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LEGAL SOURCES OF RESIDENTIAL LOCK-INS: WHY FRENCH HOUSEHOLDS MOVE HALF AS OFTEN AS U.S. HOUSEHOLDS

*Robert C. Ellickson**

In a given year, a resident of the United States is roughly twice more likely to move to a different home than is a resident of France (or of western Europe as a whole). Cultural differences undoubtedly account for some of this gap. The central thesis of this Article, however, is that much of this disparity in residential mobility can be chalked up to differences between U.S. and French (and other European) legal policies—in particular, taxation statutes, land-use policies, landlord-tenant laws, and housing assistance programs. This Article also offers a normative framework for analyzing the desirability of household relocations. Legal policies that foster residential moves can enable individuals to better match themselves with a job, a dwelling, a set of housemates, a tenure arrangement, a neighborhood, and a municipality (à la Tiebout). A decision to move, however, may give rise to negative externalities, such as erosion of local social capital. In theory, although rarely in practice, people thus can move too often.

I. INTRODUCTION

Rates of mobility reveal the dynamism—or, from a gloomier perspective, the instability—of a society. There are three basic measures of demographic flux within a nation. Sociologists tend to focus on social mobility, for example, the likelihood that a person of humble origin will be able to rise in social status.[1] Economists, for their part, tend to focus

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1. *See, e.g.*, ROBERT ERIKSON & JOHN H. GOLDTHORPE, THE CONSTANT FLUX: A STUDY OF CLASS MOBILITY IN INDUSTRIAL SOCIETIES (1992).

on job mobility, that is, the rate of changes in positions of employment. And demographers are the main experts on residential mobility, namely, how frequently people change their permanent places of residence. Intuitively, these three rates of flux should be positively correlated.

I focus in this Article on the third of these measures: a nation's rate of residential mobility. My normative thesis is that this rate is an underappreciated measure of the well-being of a populace. Policies that foster freedom to move can benefit the members of a relocating household in myriad ways. Moving to a different permanent home may enable a person to secure, for example, a better job, a more congenial set of housemates, and a dwelling with more suitable attributes. The freedom of a household to exit from a jurisdiction also helps to discipline governments and enable Tiebout-style specialization among them.[2] It is surprising, then, that civil libertarians seldom exalt the freedom to move.[3] Perhaps they have been all but silent because residential mobility can have a downside as well. Household moves may cause, to borrow a phrase from Schumpeter, the "creative destruction" of informal relationships among neighbors—a seemingly valuable form of social capital.[4]

For concreteness, the focus here is on the patterns of residential mobility in two nations: the United States and France. Roughly fourteen percent of U.S. residents move to a new dwelling in a given year. In France, and in Europe as a whole, the annual percentage of movers is about half that figure.[5] This disparity arises partly on account of cultural and demographic differences. I emphasize, however, the influence of differences in French and U.S. legal policies.[6] A variety of French laws,

2. *See* Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 418–19 (1956) (envisioning that suburbs compete for residents by offering different packages of public policies).

3. Some judges have made passing reference to the importance of freedom of relocation. *See, e.g.*, Boraas v. Vill. of Belle Terre, 476 F.2d 806, 817 (2d Cir. 1973), *rev'd*, 416 U.S. 1 (1974) ("Appellants are entitled, subject to lawful and reasonable local laws, to travel and settle down where they please.").

4. JOSEPH E. SCHUMPETER, CAPITALISM, SOCIALISM, AND DEMOCRACY 83–84 (Harper & Row 1976) (1942).

5. *See infra* text accompanying notes 8–11. *See also* Quentin David et al., *Local Social Capital and Geographical Mobility*, 68 J. URB. ECON. 191, 191 (2010) (placing annual residential mobility in Europe as a whole at about five percent). Mobility is highest in the Scandinavian countries, and lowest in Southern Europe. *Id.* For a European nation, France actually is relatively mobile. *See* HOLGER BONIN ET AL., GEOGRAPHIC MOBILITY IN THE EUROPEAN UNION: OPTIMISING ITS ECONOMIC AND SOCIAL BENEFITS 42, 46 (IZA Research Report No. 19, 2008).

In the early 1980s, New Zealand's nineteen percent annual mobility rate was one of the highest in the world. *See infra* tbl.1. At that time, its rate was about eight times East Germany's, which was 2.5 percent. W. Paul Strassmann, *Housing Market Interventions and Mobility: An International Comparison*, 28 URB. STUD. 759, 765 (1991). In the late 1990s, the annual rate of residential mobility of households throughout the newly united Germany was 6.8 percent. David et al., *supra*, at 191.

6. Prior statements of the thesis that housing policies may have a major influence on mobility rates include P.C.J. Everaers & W.A.V. Clark, *Policy and Mobility in Dutch Housing Market Contexts: The Influence of National and Local Policies on Intra- and Inter-City Mobility*, 75 TIJDSCHRIFT VOOR ECONOMISCHE EN SOCIALE GEOGRAFIE [J. ECON. & SOC. GEOGRAPHY] 242, 242–43 (1984); Larry Long, *Residential Mobility Differences Among Developed Countries*, 14 INT'L REGIONAL SCI. REV. 133, 141–42, 145 (1991); and Strassmann, *supra* note 5, at 759.

perhaps unintentionally, tend to deter households from relocating. These include taxation, landlord-tenant and housing assistance policies that tend to lock French households into place, and a land-use control system that limits the variety of available housing.[7] Much of this Article is devoted to describing these measures and pointing out how they differ from those found in the United States. In the latter part of the Article, I offer a normative framework that lawmakers might use when considering whether to encourage or discourage household relocations.

II. RESIDENTIAL MOBILITY IN THE UNITED STATES, FRANCE, AND ELSEWHERE

Census officials around the world typically gauge residential mobility by identifying the proportion of a nation's population that moves from one dwelling to another during a certain time period (typically either one or five years). Because nations' methodologies vary, cross-country comparisons are rare. Table 1 presents data from one of the best-known studies: Larry Long's estimates of annual residential mobility in various nations circa 1981. The table indicates a wide spread between the extremes, with New Zealand's annual rate more than triple Ireland's. The U.S. percentage (17.5 percent) is nearly double that of France (9.4 percent), figures that support the stylized fact that Americans move twice as frequently as the French do.[8] Observe that the Swiss move more often than most other Europeans, a fact to which I shall return.

7. *See also* W. Paul Strassmann, *Residential Mobility: Contrasting Approaches in Europe and the United States*, 16 HOUSING STUD. 7, 8 (2001) (sounding a similar theme).

8. On November 8, 2008, Daniel Courgeau, a longtime researcher at Institut National d'Études Démographiques [National Institute for Demographic Studies], Paris, and an acknowledged French expert on the subject, articulated this stylized fact to this author in an e-mail message. Decades before he had expressed the identical proposition in print. *See* Daniel Courgeau, *Comparison des migrations en France et aux États-Unis* [*A Comparison of Migration in France and the United States*], 37 POPULATION 1184, 1186 (1982). In 2009, an authoritative French study repeated the common understanding that U.S. households move twice more frequently. CONSEIL D'ÉTAT, DROIT AU LOGEMENT, DROIT DU LOGEMENT [COUNSEL OF STATE, HOUSING RIGHTS, HOUSING LAW] 72 (2009). The gap almost certainly has narrowed since 1981. *See* CONSEIL D'ÉTAT, *supra*, at 73; Nathalie Donzeau & Jean-Louis Pan Ké Shon, *Residential Mobility Trends in France, 1973–2006: New Estimates*, 64 POPULATION 687, 699 (Harriet Coleman trans., English ed. 2009) (both detecting some increase in French mobility rates); *see also infra* note 12 and accompanying text (reporting a decline in the U.S. rate). By far the narrowest estimate of the difference in rates appears in Raven Molloy et al., *Internal Migration in the United States*, J. ECON. PERSP., Summer 2011, at 173, 193 fig.5 (presenting a graph, extrapolated in part from Eurobarometer 64.1 data, that indicates that the annual residential mobility rate in France is less than one percent below the U.S. rate).

In both nations, mobility rates differ from region to region. In the early 1980s, Pennsylvania had the lowest mobility rate of any state (eleven percent), with Alaska, Arizona, and a few other western states at the other extreme (over twenty-five percent). Long, *supra* note 6, at 139. On variations within France, see, e.g., Eva Leliévre & Catherine Bonvalet, *A Compared Cohort History of Residential Mobility, Social Change and Home-Ownership in Paris and the Rest of France*, 31 URB. STUD. 1647 (1994). This Article does not delve into the causes of these subnational differences.

TABLE 1:
ESTIMATED PERCENTAGE OF NATION'S POPULATION CHANGING PERMANENT RESIDENCE IN A GIVEN YEAR, CIRCA 1981[9]

Country	Percent Who Moved
Ireland	6.1%
Netherlands	7.7%
France	9.4%
Japan	9.5%
Great Britain	9.6%
Switzerland	13.7%
Hong Kong	14.6%
Australia	17.0%
United States	17.5%
Canada	18.0%
New Zealand	19.4%

The gross figures in Table 1 obscure significant variations among population subgroups. Young adults are far more mobile than older adults. As Table 2 indicates, in both France and the United States, individuals in their late twenties move at least three times more frequently than those in their forties.[10] And in both nations, renters move over three times more often than owners do, partly because the transaction costs of terminating a rental arrangement are far lower than the costs of selling a dwelling.[11] These two patterns help explain why residential mobility in the United States has been falling. In the 1950s and 1960s, about twenty percent of Americans moved each year. Since then the population has aged, and the percentage of homeowners has increased. By 2001, the annual rate of U.S. mobility had diminished, as mentioned, to approximately fourteen percent.[12]

9. Long, *supra* note 6, at 136.

10. *See also* DONALD J. BOGUE ET AL., IMMIGRATION, INTERNAL MIGRATION, AND LOCAL MOBILITY IN THE U.S. 7, 9 (2009) (charting age-specific mobility rates in the United States).

11. NAMKEE AHN & MAITE BLÁZQUEZ, FUNDACIÓN DE ESTUDIOS DE ECONOMÍA APLICADA, [FOUND. FOR APPLIED ECON. STUDY] DOCUMENTO DE TRABAJO [WORKING PAPER NO.] 2007-05, RESIDENTIAL MOBILITY AND LABOR MARKET TRANSITIONS: RELATIVE EFFECTS OF HOUSING TENURE, SATISFCATION AND OTHER VARIABLES 7 tbl.1 (2007) (stating that European Community Household Panel data for 1995–2001 indicate a seventeen percent annual moving rate for French tenants and a five percent rate for French owners). For a fuller discussion of the moving rates of different subgroups of Americans, see BOGUE ET AL., *supra* note 10, at 6–17 (reporting that women, whites, and the least educated, for example, are somewhat less mobile than their counterparts); JASON SCHACHTER, U.S. CENSUS BUREAU, P20-538, CURRENT POPULATION REPORTS: GEOGRAPHICAL MOBILITY 3 (2001) (indicating a moving rate, per year, of 32.5 percent for renters, and 9.1 percent for owners).

12. U.S. CENSUS BUREAU, ANNUAL GEOGRAPHICAL MOBILITY RATES, BY TYPE OF MOVEMENT: 1947–2009, at A3 (2010) [hereinafter U.S. MOBILITY RATES], http://www.census.gov/population/socdemo/migration/tab-a-1.pdf; *see also* Molloy et al., *supra* note 8, at 179. The drop in U.S. mobility is disproportionately attributable to a slackening rate of local (intracounty) moves.

TABLE 2:
RESIDENTIAL MOBILITY BY AGE, PERCENT PER ANNUM, LATE 1990S[13]

Age of Individual in Years	France	United States
25–29	21.1%	32.4%
30–39	10.9%	18.0%
40–49	4.4%	10.0%
50–54	3.4%	8.6%

Most residential moves are local. In the United States, the median distance of a move in a given year is about six miles (ten kilometers).[14] Roughly three-fifths of U.S. movers remain in the same county, one-fifth move to a different county in the same state, and one-fifth move to either a different state or country.[15] One of France's basic subnational units of government is the *département*, which on average is twice the area of a U.S. county. About three-fourths of French movers in a given year relocate within the same *département*.[16]

BOGUE ET AL., *supra* note 10, at 3–4. I ignore the further drop in mobility after 2007 because the lock-in effects of the Great Recession may prove to be transitory.

