreso for lower-cost prescription drugs, dental care, and physician visits. Dalstrom, *supra* note 225, at 163. Empirical studies have documented other advantages apart from affordability to seeking care in Mexico, including shorter wait times, more holistic care, and the availability of a wider range of treatments and medication. *Id.* at 165 (citing studies).

243. KPBS Public Media, *In Search of Cheaper Costs, San Diego Seniors Try Assisted Living in Mexico: Part One*, YOUTUBE (May 31, 2017), at 00:43-01:25, https://www.youtube.com/watch?v=_WSdVZjnKQI [<https://perma.cc/9E7H-JAAN>] [hereinafter KPBS Media, Part One].

244. KPBS Public Media, *In Search of Cheaper Costs, San Diego Seniors Try Assisted Living in Mexico: Part Two*, YOUTUBE (June 1, 2017), at 01:47-02:07, <https://www.youtube.com/watch?v=pocV5lq-3Oo> [<https://perma.cc/6XMR-8YHJ>].

245. Mariana Lange, *Assisted Living Facilities in Mexico*, MEX. RELOCATION GUIDE (Sept. 6, 2023), <https://mexicorelocationguide.com/assisted-living-facilities-in-mexico/> [<https://perma.cc/4UGA-RFL6>].

246. Andy Markowitz, *Finding the Right Long-Term Care for Your Loved One*, AARP (Feb. 17, 2022), <https://www.aarp.org/caregiving/basics/info-2020/long-term-care.html> [<https://perma.cc/EQD8-C7SQ>] (noting an average monthly cost of \$4,500 for a private room in an assisted living facility in the United States).

247. *Seguro de Salud Para la Familia*, GOBIERNO DE MÉXICO—IMSS (Mar. 1, 2024), <https://www.imss.gob.mx/derechoH/segurosalud-familia> [<https://perma.cc/QH6F-F6TA>].

248. *Residencia Permanente Jubilado*, GOBIERNO DE MÉXICO, SECRETARIA DE RELACIONES EXTERIORES, CONSULADO DE CARRERA DE MÉXICO EN NUEVA ORLEANS, <https://consulmex.sre.gob.mx/nuevaorleans/index.php/2016-04-12-19-28-49/espanol/residente-permanente-jubilado> [<https://perma.cc/2V2H-VHBQ>] (last visited Mar. 28, 2024). Alternatively, applicants

Notably, narratives about the engagement or friendliness of care providers overseas play some role in these relocation decisions. For example, many of the U.S. citizen retirees that Miles interviewed cited the personalized, attentive care they received from physicians in Ecuador, even absent the latest medical technology.²⁴⁹ For some, the interactions evoked nostalgia for an earlier time in U.S. history when medical practice privileged human relations as opposed to financial or technological considerations.²⁵⁰ Similarly, when explaining her decision to place her mother in a facility in Mexico, Cusick noted that “Mexican culture is much different than . . . American culture” in that “[t]hey practically revere their senior citizens and they take very good care of them.”²⁵¹ Along these lines, promotional video circulated by a Mexican care facility emphasizes “the known warmth of the Mexican” while depicting a uniformed female Mexican caregiver hugging and kissing a seated white resident.²⁵² These descriptions and portrayals suggest a neocolonial dimension of these migratory moves, in which economic advantage, racial hierarchies, yearning for an idealized past, and cultural stereotyping operate in tandem.²⁵³

The types of migration described in this Part, driven by forms of economic or social vulnerability undoubtedly fall along a continuum, with some experiences veering closer to forced migration and others

may show proof of investments or bank accounts with an average balance of at least \$272,947.37 during the previous twelve months). *Id.*

249. Miles, *supra* note 203, at 45-46. The interviewees also emphasized the rapid availability of appointments, even with specialists, and the fact that tests were conducted quickly. *Id.* at 47. But although U.S. citizens received satisfactory care, other scholars have described the adverse impact of an influx of U.S. citizen retirees on health services available to poor(er) Ecuadorians. *Id.* at 50.

250. *Id.* at 46, 49.

251. KPBS Media, Part One, *supra* note 243, at 03:35-03:50.

252. Mexican Charm Real Estate, *Cielito Lindo—Assisted Living Community*, YOUTUBE (July 6, 2013), at 02:16-02:24, <https://www.youtube.com/watch?v=F2pHic4ath4> [<https://perma.cc/BS34-CMAD>].

253. Devon R. Goss, “*It’s Like Going Back in Time*”: *How White Retirees Use Expatriation to Reclaim White Dominance*, 62 SOCIO. PERSPS. 538, 549 (2019) (describing how white retirement migrants to Mexico frame their moves as “a chance to reclaim a superior social standing as white individuals” and nostalgically emphasize the embrace of “traditional values” in Mexico); Sarah Scuzzarello, *Practising Privilege. How Settling in Thailand Enables Older Western Migrants to Enact Privilege Over Local People*, 46 J. ETHNIC & MIGRATION STUD. 1606, 1608, 1625 (2020) (noting how white migrants from Western countries benefit from “global racialised hierarchies that give them access to social status, resources, and institutional and social power” and observing that white retirees in Thailand understand their experience through “stereotypical imaginaries of Thai culture”).

resembling more voluntary forms of lifestyle migration.²⁵⁴ In some ways, however, many are appropriately categorized as a type of pressured migration: but for gaps in the safety net, these U.S. citizens likely would have remained in the United States.²⁵⁵ Given the precarity that these individuals faced, migration overseas offered an affordable pathway to maintain their quality of life in old age.²⁵⁶ The powerful marketing of the international retirement industry and the intangible allure of a distinct culture also propelled many of these migratory moves.²⁵⁷

C. *Deterioration of Domestic Conditions*

In recent years, many U.S. citizens have begun to experience exit pressures because of what they perceive to be a deterioration in social and civic conditions in the United States.²⁵⁸ Much like the Turkish nationals exploring pathways to Greece and Portugal, many of these U.S. citizens are alarmed by the adoption of conservative policies, the rise of nationalist extremism, and the curtailment of individual rights. For others, growing societal violence and general political instability have led them to examine migratory possibilities.²⁵⁹ Many are straddling the options of exit and voice, raising concerns about conditions in the United States while simultaneously exploring pathways out of the country.²⁶⁰ And while all of these persons may not actually migrate abroad,²⁶¹ it is important to monitor this constituency and to understand situational and structural

254. In an example of the latter, Takeyuki Tsuda recounts the experience of relatively privileged Japanese Brazilians who return migrated to Japan. These individuals did not experience serious, day-to-day economic difficulties in Brazil, but the state of the economy prevented them from maximizing use of their salaries and living life to the fullest. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 31.

255. *See, e.g.*, HAYES, *supra* note 82, at 35-38.

256. *See, e.g., id.* at 14-15.

257. *See id.* at 54-58.

258. Interestingly, even before the instability wrought by the Trump Administration, empirical work confirmed some degree of interest in departing the United States for roughly similar reasons. Specifically, in a 2014 survey of U.S. citizens' travel aspirations, forty-nine percent of respondents ranked among their top three motivations for wishing to move abroad their desire "[t]o leave . . . a bad or disappointing (economic, political, personal, health care, etc.) situation in the United States." Helen B. Marrow & Amanda Klekowski von Koppenfels, *Modeling American Migration Aspirations: How Capital, Race, and National Identity Shape Americans' Ideas About Living Abroad*, 54 INT'L MIGRATION REV. 83, 93 (2020).

259. Ashley Fetters Maloy, *Their Ancestors Came to America. After Dobbs, They Want Out.*, WASH. POST (Aug. 29, 2022, 6:00 AM), <https://www.washingtonpost.com/lifestyle/2022/08/29/dual-citizenship-european-union-germany-italy/> [<https://perma.cc/6YEX-34GC>].

260. *Id.*

261. Marrow & Klekowski von Koppenfels, *supra* note 258, at 86.

vulnerabilities that combine to activate the exit planning process.²⁶² Citizenship based on diasporic descent and investment-based migration are vehicles that many of these exit planners have pursued.

Helen Kirbo, a college student in Georgia, began exploring pathways for moving abroad after a draft of the U.S. Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* was leaked in early May 2022.²⁶³ Kirbo, the granddaughter of an Italian immigrant to the U.S., decided to apply for Italian citizenship based on *jus sanguinis* principles as the direct descendant of an Italian citizen.²⁶⁴ Similar to Kirbo, Gabrielle Stoner began exploring dual citizenship after the *Dobbs* decision and the Uvalde, Texas shooting generated concern about possibly raising children in the United States.²⁶⁵ Stoner is exploring citizenship options in Ireland, the country where her mother was born.²⁶⁶

For some, concerns about worsening civic conditions align with the aforementioned safety net concerns. Anthony Del Grosso has begun the process of obtaining Italian citizenship not only because of rights curtailment in the United States, but also to gain access to improved benefits, including paid vacation and health care.²⁶⁷ Del Grosso acknowledged the existence of challenges for those living in Europe but opined that it “[s]eems like the people in power in America are committed to moving backwards. The E.U. is at least committed to moving forward.”²⁶⁸ Cindy Sheahan similarly pursued citizenship in Italy because of political conditions in the United States and economic advantages of living in Europe.²⁶⁹ She noted: “The US has become so violent and backwards, while Europe is safe and cheaper I just want out.”²⁷⁰ Others, including some Jewish Americans, fear they might be scapegoated, given current political and social conditions.²⁷¹ For these

262. *Id.* at 87.

263. Maloy, *supra* note 259.

264. *Id.*

265. *Id.*

266. *Id.*

267. *Id.*

268. *Id.*

269. Alice Kantor, *How to Get Irish and Italian Citizenship: More Americans Apply for EU Passports*, BLOOMBERG L. NEWS (Oct. 19, 2022, 9:00 AM), <https://www.bloomberg.com/news/articles/2022-10-19/how-to-get-irish-and-italian-citizenship-more-americans-apply-for-eu-passports>.

270. *Id.*

271. *Cf.* Jeffrey Salkin, *Commentary: When Is It Time to Leave America?*, SALT LAKE TRIB. (June 29, 2022, 10:32 AM), <https://www.sltrib.com/religion/2022/06/29/commentary-when-is-it-time> (describing how the *Dobbs* ruling, gun violence, and political extremism have led American

individuals, the history of targeting minorities in the context of domestic instability is a powerful reminder of the need to engage in exit planning.²⁷²

This trend of U.S. citizens who are concerned about the state of affairs in the country, and thus are seeking to exit, has several historical antecedents. Immediately after the Civil War, thousands of Confederate soldiers and their family members immigrated to Brazil, hoping to perpetuate their preferred lifestyle in a country where slavery remained legal.²⁷³ During the Vietnam War, approximately 50,000 U.S. citizens who opposed the war traveled northward to Canada.²⁷⁴ In recent times, the possibility of a similar trend began to manifest again around the 2016 and 2020 presidential elections, with many casually claiming an intent to migrate should Donald Trump win.²⁷⁵ In recent years, however, as domestic tensions have ripened into palpable conditions of vulnerability, significant numbers of U.S. citizens have converted this rhetoric into reality in the form of an actual move from the country or, at a minimum, intentional exit planning.

Although comprehensive data is not available, journalistic reports suggest that these present-day U.S. citizen exit planners tend to be progressive-leaning and/or members of minority groups. Most possess some economic resources as needed to navigate and apply for status in another country. Indeed, the very ability to effectuate a planned international move, which these individuals are contemplating, requires some degree of privilege. While this profile of “privileged progressives” would seem to align with current country conditions, the actual reality may be far more complex. A 2014 study conducted by Helen Marrow and Amanda Klekowski von Koppenfels revealed that the specific desire to leave the United States because of adverse circumstances was more closely associated with having only a high school degree, not possessing a U.S. passport, lacking prior tourism experience, and considering the

Jews to consider relocating to another country, and noting the history of exit by Jews in the face of unfavorable and deteriorating conditions).

272. Sales, *supra* note 176 (quoting a Canadian immigration lawyer whose Jewish American clients remark, “We’ve seen this before . . . I’m not going to get stuck. . . . I don’t want to wait and see what happens. My grandparents left Poland in World War II”).

273. Jordan Brasher, *Brazil’s Long, Strange Love Affair with the Confederacy Ignites Racial Tension*, WORLD (May 6, 2019, 3:15 PM), <https://theworld.org/stories/2019-05-06/brazils-long-strange-love-affair-confederacy-ignites-racial-tension> [<https://perma.cc/X7VF-HKZG>].