13. For France, see AHN & BLÁZQUEZ, *supra* note 11, at 7 tbl.1 (drawing on European Community Household Panel data for 1995–2001). For the United States, see SCHACHTER, *supra* note 11, at 3 (reporting data for March 1999–2000) (percentages extrapolated).

14. *See* Larry Long et al., *Migration Distances: An International Comparison*, 25 DEMOGRAPHY 633, 638–39 (1988).

15. U.S. MOBILITY RATES, *supra* note 12, at A3.

16. Daniel Courgeau & Éva Lelièvre, *Estimation of French Internal Migration in the Period 1990–1999 and Comparison with Earlier Periods*, 59 POPULATION 703, 706–07 (G.I. Rogers trans., English ed. 2004); *see also* André de Palma et al., *Discrete Choice Models with Capacity Constraints: An Empirical Analysis of the Housing Market of the Greater Paris Region*, 62 J. URB. ECON. 204, 207 tbl.1 (2007) (reporting that, in 1998, approximately sixty-eight percent of movers to dwellings in Île-de-France (greater Paris) had previously been living elsewhere in Île-de-France).

III. FACTORS OTHER THAN HOUSING LAWS THAT MAY INFLUENCE A NATION'S RATE OF POPULATION MOBILITY

Although this Article focuses on the possible effects of a nation's legal policies on the frequency of household moves, other variables also matter. If sufficient data were available, a person skilled at regression analysis potentially could test the significance of the various determinants.

A. Cultural and Familial Influences

Cultural traditions surely affect moving rates.[17] Members of Catholic parishes, for example, tend to be less mobile than members of Jewish synagogues.[18] Table 1 indicates that rates of mobility generally are much lower in the nations of old Europe than in the overseas nations that were once British colonies. In a long-settled nation such as France, many individuals and families have enduring loyalties to specific regions and communities.[19] By contrast, early commentators on U.S. life, such as Alexis de Tocqueville and Frederick Jackson Turner, noted a widespread penchant for pulling up stakes.[20]

Family traditions appear to affect a person's propensity to move. Individuals who moved often when they were children, for example, tend to be relatively mobile when they reach adulthood.[21] Most Americans are either immigrants or the descendants of immigrants who were willing to cross an ocean to start a new life. Those who self-selected themselves to come to the United States had a relatively strong taste for making a

17. *See generally* GEORGE W. PIERSON, THE MOVING AMERICAN (1973) (exploring the cultural underpinnings of U.S. rootlessness). *Cf.* Paola Giuliano, *Living Arrangements in Western Europe: Does Cultural Origin Matter?*, 5 J. EUR. ECON. ASS'N 927, 928–29 (2007) (presenting a cultural interpretation of why young adults in Mediterranean Europe tend to live with their parents); Long, *supra* note 6, at 142–44 (pointing out the relative stability of a nation's mobility rate).

18. *See* GERALD GAMM, URBAN EXODUS: WHY THE JEWS LEFT BOSTON AND THE CATHOLICS STAYED 15–16 (1999).

19. *See* Paul E. White, *Internal Migration in the Nineteenth and Twentieth Centuries*, *in* MIGRANTS IN MODERN FRANCE: POPULATION MOBILITY IN THE LATER NINETEENTH AND TWENTIETH CENTURIES 13, 13–15 (Philip E. Ogden & Paul E. White eds., 1989) (noting that rates of residential mobility in France have historically never been high). France, it should be noted, has accepted significant numbers of immigrants from abroad during certain periods, such as the 1920s and 1955–1974. *See* James F. Hollifield, *Immigration and Republicanism in France: The Hidden Consensus*, *in* CONTROLLING IMMIGRATION: A GLOBAL PERSPECTIVE 143, 151 (Wayne A. Cornelius et al. eds., 1994).

20. *See* ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 536 (George Lawrence trans., J.P. Mayer ed., Harper & Row 1969) (1848)) ("An American will build a house in which to pass his old age and sell it before the roof is on . . . ."); FREDERICK JACKSON TURNER, *The Significance of the Frontier in American History*, *in* THE FRONTIER IN AMERICAN HISTORY 1, 2–3 (1920) ("American social development has been continually beginning over again on the frontier. This perennial rebirth, this fluidity of American life, this expansion westward with its new opportunities, its continuous touch with the simplicity of primitive society, furnish the forces dominating the American character.").

21. *See* Scott M. Myers, *Residential Mobility As a Way of Life: Evidence of Intergenerational Similarities*, 61 J. MARRIAGE & FAM. 871, 872 (1999) (finding that children, in adulthood, tend to replicate their parents' mobility behaviors).

fresh start and tended to pass that taste on to their descendents through socialization and genetic inheritance.[22] Conversely, the natives of France who were too risk averse to emigrate abroad tended to have descendents who shared their penchant for staying put.[23]

These cultural differences support the stereotypes that France is a nation where ties to family and place are unusually strong, and the United States, a nation of rootless entrepreneurs ever on the lookout for a new main chance. But the difference between the mobility rates of the two populations cannot be attributed entirely to their disparate cultural and familial traditions. Various French laws bolster that nation's rootedness, while U.S. laws work in the opposite direction. Culture and law of course are deeply intertwined. Legislators tend to honor their nation's cultural values. Conversely, a nation's legal policies, after their adoption, tend to reinforce its cultural inclinations. Nonetheless, much evidence indicates that, in a given culture, legal policies by themselves can significantly influence how frequently households move. For example, in Switzerland, a nation that shares much of the culture of old Europe, the rate of residential mobility is significantly higher than it is in neighboring nations.[24] Switzerland also has, relative to its neighbors, a relatively laissez-faire set of landlord-tenant laws and social housing policies.[25] Conversely, in New York City, the U.S. city with housing policies most similar to those in France, households move much less often than they do in other large U.S. cities. Over a ten-year period, eighty-three percent of Chicago's renting households changed dwellings, compared to sixty-five percent of New York's.[26] If New York is "The Frozen City," as one commentator has dubbed it,[27] it is unlikely that distinctive cultural attributes

22. Theoretical explorations of cultural transmission within households include L.L. CAVALLI-SFORZA & M.W. FELDMAN, CULTURAL TRANSMISSION AND EVOLUTION: A QUANTITATIVE APPROACH (1981); and Alberto Bisin & Thierry Verdier, *The Economics of Cultural Transmission and the Dynamics of Preferences*, 97 J. ECON. THEORY 298 (2001). Migrants are generally thought to be less risk averse than nonmigrants. *See* Axel Heitmueller, *Unemployment Benefits, Risk Aversion, and Migration Incentives*, 18 J. POPULATION ECON. 93, 99 (2005). For evidence that attitudes toward risk are partly inherited, see David Cesarini et al., *Genetic Variation in Preferences for Giving and Risk Taking*, 124 Q.J. ECON. 809, 834 (2009).

23. The analysis in this paragraph, as well as the data displayed *supra* in Table 1, supports the notion that nations inhabited mostly by recent immigrants and their descendents can be expected to have exceptionally high rates of internal residential mobility. This thesis is geographically broader but substantively narrower than the controversial idea of "American exceptionalism" propounded in, for example, SEYMOUR MARTIN LIPSET, AMERICAN EXCEPTIONALISM: A DOUBLE-EDGED SWORD (1996). *See also* SEYMOUR MARTIN LIPSET, CONTINENTAL DIVIDE: THE VALUES AND INSTITUTIONS OF THE UNITED STATES AND CANADA (1990) (asserting that U.S. and Canadian cultures are significantly different).

24. *See supra* tbl.1.

25. *See* Strassmann, *supra* note 7, at 13.

26. Ingrid Gould Ellen & Brendan O'Flaherty, *How New York and Los Angeles Housing Policies Are Different—and Maybe Why*, *in* NEW YORK AND LOS ANGELES: THE UNCERTAIN FUTURE (David Halle & Andrew Beveridge eds., n.d.). In New York City, sixty-four percent of rental arrangements are either subject to rent regulation or situated in a subsidized project. *Id.*

27. Howard Husock, Op-Ed., *The Frozen City*, N.Y. SUN (Dec. 3, 2007), http://www.nysun.com/opinion/frozen-city/67378/.

alone have made it that way. Also probative is R.M. Pritchard's study of household moves in Leicester, England, between 1870 and 1970. Annual mobility rates in Leicester fell from an average of roughly thirteen percent for the pre-1914 period, to roughly 7.5 percent for the post-1919 period.[28] Pritchard attributes the drop that began in the 1920s in significant part to legal changes that transformed Leicester's housing market, such as the advent of rent controls, council housing, and town planning.[29] He makes no mention of any transformation of Leicester's culture.

B. Labor Markets

Table 3 demonstrates that French workers change jobs significantly less frequently than U.S. workers do. Economists have produced a deep literature on the reasons why employment in Europe tends to be long-term, such as legal restrictions on employers' rights to fire.[30]

TABLE 3:
LENGTH OF EMPLOYEE TENURE IN CURRENT JOB[31]

		One Year or Less	Ten Years or More
Employees	France:	14%	41%
Age 26–45	U.S.:	22%	23%
Employees	France:	5%	74%
Age 46–60	U.S.:	12%	50%

Scholars have also begun to pay attention to the complex interrelationship between housing markets and job markets.[32] Moving to a new job may prompt a move to a new housing unit.[33] In the United States,

28. *See* R.M. PRITCHARD, HOUSING AND THE SPATIAL STRUCTURE OF THE CITY: RESIDENTIAL MOBILITY AND THE HOUSING MARKET IN AN ENGLISH CITY SINCE THE INDUSTRIAL REVOLUTION 115 (1976) (percentages extrapolated).

29. *Id.* at 183–91.

30. *See, e.g.*, Samuel Bentolila & Giuseppe Bertola, *Firing Costs and Labour Demand: How Bad Is Eurosclerosis?*, 57 REV. ECON. STUD. 381 (1990).

31. *See* SIMON BURGESS, REALLOCATION OF LABOUR: AN INTERNATIONAL COMPARISON USING JOB TENURE DATA 14–15 (1999). The figures in Table 3 are rounded averages that assume an equal ratio of male and female workers.

32. *See, e.g.*, HOMEOWNERSHIP AND THE LABOUR MARKET IN EUROPE (Casper van Ewijk & Michiel van Leuvensteijn eds., 2009); Laurent Gobillon, *Emploi, logement et mobilité résidentielle* [*Employment, Housing and Residential Mobility*], 349–50 ÉCONOMIE ET STATISTIQUE [ECON. & STAT.] 77 (2001). For exploration of the Oswald hypothesis, which associates homeownership with inferior labor market outcomes, see, e.g., N. Edward Coulson & Lynn M. Fisher, *Housing Tenure and Labor Market Impacts: The Search Goes On*, 65 J. URB. ECON. 252 (2009); Jakob Roland Munch et al., *Are Homeowners Really More Unemployed?*, 116 ECON. J. 991 (2006).

33. *See* William A.V. Clark & Suzanne Davies Withers, *Changing Jobs and Changing Houses: Mobility Outcomes of Employment Transitions*, 39 J. REGIONAL SCI. 653, 660 (1999) (finding that a

about one-sixth of moves are motivated for work-related reasons of this sort.[34] The relative stickiness of French labor markets therefore could be expected to dampen residential mobility.[35] But there also are influences that run in the opposite direction. Because French housing markets also are sticky (on account of various policies soon to be described), some French workers might decline to search for a new job for housing-related reasons. For example, a worker residing in a housing project where rents are heavily subsidized might be deterred from investigating alternative jobs situated beyond feasible commuting distance from his or her current home.

Moreover, partly as a result of tax policies, the distribution of French incomes is far more compressed than the U.S. distribution. Because one reason to move is to assume a higher-paying job, this relative compression may hinder residential mobility in France.[36]

IV. LEGAL POLICIES THAT AFFECT RESIDENTIAL MOBILITY

The standard economic model of a moving decision envisages that a household moves when its gains from the move exceed its transaction costs of carrying out the move.[37] Transaction costs should be expansively defined in this context to include the mover's net psychological and social costs of relocating.[38] Empirical studies indicate that an increase in the transaction costs of moving indeed dampens mobility.[39]

This Part highlights several French legal policies that deter, respectively, homeowners and renters from moving.[40] In 2001, fifty-six percent

household with a member who changed jobs was 2.4 times more likely to have moved to another residence than a household without such a member).

34. JASON SCHACHTER, U.S. CENSUS BUREAU, P23-204, CURRENT POPULATION REPORTS: WHY PEOPLE MOVE 2 (2001).

35. *But cf. infra* note 115 and accompanying text (noting a higher percentage of employment-related moves in France than in the United States).

36. *See* Giuseppe Bertola & Andrea Ichino, *Wage Inequality and Unemployment: United States vs. Europe*, 10 NBER MACROECONOMICS ANN. 13, 26–31 (1995).

37. John M. Quigley, *Interest Rate Variations, Mortgage Prepayments and Household Mobility*, 69 REV. ECON. & STAT. 636, 637 (1987); Steven F. Venti & David A. Wise, *Moving and Housing Expenditure: Transaction Costs and Disequilibrium*, 23 J. PUB. ECON. 207, 213 (1984).

38. *See infra* text accompanying notes 137–40.

39. Jos Van Ommeren & Michiel Van Leuvensteijn, *New Evidence of the Effect of Transaction Costs on Residential Mobility*, 45 J. REGIONAL SCI. 681 (2005).

40. Although the legal differences between the two nations discussed in the text are among the most significant, dozens of others conceivably are pertinent. For example, the relative difficulty of securing mortgage financing in France, mentioned *infra* note 41, impedes homeowner moves in that country. Of less plausible influence are disparities between French and U.S. policies regarding slum-clearance. A government intervention of this nature compels households to move. France, especially in and after the era of Napoleon III and Baron Haussmann, did systematically strive to rid central Paris of concentrations of poverty. *See* Edward L. Glaeser et al., *Why Do the Poor Live in Cities? The Role of Public Transportation*, 63 J. URB. ECON. 1, 22–23 (2008). By the end of the 1970s, French officials had largely accomplished this objective and also had razed most of the nation's suburban shantytowns (*bidonvilles*). In the United States, bulldozer-style urban renewal similarly has fallen from fashion. OFF. OF POL'Y & RES. & U.S. CENSUS BUREAU, H150/07, AMERICAN HOUSING SURVEY FOR THE

of French households were owner-occupants, compared to sixty-eight percent of U.S. households.[41] Because, as mentioned, homeowners move far less often than renters do, this disparity makes the much lower overall rate of residential mobility in France even more striking.

A. Legal Policies that Dampen Moves into and out of Owner-Occupied Housing

1. Policies that Affect the Ease of the Purchase and Sale of a Dwelling

A variety of legal policies potentially affect the out-of-pocket transaction costs of transferring ownership of a dwelling. According to one source, the monetary costs of effectuating the sale of a house in France are about seventeen percent of the sale price.[42] In the United States, the comparable percentage is roughly ten percent.[43] In 2010, the central source of the difference was the imposition on most dwelling sales, by various levels of French government, of aggregate transfer taxes equal to 5.09 percent of sale price.[44] Many U.S. states and localities also impose real estate transfer taxes and fees, but their total burden is far lower, av-

UNITED STATES: 2007, at tbl.2-11 (2008) [hereinafter AMERICAN HOUSING SURVEY] (reporting that less than one percent of movers identified "government displacement" as a cause of their move).

41. Anne Laferrère & David Le Blanc, *Housing Policy: Low-Income Households in France*, *in* A COMPANION TO URBAN ECONOMICS 159, 161 (Richard J. Arnott & Daniel P. McMillen eds., 2006). One source of this difference is the relative difficulty that a French homebuyer has in obtaining mortgage financing. *See id.* at 160; *see also* Maria Concetta Chiuri & Tullio Jappelli, *Financial Market Imperfections and Home Ownership: A Comparative Study*, 47 EUR. ECON. REV. 857, 872 (2003); Richard K. Green & Susan M. Wachter, *The American Mortgage in Historical and International Context*, J. ECON. PERSP., Fall 2005, at 93, 93–94.

42. *See* Van Ommeren & Van Leuvensteijn, *supra* note 39, at 683 fig.1; *see also* Michèle Belot & Sjef Ederveen, *Cultural Barriers in Migration Between OECD Countries*, J. POPULATION ECON. (Feb. 12, 2011), http://www.springerlink.com/content/g433317651324266/fulltext.pdf (reporting house transfer costs of fifteen percent in France and nine percent in the United States); Jean Bosvieux, *Les obstacles a la mobilité des proprietaries* [*Obstacles to the Mobility of Property Owners*], HABITAT ACTUALITÉ [HABITAT NEWS], Dec. 2008, at 1, 17–18 (estimating costs at roughly thirteen percent for France and seven percent for the United States).

43. The figure of ten percent is derived from data provided in a study of 212 home transfers involving FHA-insured loans. U.S. DEP'T OF HOUS. & URB. DEV., OFFICE OF POLICY DEV. & RESEARCH, CLOSING COSTS (2000) [hereinafter CLOSING COSTS], http://www.huduser.org/periodicals/ushmc/spring2000/summary-2.html. The figure excludes the cost of the FHA mortgage insurance premium itself, a sort of charge that most homebuyers do not have to pay. The U.S. estimate, and presumably the French one, also excludes the value of the time the seller spends to prepare and show the house, and that the buyer devotes to the search. *See* Donald R. Haurin & H. Leroy Gill, *The Impact of Transaction Costs and the Expected Length of Stay on Homeownership*, 51 J. URB. ECON. 563, 564–65 (2002).

44. *See* CONSEILS DES NOTAIRES, BUYING OR SELLING A HOME 19 (4th ed. 2008), *available at* http://www.notaires.fr/notaires/en/media/document/905/250. French governments lowered the rates of these *droits de mutation* between 1996 and 2000. Writing in 1991, Strassmann reported that house transfer taxes in France then were between nine and eleven percent. Strassmann, *supra* note 5, at 763. Many other European nations also impose significant taxes on real estate transfers. It has been asserted that these sorts of taxes "unambiguously create lock-in effects that reduce welfare." Per Lundborg & Per Skedinger, *Transaction Taxes in a Search Model of the Housing Market*, 45 J. URB. ECON. 385, 385 (1999).

eraging about 0.5 percent.[45] The French tax code, moreover, is less forgiving than the U.S. tax code with regard to the taxation of capital gains on owner-occupied housing, and in some instances the French value-added tax applies to the sale of a new or improved dwelling.[46]

In both nations, the parties involved in a house sale typically employ the services of a variety of intermediaries. These include real estate brokers, mortgage brokers and lenders, and experts in the preparation of transfer documents (*notaires* in France; attorneys or escrow companies in the United States). In both nations, many of these intermediaries are somewhat cartelized, partly on account of state-enforced entry restrictions and price controls.[47] The French notarial system is notably uncompetitive.[48] French law compels the use of a notary when real estate is transferred and specifies the magnitude of basic notarial fees.[49] The existence of these statutory provisions implies that French notaries have substantial lobbying power and exercise it in a manner that tends to boost the transaction costs of house sales.[50]

45. *See* CLOSING COSTS, *supra* note 43 (reporting that, in the sample studied, "government recording and transfer charges" averaged 0.5 percent of the sales price); *see also* Bosvieux, *supra* note 42, at 17–18 (reporting "taxes" of 0.3 percent in the United States).

46. CONSEILS DES NOTAIRES, *supra* note 44, at 11, 19–21. When the value-added tax applies, however, no transfer tax is due. *Id.* at 19.

47. *See* Bruce M. Owen, *Kickbacks, Specialization, Price Fixing, and Efficiency in Residential Real Estate Markets*, 29 STAN. L. REV. 931 (1977) (outlining anticompetitive forces in residential real estate conveyancing); Roger Van den Bergh & Yves Montangie, *Competition in Professional Services Markets: Are Latin Notaries Different?*, 2 J. COMPETITION L. & ECON. 189 (2006) (discussing anticompetitive regulation and barriers to entry in the Latin notary profession); John C. Weicher, Comment, *Policy First, Research Afterward—The History of RESPA*, 23 J. REAL EST. FIN. & ECON. 297, 298 (2001) (noting cartelization of title insurance companies).

48. *See generally* EZRA N. SULEIMAN, PRIVATE POWER AND CENTRALIZATION IN FRANCE: THE NOTARIES AND THE STATE (1987) (offering an uncomplimentary assessment of the system).

49. On the required use of a notary, see Laferrère & Le Blanc, *supra* note 41, at 160. Notarial fees are fixed according to Décret 78-262 du 8 mars 1978 portant fixation du tariff des notaires [Decree No. 78-262 of Mar. 8, 1978 on the fixation of notary charges], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE FR.], Mar. 10, 1978, p. 995 (Fr.). When a medium-priced house is transferred, the *notaire's* fee is roughly one percent of the sale price.

50. Some commentators assert, however, that notarial systems are relatively efficient in practice. *See* Benito Arruñada, *Market and Institutional Determinants in the Regulation of Conveyancers*, 23 EUR. J.L. & ECON. 93, 103 tbl.1 (2007) (providing comparative data on transfer costs); Van den Bergh & Montangie, *supra* note 47, at 210 (rendering an appraisal commissioned by the notarial federations of France, Belgium, and the Netherlands). According to a 2006 World Bank assessment of the cost and time involved in registering a land transfer in 175 nations, France ranked poorly (160th) and the United States well (10th). WORLD BANK & INT'L FIN. CORP., DOING BUSINESS 2007: HOW TO REFORM 112, 150 (2006); *see also* Mohammad Amin & Jamal Ibrahim Haidar, *The Cost of Registering Property: Does Legal Origin Matter?*, EMPIRICAL ECON. (May 26, 2011), http://www.springerlink.com/content/h3574k132u324470/fulltext.pdf (drawing on the same World Bank dataset and finding that costs of registering property are higher in civil-law countries than in common-law countries). *But see* Bénédicte Fauvarque-Cosson & Anne-Julie Kerhuel, *Is Law an Economic Contest? French Reactions to the* Doing Business *World Bank Reports and Economic Analysis of the Law*, 57 AM. J. COMP. L. 811, 817 (2009) (supporting French notaries' assertions that the compilers of the World Bank data failed to understand the French process of land transfer).

2. *Land-Use Regulation*

In both France and the United States, a household's desire to change the attributes of either its dwelling or its neighborhood motivates a solid majority of moves.[51] As a result, the more ample and varied a nation's stock of housing, the more frequently its populace can be expected to move. One of the major determinants of the quantity and diversity of a nation's housing stock is its system of land-use regulation. Here France and the United States take quite different approaches. The French national government imposes many mandates on the land-use policies of its localities, while the United States gives its states and municipalities a relatively free hand. In France, municipalities (*communes*) and semipublic agencies commonly have sponsored the largest development projects (in the capacity of *un maître d'ouvrage*).[52] In the United States, by contrast, even the most ambitious housing developments are typically initiated by private entrepreneurs.[53] In both nations, land-use regulations vary significantly from place to place. In the United States, for example, legal restrictions on housing production tend to be far more severe in states and localities in the northeast and the far west than elsewhere.[54]

The French land-use regulatory system restricts the variety of available dwellings and neighborhoods more than the U.S. system does. Most French cities and suburbs have a New Urbanist look that many commentators find attractive. Even the fringes of urbanized areas are relatively dense, and these fringes are separated by sharply delineated boundaries from surrounding agricultural lands. Large residential lots, common in many U.S. suburbs, are relatively rare in France. The graph in Figure 1 suggests these differences in the characteristic urban form of the two nations.