274. JOHN HAGAN, NORTHERN PASSAGE: AMERICAN VIETNAM WAR RESISTERS IN CANADA 3 (2001).

275. See Van Dam, *supra* note 7 (reporting that search interest in “move to Canada” reached an all-time peak in 2016 after the election of President Trump, and that a similar spike in search interest occurred during the 2020 election).

U.S. economy to be in poor shape.²⁷⁶ These accounts suggest that situational and structural vulnerabilities linked to distinct economic, social, and political forces in the United States may be causing very disparate constituencies to all explore exit options.

IV. EXIT PATHWAYS

The narratives above illustrate the varying conditions of vulnerability that are prompting U.S. citizens to permanently exit the country or to plan for a possible departure. The migratory vehicles they are using to effectuate their exits are equally diverse, and include: (1) migration pathways for diasporic descendants, (2) migratory options for retirees and investors, (3) conventional immigration avenues, including employment- and family-based processes, and even (4) undocumented status.

As detailed below, acquisition of citizenship is an important pathway for U.S. citizens experiencing exit pressures. In some instances, U.S. citizens actively seek out a second nationality based on ancestry, investment, or another ground. In other cases, like that of Tiffanie Drayton, the U.S. citizen relies upon pre-existing status in another country for departure.²⁷⁷ Since U.S. law does not proscribe dual nationality, one can typically acquire citizenship from another country without jeopardizing one's U.S. citizen status.²⁷⁸ For other U.S. citizens, however, acquiring another citizenship may be untenable or undesirable, so pursuit of residency in another country, or even just a temporary visa, becomes the mechanism for exit.

A. Migration Pathways for Diasporic Descendants

Some U.S. citizens have availed themselves of foreign laws and policies that enable second- and third-generation (and even later-generation) diasporic descendants to return to their ethnic homelands.²⁷⁹ Underlying these laws is a rationale of ethnic affinity that—despite their

276. Marrow & Klekowski von Koppenfels, *supra* note 258, at 101. The same study found that the aspiration to live abroad generally was associated with respondents who were younger, college-educated, considered themselves politically liberal, and reported a “less than a very strong American identity.” *Id.* at 96.

277. DRAYTON, *supra* note 160, at 1-2.

278. *Dual Nationality*, U.S. DEP'T OF STATE, <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/Relinquishing-US-Nationality/Dual-Nationality.html> [https://perma.cc/2UFE-WVLA] (last visited Mar. 27, 2024).

279. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 27. This builds upon efforts to shore up connections with and loyalty from first-generation migrants. *Id.*

upbringing in another land—the descendants share a cultural connection with their ethnic homeland.²⁸⁰ At times, governments frame these policies in terms of a “right to return” or at least an obligation on the part of the state to diasporic descendants living overseas.²⁸¹ Others cynically describe diasporic return as a “symptom of global capitalism,”²⁸² suggesting that the rhetoric of cultural affinity is used as a veneer to attract migrants who can address labor market shortages or make other economic contributions.²⁸³ Regardless of the countries’ motivations, for U.S. citizens who have experienced or fear discriminatory mistreatment, diasporic migration pathways can be a very attractive option.

Diasporic return programs confer different types of immigration status, often aligned with the motivations for the program. Countries that are motivated by a true sense of ethnic or religious affinity and nation building tend to confer immediate citizenship upon return.²⁸⁴ This is the case in Israel, where the permissive Law of Return allows anyone who is Jewish (defined as born to a Jewish mother or converted) to immigrate and become a citizen.²⁸⁵ In Israel, the right of return is framed as a “natural” right as opposed to an entitlement offered by the state.²⁸⁶ The process of return of the Jewish diaspora, *aliyah* (meaning “ascent” or “pilgrimage” in Hebrew), is overseen by the Israeli government’s Ministry of Aliyah and Integration.²⁸⁷ Additionally, the Jewish Agency for Israel (JAI) provides consultations to those contemplating the move and

280. *Id.* at 28.

281. *Id.*

282. Suh, *supra* note 100, at 1074.

283. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 28-29, 34; John D. Skrentny, Stephanie Chan, Jon Fox & Denis Kim, *Defining Nations in Asia and Europe: A Comparative Analysis of Ethnic Return Migration Policy*, 41 INT’L MIGRATION REV. 793, 795, 798 (2007). Certainly, ethnic return migration can be an attractive solution for countries that seek to address market needs, while also seeking to preserve some degree of ethnic homogeneity. Takeyuki (Gaku) Tsuda, *Ethnic Return Migration and the Nation-State: Encouraging the Diaspora to Return ‘Home’*, 16 NATIONS & NATIONALISM 616, 619 (2010). East Asian ethnic nation-states, including Japan, South Korea, China, and Taiwan, “have invited back their diasporic descendants mainly for economic purposes.” *Id.* at 622. Underlying this policy approach is the view that more permissive immigration policies would generate racial and cultural diversity that might ultimately lead to societal tensions. *Id.* at 619.

284. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 29.

285. *The Law of Return*, JEWISH AGENCY FOR ISR., <https://archive.jewishagency.org/first-steps/program/5131> [<https://perma.cc/W838-8FHU>] (last visited Mar. 27, 2024).

286. Christian Joppke & Zeev Rosenhek, *Contesting Ethnic Immigration: Germany and Israel Compared*, 43 EUR. J. SOCIO. 301, 308 (2002).

287. *Ministry of Aliyah and Integration*, GOV’T OF ISR., https://www.gov.il/en/departments/ministry_of_aliyah_and_integration/govil-landing-page [<https://perma.cc/5LFL-DH9Z>] (last visited Mar. 27, 2024).

offers would-be immigrants a free, one-way flight to Israel.²⁸⁸ According to JAI, 3,414 people from the United States chose to make Israel their home in 2022 pursuant to the Law of Return.²⁸⁹

Notably, Israeli law is not the only option available for members of the Jewish diaspora; both Spain and Portugal offer pathways to citizenship to descendants of Jews who experienced persecution in prior centuries.²⁹⁰ Furthermore, although not limited to Jews, both Germany and Austria have enacted laws that permit descendants of victims of Nazi persecution to gain citizenship.²⁹¹ As of August 2022, more than 3,000 U.S. citizens had acquired Austrian citizenship under this law.²⁹² Like others who are contemplating departure from the United States, some Jews seeking

288. *Aliyah*, JEWISH AGENCY FOR ISR., <https://www.jewishagency.org/aliyah/> [<https://perma.cc/WC7U-LH3S>] (last visited Mar. 27, 2023).

289. *2022 Impact Report*, JEWISH AGENCY FOR ISR., <https://www.jewishagency.org/2022-impact-report> [<https://perma.cc/JJV9-L2JF>] (last visited Mar. 27, 2024). According to the Jerusalem Post, some 70,000 *olim* (immigrants on *aliyah*) arrived in Israel in 2022, marking the largest number in two decades. Zvika Klein, *Israel Receives 70,000 New Immigrants in 2022, Highest Rate in Decades*, JERUSALEM POST (Dec. 22, 2022, 8:11 PM), <https://www.jpost.com/aliyah/article-725547> [<https://perma.cc/8Q76-SWU8>].

290. Pinto & David, *supra* note 109, at 794. *See also* Granting of Spanish Nationality to Sephardic Jews from Spain n. 151 (B.O.E. 2015, 7045) (Spain) (providing a pathway to Spanish citizenship for Sephardic Jews who apply prior to an October 1, 2018, deadline); Decreto-Lei n. 30-A/2015 de 27 de fevereiro, *supra* note 110. *But see* Nicholas Casey, *Spain Pledged Citizenship to Sephardic Jews. Now They Feel Betrayed*, N.Y. TIMES (July 28, 2021), <https://www.nytimes.com/2021/07/24/world/europe/spain-jews-citizenship-reparations.html> [<https://perma.cc/HTM5-GHSF>] (explaining that starting in 2021 thousands of Sephardic naturalization applications were denied by Spain and many thousands more had remained adjudicated for years).

291. STAATSBÜRGERSCHAFTSGESETZ [STBG] [CITIZENSHIP ACT], BUNDESGESETZBLATT [BGBL] No. 311/1985, as amended, § 58c, <https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005579&Artikel=&Paragraf=58c&Anlage=&Uebergangsrecht=> [<https://perma.cc/DX8W-A3TJ>] (Austria); STAATSANGEHÖRIGKEITSGESETZ, [STAG] [NATIONALITY ACT], July 22, 1913, REICHSGESETZBLATT [RGBL] at 583, § 15, last amended by Gesetz [G], Aug. 12, 2021, BGBL I at 3538, art. 1 (Ger.), https://www.gesetze-im-internet.de/englisch_stag/englisch_stag.html [<https://perma.cc/X4TM-BWTU>]. Germany expanded the reach of this law in June 2021, permitting a broader range of individuals to apply for citizenship. *See German Citizenship for Descendants of Victims of Nazi Persecution*, AROLSEN ARCHIVES, <https://arolsen-archives.org/en/news/citizenship-for-victims-of-nazi-persecution/> [<https://perma.cc/XXQ9-BFJY>] (last visited Mar. 3, 2024).

292. Tasha Prados, *My Grandparents Fled the Holocaust, and I Returned to Their Homeland After Reclaiming Their Citizenship—Here's What It Was Like*, TRAVEL & LEISURE (Aug. 6, 2022), <https://www.travelandleisure.com/better-together/traveling-to-austria-germany-reclaim-citizenship> [<https://perma.cc/WS98-33ML>]. Per a report from the Austrian government, 718 U.S. citizens naturalized under this law during the first nine months of 2022. *See* Press Release No. 12 935-233/22, Statistics Austria, Plus 45 % in Naturalisations from January to September 2022, at 1 (2022), <https://www.statistik.at/fileadmin/announcement/2022/11/20221114EinbuengerungenQ32022.EN.pdf> [<https://perma.cc/4SNF-BCPX>].

Austrian citizenship are motivated by the fear of growing antisemitism in the United States along with the benefits of living and working in Europe, including superior health benefits and work-life balance.²⁹³

Several European countries, including Ireland and Italy, provide a pathway to certain U.S. citizens who are diasporic descendants.²⁹⁴ Via a process called Foreign Births Registration, Ireland extends citizenship to those whose grandparents were born in Ireland, among others.²⁹⁵ In the first six months of 2022, 3,284 U.S. citizens applied for an Irish passport, more than double the number in the same period in 2021.²⁹⁶ According to the Central Statistics Office in Ireland, the 2022 census revealed a sixty-three percent increase in dual nationality in Ireland when compared with the 2016 census data, with Irish Americans representing the second largest group of dual nationals.²⁹⁷ Consistent with these statistics, the organization Irish Citizenship Consultants, which facilitates access to dual citizenship, has reported a significant uptick in interest among U.S. citizens since 2016.²⁹⁸

Italy similarly provides for the possibility of citizenship by bloodline when certain conditions are met.²⁹⁹ Between 1998 and 2011, Italy conferred citizenship to more than one million people via this process with a substantial number of applications still awaiting adjudication.³⁰⁰ The Italian American Citizenship Assistance Program reported in fall 2022 that inquiries from U.S. citizens interested in applying for Italian

293. Prados, *supra* note 292.

294. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 29.

295. *Citizenship*, IRELAND DEP'T OF FOREIGN AFFS., <https://www.ireland.ie/en/dfa/citizenship/> [<https://perma.cc/WDQ5-BD3B>] (last visited Mar. 28, 2024).

296. Kantor, *supra* note 269.

297. *Census of Population 2022—Summary Results: Migration and Diversity*, CENT. STATS. OFF. (May 30, 2023, 11:00 AM), <https://www.cso.ie/en/releasesandpublications/ep/p-cpsr/censusofpopulation2022-summaryresults/migrationanddiversity/> [<https://perma.cc/G5HU-F7LP>].

298. Maloy, *supra* note 259; Kantor, *supra* note 269 (reporting that the Irish Citizenship Consultants experienced “a 300% increase in enquiries in the week following the Roe v. Wade decision”). See also Interview with Kelly Cordes, Irish Citizenship Consultants (Feb. 3, 2023) (on file with *Tulane Law Review*).

299. *Citizenship Jure Sanguinis*, EMBASSY OF IT. IN WASH., D.C., <https://ambwashingtondc.esteri.it/en/servizi-consolari-e-visti/servizi-per-il-cittadino-straniero/cittadinanza/cittadinanza-iure-sanguinis-2/> [<https://perma.cc/CCA5-GL5B>] (last visited Mar. 27, 2024).