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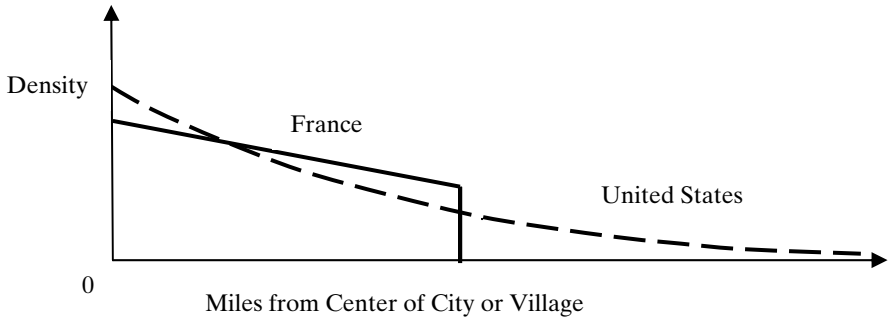
51. *See infra* text accompanying notes 117–19, 122–23.

52. The complexity of the French system of land-use regulation makes it opaque to outside observers. According to a leading expert, the current system mostly dates from the 1950s, and France has recently begun to decentralize it, conferring somewhat more regulatory power on communes and regional governments. Interview by Robert C. Ellickson with Jean-Bernard Auby, Professor of Pub. Law at Sciences-Po (Nov. 18, 2008). Professor Auby's coauthored treatise on the subject is JEAN-BERNARD AUBY ET AL., DROIT DE L'URBANISME ET DE LA CONSTRUCTION [LAW OF URBAN PLANNING AND CONSTRUCTION] (8th ed. 2008); *see also* VINCENT BÉNARD, LE LOGEMENT: CRISE PUBLIQUE, REMÈDES PRIVÉS [HOUSING: PUBLIC CRISIS, PRIVATE REMEDIES] 103–20 (2007) (describing French land-use controls and asserting that they have driven up housing prices); CONSEIL D'ÉTAT, *supra* note 8, at 91–114 (summarizing the regulatory system).

53. *See, e.g.*, Robert C. Ellickson, *The False Promise of the Mixed-Income Housing Project*, 57 UCLA L. REV. 983, 989–95 (2010) (chronicling the falloff in new public housing projects, traditionally a major form of government development activity in the United States).

54. *See* Joseph Gyourko et al., *A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Regulatory Index*, 45 URB. STUD. 693, 711 tbl.11 (2008) (offering an index of the restrictiveness of each state); *see also* Edward L. Glaeser et al., *Why Is Manhattan So Expensive? Regulation and the Rise in Housing Prices*, 48 J.L. & ECON. 331, 367 (2005); John M. Quigley & Steven Raphael, *Regulation and the High Cost of Housing in California*, 95 AM. ECON. REV. 323, 327 (2005).

FIGURE 1:
ILLUSTRATIVE DENSITY GRADIENTS MEASURED
FROM THE CENTER OF CITY OR VILLAGE



In the United States, urban sprawl, whatever its vices, encourages residential mobility by giving households a wide choice of dwellings, lot sizes, and neighborhood grains. French land-use law, by contrast, limits choices along these dimensions, thus dampening moves by households dissatisfied with their present homes and environs.[55]

B. Legal Sources of Stickiness in Rental Housing Markets

France, like many of the more prosperous European nations, has adopted several policies that significantly deter moves by residential tenants. The impact of these policies is enhanced because there are proportionally more renters in France than in the United States, and because renters tend to move far more often than homeowners.

1. Landlord-Tenant Law

In the United States, landlord-tenant law is almost exclusively the province of state governments, an approach that gives rise to a regulatory competition that advocates of decentralization regard as beneficial. France, true to its longstanding tradition of centralized control, has a largely national system of landlord-tenant law.

55. A dyed-in-the-wool New Urbanist might contend, of course, that the quality of French neighborhoods is so uniformly high that dissatisfaction with a neighborhood rarely prompts a household to move.

a. Limits on Landlord Evictions and Lease Terminations

French law imposes more limits than a typical U.S. state does on a landlord's power to evict a tenant or terminate a lease.[56] In 1948, the French legislature decreed that certain residential tenants had a "right to remain in the premises" (*le droit au maintien dans les lieux*).[57] Subsequent legislatures have refined the application of this principle.[58] The key governing statute, the Law Mermaz-Malandain enacted in 1989, requires an individual landlord to offer an incoming tenant a lease with a minimum term of three years.[59] For a corporate or other institutional landlord (*une personne morale*), the minimum term is six years.[60] A tenant holding one of these leases can terminate it at any time by giving three months notice.[61] A landlord, however, is held to the full term. More important, at the end of the term the landlord must offer the tenant a renewal of a lease, except in special circumstances, such as when the landlord wishes personally to reside in the dwelling.[62] Because of

56. In contrast to current French law, the Code Napolèon gave landlords and residential tenants a large degree of freedom of contract. *See* Anne de Moor, Note, *Landlord and Tenant in French Law: A Recent Statute*, 3 OXFORD J. LEGAL STUD. 425, 428 (1983).

57. Loi No. 48-1360 du 1 septembre 1948 portant modification et codification de la législation relative aux rapports des bailleurs et locataires ou occupant de locaux d'habitation ou à usage professionnel et instituant des allocations de logement [Law of Sept. 1, 1948 for the modification and codification of legislation concerning the relationship between landlords and occupants of apartments], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE FR.], Sept. 2, 1948, p. 8659 (Fr.). *See also* Maud Loiseau & Catherine Bonvalet, *The Impact of the 1948 Housing Law on Residential Trajectories in the Paris Region*, 60 POPULATION 301, 302 (Catriona Dutreuilh trans., English ed. 2005). For dramatically different assessments of the merits of this principle, compare Andrea B. Carroll, *The International Trend Toward Requiring Good Cause for Tenant Eviction: Dangerous Portents for the United States?*, 38 SETON HALL L. REV. 427 (2008) (criticizing this doctrine), with Florence Wagman Roisman, *The Right to Remain: Common Law Protections for Security of Tenure*, 86 N.C. L. REV. 817 (2008) (urging U.S. litigators to push for judicial recognition of a tenant's right to remain).

58. *See generally* CONSEIL D'ÉTAT, *supra* note 8 (presenting an overview of housing law in France). English language sources on the details of French landlord-tenant law include Jane Ball, *Renting Homes: Status and Security in the UK and France*, 67 CONVEYANCER & PROP. LAW. 38, 45–58 (2003); Natalie Boccadoro & Anthony Chamboredon, France (March 29, 2004) (unpublished manuscript), http://www.eui.eu/Documents/DepartmentsCentres/Law/ResearchTeaching/ResearchThemes/EuropeanPrivateLaw/TenancyLawProject/TenancyLawFrance.pdf.

59. Loi No. 89-462 du 6 juillet 1989 tendant à améliorer les rapports locatifs et portant modification de la loi no. 86-1920 du 23 décembre 1986, art. 10 [Law No. 89-462 of July 6, 1989 to amend and modify Law No. 86-1920 of Dec. 23, 1986], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE FR.], July 8, 1989, p. 8541 (Fr.) [hereinafter Law Mermaz-Malandain of 1989]. This law exempts from its coverage several significant types of tenancies, including furnished rentals. On the twists and turns of French landlord-tenant statutory law during the 1980s, see BÉNARD, *supra* note 52, at 69–72; Nathan H. Schwartz, *French Housing Policies in the Eighties: Complexity, Continuity, and Ideology*, *in* THE FRENCH WELFARE STATE: SURVIVING SOCIAL AND IDEOLOGICAL CHANGE 187, 201–22 (John S. Ambler ed., 1991).

60. Law Mermaz-Malandain of 1989, *supra* note 59, art. 10.

61. *Id.* at arts. 12, 15.

62. *Id.* at art. 15. In several respects, French landlord-tenant law is more disadvantageous to an institutional landlord than to an individual landlord. As noted, an individual landlord can offer a shorter lease at the outset, and also decline to renew a lease in order to personally reoccupy the dwelling. This legal tilt in favor of individual landlords has likely contributed to the relative popularity in France of condominium ownership of multiunit residential buildings. Condominiums units comprise

these statutory provisions, a French landlord has far less power than a U.S. one to trigger a tenant move. Most U.S. states, by contrast, are far more supportive of freedom of contract. They typically permit a landlord and tenant to come to agreement on, for example, a month-to-month tenancy, a lease with a fixed term of almost any length, and a lease that denies the tenant an entitlement to renew.[63]

To further honor the principle of a right to remain, French law makes it difficult for a residential landlord to evict a tenant, even one in breach on account of nonpayment of rent.[64] With rare exception, evictions are prohibited between November 1 and March 15—the "winter truce" (*la trève hivernale*)—and for an even longer period in Paris.[65] Various mandatory waiting periods help stretch out even an uncontested eviction beyond six months.[66] A tenant can further delay ouster by pursuing multiple avenues of appeal. A spokesperson for French landlords has asserted that, in practice, an eviction for nonpayment of rent takes two or three years to complete.[67] Many tenants whose defenses fail in court in fact are never evicted, because local officials instead decide to exercise their legal option of rendering compensation to the landlord.[68] Most U.S. states are far less protective of a tenant in breach. Evictions typically take place year round, except perhaps during the end-of-the-year holidays or when the weather is unusually cold or wet.[69] In the

twenty-six percent of the total French housing stock, as opposed to seven percent of the U.S. stock. (The latter figure includes units in cooperatives as well.) Moreover, renters occupy about forty-six percent of occupied condominium units in France, as compared to thirty-three percent of U.S. condominium units. L'AGENCE NATIONALE POUR L'INFORMATION SUR LE LOGEMENT [NAT'L HOUSING INFO. AGENCY], HABITAT ACTUALITE [HABITAT NEWS] 6–8 (Report No. 89, 2004); *see also* AMERICAN HOUSING SURVEY, *supra* note 40, at tbls.1A-1, 3-1, 4-1. In the Paris region, noninstitutionally owned condominium units constituted about two-thirds of the private rental stock in 1998. Madhu Satsangi, *Private Rented Housing in France*, 13 NETH. J. HOUSING & BUILT ENV'T 301, 311 (1998). When individuals who own condominium units in a multiunit building rent them out, the complexity of the structure of property rights makes governance of the building far more difficult than it would be if there was a single owner. *See* Henry Hansmann, *Condominium and Cooperative Housing: Transactional Efficiency, Tax Subsidies, and Tenure Choice*, 20 J. LEGAL STUD. 25, 33–36 (1991).

63. There are exceptions. In New Jersey, for example, a landlord must show "good cause" when refusing to renew a residential lease. N.J. STAT ANN. § 2A:18-61.1 (West 2011). The City of Palo Alto, California, requires a residential landlord to offer a new or renewing tenant a lease with a minimum term of one year. Roble Vista Assocs. v. Bacon, 118 Cal. Rptr. 2d 295 (Cal. Ct. App. 2002).

64. On the eviction process in France, see CONSEIL D'ÉTAT, *supra* note 8, at 146–60. In ninety-eight percent of eviction cases, the landlord is complaining of nonpayment of rent. *Id.* at 150.

65. Boccadoro & Chamboredon, *supra* note 58, at 18.

66. *See* Étienne Wasmer, *Analyse économique du marché de logement locatif* [*An Economic Analysis of the Rental Apartment Market*], 58 REVUE ÉCONOMIQUE [ECON. REV.] 1247, 1251 (2007).

67. Marc Vignaud, *Interview—Expulsion plus rapide des locataires: "une mesurette"* [*Quick Eviction of Tenants*], LE POINT [POINT] (Oct. 21, 2008), *available at* http://www.lepoint.fr/actualites-societe/interview-expulsion-plus-rapide-des-locataires-une-mesurette/920/0/284525 (last modified Oct. 21, 2008 7:05 PM). There are few hard data on the subject. *Compare* Boccadoro & Chamboredon, *supra* note 58, at 5 (describing evictions as "almost impossible"), *with* Simeon Djankov et al., *Courts*, 118 Q.J. ECON. 453, 497 tbl.v (2003) (estimating that it takes an average of 226 days to complete an eviction in France).

68. *See* Ball, *supra* note 58, at 57.

69. Roisman, *supra* note 57, at 847 n.128; Manny Fernandez, *Marshals on Hiatus, Putting Holiday Evictions on Hold*, N.Y. TIMES, Dec. 22, 2008, at A27.

United States, a landlord typically can complete a residential eviction in about two months.[70]

b. Rent Controls

Rent controls have been and are much more prevalent in France than in the United States.[71] During World War I, France imposed a moratorium on the collection of many residential rents.[72] Between 1918 and 1948, French law pegged residential rents at an ever smaller fraction of market price, a policy that stifled the supply of rental dwellings and fostered black markets in apartments.[73] In 1948, in an effort to revive the private housing sector, the French legislature partially eased rent controls on existing buildings and exempted newly constructed structures altogether.[74] By 2002, the strict rent controls authorized by the 1948 law applied to only one percent of French residential tenancies (and to three percent of those in Paris).[75]

In the United States, there has been less political support for legal ceilings on rents.[76] Some states and localities did impose rent controls after the end of World War I, but most of these proved to be short-lived.[77] During World War II, the federal government implemented strict controls nationwide, but then lifted them after the war concluded.[78] The post-war New York legislature, however, chose to perpetuate the strict control of rent levels in existing dwellings in New York City and a few other jurisdictions, and later supplemented that system with a milder re-

70. *See* Djankov et al., *supra* note 67, at 495 tbl.v (providing an estimate of 49 days); Randy G. Gerchick, Comment, *No Easy Way Out: Making the Summary Eviction Process a Fairer and More Efficient Alternative to Landlord Self-Help*, 41 UCLA L. REV. 759, 808–09 (1994) (summarizing studies of the durations of evictions in California).

71. On the history of French rent controls, see BÉNARD, *supra* note 52, at 63–79 (offering a scathing critique); Satsangi, *supra* note 62, at 302–03.

72. Tyler Stovall, *The Consumers' War: Paris, 1914–1918*, 31 FR. HIST. STUD. 293, 305 (2008).

73. *See* BERTRAND DE JOUVENEL, FRANCE: NO VACANCIES (1948), *reprinted in* BERTRAND DE JOUVENEL, ECONOMICS AND THE GOOD LIFE: ESSAYS ON POLITICAL ECONOMY 157, 158–59 (Dennis Hale & Marc Landy eds., 1999); Cicely Watson, *Housing Policy and Population Problems in France*, 7 POPULATION STUD. 14, 18–19 (1953). By 1950, rents in France had fallen to one-tenth of their real value in 1913. Thomas Piketty, *Income Inequality in France, 1901–1998*, 111 J. POL. ECON. 1004, 1020 (2003). In 1949, the average rent burden of a household of four in the Paris region was 1.5 percent of the family budget. ROGER H. DUCLAUD-WILLIAMS, THE POLITICS OF HOUSING IN BRITAIN AND FRANCE 34 (1978).

74. SIMONE MORIO, LE CONTRÔLE DES LOYERS EN FRANCE, 1914–1948 [RENT CONTROLS IN FRANCE, 1914–1948] (1976).

75. *See* Loiseau & Bonvalet, *supra* note 57, at 303 tbl.1.

76. An overview of the history can be found in W. DENNIS KEATING ET AL., RENT CONTROL: REGULATION AND THE RENTAL HOUSING MARKET (1998).

77. John W. Willis, *A Short History of Rent Control Laws*, 36 CORNELL L.Q. 54, 69–71, 74–75 (1950).

78. *Id.* at 79–80; John W. Willis, *The Federal Housing and Rent Act of 1947*, 47 COLUM. L. REV. 1118 (1947); *see also* Jamouneau v. Harner, 109 A.2d 640, 643–44 (N.J. 1955) (referring to termination of federal rent controls in 1954).

gime known as rent stabilization.[79] During the high-inflation years of the late 1970s, a few hundred U.S. localities in other states also experimented with rent controls, typically of a moderate variety.[80] But by 2000, a solid majority of U.S. states had enacted statutes forbidding municipal rent controls of any sort.[81]

In sum, at the outset of the twenty-first century, in both France and the United States strict rent controls apply to only a tiny fraction of residential units. But there is a major legal difference between the two nations: France, but not the United States, maintains a nationwide system of *mild* rent controls. The Law Mermaz-Malandain of 1989 limits a landlord's power to increase the rent of a sitting tenant. A nationwide construction index, which typically understates the rate of increase in market rents,[82] sets a ceiling on rent increases during the term of the lease.[83] Moreover, when a conventional three-year lease on an unfurnished dwelling comes to an end, the statute not only compels the landlord to renew in most instances, but also limits any further rent increases to those that the national index permits.[84] To raise rent by a greater amount, a landlord must prove that the former rent "manifestly undervalued" the premises.[85] In practice, a landlord is unlikely to succeed in making that showing. As a result, in ordinary economic times the rents of most sitting tenants in France drift further and further below the market rent. This system of rent control nonetheless is mild because the law authorizes a significant form of vacancy decontrol. Once a sitting tenant departs, a French landlord is free to raise the rent to the prevailing price for comparable units in the same neighborhood.[86]

On the whole, France's landlord-tenant laws dampen its rate of residential mobility. Many studies have demonstrated that rent ceilings have lock-in effects.[87] A tenant, who would have left in the absence of the controls, remains in place on account of the relatively low rent.[88]

79. See Robert C. Ellickson, *Unpacking the Household: Informal Property Rights Around the Hearth*, 116 YALE L.J. 226, 326 n.393 (2006) and sources cited therein.

80. *See* Hansmann, *supra* note 62, at 56 n.67.

81. Mitchell Pacelle, *Rent-Curb Crusade Plays Last Stop in New York*, WALL ST. J., June 13, 1997, at A2. According to a tally by the National Multi Housing Council, an association of landlords, in 2006 thirty-five states were preempting local rent control ordinances. *See Rent Control Laws by State*, NAT'L MULTI HOUSING COUNCIL (Feb. 10, 2006), http://www.nmhc.org/Content/ServeContent.cfm?ContentItemID=1162.

82. *See* Satsangi, *supra* note 62, at 317–18.

83. Law Mermaz-Malandain of 1989, *supra* note 59, arts. 16, 17d.

84. *Id.* at art. 17d.

85. *Id.* at art. 17c.

86. *Id.* at art. 17b. *Cf.* The Costa-Hawkins Rental Housing Act, CAL. CIV. CODE § 1954.50–.535 (West 2011), enacted in 1995, which generally requires a California locality that engages in rent control to grant a landlord freedom to set the initial rent when leasing a dwelling to a new tenant.

87. *See, e.g.*, Richard W. Ault et al., *The Effect of Long-Term Rent Control on Tenant Mobility*, 35 J. URB. ECON. 140 (1994); Jakob Roland Munch & Michael Svarer, *Rent Control and Tenancy Duration*, 52 J. URB. ECON. 542 (2002).

88. A tenant may be able to illegally transfer residency rights to another household in return for "key money." When this is possible, the lock-in effect is mitigated.

Moreover, a landlord who anticipates having great difficulty discontinuing a relationship with an undesirable tenant has an incentive to screen prospective tenants more carefully and, at the extreme, even to leave a dwelling vacant.[89] These landlord responses increase the transaction costs of rental transactions and aggravate housing shortages, further hindering moves by French households.

2. *Housing Assistance Policies*

Beginning in the first half of the twentieth century, both France and the United States established a complex and ever-changing array of housing subsidies for tenants of low or moderate income. For reasons presented below, the French system is far more likely than the U.S. system to impair tenant mobility. Indeed, the lock-in effects of French housing assistance policies probably far exceed those of French rent controls.

In any nation, there are two basic forms of housing assistance: *project-based* and *tenant-based*.[90] In both France and the United States, a majority of assisted tenants receive project-based aid. A tenant who applies for assistance under a project-based program is placed in a queue. The person at the top of the queue is offered a specific apartment in a subsidized project, typically at a deeply discounted rent. If the applicant were to decline to accept the unit, the applicant's name typically would fall to the bottom of the queue. If the applicant were to accept and move in, however, thereafter the benefits of the subsidy would not be portable. Upon vacating the apartment, the tenant would lose the benefits of the housing subsidy and the authorities would offer occupancy of the premises to another household.

Tenant-based housing aids in both France and the United States take the form of housing allowances.[91] Housing allowances are less likely than project-based assistance to lock tenant households into particular dwellings. A tenant who holds a housing allowance can transport it from one rental dwelling to another. On account of this advantage and others, both French and U.S. housing economists generally regard tenant-based housing assistance to be superior to project-based assistance.[92]

As Table 4 indicates, in France forty percent of tenants live in subsidized housing projects, most of which are known as HLM (*habitations à loyer modéré*). Dwellings in these projects constitute seventeen percent of the total French housing stock, a percentage of "social housing" that is

89. *See* BÉNARD, *supra* note 52, at 75; CONSEIL D'ÉTAT, *supra* note 8, at 215–18; Wasmer, *supra* note 66.

90. *See* Ellickson, *supra* note 53, at 985–87.

91. *See infra* text accompanying notes 102–05.

92. *See, e.g.*, JOHN C. WEICHER, PRIVATIZING SUBSIDIZED HOUSING 1–2 (1997); Laferrère & Le Blanc, *supra* note 41, at 171–74; Edgar O. Olsen, *Housing Programs for Low-Income Households*, *in* MEANS-TESTED TRANSFER PROGRAMS IN THE UNITED STATES 365, 437 (Robert A. Moffitt ed., 2003).

middling for a European nation.[93] The most massive clusters of French subsidized housing, such as those in *les Grands Ensembles*, have mostly been built in suburban locations. In the suburbs that surround Paris, sixty-three percent of rental apartments are in HLM projects, whereas, within the city of Paris itself, the figure is twenty-nine percent.[94] Nationwide, over one thousand organizations, aided by low-interest government loans and tax exemptions, develop and manage HLM projects. An HLM organization typically is either locally or regionally based, and may be either a public, private, or public-private entity.[95] Mayors and other local politicians commonly serve on an HLM organization's board of directors, and civil servants historically have received a disproportionate share of the subsidized apartments.[96]

TABLE 4:
APPROXIMATE PERCENTAGE OF RESIDENTIAL TENANTS RECEIVING RENTAL AID, CIRCA 2001[97]

	France	United States
Reside in a Subsidized Project	40%	13%
Reside in an Unsubsidized Structure with the Help of a Housing Allowance	25%	6%
Reside Rent-Free	4%	2%
Tenants Not Receiving Housing Aid	31%	79%
ALL TENANTS	100%	100%

In the major metropolitan areas of France, rent per square meter in an HLM project is about half of the rent charged in the private rental

93. At the turn of the twenty-first century, social rental housing constituted approximately thirty-four percent of the total housing stock in the Netherlands, twenty-two percent in the United Kingdom, seven percent in Germany and Switzerland, and one percent in Spain. Econ. Comm'n for Eur., *Guidelines on Social Housing: Principles and Examples*, 15 fig.1, U.N. Doc. ECE/HBP/137 (2006), http://www.ica.coop/al-housing/attachments/Guidelines%20on%20Social%20Housing%20-%20UNECE.pdf (percentages extrapolated).

94. Calculated from data provided in David le Blanc & Anne Laferrère, *The Effect of Public Social Housing on Households' Consumption in France*, 10 J. HOUSING ECON. 429, 434 tbl.1 (2001).