300. Guido Tintori, *Italy: The Continuing History of Emigrant Relations*, in *EMIGRATION NATIONS: POLICIES AND IDEOLOGIES OF EMIGRANT ENGAGEMENT* 126, 142 (Michael Collyer ed., 2013).

citizenship were double those made in 2021.³⁰¹ Other European countries that provide for citizenship based on extended family history include Hungary and Poland.³⁰²

The recent surge in U.S. citizens seeking status in Europe may be a harbinger of a much larger trend. Pursuant to one estimate, approximately forty percent of U.S. citizens could be eligible for citizenship via ancestry from countries in the European Union.³⁰³ For example, Spanish citizenship may be available not only to persons whose immediate ancestors migrated from Spain, but also to Latinx Americans and Filipinos, provided they reside in Spain for two years.³⁰⁴ Approximately thirty-three million Americans could be eligible for citizenship in Ireland.³⁰⁵ Italian citizenship may be an option for about seventeen million Americans.³⁰⁶

Moreover, in recent years, Ghana has actively courted Black U.S. citizens, encouraging them to resettle in that country.³⁰⁷ Via a program called the Year of the Return, Ghanaian President Nana Akufo-Addo in 2019 actively welcomed tourists from the United States whose ancestors had been enslaved centuries prior.³⁰⁸ The initiative coincided with the 400-year anniversary of the commencement of the transatlantic slave trade in 1619.³⁰⁹ As part of the Year of the Return, the Ghanaian government facilitated access to property in Ghana and made the process of acquiring citizenship easier.³¹⁰ It is unsurprising that Ghana has become a site for

301. Maloy, *supra* note 259; Kantor, *supra* note 269 (“Since the end of last year[,] we’ve noticed an incredible increase in demand, and politics is the main reason people cite for looking to get out.”).

302. Joe Sills, *These Countries Will Grant Americans Citizenship Based on Their Ancestry*, FORBES (Sept. 30, 2020, 2:31 PM), <https://www.forbes.com/sites/joesills/2020/09/30/these-countries-will-grant-you-citizenship-based-on-your-ancestry/?sh=5b88910e1266> [https://perma.cc/XTH6-7FQE].

303. Laura Begley Bloom, *40% of Americans Might Be Eligible for Dual Citizenship (And a Second Passport): Here’s What You Need to Know*, FORBES (Feb. 24, 2022, 6:00 AM), <https://www.forbes.com/sites/laurabegleybloom/2022/02/24/surprise-40-americans-might-be-able-to-claim-european-citizenship-and-a-second-passport-heres-what-you-need-to-know/?sh=1f0c703f5b7d>.

304. *Id.*

305. *Id.*

306. *Id.*

307. Paquette, *supra* note 156.

308. Dillette, *supra* note 99, at 413.

309. *Id.*

310. Paquette, *supra* note 156.

diasporic return, given that it has long been a site for pan-African activism.³¹¹

The Ghana Immigration Act of 2000, which contains a provision regarding the Right of Abode, facilitates return migration to the country.³¹² The Right of Abode clause allows permanent residence to be conferred upon “a person of African descent in the Diaspora,” among others.³¹³ Beyond simply being a member of the diaspora, an applicant must meet other eligibility criteria relating to character, criminal history, financial means, potential for contribution, and age.³¹⁴ Permanent residents in Ghana may then apply for citizenship based on naturalization after residing in the country for six years and satisfying other requirements relating to language ability, assimilation, and character.³¹⁵ At an event in November 2019, 126 African Americans and Afro-Caribbeans received their Ghanaian citizenship.³¹⁶ According to recent reports, about 5,000 U.S. citizens live in Ghana.³¹⁷

As recounted above, some Asian Americans also have pursued diasporic return migration, but many of the destination countries confer only visas and not citizenship.³¹⁸ Under Japanese immigration law, persons of Japanese descent (up to the third generation) are permitted access to the Japanese labor market and can receive three-year renewable visas.³¹⁹ South Korea also makes employment and residence available for

311. Katharina Schramm, *Diasporic Citizenship Under Debate: Law, Body, and Soul*, 61 CURRENT ANTHROPOLOGY S210, S210 (2020).

312. *Id.* at S211; Immigration Act, 2000 (Act 573), § 17, <https://www.gis.gov.gh/ACTS%20AND%20REGULATIONS/ACT%20573.pdf> (Ghana) [<https://perma.cc/DB9E-PUPP>].

313. Schramm, *supra* note 311, at S211-S212.

314. *Id.* at S215. Immigration Act of 2000 (Act 573), § 17, [https://www.bcp.gov.gh/acc/registry/docs/IMMIGRATION%20ACT,%202000%C2%A0%20\(ACT%20573\).pdf](https://www.bcp.gov.gh/acc/registry/docs/IMMIGRATION%20ACT,%202000%C2%A0%20(ACT%20573).pdf) [<https://perma.cc/T9A4-37DU>] (Ghana) (requiring “good character as attested to by two Ghanaians” of certain professions, no convictions with more than twelve months of imprisonment, independent means, capability of “substantial contribution to the development of Ghana,” and age of majority to be considered for the Right of Abode as a person in the diaspora); *see also Right of Abode*, MINISTRY OF THE INTERIOR REPUBLIC OF GHANA, <https://www.mint.gov.gh/services/right-of-abode> [<https://perma.cc/4249-Q47N>] (last visited Mar. 27, 2024) (requiring submission of an application letter and relevant documents).

315. The Citizenship Act, 2000 (Act 591), § 14 <https://www.gis.gov.gh/ACTS%20AND%20REGULATIONS/ACT%20591.pdf> (Ghana).

316. Schramm, *supra* note 311, at S213-S214.

317. Savali, *supra* note 151.

318. Tsuda, *Why Does the Diaspora Return Home?*, *supra* note 101, at 29-30.

319. Skrentny et al., *supra* note 283, at 798; *see also* IMMIGR. SERVS. AGENCY, INITIATIVES TO ACCEPT FOREIGN NATIONALS AND FOR THE REALIZATION OF SOCIETY OF HARMONIOUS COEXISTENCE 2 (Dec. 2023), <https://www.moj.go.jp/isa/content/930004452.pdf> [<https://perma.cc/8MVN-L8GJ>] (defining the “[l]ong [t]erm [r]esident” category as including “[t]hird generation Japanese . . .”); Immigration Control and Refugee Recognition Act, Cabinet Order No. 319 of

anyone who is the child or grandchild of an ethnic Korean, even delineating and encouraging in the applicable law that eligible Korean descendant residents can work in skilled labor within the country.³²⁰

In short, diasporic migration pathways vary significantly, catering to different racial, ethnic, and religious groups while offering statuses ranging from temporary visas to automatic citizenship. Although interest has grown steadily in recent years,³²¹ the absolute numbers of U.S. citizens who have pursued these pathways remain relatively small compared to the overall population.³²² Nevertheless, these migratory options do exist and could potentially facilitate larger-scale U.S. citizen emigration in the future.

B. Migration Pathways for Retirees and Investors

1. Income-Based Migration for Retirees

For those U.S. citizens in economically precarious conditions who simply cannot afford to retire in their home country, nearly thirty countries offer an exit pathway: long-term immigration status for retirees above a certain age who can demonstrate monthly or annual income meeting a specified threshold.³²³ Countries issuing retirement visas may impose other requirements beyond economic means, including proof of health status or background checks.³²⁴ Among the various retiree immigration programs, some offer only long-term visas, others offer permanent residence, and still others offer visas with a pathway to permanent

1951, art. 2-2(3), <https://www.cas.go.jp/jp/seisaku/hourei/data/icrra.pdf> (indicating, via appendix table two, that long-term residents are permitted a three-year stay) (Japan).

320. Skrentny et al., *supra* note 283, at 799-800; *F-4 Visa*, CONSULATE GEN. OF THE REPUBLIC OF KOR. IN CHI., https://overseas.mofa.go.kr/us-chicago-en/wpge/m_20641/contents.do [<https://perma.cc/7GQH-MKJL>] (last visited Mar. 27, 2024); Act on the Immigration and Legal Status of Overseas Koreans, art. 10 (S. Kor.), *translated in* Korea Legislation Research Institute's online database, https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=29311&type=sogan&key=9 [<https://perma.cc/786Y-V5FB>].

321. *See, e.g., supra* notes 298, 301.

322. To provide just one example, in late 2021, the Irish government reported having 7,815 pending foreign birth registration applications from U.S. citizens. Marie O'Halloran, *Work Resumes on Processing Backlog of 31,500 Foreign Birth Registrations*, IRISH TIMES (Nov. 15, 2021, 12:00 AM), <https://www.irishtimes.com/news/politics/oireachtas/work-resumes-on-processing-backlog-of-31-500-foreign-birth-registrations-1.4728659> [<https://perma.cc/D48H-A392>].

323. *Countries with Retirement Visas: The Complete List*, WHERE CAN I LIVE, <https://wherecanilive.com/explore-options/retirement-visas/> [<https://perma.cc/442K-SY6D>] (last visited Mar. 28, 2024).

324. *Id.*

residence.³²⁵ Because they tend to have fairly modest income thresholds, these programs are an ideal option for economically vulnerable citizens of developed countries. As noted above, some of the U.S. citizen migrants in Cuenca, Ecuador relied on retiree visas as their pathway into the country.³²⁶ In many instances, the income threshold can be satisfied with a monthly Social Security or pension payment.

Thailand has attracted many retirees with its O-A visa available to people at least fifty years of age with a clean criminal record and who can show 800,000 baht (roughly \$22,500) deposited in a Thai bank account or monthly income of 65,000 baht (slightly more than \$1,800).³²⁷ The O-A visa is approved for a period of one year and can be renewed for an additional year.³²⁸ Another popular retirement visa is Panama's *pensionado* (pensioner) visa, which requires proof of monthly income of only \$1,000 and is open to those eighteen years of age or older who also submit proof of a clean criminal record and a health certificate from a doctor in Panama.³²⁹ Recipients of the *pensionado* visa may remain in Panama indefinitely.³³⁰ Yet another popular program is Colombia's retirement visa, which currently requires proof of monthly income of about \$830.³³¹ Retirees on this temporary visa in Colombia may apply for permanent residence after five years.³³²

325. *Id.*

326. HAYES, *supra* note 82, at 49.

327. *Non-Immigrant Visa "O-A" (Long Stay)*, MINISTRY OF FOREIGN AFFS., KINGDOM OF THAI (Nov. 30, 2022), <https://www.mfa.go.th/en/page/non-immigrant-visa-o-a?menu=5e1ff71bc4281a00c812e8e2> [<https://perma.cc/PA3D-JQN5>].

328. *Id.*

329. Kathleen Peddicord, *8 Countries that Offer Retirement Visas*, U.S. NEWS (Sept. 21, 2022), <https://money.usnews.com/money/retirement/aging/articles/countries-that-offer-retirement-visas> [<https://perma.cc/HGA4-68MP>]; *Retire in Panama*, EMBASSY OF PANAMA IN THE U.S., <https://www.embassyofpanama.org/retire-in-panama> [<https://perma.cc/9VMN-8SFH>] (last visited Feb. 14, 2024) (noting that additional income of \$250 per month is required for each dependent).

330. *Panama Retirement Visa*, VISAGUIDE.WORLD, <https://visaguide.world/retirement-visa/panama/#> [<https://perma.cc/N8BB-8VUG>] (last visited Mar. 27, 2024).

331. Applicants for this visa must receive a monthly pension equivalent to at least three times the monthly minimum wage in Colombia. *Visa M Pensionado*, CANCELLERÍA, <https://www.cancilleria.gov.co/v/pensionado> (last visited Mar. 27, 2024) [<https://perma.cc/N89E-KDYK>]. In 2023, that monthly minimum wage was 1.16 million pesos, or around US \$279. *\$1,160,000 Will Be the Minimum Wage for 2023 and Transportation Assistance for \$140,606*, REPUBLIC OF COLOMBIA MINISTRY OF LABOR (Dec. 15, 2022), <https://www.mintrabajo.gov.co/prensa/comunicados/2022/diciembre/-1.160.000-ser%C3%A1-el-salario-minimo-para-2023-y-auxilio-de-transporte-por-140.606> [<https://perma.cc/TSJ8-6KXS>].

332. *Visa M. Pensionado*, *supra* note 331.