95. On HLM organizations, see BÉNARD, *supra* note 52, at 35–62 (offering a highly critical appraisal); Jon Pearsall, *France*, *in* HOUSING IN EUROPE 9, 15–17, 27–28, 40 (Martin Wynn ed., 1984); Schwartz, *supra* note 59, at 192–93, 214–16.

96. Schwartz, *supra* note 59, at 192–93, 214.

97. Laferrère & Le Blanc, *supra* note 41, at 161, 166.

sector.[98] The tenant's saving typically is far larger than the discount a tenant receives on account of France's mild system of rent control. Because French policy makers desire to protect sitting tenants from major rent increases, an HLM tenant whose income has increased markedly after initial admission usually continues to enjoy a rent that is substantially lower than the market rent.[99] This policy fosters long tenant stays in HLM projects, particularly those located in better neighborhoods.[100]

As Table 4 reveals, forty percent of tenants in France reside in a subsidized project, about three times the comparable percentage in the United States. Not only are there relatively fewer tenants in projects in the United States, but applicable rent-setting policies also are less likely to freeze them into place. In many such projects, unlike HLM projects, a tenant whose income has risen is eventually charged a substantially higher rent, a policy that tends to prompt more frequent tenant exits.[101]

Beginning in the 1970s, both nations inaugurated major new forms of tenant-based assistance.[102] Table 4 indicates that about six percent of tenant households in the United States currently benefit from housing allowances, popularly known as Section 8. France has had a variety of significant housing allowance programs, referred to as *l'aide à la personne* as opposed to *l'aide à la pierre*.[103] These, unlike Section 8, are made available to all applicants as an entitlement and are broadly distributed.[104] Of the French tenants who do not reside in an HLM or other assisted project, about forty percent receive a housing allowance.[105]

Much evidence indicates that tenants are reluctant to move out of a dwelling that is either rent controlled or tied to a project-based subsidy.[106]

98. *See* Loiseau & Bonvalet, *supra* note 57, at 304 fig.1.

99. Laferrère & Le Blanc, *supra* note 41, at 162–63.

100. *Id.* at 167, 171; *see also* BÉNARD, *supra* note 52, at 41–42; CONSEIL D'ÉTAT, *supra* note 8, at 74–75.

101. A U.S. tenant in a public housing project or a project-based Section 8 project has traditionally had to pay thirty percent of income toward rent. 42 U.S.C. §§ 1437a, 1437f (2006) (providing for some exceptions). A prospering tenant in a U.S. housing project subsidized through tax credits, by contrast, never runs the risk of being charged a higher rent. *See* Shilesh Muralidhara, *Deficiencies of the Low-Income Housing Tax Credit in Targeting the Lowest-Income Households and in Promoting Concentrated Poverty and Segregation*, 24 LAW & INEQ. 353, 359 (2006).

102. *See* Ellickson, *supra* note 53, at 990–92 (discussing the advent of Section 8); Anne Laferrère & David Le Blanc, *How Do Housing Allowances Affect Rents? An Empirical Analysis of the French Case*, 13 J. HOUSING ECON. 36, 37 (2004).

103. *See* CONSEIL D'ÉTAT, *supra* note 8, at 161–63; *see generally* Laferrère & Le Blanc, *supra* note 102 (describing the system).

104. *See* Laferrère & Le Blanc, *supra* note 41, at 163. Nearly one-half of HLM tenants receive housing allowances as well. *Id.*

105. Calculated from figures presented *supra* in Table 4.

106. Thomas de Graaff et al., *Homeownership, Social Renting, and Labour Mobility Across Europe*, *in* HOMEOWNERSHIP AND THE LABOUR MARKET IN EUROPE, *supra* note 32, at 53, 61 tbl.3.2 (reporting that renters in French social housing had an annual moving rate of ten percent, compared to a rate of twenty-one percent for French private renters); Gobillon, *supra* note 32, at 87, 96 (asserting that HLM tenants are relatively immobile); sources cited *supra* note 87; *see also* Thierry Debrand & Claude Taffin, *Les facteurs structurels et conjoncturels de la mobilté résidentielle depuis 20 ans* [*Structural and Cyclical Factors of Residential Mobility in the Last Twenty Years*], 381–382 ÉCONOMIE ET STATISTIQUE [ECON. & STAT.] 125 (2005) (finding that, in 2002, in contrast to 1984, HLM tenants

In France, a 1996 survey found that the average length of the current rental tenure of tenants benefiting from the strict rent controls imposed by the 1948 law was twenty years; of tenants in HLM projects, ten years; and of tenants in the private rental sector, 5.6 years.[107] A nation's housing policies can dramatically influence tenant mobility.

V. IS A HIGHER RATE OF RESIDENTIAL MOBILITY DESIRABLE?

Is a nation's rate of residential mobility an important social indicator, one perhaps as weighty as its unemployment rate, crime rate, or literacy rate? Politicians rarely campaign on mobility issues, a clue that they sense few voters care about the topic. In this Part, I nonetheless argue that issues of residential mobility warrant more attention than they have traditionally received. This assertion must be tentative, however, both because analysts are only beginning to develop a persuasive framework for assessing the normative implications of mobility, and because pertinent empirical studies are in short supply.[108]

For simplicity, the normative evaluation of household relocations presented in this Part excludes from consideration several unquestionably pertinent and important values, such as freedom, self-actualization, and distributive justice.[109] The discussion instead is limited to utilitarian assessment of the costs and benefits of residential moves. These include psychological impacts and social consequences, such as the effects of moves on stocks of social capital. As mentioned, the standard economic model of a relocation decision assumes that a household moves when its members' expected gains from the move exceed the costs they expect to bear in accomplishing the move.[110] This Part investigates these costs and benefits, and also the externalities that might stem from a household's decision to move. A household move is deemed to be socially desirable only when the net gains reaped by those who move exceed any net negative externalities that the move would cause.[111] Although this straightforward utilitarian perspective omits pertinent values, it has the merit of

were less mobile than private-sector French tenants); Gordon Hughes & Barry McCormick, *Do Council Housing Policies Reduce Migration Between Regions?*, 91 ECON. J. 919 (1981) (concluding that subsidized projects in Britain tend to lock-in tenants).

107. Loiseau & Bonvalet, *supra* note 57, at 305.

108. An early collection of essays is 19 URBAN AFFAIRS ANNUAL REVIEWS, RESIDENTIAL MOBILITY AND PUBLIC POLICY (W.A.V. Clark & Eric G. Moore eds., 1980).

109. If it is normatively essential for a person or household to be able to make a fresh start, the freedom to relocate would appear to be a core civil liberty. On the potential relevance of distributive justice, see *infra* note 155 and accompanying text.

110. *See supra* text accompanying note 37. This conventional economic model, which supposes that individuals are both rational actors and utilitarians, is used here on account of its spareness. An enriched model might explicitly take into account, for example, psychological complications such as loss aversion and limitations on cognitive capacities. *See* Cass R. Sunstein, *Introduction*, *in* BEHAVIORAL LAW AND ECONOMICS 1, 1–10 (Cass R. Sunstein ed., 2000).

111. *See also* Stephanie M. Stern, *Reassessing the Citizen Virtues of Homeownership*, 111 COLUM. L. REV. 890, 935 (2011) (assessing mobility issues in cost-benefit terms). A move may generate positive externalities that outweigh its negative externalities. *See infra* text accompanying notes 162–63.

establishing a benchmark for those who might aspire to apply a richer normative framework.

A. A Household's Direct Benefits from Moving

In the 1990s, officials in both the United States and France began to ask movers why they relocated.[112] The responses reveal many possible advantages.[113] Because the respondents in the two nations were asked somewhat different questions, the comparisons between the U.S. and French contexts presented below are no better than suggestive.

1. Taking on a New Job

In the United States, sixteen percent of movers state that they had moved primarily for an employment-related reason, such as to change jobs or reduce commuting burdens.[114] The comparable figure in France is twenty-six percent.[115] In both nations, the longer the distance of a move, the more likely the move is work related.[116]

2. Reconfiguring Household Arrangements: Housemates, Dwelling Attributes, and Ownership Structure

In both nations, however, a majority of moves—and indeed three-fourths of short-distance moves—are primarily provoked not by work (or neighborhood) considerations, but rather by household and housing considerations.[117]

Because U.S. movers are asked more precise questions, more is known about their motivations. Roughly one-fourth of U.S. movers relocate for "family related reasons," for example, to cohabit with a new housemate, or terminate a former cohabitation arrangement.[118] Young

112. The statistics for the United States provided in this subpart primarily pertain to 1999–2000 and are mostly drawn from SCHACHTER, *supra* note 34, at 4 tbl.2. Schachter's study is largely based on the U.S. Census Bureau's Current Population Survey of March 2000. The statistics for France are drawn from a table in Gobillon, *supra* note 32, at 84. Gobillon compiled his numbers from the European Community Household Panel (1994–1996).

113. The classic investigation is PETER H. ROSSI, WHY FAMILIES MOVE: A STUDY IN THE SOCIAL PSYCHOLOGY OF URBAN RESIDENTIAL MOBILITY (1955).

114. *See* SCHACHTER, *supra* note 34, at 4 tbl.2 (providing data from the late 1990's).

115. Calculated from figures provided in Gobillon, *supra* note 32, at 84. Because the French percentage is almost double the U.S. percentage, it appears that housing lock-ins may not be a major cause of *job* immobility in France.

116. Of U.S. moves across a county line, thirty-one percent are work related, compared to six percent of moves that do not cross a county line. *See* SCHACHTER, *supra* note 34, at 4 tbl.2. In France, sixty-two percent of interdepartment movers report that their move is work related, compared to twenty percent of intradepartment movers. Calculated from figures provided in Gobillon, *supra* note 32, at 84.

117. In France, seventy-six percent of intracommunal movers identify this motivation. Calculated from figures provided in Gobillon, *supra* note 32, at 84.

118. *See* SCHACHTER, *supra* note 34, at 4 tbl.2. In this instance, the U.S. Census Bureau arguably should have asked respondents to identify "household-composition reasons," a category in some ways

adults tend to move more often than others partly because they are in a volatile stage of the human life cycle. A twenty- or thirty-something, for example, may decide to leave the parental home, to cohabit with a significant other, or to move to a home large enough to accommodate newly arrived children. Conversely, empty nesters may move locally in response to the departure of their adult children.[119]

Another one-fourth of U.S. moves are sparked by the collective desire of a stable group of cohabitants to shift to a dwelling with more suitable physical attributes.[120] A prospering middle-aged couple with growing children, for example, might be on the lookout for a larger house with a bigger backyard. Satisfying this wish does not necessarily require a change of neighborhood.

Household members also care about their form of tenure. A decision to switch from renting to owning primarily motivates about one-eighth of U.S. moves.[121] Occupant-ownership enhances an occupant's security of possession and, by eliminating the landlord, greatly reduces the transaction costs of household governance.[122] Some movers, conversely, seek to switch from the simplicity of standard, fee-simple homeownership to the complexity of structured life in a common-interest community.

3. *Opting for a New Neighborhood*

A household may move to a nearly identical dwelling in the same municipality simply to bring about a change in local surroundings. A new neighborhood might offer, for example, safer streets, a better elementary school, or more shops within walking distance. Conversely, an individual whose income has fallen might move to a neighborhood that is less appealing in these sorts of respects in order to reduce housing costs and property-tax bills. In the United States, a preference for neighborhood change appears to motivate less than ten percent of moves.[123]

broader than "family-related reasons." *See* ROBERT C. ELLICKSON, THE HOUSEHOLD: INFORMAL ORDER AROUND THE HEARTH 1–9 (2008).

119. These sorts of moves would not be necessary if the owner of a dwelling could readily alter the dwelling's physical attributes. This, of course, is seldom feasible.

120. SCHACHTER, *supra* note 34, at 4 tbl.2.

121. *Id.*

122. The relative advantages of owning and renting a home are discussed in ELLICKSON, *supra* note 118, at 86–91.

123. *See* SCHACHTER, *supra* note 34, at 4 tbl.2; *see also* Barrett A. Lee et al., *Neighborhood Context and Residential Mobility*, 31 DEMOGRAPHY 249 (1994) (finding that neighborhood attributes typically play only a minor role in a mover's decision).