A significant number of U.S. citizens are pursuing long-term relocation overseas via retirement visas.³³³ As of early 2022, Thailand had issued nearly 36,000 retirement visas to foreigners, with the United States ranking among the top three countries of nationality among visa-holders.³³⁴ Data from the Social Security Administration also reveals that over 440,000 “retired workers” are receiving Social Security payments overseas, with significant numbers in countries that offer retirement visas.³³⁵

2. Migration Based on Investment

Countries across the globe offer residency by investment (RBI) and/or citizenship by investment (CBI) to nationals of other countries.³³⁶ These programs form part of a broader constellation of immigration pathways designed to attract resources to the host country.³³⁷ RBI and CBI have become important pathways for exit migration, or at a minimum, a vehicle for exit planning by people concerned about deteriorating conditions.³³⁸ For many, the status acquired via investment is an insurance policy that permits cross-border mobility and the establishment of an alternate home base should a move become necessary.³³⁹ Most do not

333. See Jean-Francois Harvey, *Retire Abroad, Should You Be Considering It?*, HARVEY L. GRP., <https://harveylawcorporation.com/millions-of-americans-retiring-abroad> [<https://perma.cc/LD26-ZBFQ>] (examining why so many Americans are deciding to retire abroad) (last visited Mar. 27, 2024).

334. Wassayos Ngamkham, *Grimaces Replace Smiles for Retirees*, BANGKOK POST (Jan. 24, 2022, 6:18 AM), <https://www.bangkokpost.com/thailand/general/2252339/grimaces-replace-smiles-for-retirees> [<https://perma.cc/R5U9-EQRZ>].

335. *Annual Statistical Supplement, 2022: Table 5J11*, SOC. SEC. OFF. OF RET. & DISABILITY POL'Y (2022), <https://www.ssa.gov/policy/docs/statcomps/supplement/2022/5j.html#table5.j11> [<https://perma.cc/X6B8-WRN9>].

336. Pinto & David, *supra* note 109, at 782.

337. Surak, *Who Wants to Buy A Visa?*, *supra* note 130, at 151. Indeed, the large number of CBI and RBI programs suggests that countries are competing to attract individuals with high net worth, ostensibly for tax-related purposes. Allison Christians, *Buying In: Residence and Citizenship by Investment*, 62 ST. LOUIS U. L.J. 51, 52 (2017). To inhibit this kind of “tax migration,” some countries have imposed onerous residency termination rules. *Id.* at 63.

338. This motivation may align with other reasons for pursuing CBI or RBI, including access to markets, visa-free travel, and enhancing educational options for children. Surak, *Millionaire Mobility*, *supra* note 136, at 170, 178 (noting that many pursue CBI to expand schooling options or for business reasons, including access to the European Union market); Sarah Treanor & Vivienne Nunis, *How Selling Citizenship Is Now Big Business*, BBC NEWS (Oct. 9, 2019, 6:13 AM), <https://www.bbc.com/news/business-49958628> [<https://perma.cc/673L-5TQX>] (wealthy Chinese nationals previously pursued CBI in Vanuatu, where a \$150,000 investment resulted in a passport allowing visa-free travel to Europe).

339. Surak, *Who Wants to Buy a Visa?*, *supra* note 130, at 154; Kalm, *supra* note 122, at 68.

intend to travel immediately using the newly acquired status but wish to have it available as a “Plan B” for the future.³⁴⁰

Unsurprisingly, interest in CBI and RBI programs skyrocketed during the COVID-19 pandemic, with challenging conditions spurring a desire for greater mobility.³⁴¹ According to data from Henley & Partners, demand from U.S. citizens increased by 208 percent from the beginning of the pandemic to early 2022.³⁴² The uncertainty in the lead-up to the November 2020 election also led to a spike in interest, as major policy positions hung in the balance.³⁴³ Along these lines, Surak interviewed immigration brokers who described a large number of “Armageddon clients” from the United States, starting in 2017, who were seeking “a lifeboat” after the election of Trump, should that be needed.³⁴⁴

a. Residency by Investment

RBI programs, as the name indicates, provide for the conferral of a residence permit, often called a “golden visa.”³⁴⁵ Typically, the required investment is only passive in nature, does not require active entrepreneurial activity,³⁴⁶ and can take different forms.³⁴⁷ Some golden visas do provide a later pathway to citizenship, pursuant to a separate procedure.³⁴⁸ Currently, several dozen countries offer RBI programs.³⁴⁹

340. Surak, *Millionaire Mobility*, *supra* note 136, at 177.

341. Kate Talerico, *Pandemic Fuels Demand by Ultra-Wealthy for Investment Migration, Alternative Citizenship*, BARRON’S (Jan. 18, 2022, 10:16 AM), <https://www.barrons.com/articles/pandemic-fuels-demand-by-ultra-wealthy-for-investment-migration-alternative-citizenship-01642518959>.

342. *Id.*

343. *Id.* (noting that issues such as “the pandemic and taxation” were front of mind for persons seeking alternative residency or citizenship).

344. Surak, *Millionaire Mobility*, *supra* note 136, at 178.

345. *Id.* at 169.

346. Surak, *Who Wants to Buy A Visa?*, *supra* note 130, at 152.

347. As Surak explains, RBI programs that require only passive investment permit six different forms of investment: “(1) investment in a company, (2) investment in an investment fund or structure, (3) investment in government bonds, (4) deposits in a bank, (5) investment in real estate, and (6) financial contributions to the public good.” *Id.*

348. Surak, *Millionaire Mobility*, *supra* note 136, at 169.

349. The precise number of countries with RBI programs waxes and wanes as new programs emerge and others are discontinued. The website of Henley & Partners lists twenty-nine “leading” RBI programs. *Leading Residence by Investment Programs*, HENLEY & PARTNERS, <https://www.henleyglobal.com/residence-investment> [<https://perma.cc/9B3K-CP8Q>] (last visited Mar. 28, 2024). A September 2021 database of investment-based immigration programs, compiled by Leila Adim at the University of Barcelona, lists forty-two active RBI programs. Leila Adim, *Residence and Citizenship by Investment: An Updated Database on Immigrant Investor Programs (2021)* (Sept. 1, 2021) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3914350 [<https://perma.cc/Z8HK-A5E8>].

Portugal's golden visa program has been particularly popular among U.S. investors. It offers residency through different investment pathways, including a 250,000-euro contribution to designated artistic or cultural heritage initiatives.³⁵⁰ After five years of residency, investors can apply for Portuguese citizenship.³⁵¹ According to data from the Portuguese government, interest in the golden visa among U.S. citizens is steadily increasing.³⁵² In 2019, the United States broke into the top five countries of origin for approved investor visa applications;³⁵³ in 2020, the United States rose to third place,³⁵⁴ and in 2021, the United States jumped to second place, behind China, with 101 approved applications.³⁵⁵ This figure does not include derivative family members whose residency was approved alongside that of the principal investor.³⁵⁶ In early 2023, the government of Portugal announced its intention to end the golden visa program, but subsequent action by the Portuguese parliament has kept the program alive.³⁵⁷

Although it is the wealthy who generally pursue RBI, the pricing can make this pathway affordable to even some middle-class and upper-middle-class residents of developed countries. For example, Thailand offers an “elite visa,” valid for twenty years, for a minimum payment of

350. Hannah Towey, *The 10 Cheapest Countries Where You Can Buy Citizenship or Residency for as Low as \$19,000*, BUS. INSIDER (June 16, 2023, 7:56 AM), <https://www.businessinsider.com/cheapest-countries-where-you-can-buy-citizenship-or-residency-2022-8> [<https://perma.cc/7WT2-CXYA>]; see also *Autorização de Residência para Investimento—Art. 90.º-A*, AGÊNCIA PARA A INTEGRAÇÃO, MIGRAÇÕES E ASILO, <https://aima.gov.pt/pt/viver/autorizacao-de-residencia-para-investimento-art-90-o-a> [<https://perma.cc/6EU9-3ZH7>] (last visited Mar. 27, 2024) (showing the options for investment-based residency, ranging between €250,000 toward cultural activity to other capital investments of at least €500,000).

351. Talerico, *supra* note 341; see also Decreto-Lei n.º 26/2022 de 18 de março [Decree-Law no. 26/2022], <https://files.dre.pt/1s/2022/03/05500/0000200059.pdf?lang=EN> [<https://perma.cc/2QSE-9T5M>] (Port.).

352. SERVIÇO DE ESTRANGEIROS E FRONTEIRAS, RELATÓRIO DE IMIGRAÇÃO, FRONTEIRAS E ASILO 2019 25 (2019), <https://sefstat.sef.pt/Docs/Rifa2019.pdf> [<https://perma.cc/UK44-AYD4>]; SERVIÇO DE ESTRANGEIROS E FRONTEIRAS, RELATÓRIO DE IMIGRAÇÃO, FRONTEIRAS E ASILO 2020 30 (2020), <https://sefstat.sef.pt/Docs/Rifa2020.pdf> [<https://perma.cc/HAG3-XT4T>]; SERVIÇO DE ESTRANGEIROS E FRONTEIRAS, RELATÓRIO DE IMIGRAÇÃO, FRONTEIRAS E ASILO 2021 40 (2021) <https://sefstat.sef.pt/Docs/Rifa2021.pdf> [<https://perma.cc/4RN4-56RR>].

353. SERVIÇO DE ESTRANGEIROS, 2019, *supra* note 352.

354. SERVIÇO DE ESTRANGEIROS, 2020, *supra* note 352.

355. SERVIÇO DE ESTRANGEIROS, 2021, *supra* note 352.

356. *Id.*

357. *Portugal Golden Visa Ending: Unfolding the New Program*, GLOB. CITIZEN SOLS., <https://www.globalcitizensolutions.com/portugal-golden-visa-ending/> (Mar. 28, 2024) [<https://perma.cc/CM8D-NGKV>].

\$19,000.³⁵⁸ Latvia offers a “golden visa” to foreign nationals willing to make an investment of 60,000 euros.³⁵⁹

b. Citizenship by Investment

CBI programs involve the direct acquisition of citizenship via an investment without the intermediate step of obtaining residence in the country.³⁶⁰ As with RBI programs, the core requirement for CBI can vary but typically involves some kind of private investment (e.g., purchase of land or property, or a business investment) or a monetary contribution to the government (including donations to a specific fund or purchase of government bonds).³⁶¹ Currently, twelve countries offer CBI programs of interest to investors.³⁶² An estimated 10,000 individuals naturalize each year via CBI programs.³⁶³

Generally, acquisition of citizenship (as opposed to mere residency) will come at a steep cost—between U.S. \$100,000 and nearly \$2.4 million, plus application fees.³⁶⁴ On the lower end of the scale, one can obtain citizenship by investment in Dominica or St. Lucia upon donating \$100,000 to a designated government fund.³⁶⁵ Other Caribbean

358. *See, e.g., Thai Elite Visa*, THAIEMBASSY.COM, <https://www.thaiembassy.com/thailand-visa/thai-elite-visa> [<https://perma.cc/2KDC-UC6P>] (last visited Feb. 14, 2024).

359. *Imigrācijas likums* [Immigration Law], ch. IV § 23(28), *translated in* Legal Acts of the Republic of Latvia’s online database, <https://likumi.lv/ta/en/en/id/68522-immigration-law> [<https://perma.cc/QTC4-XEGU>] (Lat.) (visa program requires an investment of €10,000 in the state budget alongside €50,000 in a small business).

360. Surak, *Global Citizenship*, *supra* note 127, at 12.

361. *Id.* at 17.

362. These countries are: Antigua & Barbuda, Austria, Dominica, Egypt, Grenada, Jordan, Malta, Montenegro, North Macedonia, St. Kitts and Nevis, St. Lucia, and Turkey. *See Leading Citizenship by Investment Programs*, HENLEY & PARTNERS, <https://www.henleyglobal.com/citizenship-investment> [<https://perma.cc/M9DH-JHEW>] (last visited Mar. 28, 2024). The Republic of Vanuatu in the South Pacific also offers citizenship based on investment. *See, e.g., Types of Citizenship*, GOV’T OF VANUATU, <https://vancitizenship.gov.vu/index.php/citizenship/types-of-citizenship#> [<https://perma.cc/WLY2-45GK>] (last visited Mar. 28, 2024) (noting the possibility of a grant of citizenship to an investor). In November 2022, however, the EU announced it would be fully suspending visa-free travel for Vanuatu passport holders due to concerns about the country’s investment-based citizenship program. Council of European Union Press Release, Vanuatu: Council Fully Suspends Visa Free Travel Arrangement (Nov. 8, 2022), <https://www.consilium.europa.eu/en/press/press-releases/2022/11/08/vanuatu-council-fully-suspends-visa-free-travel-agreement>.

363. Surak, *Millionaire Mobility*, *supra* note 136, at 167.

364. *Id.* at 167-68. People who pursue CBI generally do so because they are not eligible for diasporic citizenship, which tends to be much less expensive. *Id.* at 175.

365. *See Dominica CBI Investment Options*, GOV’T. OF THE COMMONWEALTH OF DOMINICA, <https://www.cbiu.gov.dm/investment-options> (last visited Mar. 27, 2024) [<https://perma.cc/GS7A-BJRM>]; *St. Lucia Citizenship by Investment*, HENLEY & PARTNERS, <https://www.henleyglobal.com/citizenship-investment>.

countries—including Antigua and Barbuda, Grenada, and St. Kitts and Nevis—have similar citizenship-by-investment programs that require a minimum contribution of \$125,000 to \$150,000.³⁶⁶ Interestingly, the countries offering CBI do not mandate prior physical residence in the country, though a few do require a visit during the application process.³⁶⁷

C. Conventional Immigration Pathways and Undocumented Status

Exit migration by U.S. citizens also occurs via conventional migration pathways, including family-based or employment-based migration. The experience of conditions of vulnerability in the United States could easily dovetail with opportunities to migrate lawfully to another country for personal or professional reasons. For example, Jewish Americans and others have sought to migrate lawfully to Canada in the face of rising social and political tensions.³⁶⁸ While relocation to Israel via the *aliyah* process might technically be possible, a more geographically proximate destination may be preferable. Also, some members of the transgender community are exploring work visas and other migration pathways into European countries that have a stronger record of protecting LGBTQ+ rights.³⁶⁹

Some U.S. citizens may simply choose to lapse into undocumented status in their destination country. For example, the U.S. Department of State has suggested that several hundred thousand U.S. citizens may be residing in Mexico as visa overstays.³⁷⁰ Only a small fraction of these

www.henleyglobal.com/citizenship-investment/st-lucia [<https://perma.cc/VD9B-FJUG>] (last visited Mar. 27, 2024).

366. See *Schedule of Fees*, CITIZENSHIP BY INV. UNIT: ANTIGUA & BARBUDA, <https://cip.gov.ag/schedule-of-fees> [<https://perma.cc/L7GW-PJ96>] (last visited Mar. 27, 2024); *Cost and Fees*, GREN. CITIZENSHIP BY INV., <https://cbi.gov.gd/index.php/routes-to-citizenship/cost-and-fees> (last visited Feb. 14, 2024) [<https://perma.cc/C3MH-CXNY>]; *St. Kitts and Nevis Citizenship by Investment*, HENLEY & PARTNERS, <https://www.henleyglobal.com/citizenship-investment/st-kitts-nevis> [<https://perma.cc/9EWZ-D498>] (last visited Mar. 27, 2024); *Investment Options Fee Calculator*, GOV'T OF ST. KITTs & NEVIS, <https://ciu.gov.kn/investment-options-fee-calculator/> [<https://perma.cc/7PB5-JWM2>] (last visited Mar. 27, 2024).

367. Surak, *Millionaire Mobility*, *supra* note 136, at 167.

368. Sales, *supra* note 176 (interviewing Canadian immigration lawyers who described an uptick in inquiries from Jewish Americans in the lead-up to the 2020 election).

369. Anya Zoledziowski, *Some Trans People Are Preparing to Flee the US and Seek Asylum Abroad*, VICE NEWS (Jan. 10, 2023, 8:57 AM), <https://www.vice.com/en/article/dy7qnj/trans-people-fleeing-us-seek-asylum> (noting that Rynn Willgohs, a transgender woman who was violently assaulted in the United States, is exploring work visas in Iceland, among other migration options).

370. Wendy Fry, *Americans Make Up Mexico's Largest Demographic of Immigrants*, SAN DIEGO UNION-TRIB. (June 17, 2019, 5:00 AM), <https://www.sandiegouniontribune.com/news/border-baja-california/story/2019-06-15/americans-make-up-mexicos-largest-demographic-of->

individuals have been subjected to immigration proceedings. In the years 2019 and 2020, Mexico deported or returned 1,107 and 810 U.S. citizens, respectively.³⁷¹ Canadian media also occasionally report immigration enforcement actions taken against U.S. citizens.³⁷² Although the precise motivations of these U.S. citizen overstays are not always known, at least some likely exited due to unfavorable conditions. American rapper Mos Def, for example, remained unlawfully in South Africa after exiting the United States to protest the treatment of young Black men.³⁷³ Facing charges for violating South African immigration laws, he apologized and was permitted to depart the country.³⁷⁴

V. BROADER IMPLICATIONS AND OPPORTUNITIES FOR FUTURE RESEARCH

This examination of pressured exit by U.S. citizens highlights a growing but overlooked migratory stream. Indeed, given the dominant focus on the United States as a destination country, legal scholars and policymakers have paid insufficient attention to U.S. citizen emigrant flows. Drilling into the causes behind these moves reveals an array of challenging domestic conditions that U.S. citizens confront, including identity-based harm, profound economic insecurity, and curtailment of individual rights. These migratory pressures dovetail with an assortment of exit pathways and an industry poised to facilitate departure. Yet, when one considers the broader implications of this phenomenon, particularly if U.S. citizen emigration swells in the future, a number of deeper questions and concerns arise.

immigrants [<https://perma.cc/2272-M54P>] (while Mexican President López Obrador estimated the population of Americans living in Mexico as 1.2 million, the United States Embassy in Mexico offers there could more than 1.5 million due to visa overstays).

371. GOBIERNO DE MÉXICO, ESTADÍSTICAS MIGRATORIAS: SÍNTESIS 2020 35 (2021), http://www.portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/Sintesis_Graficas/Sintesis_2020.pdf [<https://perma.cc/P9R9-VSXD>]. These numbers dropped significantly in 2021 and 2022, likely due to the COVID-19 pandemic. See GOBIERNO DE MÉXICO, ESTADÍSTICAS MIGRATORIAS: SÍNTESIS 2022 35 (2022), http://www.portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/Sintesis_Graficas/Sintesis_2022.pdf [<https://perma.cc/K7XQ-K4RQ>].

372. See, e.g., Rebecca Lindell & Rebecca Lau, *Americans Top the List of Illegal Foreign Workers Caught by CBSA*, GLOB. NEWS (Mar. 14, 2013, 6:59 AM), <https://globalnews.ca/news/364043/americans-top-the-list-of-illegal-foreign-workers-caught-by-cbsa/> [<https://perma.cc/6QE W-JB5V>].

373. *Rapper Mos Def Allowed to Leave South Africa After Apology*, REUTERS (Nov. 22, 2016, 5:42 AM), <https://www.reuters.com/article/us-safrica-mosdef/rapper-mos-def-allowed-to-leave-south-africa-after-apology-idUSKBN13H131> [<https://perma.cc/ZQ7T-RWHN>].

374. *Id.*

Outlined below are some preliminary reflections on these broader implications along with possible areas for future research. Among the topics that invite further consideration are whether and how departing U.S. citizens might remain politically engaged and if they retain a sense of loyalty to the country; the implications of emigration and dual loyalties for traditional understandings of the nation-state; the role of privilege in these transnational moves and the converse condition of immobility; how considerations of whiteness and neocolonialism animate exit choices; and the role and impact of the private sector in these migratory processes.

A. *The Persistence of “Voice,” “Loyalty,” and Civic Engagement*

The above narratives illustrate how conditions of vulnerability have compelled some U.S. citizens to exit the country. Per Hirschman’s original framework, exit signifies an end to loyalty and a foregone opportunity for voice. Yet, the experiences of these U.S. citizens paint a more complex picture. In some cases, as Hirschman himself acknowledged, the very act of “exit” telegraphs deep dissatisfaction with conditions in the country. In other instances, U.S. citizens have used their perch abroad to continue voicing concerns about the challenges they faced in the United States. These subsets of individuals both might be classified as pursuing *exit with voice*. In the present-day United States, political opponents are encouraged to leave if they are unhappy with the state of the country, perhaps implying that their departure might quell dissent.³⁷⁵ Yet the dynamics surrounding these U.S. citizen exits present a more nuanced reality, in which political engagement continues, in distinct forms, even after physical departure.

What these accounts do not fully capture, however, is the extent to which these U.S. citizens maintain loyalty to the country, even when conditions of vulnerability spurred their departure. In the context of the Black American experience, some have questioned whether ongoing devotion to the country is justified, given the injustices experienced by the community.³⁷⁶ For some, such as Okunini Kambon, their disillusionment

375. See, e.g., *Trump Accuses Democratic Congresswomen of Hating America, Says They Can Leave*, REUTERS (July 15, 2019, 2:31 PM), <https://www.reuters.com/article/us-usa-trump-democrats-whitehouse/trump-accuses-democratic-congresswomen-of-hating-america-says-they-can-leave-idUSKCN1UA1Y7> [<https://perma.cc/ZS9M-6RUJ>] (describing statements from the former president directed at four Democratic congresswomen critical of his administration).

376. In 2020, professional basketball coach Doc Rivers captured significant media attention with the following observation: “It’s amazing why we keep loving this country, and this country does not love us back.” Andrew Greif, *Doc Rivers: ‘It’s Amazing Why We Keep Loving This Country, and This Country Does Not Love Us Back’*, L.A. TIMES (Aug. 25, 2020, 11:35 PM),

with the United States is leading them to seek renunciation of their citizenship.³⁷⁷ Yet for others, the picture is less clear. While the ability to retain one's U.S. citizenship suggests the possibility of ongoing engagement, future empirical work could illuminate whether people pressured to exit because of adverse conditions continue to harbor a sense of loyalty to the United States. On the one hand, these individuals might blame the United States for enabling conditions that compelled their exit and for failing to do more to protect vulnerable citizens. On the other hand, as Matthew Hayes notes, these individuals may be so immersed in a culture of utilitarian individualism that they do not ascribe blame to the state—even when some consider themselves “refugees.”³⁷⁸ Accordingly, some of these moves may embody *exit with loyalty*.

A better understanding of the persistence of “voice” and “loyalty” after exit will clarify whether, and to what extent, U.S. citizenship (and ties to the United States generally) is valued among this group of individuals. Do they still consider themselves members of the polity? Do they intend to work to address the circumstances that led to their departure? Do such moves implicitly acquiesce to the “if you don't like it, you can leave” rhetoric? Empirical inquiry can also illuminate whether the persistence of “voice” and “loyalty” turns on whether the departing citizen has secured a permanent exit strategy (e.g., another citizenship) or something slightly less secure (e.g., a resident visa). Acquisition of citizenship—that is, the possibility of a permanent, secure pathway—may provide an incentive for the use of exit, and specifically, the use of exit as a way to express voice.³⁷⁹ As Hirschman acknowledged in later consideration of his work, exit and voice can combine powerfully to precipitate change.³⁸⁰

To the extent that U.S. citizens do remain active in political and social matters in the United States following their exit, additional questions follow regarding structures for their ongoing engagement.

<https://www.latimes.com/sports/clippers/story/2020-08-25/doc-rivers-loving-this-country-and-does-not-love-us-back> [<https://perma.cc/6XBJ-SFN6>].

377. See *supra* note 154 and accompanying text. An empirical study of U.S. citizens who had relocated to Egypt profiled an individual named Jamal who generally did not engage with U.S. politics nor associate with other U.S. citizens in Egypt. Hani M. Henry, Nayla Hamdi & Gina Shedid, *The Continuing Bonds of U.S. Expatriates Living in Egypt*, 33 INT'L J. INTERCULTURAL RELS. 1, 6 (2009). Jamal did not retain a strong sense of connection to the United States, in part because of “ugliness” and “disappointment” that he experienced there. *Id.*

378. HAYES, *supra* note 82, at 41.

379. Joachim Blatter, *Dual Citizenship and Theories of Democracy*, 15 CITIZENSHIP STUD. 769, 786 (2011).

380. Piguet, *supra* note 56, at 24.

Legal scholar Peter Spiro has documented how various countries have created mechanisms to engage their nationals residing overseas.³⁸¹ Some countries, such as Algeria, France, Italy, Portugal, and Tunisia, even have an established infrastructure for political representation and participation by members of the diaspora abroad.³⁸² For example, non-resident voters select eight members of the Algerian Parliament.³⁸³ For the Italian Parliament, overseas residents select eight members of the Chambers of Deputies and four senators.³⁸⁴

The U.S. government trails far behind such models, as it lacks both a formal outreach policy for overseas citizens and even a method for tracking their numbers.³⁸⁵ Although overseas citizens may vote, participation rates are dismal: the Federal Voting Assistance Program (FVAP) estimates that in 2020, only 7.8 percent of all eligible overseas U.S. citizens voted—a fraction of the percentage of stateside citizens who voted.³⁸⁶ According to FVAP, this deficit can be attributable to obstacles that stand in the way of overseas voters as well as a lack of interest.³⁸⁷ In an environment in which elections are often decided by a very narrow margin,³⁸⁸ whether and how these U.S. citizens are encouraged to vote merits careful attention. While some have suggested that acquisition of status overseas might result in less political participation, there is scant empirical research directly examining that question.³⁸⁹ It may be true that such citizens, with their “divided loyalties,” will devote less time to

381. PETER J. SPIRO, *AT HOME IN TWO COUNTRIES: THE PAST AND FUTURE OF DUAL CITIZENSHIP* 94-110 (2016).

382. Amanda Klekowski von Koppenfels, *Americans Abroad: A Disillusioned Diaspora?*, MIGRATION POL’Y INST. (July 29, 2015), <https://www.migrationpolicy.org/article/americans-abroad-disillusioned-diaspora> [<https://perma.cc/V9V3-HKSB>] (noting that Algeria, France, Italy, Portugal, and Tunisia “have granted their diaspora members in their legislative bodies”).