4. *Moving to Reside Nearer to Intimates*

In the United States, eight percent of movers indicate that their primary reason for having moved was "other family/personal related," a category that includes a relocation motivated to live closer to, but not with, family members or friends.[124] This percentage is low in part because most people already reside near their intimates, an indication of the intensity of preferences for this sort of proximity.[125] In France, fifty-one percent of adults report that a close relative resides in either the same commune (municipality) or a neighboring one.[126] In the United States, the median distance between the dwelling of a married daughter and the dwelling of her mother is twenty miles.[127]

5. *Voting with One's Feet for a New Political Environment*

The well-known Tiebout hypothesis supposes that households shop among competing municipalities that offer different packages of taxes, regulatory policies, and public goods.[128] Interstate and international migrants presumably also are alert to how higher-level governmental units differ along these dimensions.[129] Many commentators regard Tiebout-style competition to be generally beneficial.[130] Moves are likely to result in the better pairing of households, given their tastes, with jurisdictions. In addition, the risk that disgruntled households may exit helps keep pol-

124. Calculated from data presented in AMERICAN HOUSING SURVEY, *supra* note 40, at 76–78 tbl.2-11. The European Community Household Panel survey did not enable a respondent to pinpoint family or friendship considerations as the primary motivations for a move. *See* Gobillon, *supra* note 32, at 84.

125. *See* Michael S. Dahl & Olav Sorenson, *The Social Attachment to Place*, 89 SOC. FORCES 633 (2010) (finding that blue-collar Danes typically are willing to sacrifice financial gains in order to live near family and friends); Michael S. Dahl & Olav Sorenson, *The Migration of Technical Workers*, 67 J. URB. ECON. 33 (2010) (reporting a similar finding for Danish scientists and engineers); *see also* Alberto Palloni et al., *Social Capital and International Migration: A Test Using Information on Family Networks*, 106 AM. J. SOC. 1262 (2001) (finding that, when a sibling migrates abroad, it is more likely that another sibling will follow). Family members, of course, do not invariably seek to live near one another. An adult child may move to a remote location, for example, to be distant from an overbearing parent.

126. Denise Arbonville & Catherine Bonvalet, *Demographic Trends and Urban Change in France: Changes in Housing Patterns Since 1950*, *in* FAMILY AND HOUSING: RECENT TRENDS IN FRANCE AND SOUTHERN EUROPE 269, 305 (Catherine Bonvalet et al. eds., 2009) (reporting results of a 2001 survey).

127. Janice Compton & Robert A. Pollak, *Proximity and Coresidence of Adult Children and Their Parents: Description and Correlates* 10 (Univ. Mich. Ret. Research Ctr., Working Paper No. 2009-215, 2009). The median distance between the residences of a married son and his mother is twenty-five miles. *Id.*

128. Tiebout, *supra* note 2, at 418–19; *see also* THE TIEBOUT MODEL AT FIFTY: ESSAYS IN PUBLIC ECONOMICS IN HONOR OF WALLACE OATS (William A. Fischel ed., 2006). *But see* Todd E. Pettys, *The Mobility Paradox*, 92 GEO. L.J. 481 (2004) (expressing doubts about the merits of Tiebout-style competition); David Schleicher, *The City As a Law and Economic Subject*, 2010 U. ILL. L. REV. 1507 (noting that Tiebout competition may impair achievement of agglomeration efficiencies).

129. Ilya Somin, *Tiebout Goes Global: International Migration As a Tool for Voting with Your Feet*, 73 MO. L. REV. 1247, 1250–54 (2008).

130. *See, e.g.*, *id.*

iticians on their toes. Legal policies that restrain residential mobility diminish both of these beneficial effects.[131]

It is notable that neither U.S. nor French data-gatherers have explicitly asked movers whether they relocated in order to associate themselves with a more suitable government. Perhaps the soundings that the officials had when they were designing their survey instruments indicated that few movers would volunteer this response.[132] In any event, it appears that, when members of a household "vote with their feet," political considerations rarely dominate their thinking.

6. Weather

Less than two percent of long-distance moves in the United States are motivated primarily to bring about a change of climate.[133] This low figure nonetheless is sufficient to generate, over time, steady population growth in places with pleasant weather. By extension, even if only a small fraction of households were to move each year for Tieboutian reasons, their decisions over time could have a large cumulative impact on local policies.

Laws that limit mobility can prevent members of households from bettering their circumstances along all of the dimensions listed. On account of these laws, an individual may, for example, turn down a superior job, live with unwanted housemates, remain in an unsuitable dwelling, put up with an unwanted tenure arrangement, or refrain from moving closer to family and friends. It appears that no attempts have been made to estimate the magnitude of these costs of antimobility policies.[134] For

131. In the United States, where local school boards administer primary and secondary education, a moving parent may give great weight to the quality of local schools. This consideration is apt to be less important in France, where the National Ministry of Education prescribes a national curriculum and employs all public-school teachers. *See* Wolfgang Hörner, *France*, *in* THE EDUCATION SYSTEMS OF EUROPE 263, 267–77 (Wolfgang Hörner et al. eds., 2007). The net effect of this difference in educational policy on relative residential mobility in the two nations is ambiguous. Because school quality is more uniform in France, French parents have somewhat less reason than parents in the United States to shop with their feet for schools. On the other hand, because the French curriculum is standardized, French parents might anticipate that moves would be less disruptive for their children.

132. The American Housing Survey presents movers a long menu of possible reasons for having made a move. It comes closest to probing Tieboutian motivations when it asks whether the primary reason for moving to a new "neighborhood" was the presence of "good schools." Six percent of movers respond to this question in the affirmative. AMERICAN HOUSING SURVEY, *supra* note 40, at 76–78 tbl.2-11. *Compare id.*, *with* Paul W. Rhode & Koleman S. Strumpf, *Assessing the Importance of Tiebout Sorting: Local Heterogeneity from 1850 to 1990*, 93 AM. ECON. REV. 1648, 1649 (2003) (asserting that only five percent of movers responding to the American Housing Survey reported that public services, including schooling, primarily motivated their moves).

133. *See* SCHACHTER, *supra* note 34, at 4 tbl.2 (indicating that a "change of climate" motivates less than two percent of intercounty moves).

134. Most studies of decisions to move strive to untangle the causes of moves, not the magnitude of the net benefits that movers attain. *See, e.g.*, Alden Speare, Jr., *Residential Satisfaction As an Intervening Variable in Residential Mobility*, 11 DEMOGRAPHY 173 (1974). *But cf.* Stephan Grzeskowiak et

what it is worth, in France most individuals who have made a local move do report a sharply higher level of satisfaction with their new housing.[135]

B. A Household's Direct Costs of Moving

Although members of a household may reap many sorts of private benefits from a move, a residential relocation also entails a variety of costs. In any given year, these are sufficiently large to anchor eighty-six percent of U.S. households in place. Among the assorted costs of moving, economists traditionally have stressed a mover's out-of-pocket costs and opportunity costs of time spent to arrange a move.[136] A mover might also anticipate that a shift to a new living environment would give rise to net psychological costs (or benefits), and take those into account as well.[137] According to Stephanie Stern, psychologists have found that adult movers in the United States experience some short-term stress, but no long-term psychological impairment.[138] Children who move frequently tend to perform less well in school, but mostly on account of the characteristics of their caretakers, not on account of the moves themselves.[139]

A few scholars have also begun to explore the social consequences of moves, both negative and positive. The relocation of a household typically affects numerous social relationships. When an adult child moves to a distant city, for example, the move may lessen the quality of the child's relationship with a parent who formerly lived close by. A portion of these sorts of social costs are directly borne by those who move. A child, upon moving, directly bears the loss of the net personal advantages of having lived in proximity to a parent. Researchers predictably have found that the prospect of the deterioration of social ties can deter a long-distance move.[140]

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al., *Housing Well-Being: Developing and Validating a Measure*, 79 SOC. INDICATORS RES. 503 (2006) (exploring the sources of "housing well-being" and defining the term broadly to include the purchase, preparation, ownership, use, maintenance, and sale of the home).

135. *See* AHN & BLAZQUEZ, *supra* note 11, at 9; *see also* EUR. FOUND. FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS, MOBILITY IN EUROPE—THE WAY FORWARD 8 fig.4 (2007) [hereinafter LIVING AND WORKING CONDITIONS] (reporting that Europeans who had recently moved a long distance often stated that their move bettered both their housing conditions and local amenities).

136. *See* Haurin & Gill, *supra* note 43, at 564–65.

137. *See* Larry A. Sjaastad, *The Costs and Returns of Human Migration*, 70 J. POL. ECON. 80, 85 (1962) (discussing migrants' "psychic costs").

138. Stephanie M. Stern, *Residential Protectionism and the Legal Mythology of Home*, 107 MICH. L. REV. 1093, 1115 (2009).

139. *See, e.g.*, Shana Pribesh & Douglas B. Downey, *Why Are Residential and School Moves Associated with Poor School Performance?*, 36 DEMOGRAPHY 521 (1999); *see also* Stern, *supra* note 138, at 1117–18 (reviewing the literature). *But cf.* Shigehiro Oishi & Ulrich Schimmack, *Residential Mobility, Well-Being, and Mortality*, 98 J. PERSONALITY & SOC. PSYCHOL. 980, 991 (2010) (asserting that childhood moves impair the adult well-being of introverted persons).

140. *See* David et al., *supra* note 5, at 201 (finding that households with large amounts of local social capital are less likely to move a long distance); Kamhon Kan, *Residential Mobility and Social Capital*, 61 J. URB. ECON. 436, 437 (2007) (reporting a similar finding); *see also* Joong-Hwan Oh, *Social Bonds and the Migration Intentions of Elderly Urban Residents: The Mediating Effect of Residential*

C. Externalities that Moves May Create and Mechanisms for Their Possible Internalization

Some negative (and positive) social consequences of a move, however, are externalized to those who have relationships with the individuals who relocate. An adult child who moves away from a parent affects the social welfare of the parent. Those considering a move may not take full account of these sorts of externalities. As a result, a move that serves the direct interests of the members of a moving household is not necessarily cost justified from a larger social perspective.[141]

1. A Framework for Analyzing the Social Externalities Arising out of a Move

A household relocation can affect social relationships of many different kinds—a variety that the literature on residential mobility has yet to adequately sort out. Borrowing from physics, let us call the most internally powerful member(s) of a moving household the *prime mover(s)*. A prime mover has social ties of varying strengths with several sorts of others. These relationships include:

(1) *strong* ties with less powerful members of the prime mover's own household, such as minor children;

(2) *strong* ties with intimates (family and close friends) who reside in other households, whether nearby or distant;

(3) *weak* ties with nonintimates who share a nonlocal social network, such as fellow members of a national association or an online chat group; and

(4) *weak* ties with nonintimates who reside nearby, such as casual neighbors, local merchants, and fortuitous coworkers.

It has become conventional to conceptualize valuable social ties as *social capital*. According to Robert Putnam's "lean and mean" definition, social capital consists of "social networks and the associated norms of reciprocity and trustworthiness."[142] *Local social capital* is fostered by proximity, whereas *nonlocal social capital* is not.[143]

Satisfaction, 22 POPULATION RES. & POL'Y REV. 127, 131 (2003) (asserting that local social ties deter moves by the elderly).

141. *See* Sjaastad, *supra* note 137, at 91–92.

142. Robert D. Putnam, E Pluribus Unum*: Diversity and Community in the Twenty-First Century*, 30 SCANDINAVIAN POL. STUD. 137, 137 (2007). Social capital may be valued not only because it leads to better economic and social outcomes such as greater prosperity and less crime, but also because it can stimulate feelings of self-esteem and solidarity that are valued for their own sake. *See id.* at 137–38.

143. The concept of local social capital is developed in David et al., *supra* note 5, at 191–92, and Kan, *supra* note 140.