383. SPIRO, *supra* note 381, at 96.

384. Tanja Brøndsted Sejersen, “*I Vow to Thee My Countries*”—*The Expansion of Dual Citizenship in the 21st Century*, 42 INT’L MIGRATION REV. 523, 535 (2008); Simone Battiston, Stefano Luconi & Marco Valbruzzi, *To Vote or Not to Vote in the Homeland Elections? Insights into Voting Abstention in Italy’s Constituency Abroad*, 29 MOD. ITALY 73, 74 n.1 (2024) (noting that a 2020 referendum resulted in a decreased number of overseas legislators).

385. FEDERAL VOTING ASSISTANCE PROGRAM, *supra* note 145.

386. *Id.*

387. *Id.*

388. See Drew Desilver, *It’s Not Just 2020: U.S. Presidential Elections Have Long Featured Close State Races*, PEW RSCH. CTR. (Dec. 4, 2020), <https://www.pewresearch.org/short-reads/2020/12/04/its-not-just-2020-u-s-presidential-elections-have-long-featured-close-state-races> [<https://perma.cc/F6GP-WMVN>] (discussing the history of marginal wins in U.S. presidential elections).

389. Blatter, *supra* note 379, at 779.

political processes in two different countries.³⁹⁰ That said, their transnational perspectives and experiences could also enrich policy discussions.³⁹¹

If out-migration occurs in significant numbers, the United States government may be required to think more creatively about overseas citizen engagement beyond just the opportunity to vote.³⁹² Empirical work by Amanda Klekowski von Koppenfels already reveals that many overseas U.S. citizens “strongly feel the lack of direct representation”—a concern born from the U.S. government’s relentless focus on the tax obligations of these citizens.³⁹³ Should the departure of U.S. citizens trigger “brain drain” concerns, or if the U.S. economy were to become even partially dependent on overseas remittances, deeper engagement with this population would be inevitable.³⁹⁴ Additional exploration of these scenarios, including any incipient trends, is another important addition to the scholarly agenda.

B. *Citizenship Acquisition: Implications for Nation-States*

The general trend over the past few decades has been greater acceptance of dual or multiple citizenship in domestic law.³⁹⁵ Given this increased flexibility, many people are born with dual citizenship, and as reflected in this Article, others can acquire it later in life through distinct channels when conditions of vulnerability compel their exit.³⁹⁶ Growing transnationalism both fuels and is nourished by dual citizenship; migrants occupying multiple geographic spaces push for the possibility of dual citizenship, and those already possessing dual citizenship can live and

390. *Id.* at 785.

391. *Id.*

392. Organizations such as the Association of Americans Resident Overseas (AARO) could be important interlocutors in such a process. AARO advocates around issues related to “taxation, absentee voting, citizenship, representation, Social Security and Medicare.” *Who We Are*, AARO, <https://aaro.org/about-aaro/who-we-are> [<https://perma.cc/8ZNN-388L>] (last visited Feb. 14, 2024).

393. Klekowski von Koppenfels, *supra* note 382.

394. *Id.*

395. Sejersen, *supra* note 384, at 531; Blatter, *supra* note 379, at 769. While beyond the scope of this particular article, various forces have created an environment where dual citizenship is more acceptable, including the ascendance of human rights norms and the relative stability of interstate relations. Peter J. Spiro, *The Equality Paradox of Dual Citizenship*, 45 J. ETHNIC & MIGRATION STUD. 879, 883 (2019).

396. Spiro, *The Equality Paradox*, *supra* note 395, at 879.

participate as rights-bearing subjects in diverse societies.³⁹⁷ Outlined below are some broader implications of this pursuit of another citizenship by U.S. citizens, including: a change in the traditional relationship between individual citizens and a sole nation-state; the possibility that dual citizenship may serve, counterintuitively, as a stabilizing force for some current U.S. residents; and possible unanticipated domestic repercussions on the distinctions made between foreigners and citizens.

The acquisition of a second or multiple citizenships undermines the traditional notion of the nation-state, by which individuals belong to only one state at a time.³⁹⁸ As described above, many U.S. citizens are pursuing a second citizenship even with scant connections to that country. For the putative citizen and the state, it is a mutually beneficial transaction with few trappings of broader civic integration. This trend reflects what some scholars have described as the “lightening” of citizenship.³⁹⁹ It is most pronounced in CBI programs, in which investors often pursue citizenship should conditions further deteriorate,⁴⁰⁰ and most do not actually intend to settle in the second country.⁴⁰¹ The strategic use of citizenship based on diasporic descent has raised similar questions regarding meaningful connections to the state.⁴⁰² Such loose relationships between citizens and the state are possible, especially since governments impose relatively minimal obligations on external citizens; few require military service, and none apart from the United States tax citizens residing overseas.⁴⁰³

As Surak aptly describes it, those who pursue additional citizenship(s) are often “members of the state but not the nation.”⁴⁰⁴ For U.S. citizens, this can cut in different directions. For those U.S. citizens

397. Irene Bloemraad, *Who Claims Dual Citizenship? The Limits of Postnationalism, the Possibilities of Transnationalism, and the Persistence of Traditional Citizenship*, 38 INT’L MIGRATION REV. 389, 394 (2004).

398. Sejersen, *supra* note 384, at 524.

399. Surak, *Millionaire Mobility*, *supra* note 136, at 184 (citing Christian Joppke, *The Inevitable Lightening of Citizenship*, 51 EURO. J. SOCIO. 9 (2010)).

400. Surak, *Global Citizenship*, *supra* note 127, at 3. As Surak argues, the conception of citizenship defined by meaningful connections to the country, *jus nexi*, is supplanted by *jus pecuniae*, whereby citizenship is treated as a purchasable commodity. *Id.* at 2, 5.

401. *Id.* at 5.

402. Tintori, *supra* note 300, at 146 (describing how Italian politicians began to question the acquisition of Italian citizenship by descent by persons in South America, who used their newly acquired status to access important government benefits, including access to medical care, pensions, and other assistance programs).

403. Spiro, *The Equality Paradox*, *supra* note 395, at 884.

404. Surak, *Millionaire Mobility*, *supra* note 136, at 184. To be clear, some countries have limited the rights of persons who acquire citizenship via investment. St. Kitts and Nevis, for example, does not permit such citizens to vote, and several countries require physical presence in the country in order to vote. Surak, *Global Citizenship*, *supra* note 127, at 5-6.

who have acquired another citizenship but have not departed the United States, their relationship to the second country is often a mere formality with few ties to the nation or its basis for collective identity.⁴⁰⁵ On the other hand, for U.S. citizens who have already departed the country, the depth of their ongoing connection to the United States could be questioned.⁴⁰⁶ Alternatively, as is the case with some departed U.S. citizens, they may occupy a unique space where they have formal connections to two states but no strong sense of national identity despite living in one of those countries. All of these possibilities are worthy of further empirical study.

The relative weakness of the citizen-state relationship may be worsened by the fact that both exiting migrants and receiving countries are driven, in some instances, by ephemeral needs. On the supply side, investment-based and even diasporic migration pathways have proliferated in part because of economic difficulties that countries are experiencing.⁴⁰⁷ While some countries will have a long-term need for inflows of capital, for others, the need may be temporary, and migration policies may change. Yet the conferral of immigration status is often effectively permanent.⁴⁰⁸ Similarly, on the demand side, people may be seeking status elsewhere because of conditions of economic or political vulnerability that may eventually subside.⁴⁰⁹ Here, too, the newly minted citizens can find themselves in a lifelong relationship with a country that they may never need to access.

Although multiple citizenships might weaken some polities, they can also, counterintuitively, serve as a stabilizing force. In brief, having a passport as an insurance strategy means that people will stay in their

405. Even in cases of citizenship based on descent, ties to the ancestral homeland may be thin. As Tintori describes, the acquisition of citizenship based on descent does not require knowledge of Italian language, history, or culture. Tintori, *supra* note 300, at 147.

406. See *supra* Part V.A.

407. See, e.g., Surak, *Global Citizenship*, *supra* note 127, at 10 (noting that concerns about the sugar cane industry in St. Kitts and Nevis, and about the banana industry in Dominica, led to the emergence of CBI programs in those countries).

408. Notwithstanding these concerns, dual citizenship programs—particularly those driven by investment—can have a transformative impact on the receiving country. In St. Kitts and Nevis, for example, income received via the CBI program typically accounts for about thirty percent of the country's GDP. Graham Rapier, *A Small Caribbean Nation Helped Popularize 'Citizenship by Investment'—Now It's Counting on It to Make Up for Lost Tourism*, BUS. INSIDER (Aug. 1, 2020, 6:44 AM), <https://www.businessinsider.com/st-kitts-and-nevis-citizenship-by-investment-thrives-amid-coronavirus-2020-8> [<https://perma.cc/SW6M-Q5XJ>].

409. Along these lines, demand for CBI and RBI may wane depending on political or other conditions in the destination country. Surak, *Global Citizenship*, *supra* note 127, at 36.

original country rather than exit right away,⁴¹⁰ even in the face of adverse circumstances. In a different context, economist Francesca Mazzolari found that the ability to retain the citizenship of one's country of origin when naturalizing abroad allowed for greater economic assimilation in the receiving country.⁴¹¹ In other words, dual citizenship allows countries to maintain ties with existing nationals—folks who have emigrated (and those contemplating emigration)—while also fostering participation and integration by immigrants who can retain their original citizenship even after naturalizing.⁴¹²

Finally, the erosion of the nation-state structure, as described above, also has implications for the distinctions made between foreigners and citizens.⁴¹³ In an environment in which individuals can casually pick up another citizenship, numerous equality considerations arise. For example, how is a person who has acquired citizenship in a country, despite never setting foot there, on a stronger moral footing for a membership claim than an immigrant residing in that country for a lengthy period? If U.S. citizens may acquire second citizenship, they are both citizens and foreigners in the same country, rendering their experience closer to that of noncitizens. As scholars and policymakers create the space to reconcile these tensions, greater inclusion of immigrants (and other noncitizens affected by government policymaking) may be possible.⁴¹⁴ At the same time, the proliferation of dual citizenship and the availability of alternative migratory pathways might embolden xenophobic calls for migrants to depart their country of current residence and find refuge elsewhere.⁴¹⁵

410. Surak, *Millionaire Mobility*, *supra* note 136, at 181.

411. Francesca Mazzolari, *Dual Citizenship Rights: Do They Make More and Richer Citizens?*, 46 *DEMOGRAPHY* 169, 187 (2009). Mazzolari acknowledges, but does not explore, the possibility that dual citizenship might also encourage return migration. *Id.* at 188.

412. Sejersen, *supra* note 384, at 534. *See also* Spiro, *The Equality Paradox*, *supra* note 395, at 884 (“[A]llowing emigrants to retain their original citizenship after naturalising . . . has been adopted as a strategy for cementing the home state tie, with ancillary economic benefits.”).

413. Sejersen, *supra* note 384, at 524, 528.

414. Blatter, *supra* note 379, at 770.

415. Along these lines, as dual or multiple citizenship becomes the norm, immigration removal proceedings are likely to become thornier, with alternative pathways for both prosecutors and defenders to consider. *Compare In re B-R-*, 26 I&N Dec. 119, 120-21 (B.I.A. 2013) (holding that a citizen or national of more than one country must show persecution in all countries of citizenship or nationality to qualify as a “refugee” under the Immigration and Nationality Act), *with Zepeda-Lopez v. Garland*, 38 F.4th 315, 326 (2d Cir. 2022) (rejecting the holding of *Matter of B-R-* and finding the Immigration and Nationality Act does not require dual nationals to show persecution in all countries of nationality to qualify as refugees). *See also In re Ognibene*, 18 I&N Dec. 425, 426 (B.I.A. 1983) (finding a person may claim only one nationality at a time for immigration matters with the United States).

C. *Privilege, Immobility, and Inequality*

All the forms of pressured exit (or exit planning) described in this Article require at least a modicum of privilege—the ability to afford CBI or RBI,⁴¹⁶ to navigate often-complex legal processes involving dual citizenship, and, at a minimum, to have the resources needed to plan and execute a move to another country. Pursuit of each of these pathways also requires some economic or social capital. The CBI programs, whereby persons are able to acquire citizenship within a few months' time and with few strings attached, powerfully encapsulate the links between privilege and mobility. While the mere possession of dual citizenship does not necessarily indicate substantial privilege,⁴¹⁷ U.S. citizens who are positioned to pursue exit pathways may possess financial and cultural advantages that not all enjoy.

Yet, there undoubtedly are countless U.S. citizens who encounter the same adverse conditions but lack the wherewithal to depart. Long-standing social and economic inequities,⁴¹⁸ compounded by lack of information access or limited global exposure, can construct a nearly insurmountable barrier to exit migration. In other words, the decision not to migrate can be attributed both to a lack of capacity and a lack of desire to migrate.⁴¹⁹ Consider, for example, that fewer than half of U.S. citizens

416. Sejersen, *supra* note 384, at 527.

417. As Spiro notes, the privilege enjoyed by dual citizens is necessarily relative. A dual national of the United States in another country may, in fact, be less privileged than a U.S. citizen with no other nationality. Spiro, *The Equality Paradox*, *supra* note 395, at 888.

418. See, e.g., Zoha Qamar, *Many Americans Say They Want to Relocate for Political Reasons. Few Actually Do*, FIVETHIRTYEIGHT (Oct. 11, 2022, 11:55 AM), <https://fivethirtyeight.com/features/many-americans-say-they-want-to-relocate-for-political-reasons-few-actually-do/> [<https://perma.cc/7UM2-76TW>] (noting that the costs associated with a move can be an inhibiting factor).

419. See Kerilyn Schewel, *Understanding Immobility: Moving Beyond the Mobility Bias in Migration Studies*, 54 INT'L MIGRATION REV. 328, 335 (2019) (theorizing immobility along the axes of capability to migrate/not to migrate and aspiration to stay/to migrate).

currently have a valid passport.⁴²⁰ Moreover, many U.S. citizens tend to remain close to the communities where they grew up.⁴²¹

Accordingly, some scholars have suggested that Hirschman's framework and migration studies generally would benefit from deeper treatment of the forces that render people immobile.⁴²² This immobility is not simply an expression of loyalty, as Hirschman himself foresaw, but can reflect deep-seated structural barriers that block exit.⁴²³ Specifically, financial considerations, social and economic embeddedness in particular communities, concerns about the difficulty of migratory processes, and even gender norms may inhibit transnational moves.⁴²⁴ Some of these same barriers likely dampen the meaningful expression of voice, as well.

To be clear, the immobility of some U.S. citizens is not exclusively a question of indigence. Poor migrants routinely engage in cross-border mobility, hoping that a transnational lifestyle and identity will permit them to rise above the marginalization they experienced in their home country.⁴²⁵ For some, the decision to stay can be an agentic choice, informed by consideration of all available options.⁴²⁶ Some may opt for

420. *Reports and Statistics: U.S. Passports*, U.S. DEP'T OF STATE, <https://travel.state.gov/content/travel/en/about-us/reports-and-statistics.html> (Oct. 6, 2023) [<https://perma.cc/2WWA-PWLB>] (noting that as of 2021 there were about 145 million valid U.S. passports in circulation). Some individuals, by operation of law, are unable to obtain a U.S. passport due to outstanding liabilities. *See, e.g., Child Support Payments*, U.S. DEP'T OF STATE, <https://travel.state.gov/content/travel/en/passports/legal-matters/child-support.html> (Dec. 8, 2022) [<https://perma.cc/9BLN-386X>] (those who owe \$2,500 or more in child support are ineligible for a U.S. passport); *Passports and Seriously Delinquent Tax Debt*, U.S. DEP'T OF STATE, <https://travel.state.gov/content/travel/en/passports/legal-matters/passports-and-seriously-delinquent-tax-debt.html> (Dec. 21, 2022) [<https://perma.cc/Z7U2-CZFU>] (those certified by the Department of State or by the Secretary of the Treasury as having seriously delinquent tax debt are ineligible for U.S. passports and their current U.S. passport may be revoked).

421. *See, e.g., Qamar, supra* note 418 (“80 percent of young Americans live within 100 miles of where they grew up, and 58 percent live within just 10 miles.”).

422. *See, e.g., Schewel, supra* note 419; Pigué, *supra* note 56, at 19.

423. HIRSCHMAN, *supra* note 19, at 80.

424. Schewel, *supra* note 419, at 338-43. *See also* Mary Setrana, *Choosing to Stay: Alternate Migration Decisions of Ghanaian Youth*, 9 SOC. INCLUSION 247, 251-54 (2021) (citing frustrations about difficult or unsuccessful migration processes as a reason for some to stay); Peter A. Fischer, Reiner Martin & Thomas Straubhaar, *Should I Stay or Should I Go?*, in INTERNATIONAL MIGRATION, IMMOBILITY AND DEVELOPMENT: MULTIDISCIPLINARY PERSPECTIVES 49, 76 (Tomas Hammar, Grete Brochmann, Kristof Tamas & Thomas Faist eds., 1997) (“[I]mmobility makes sense to a majority of people because the loss of location-specific assets and abilities induced by migration would be too severe These . . . assets and abilities are not only economic, but also, and perhaps first of all, cultural, linguistic, social and political.”).

425. Bloemraad, *supra* note 397, at 395.

426. *See* Sara Wyngaarden, Sally Humphries, Kelly Skinner, Esmeralda Lobo Tosta, Veronica Zelaya Portillo, Paola Orellana & Warren Dodd, ‘You Can Settle Here’: *Immobility*

internal migration or may be troubled by possible discriminatory treatment in the destination country.⁴²⁷ For others, the idea of migrating is not even something they have envisioned, placing them among what some scholars describe as the “acquiescent” immobile.⁴²⁸ Since the United States is rarely studied as a migrant-sending country, there is ample room for additional scholarly exploration of the forces and conditions that render U.S. citizens immobile.

The existence of a sizeable category of immobile U.S. citizens who are experiencing conditions of vulnerability also raises important policy and moral choices. One option, which is routinely the case for disadvantaged populations within a country, is to advocate for reforms that will ameliorate those conditions. In the same way that U.S. government officials exhort foreign governments to address the “root causes” that push migrants to come to the United States, the government might endeavor to examine and address analogous factors leading to outbound migration.⁴²⁹ Alternatively, one might argue that the barriers to exit should be eliminated. This recommendation resonates with a strand of the migration studies literature pushing for a robust right to exit, consistent with human rights protections around freedom of movement and mobility.⁴³⁰ The conceptual challenge of the “right to exit,” however, is that it necessitates an accompanying right of entry in another jurisdiction.⁴³¹ For some currently immobile U.S. citizens, there may simply be no lawful pathway into another country.

The distinctions between those who are able to exit and those who cannot, including for reasons of immobility, can also raise significant equality concerns. At a baseline level, people who are able to obtain

Aspirations and Capabilities Among Youth from Rural Honduras, 49 J. ETHNIC & MIGRATION STUD. 212, 229 (2022).

427. Jørgen Carling, *Migration in the Age of Involuntary Immobility: Theoretical Reflections and Cape Verdean Experiences*, 28 J. ETHNIC & MIGRATION STUD. 5, 8 (2002).

428. Jørgen Carling & Kerilyn Schewel, *Revisiting Aspiration and Ability in International Migration*, 44 J. ETHNIC & MIGRATION STUD. 945, 957 (2018). Aspirations to migrate are often connected to context-specific and culturally defined social dynamics. *Id.* at 952-53.

429. Tomas Hammar & Kristof Tamas, *Why Do People Go or Stay?*, in INTERNATIONAL MIGRATION, IMMOBILITY AND DEVELOPMENT, *supra* note 424, at 11.

430. *See, e.g.*, Patti Tamara Lenard, *Exit and the Duty to Admit*, 8 ETHICS & GLOB. POL. 1 (2015) (defining the “right to exit” and outlining state obligations); Tanya Golash-Boza & Cecilia Menjivar, *Causes and Consequences of International Migration: Sociological Evidence for the Right to Mobility*, 16 INT’L J. HUM. RTS. 1213, 1214 (2012) (advocating for a stronger rights framework for human mobility, including the right to exit).

431. *See, e.g.*, Moria Paz, *The Incomplete Right to Freedom of Movement*, 111 AM. J. INT’L L. UNBOUND 514, 514 (2018) (“[M]any refugees who have exercised their human right to exit come up against a functional block to mobility: they have no place to stop moving.”).

another passport or visa will have access to more opportunities (including educational and professional options) than those with only U.S. citizenship.⁴³² While such inequalities may be minimal currently, particularly if U.S. citizens are not often using the added benefits, the concerns could grow exponentially if increasing numbers of U.S. citizens procure statuses elsewhere and changing circumstances necessitate use of that exit pathway.⁴³³

Along these lines, citizenship-by-descent programs arguably raise other inequality concerns. In the same way that the concept of “accident of birth” fuels debates about global migration policy and birthright citizenship, a similar “accident of descent” can animate equality concerns stemming from diasporic-based citizenship programs. People are able to access a significant migration pathway—and the accompanying opportunities and benefits—at minimal cost, with few attendant responsibilities, and often with no meaningful connections to the destination country. This could fuel resentment on the part of those in the country of origin who are not able to access similar migratory vehicles.⁴³⁴ Yet, at the same time, for minorities in the United States, the acquisition of status in another country can alleviate the feeling of inequality or discrimination they experienced in the United States.⁴³⁵ While such departures may provoke domestic tensions, they also provide an exit option for those left with few other choices.⁴³⁶

D. *Whiteness and Neocolonialism*

Closely related to the ubiquity of privilege are considerations of whiteness and neocolonialism, which likewise animate some of these migratory moves. As a threshold matter, it is striking how many countries have liberalized migration pathways for arrivals by U.S. citizens and others from the Global North, while migrants from the Global South continue to encounter formidable barriers to entry, including surveillance and criminalization.⁴³⁷ The racial privilege that white U.S. citizens enjoy,

432. Spiro, *The Equality Paradox*, *supra* note 395, at 887.

433. *Id.* at 887-88.

434. *Id.* at 894.

435. Blatter, *supra* note 379, at 783.

436. *Id.* at 792-93.

437. Hayes & Pérez-Gañán, *supra* note 201, at 117 (“North-South migration brings into focus the coloniality of power at the heart of transnational mobility [C]itizens of wealthy nation-states, often historically associated with phenotypical whiteness, are in demand and poorer nations sometimes compete to attract them as tourists or real estate investors.”).

as well as the economic capital that U.S. citizens often possess, eases their entry into destination countries.

As described above, many of the U.S. citizens who chose to exit the United States had experienced economic or social marginalization there yet enjoy relative privilege on a global scale. Many are able to relocate overseas because the assets and social benefits they accrued in the United States can be stretched further in another country where resources and services are much cheaper. This practice resembles, at least in form, a classic colonial move, by which the relatively greater value of foreign assets enables a privileged existence in an economically developing country of destination.⁴³⁸ Additionally, for the white American migrants who relocated overseas because of economic vulnerability, the “symbolic power” of their whiteness offsets the relative lack of privilege due to their class status in the United States or advanced age.⁴³⁹ Indeed, as sociologist Devon Goss uncovered in her study of retirees in Mexico, relocation overseas allows white U.S. citizen migrants to reclaim the power of their whiteness—a status that had diminished because of the growing demographic diversity back home.⁴⁴⁰ As one of Goss’s interviewees observed, in Mexico, “you are almost venerated as a white person. I’m like a big shot here.”⁴⁴¹

The additional layer of exoticization and cultural stereotyping that underlies some of these migratory decisions brings the colonial analogy into fuller view. In some instances, the exoticization is linked to geographic features of the country or the legacy of an ancient culture.⁴⁴² While not a case of U.S. citizen migration, the wave of European migration to the medina of Marrakech, Morocco perfectly encapsulates how exoticization fuels present-day north-south migration.⁴⁴³ There,

438. *Id.* at 117, 128.