In both the United States and France, the median distance of a residential move is short, about six miles.[144] A short-distance move is apt to affect, for better or worse, only the last of the four types of social ties just listed. When all residents of a household move in tandem, their intrahousehold ties are relocated to a new setting, but they remain intact. A local move also would be unlikely to have much effect on the quality of the movers' relationships with family members and close friends who are members of other households. Those ties typically are strong enough to be little influenced by the addition or subtraction of a few miles of commuting distance. Nor would a local move affect a weak nonlocal tie, such as one that developed out of comembership in a national chess federation. But a short-distance move likely would rupture ties that are both local and weak, for example, casual relationships with immediate neighbors.[145] The prospect of losing weak local ties of this sort, however, is unlikely to deter a local move, because these sorts of social relationships appear to be readily replaceable. Within less than two years, most people who have moved in the United States find that they have established satisfactory social ties with their new neighbors.[146]

A long-distance residential move, of course, is likely to be far more socially consequential than a short-distance move. When a household moves far away from family members and close friends, the resulting separation may significantly diminish the strength of, although not entirely rupture, the household members' bonds with intimates left behind.

2. *Mechanisms for Internalization of Externalities Arising out of a Move*

The Coase Theorem suggests, however, that what might at first blush appear to be an externality may be internalized through bargaining or some other process.[147] In fact, a prime mover is likely to at least partially take into account the effects of a long-distance move on the social welfare of intimates. In this context, instead of the cash exchanges that feature prominently in the literature on Coasean bargaining, the chief mechanisms of internalization are likely to be warmer and subtler: self-enforced feelings of altruism (inculcated or innate), the gift exchanges characteristic of an intimate relationship, and the pressures of diffusely enforced social norms.

Consider, for starters, the effects of a prime mover's decision on less powerful members of the same household. Parents who are considering alternative dwelling places, while unlikely to give their young children any formal role in the decision, are apt to be attentive to effects on their

144. *See supra* text accompanying notes 14–16.

145. *See* Stern, *supra* note 138, at 1122–24 (discussing the relative weakness of household members' social ties with most neighbors).

146. *Id.* at 1115–17.

147. *See* R.H. Coase, *The Problem of Social Cost*, 3 J.L. & ECON. 1 (1960).

children's welfare.[148] Altruism thus serves to help internalize what would otherwise be an externality. What if one spouse would gain greatly from a long-distance move, but the other spouse would be somewhat disadvantaged by it? In a scenario of this sort, the spouse who wished to move might consider the magnitude of the reluctant spouse's disutility out of some combination of altruism and the realization that the reluctant spouse eventually would be entitled to implicit compensation via the couple's informal process of gift exchange.[149] In these ways, the negative externalities that would stem from the proposed move might be at least partially internalized to the spouse who would be advantaged by it.[150]

Less likely to be internalized are the more diffuse social effects of a long-distance move on close friends and family members who live in households other than the movers. Yet even here, altruism, implicit gift exchange, and norms supporting loyalty to family and friends again may at least mitigate the inefficiencies threatened.[151] Suppose that a husband's parents are eager to move from afar in order to be nearer to their young grandchildren, but they suspect that their daughter-in-law actually would prefer that they not live close by. In an instance of this sort, the grandparents might nevertheless make the move, but thereafter provide frequent babysitting services, an implicit quid pro quo for their daughter-in-law.

The external effects of a move on the quality of a social tie that is both weak and local are those least likely to be internalized. Because there is a lack of intimacy between the movers and those they affect, neither altruism nor gift exchange is a promising internalization mechanism. In some social contexts, the arrival of a stranger may reduce trust and social solidarity. In these instances, the diffuse enforcement of social norms of chilliness toward strangers may be the only, and an imperfect, mechanism for deterring these incursions.[152]

148. *Cf.* Jacob Mincer, *Family Migration Decisions*, 86 J. POL. ECON. 749 (1978) (asserting that a household member would internalize most of a move's effects on other household members).

149. For discussion of the internal social dynamics of households, see ELLICKSON, *supra* note 118, at 92–120.

150. Complete internalization is unlikely. Because of legal and social limits on interspousal contracting, a decision of a married couple to move ultimately may not benefit both spouses. *See* Shelly Lundberg & Robert A. Pollak, *Efficiency in Marriage*, 1 REV. ECON. HOUSEHOLD 153, 163–64 (2003).

151. *See* Douglas S. Massey, *Why Does Immigration Occur? A Theoretical Synthesis*, *in* THE HANDBOOK OF INTERNATIONAL MIGRATION: THE AMERICAN EXPERIENCE 34, 44 (Charles Hirschman et al. eds., 1999) (discussing social pressures on immigrants exerted by, for example, friends and members of extended families).

152. Household moving decisions can affect the efficiency of urban form. Because a moving household experiences only the average agglomeration effects, not marginal ones, decentralized markets do not assure that urban areas will be of optimal size and density. *See* George S. Tolley, *The Welfare Economics of City Bigness*, 1 J. URB. ECON. 324, 327 (1974); *see also* Schleicher, *supra* note 128. These diffuse externalities also are highly unlikely to be internalized by informal mechanisms.

3. *Should Household Moves Be Discouraged?*

Several thoughtful commentators regard the net social externalities arising from residential moves to be sufficiently negative to warrant consideration of legal constraints on relocation. Margaret Radin argues that rent controls may be justified in some contexts in order to slow gentrification and preserve social ties within a close-knit community of tenants.[153] Ingrid Ellen and Brendan O'Flaherty cautiously praise policies that have contributed to the "stability" of residential arrangements in New York City.[154] John Powell and Marguerite Spencer favor deterring the entry of wealthy households into traditionally poor neighborhoods in part to preserve existing social networks.[155]

The emerging empirical literature on social capital may eventually illuminate the soundness, or unsoundness, of these views. Some studies do suggest that a higher rate of residential turnover, whether of homeowners or renters, does somewhat diminish a neighborhood's social capital.[156] Moreover, as Edward Glaeser and his coauthors have shown, a person who expects to move soon is likely, all else equal, to devote less effort to developing local social capital.[157] Transients in a neighborhood, for example, seldom become involved in local politics. The net externalities of a residential move thus can be unquestionably negative.[158]

But, from a utilitarian perspective, this possibility is hardly decisive. People who voluntarily transplant themselves do so because they anticipate reaping a wide variety of advantages.[159] These benefits—perhaps a new job, a change in housemates, first becoming a homeowner—may be life changing. In addition, proponents of neighborhood stability may exaggerate the negative social consequences of moves. As noted, intimates may be able to employ a variety of informal mechanisms to soften these

153. Margaret Jane Radin, *Residential Rent Control*, 15 PHIL. & PUB. AFF. 350, 368–71 (1986).

154. Ellen & O'Flaherty, *supra* note 26, at 27.

155. John A. Powell & Marguerite L. Spencer, *Giving Them the Old "One-Two": Gentrification and the K.O. of Impoverished Urban Dwellers of Color*, 46 HOW. L.J. 433, 435, 475–76 (2003). Opponents of gentrification commonly invoke principles of distributive justice, a value incommensurate with utilitarianism.

156. *See, e.g.*, Robert J. Sampson et al., *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, 277 SCIENCE 918, 919 (1997) (finding that population turnover weakens informal social controls within a neighborhood); Stern, *supra* note 138, at 1124–25 (citing studies). A pioneering exploration is John D. Kasarda & Morris Janowitz, *Community Attachment in Mass Society*, 39 AM. SOC. REV. 328 (1974).

157. Edward L. Glaeser et al., *An Economic Approach to Social Capital*, 112 ECON. J. F437, F439, F450 (2002) (finding that mobility reduces social capital); *see also* Denise DiPasquale & Edward L. Glaeser, *Incentives and Social Capital: Are Homeowners Better Citizens?*, 45 J. URB. ECON. 354, 373–77 (1999) (finding that length of residence in a community is positively associated with various forms of civic engagement).

158. It has been asserted that the social capital of a community tends to decline as its social heterogeneity increases. *See* Alberto Alesina & Eliana La Ferrara, *Participation in Heterogeneous Communities*, 115 Q.J. ECON. 847 (2000); Putnam, *supra* note 142, at 150. A higher rate of residential mobility probably correlates with greater social heterogeneity.

159. *See supra* text accompanying notes 112–33.

consequences.[160] Although a move indeed is likely to rupture weak social ties among nonintimate neighbors, both those who move and those who stay can readily reestablish neighborly relations with those next door.[161]

The net social externalities of a move, moreover, may be positive, not negative. A grandparent may move to be near small grandchildren. The arrival of newcomers may lessen xenophobia, strengthen bridging social ties, and create synergies that augment others' human capital.[162] For these reasons, some analysts have urged the nations of Europe to take affirmative steps to accelerate rates of migration.[163]

A high rate of residential mobility, if socially destructive, might be expected to correlate positively with a low stock of social capital. Circumstantial evidence suggests otherwise. According to most metrics, France, despite its relative residential stability, has a significantly lower level of social capital than does the United States.[164] The state of New York, which includes the "frozen" New York City, has one of the lowest levels of social capital of the states outside the south.[165] The Scandinavian nations, on average the most residentially mobile in Europe, are noted for their towering levels of social capital.[166]

VI. CONCLUSION

The annual rate of residential mobility in France traditionally has been about one-half the rate in the United States. This disparity results not only from deep-seated cultural differences, but also from a cluster of French legal policies. Perhaps the most notable of these are the 5.09 percent transfer tax on home sales in France and the subsidized HLM projects that house forty percent of French tenants.

The normative implications of differentials in residential mobility are open to debate. The members of a household can obtain a wide variety of benefits from moving, but the magnitudes of these benefits are hard to weigh. Offsetting those benefits are the potential social costs of

160. *See supra* text accompanying notes 147–52.

161. *See supra* note 146 and accompanying text.

162. *See also* Bonin et al., *supra* note 5, at 52 (emphasizing how geographic mobility can help cure imbalances in regional labor markets). Tieboutian moves that signal political evaluations also can generate positive externalities.

163. *Id.* at 51; *see generally id.* at 50–69 (discussing "optimum mobility").

164. The authors of a multinational study of levels of civic cooperation and trust place France in the bottom third, on both dimensions, of the nations they study. According to their findings, based on the World Values Surveys, Germany and Spain rank around the middle, the United States in the top two-fifths, and the Scandinavian nations at or near the top. Stephen Knack & Philip Keefer, *Does Social Capital Have an Economic Payoff? A Cross-Country Investigation*, 112 Q.J. ECON. 1251, 1259 (1997).

165. *See* ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY 298 (2000); Alesina & La Ferrara, *supra* note 158, at 848 fig.1.

166. *See* de Graaff, *supra* note 106, at 61; Molloy et al., *supra* note 8, at 193; *supra* notes 5, 164. These correlations, of course, do not prove causation, because the influence of other variables is not taken into account. It is possible that if France and New York City had not adopted their antimobility policies, their stocks of social capital might have been yet lower.

moves, for example, the attenuation of neighborhood social ties. Commentators inclined to favor neighborhood stability should be aware, however, that the net social consequences of a move may actually be positive, as they might be, for example, when the move would bring intimates closer together or fosters bridging between formerly isolated social groups.

At present, evidence on many of these matters is thin. It is possible that, on account of differences in the values of the residents of the two nations, a low rate of residential mobility best suits France, and a high rate best suits the United States. In light of the inadequacy of current knowledge, however, in neither nation should policy makers be complacent about laws that influence householders' moving decisions.[167]

167. Some French observers are not content with things as they are. At workshops where an early version of this research was presented, economists Eric Brousseau of Paris-X and Etienne Wasmer of Sciences-Po emphatically stated that they regard the rate of residential mobility in France to be undesirably low. *See also* CONSEIL D'ÉTAT, *supra* note 8, at 325 (mentioning critics of French policies that hinder mobility); LIVING AND WORKING CONDITIONS, *supra* note 135, at 17–19 (generally endorsing promobility policies).