439. *Id.* at 122.

440. Goss, *supra* note 253, at 543-44, 547.

441. *Id.* at 547.

442. Jeff D. Opdyke, *Retirees and Freelancers Look Forward to Thailand’s New Visa*, INT’L LIVING, <https://internationalliving.com/retirees-and-freelancers-look-forward-to-thailands-new-visa/> [<https://perma.cc/KWD7-CWBM>] (touting how Thailand’s “beaches and mountainous jungles” along with “[s]and, sun, [and] millennia-old culture” contribute to “an affordable, exotic lifestyle”); Edward L. Jackiewicz & Jim Craine, *Destination Panama: An Examination of the Migration-Tourism-Foreign Investment Nexus*, 1 RECREATION & SOC’Y IN AFRICA ASIA & LATIN AM. 5, 5, 16 (describing the emergence of Panama as an “affordable” and “exotic” relocation destination, and emphasizing the geographic and cultural features of popular regions within Panama).

443. See Anton Escher & Sandra Petermann, *Marrakesh Medina: Neocolonial Paradise of Lifestyle Migrants?*, in CONTESTED SPATIALITIES, LIFESTYLE MIGRATION AND RESIDENTIAL TOURISM 29, 29 (Michael Janoschka & Heiko Haas eds., 2014).

European migrants have settled in the city's impoverished historical quarter, rehabbing homes in an orientalist style reminiscent of the Arabian Nights.⁴⁴⁴ As one migrant explained, “[t]here is still that . . . gracious colonial atmosphere” is “the sort of thing I love about Morocco.”⁴⁴⁵ In addition to the exoticized framing of destinations, coloniality also imbues the stereotyped othering of locals. An *International Living* article about Cancún, Mexico, describes the “tiny indigenous, hard working, and humble people employed in all areas of the city.”⁴⁴⁶

Furthermore, as with its colonial antecedents, these neocolonial migratory moves can have a harmful impact on the economy and society of the destination country. As increasing numbers of U.S. citizens relocate overseas, particularly for retirement or elder care, one could easily imagine the emergence of a bifurcated health care system with state-of-the-art facilities catering to U.S. citizens and other foreigners and with under-resourced facilities serving the less affluent, local population.⁴⁴⁷ Along these lines, the arrival of U.S. citizens could produce an internal “brain drain” whereby the most talented professionals in particular fields focus on serving wealthier U.S. citizens as opposed to the local population,⁴⁴⁸ thus replicating inequalities from the colonial era.⁴⁴⁹ The influx of U.S. citizens to some Mexican towns already has produced an outcome that satisfies most definitions of “gentrification.”⁴⁵⁰ As one U.S. citizen said about her community just across the border from San Diego, “This isn’t like Mexico, Mexico. It’s been gringo-ized.”⁴⁵¹ And as

444. *Id.* at 29, 36.

445. *Id.* at 35.

446. *Cancun, Mexico*, INT’L LIVING (Aug. 10, 2021), <https://internationalliving.com/countries/mexico/cancun/> [https://perma.cc/65BV-FVDH].

447. Whittaker et al., *supra* note 225, at 340.

448. *Id.*

449. *Medical Tourism ‘Mirrors Colonial Inequalities’*, RNZ NEWS (May 15, 2016, 2:39 PM), <https://www.rnz.co.nz/news/national/303924/medical-tourism-%27mirrors-colonial-inequalities%27> [https://perma.cc/9AQJ-DTKP] (“[Destination countries] have state-of-the-art hospitals . . . and they are catering for their own elite as well as the elite from abroad. But . . . many local people [in India, Malaysia, and Thailand] were not getting even the most basic health care.”); Vicky Brown Varela, *Medical Tourism in Costa Rica: Harbinger of Economic Development or Neo-Colonial Venture?*, MEDIUM (Aug. 25, 2021), <https://medium.com/@vickyabvarela/medical-tourism-in-costa-rica-harbinger-of-economic-development-or-neo-colonial-venture-f8fba84a060f> [https://perma.cc/9YK8-LBZE] (describing health inequalities in Costa Rica exacerbated by American and Canadian medical tourism).

450. Schafran & Monkkonen, *supra* note 140, at 244.

451. Jaime Holguin, *More Retirees Migrating South*, CBS NEWS (May 19, 2004, 6:01 PM), <https://www.cbsnews.com/news/more-retirees-migrating-south/> [https://perma.cc/CZ6W-H25P].

destinations become saturated with arriving U.S. citizens, other impacts, including environmental degradation, may be seen.⁴⁵²

E. Role of Private Entities

As described above, a vast network of private entities promotes the relocation by U.S. citizens to different countries and facilitates access to formal immigration status in those countries. Powerful firms and countless other agencies guide U.S. citizens through the process of obtaining a visa and permanent residence or citizenship in a second country. Others specialize in helping specific populations or assisting with the logistics of relocation, including securing a new home.⁴⁵³ Also included among these entities are lifestyle marketing brands like *International Living* that tout the benefits of retirement overseas.⁴⁵⁴ As noted previously, many of these entities have reported a significant increase in interest by U.S. citizens in recent years, given the instability wrought by the Trump Administration and the uncertainty surrounding the 2020 election.⁴⁵⁵

Many scholars already have examined the role private entities play in U.S. immigration law. Within this literature, several have critiqued the private-sector role in immigration law enforcement and in the detention of noncitizens.⁴⁵⁶ Others have explored the role of private employers in screening noncitizens for eligibility for employment—a function essentially delegated via regulation and statute.⁴⁵⁷ Some advocates and scholars have examined the work of private brokers who are facilitating access to U.S. visas—including labor recruiters for temporary guest workers or international marriage brokers.⁴⁵⁸ Yet, minimal scholarly attention has been given to brokers facilitating *exit* from the United States.

452. Sunil et al., *supra* note 80, at 490; Schafran & Monkkonen, *supra* note 140, at 251.

453. See *supra* note 125 and accompanying text.

454. See *Cancun, Mexico*, *supra* note 446.

455. See *supra* notes 292, 301 and accompanying text.

456. See, e.g., Tanya Golash-Boza, *The Immigration Industrial Complex: Why We Enforce Immigration Policies Destined to Fail*, 3 SOCIO. COMPASS 295, 295 (2009); Jennifer M. Chacón, *Privatized Immigration Enforcement*, 52 HARV. C.R.-C.L. L. REV. 1, 2 (2017).

457. Stephen Lee, *Private Immigration Screening in the Workplace*, 61 STAN. L. REV. 1103, 1105 (2009); Huyen Pham, *The Private Enforcement of Immigration Laws*, 96 GEO. L. J. 777, 779 (2008).

458. See, e.g., INT'L LAB. RECRUITMENT WORKING GRP., *THE AMERICAN DREAM UP FOR SALE: A BLUEPRINT FOR ENDING INTERNATIONAL LABOR RECRUITMENT ABUSE* 5 (2013), <https://fairlaborrecruitment.files.wordpress.com/2013/01/the-american-dream-up-for-sale-a-blueprint-for-ending-international-labor-recruitment-abuse1.pdf> [<https://perma.cc/JP28-74YW>]; Christina Del Vecchio, *Match-Made in Cyberspace: How Best to Regulate the International Mail-Order Bride Industry*, 46 COLUM. J. TRANSNAT'L L. 177, 182 (2007).

Several issues related to the exit industry merit closer attention, including the sequelae of limited government oversight and the implications of privatization and possible regulatory capture.

First, many of the organizations that serve U.S. citizens seeking to move abroad operate at the margins of regulated industries and jurisdictions and thus receive minimal government oversight.⁴⁵⁹ For example, immigration brokers and others who facilitate relocation by U.S. citizens often work in virtual, transnational spaces and thus are subject to ambiguous or inconsistent professional standards.⁴⁶⁰ Additionally, for those entities operating in another jurisdiction, the level of government oversight often does not match what one normally finds in the United States. For instance, the *Arizona Republic* conducted an informal survey of Mexican nursing homes that house U.S. citizens, revealing that two-of-eight lacked state health department licenses and that many facilities received government inspections only once a year.⁴⁶¹ These circumstances invite the question of if and how stricter regulation might govern the work of these private entities. In some instances, extraterritoriality concerns may hamper the ability of U.S. government agencies to exercise regulatory jurisdiction.

Second, as governments overseas contract with firms to develop and implement migration-related programs, concerns about privatization and possible agency capture loom large. Although zealous defense of national security has become a key imperative for most governments, particularly in the post-9/11 era, functions falling within the broader umbrella of national security are increasingly being privatized. In this manner, governments are actively outsourcing duties relating to migration management and border control.⁴⁶² Notably, this move toward privatization often occurs in the context of a broader neoliberal agenda that includes austerity measures, lower taxes, and deregulation.⁴⁶³ As the global exit industry encourages vulnerable individuals to take action to secure their futures in other countries, the propagated narratives risk occluding the underlying state policies (or failures) that cause people to migrate in the first place.

459. Hayes & Pérez-Gañán, *supra* note 201, at 119.

460. Cf. Jolene A. Lampton & Babu I. Razack, *Ethics Must be Global*, STRATEGIC FIN. (Feb. 1, 2020), <https://sfmagazine.com/articles/2020/february/ethics-must-be-global> [<https://perma.cc/8CQ4-C8DD>].

461. Hawley, *supra* note 238.

462. Kalm, *supra* note 122, at 74.

463. *Id.*

In a similar vein, the central role that global firms have played in developing, encouraging the adoption of, and marketing migration pathways for governments strongly reflects, at a minimum, a type of private ordering in the area of migration policy.⁴⁶⁴ More concerningly, it foretells the possibility of regulatory capture,⁴⁶⁵ whereby the interests of private-sector actors dominate policy decisions at the expense of moves that might serve the public interest more broadly.⁴⁶⁶ Allegations of underhanded tactics used by global firms, including the inappropriate influence of governments and the silencing of critics, underscore the risks inherent in such a capture scenario.⁴⁶⁷ In addition to undermining the best interests on the destination country and its residents, capture and the accompanying lack of oversight can harm vulnerable U.S. citizen consumers of possible migration options.⁴⁶⁸ This possible implication of the work of immigration brokers, along with those aforementioned, merits further scholarly inquiry over the coming years.

VI. CONCLUSION

Exit migration by U.S. citizens is no longer a theoretical speculation or an idle threat in the face of unfavorable political conditions. Nor are emigrant flows limited to the most privileged U.S. citizens seeking financial advantages or nonessential enhancements to their quality of life. Rather, as this Article reveals, conditions of vulnerability in the United States—including identity-based mistreatment, economic disadvantage, and growing domestic risks—have pressured a class of U.S. citizens to permanently exit the country. Another cohort has begun a process of intentional exit planning should circumstances further deteriorate and place them and their families at risk. In making their exits, U.S. citizens have invoked distinct migratory vehicles, including options linked to diasporic descent, retiree status, and investment, as well as more conventional immigration pathways. This phenomenon has significant implications for the future of U.S. citizenship and invites critical questions about the ongoing relationship between overseas citizens and the state.

464. Surak, *Global Citizenship*, *supra* note 127, at 37.

465. David Thaw, *Enlightened Regulatory Capture*, 89 WASH. L. REV. 329, 331-35 (2014).

466. Kalm, *supra* note 122, at 77.

467. *Id.* at 82.

468. See, e.g., Kate Hooper & Demetrios G. Papademetriou, *Shine Wears Off Investor Visa Programs as Questions About Economic Benefits and Fraud Lead to Reforms*, MIGRATION POL'Y INST.: MIGRATION INFO. SOURCE (Dec. 7, 2015), <https://www.migrationpolicy.org/article/shine-wears-investor-visa-programs-questions-about-economic-benefits-and-fraud-lead-reforms> [<https://perma.cc/VYJ5-5SVK>] (detailing plans for some investment visa programs to require more “risky” investments, alongside general wariness of investors due to lack of oversight).

This study of pressured exits also exposes currents of privilege and coloniality in contemporary cross-border migration as well as the powerful role of private immigration brokers. Perhaps most importantly, it highlights the ongoing conditions of vulnerability that encumber many U.S. citizens, pressing some to exit while rendering others immobile.