Legal Constraints on Household Moves:
Should Footloose Americans Envy the Rooted French?

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Abstract

In a given year, a resident of the United States is roughly twice as likely as a resident of France to move to another permanent dwelling. This essay contends that differences in the legal policies of the two nations — in particular, taxation policies, land use laws, landlord-tenant laws, and housing assistance programs — have significantly contributed to this disparity in residential mobility. The essay also puts forward a normative framework for analyzing the desirability of population movement. 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 neighborhood externalities, such as erosion of local social capital. In theory, although rarely in practice, people thus can move too often.

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A nation's rate of residential mobility is an important and underappreciated measure of the well-being of its inhabitants. Policies that foster freedom to move can benefit the members of relocating households in myriad ways. Moving to a different permanent home may enable a person to match herself with, 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. It is surprising, then, that civil libertarians seldom exalt the freedom to move.[1] 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 local social capital.

For concreteness, this essay contrasts patterns of residential mobility in two nations: the United States and France. Roughly 14 percent of U.S. residents move to a new dwelling in a given year. In France, as elsewhere in much of Europe, the annual percentage of movers is about half that figure.[2] This disparity arises partly on account of

[1] Some courts have made passing reference to the importance of freedom of relocation. *See, e.g.*, Boraas v. Village of Belle Terre, 476 F.2d 806, 817 (2d Cir. 1973), *rev'd*, 416 U.S. 1, 94 (1974) ("Appellants are entitled, subject to lawful and reasonable local laws, to travel and settle down where they please.").

[2] *See infra* text accompanying notes 6–9. *See also* Quentin David et al., *Local Social Capital and Geographical Mobility: A Theory* (IZA Discussion Paper No. 3668, at 2 (August 2008) [hereinafter David et al., *Theory*]) (placing annual residential mobility in Europe as a whole at about 5 percent). Mobility is highest in the Scandinavian countries, and lowest in Southern Europe. *Id*. For a European nation, France actually is a 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, July 2008). In the 1990s, for example, the mobility rate in France was almost twice that in Spain. Namkee Ahn & Maite Blazquez, *Residential Mobility and Labor Market Transitions*, FEDEA, Documento de Trabajo 2007-05, at 7 (2007) (drawing on European Community Household Panel data for 1995–2001).

In the early 1980s, New Zealand's 19 percent annual mobility rate was one of the highest in the world. *See infra* Table 1. At the time, its rate was about eight times East Germany's, which cultural and demographic differences. The stress here, however, is on the influence of the policy choices that the two nations have made.[3] A variety of French laws, 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.[4] Much of the essay is devoted to describing these measures and pointing out how they differ from those found in the U.S. The latter part of the essay proposes a normative framework for deciding when the freedom of households to move is less important than conserving the social capital of an existing neighborhood.

I. 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 one year or five years). Because nations' methodologies vary, cross-country comparisons are rare. Table 1 shows selected findings

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was 2.5 percent. W. Paul Strassmann, *Housing Market Interventions and Mobility: An International Comparison*, 28 URB. STUD. 759, 765 (1991) [hereinafter Strassmann, *Housing Market Interventions*]). In the late 1990s, the annual rate of residential mobility of households throughout the newly united Germany was 6.8 percent. David et al., *Theory, supra*, at 2.

[3] 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 242 (1984); Larry Long, *Residential Mobility Differences Among Developed Countries*, 14 INT'L REGIONAL SCI. REV. 133, 141, 145 (1991) [hereinafter Long, *Residential Mobility Differences*], and Strassmann, *Housing Market Interventions*, *supra* note 2.

[4] See also W. Paul Strassmann, *Residential Mobility: Contrasting Approaches in Europe and the United States*, 16 Housing Stud. 7 (2001) (sounding a similar theme) [hereinafter Strassmann, *Residential Mobility*].

TABLE 1

ESTIMATED PERCENTAGE OF NATION'S POPULATION CHANGING PERMANENT RESIDENCE IN A GIVEN YEAR, CIRCA 1981[5]

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%

from one of the best known studies, which provides estimates of the 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.[6] Observe that the

[5] Source: Long, *Residential Mobility Differences*, *supra* note 3, at 136.

[6] On November 8, 2008, Daniel Courgeau, a longtime researcher at Institut National d'Études Démographiques, Paris, and an acknowledged French expert on the subject, articulated this stylized fact to the 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 Etats-Unis*, 37 POPULATION 1184, 1186 (1982).

In both nations mobility rates differ from region to region. In the early 1980s, Pennsylvania had the lowest mobility rate of any state (11 percent), with Alaska, Arizona, and a

TABLE 2

RESIDENTIAL MOBILITY OF INDIVIDUALS, PERCENT PER ANNUM, LATE 1990S[7]

Age of Individual in Years	*France*	*United States*
25–29	21.1%	31.0%
30–39	10.9%	18.0%
40–49	4.4%	10.0%
50–54	3.4%	8.6%

Swiss move more often than most other Europeans, a fact to which we shall return.

The gross figures in Table 1 obscure significant variations among population subgroups. Young adults are far more mobile than other adults. As Table 2 indicates, in both France and the U.S., those in their late twenties move at least three times as frequently as those in their forties. And in both nations, renters move over three times more often than owners do, partly because the transaction costs of terminating a rental

few other Western states at the other extreme (over 25 percent). Long, *Residential Mobility Differences*, *supra* note 3, at 139. On variations within France, see, e.g., Eva Leliévre & Catherine Bonvalet, *A Compared Cohort History of Residential Mobility, Social Change and Homeownership in Paris and the Rest of France*, 31 URB. STUD. 1647 (1994). This essay does not delve into the causes of these subnational differences.

[7] Source for France: Ahn & Blazquez, *supra* note 2, at 7 (drawing on European Community Household Panel data for 1995–2001); source for U.S.: U.S. Census Bureau, *Current Population Report* P20-520 (for 1997–98; percentages extrapolated).

arrangement are far lower than the costs of selling a dwelling.[8] These two patterns help explain why residential mobility in the U.S. has been falling. In the 1950s and 1960s, about 20 percent of Americans moved each year. Since then the population has aged, and the percentage of homeowners has increased. By 2000–2008, the annual rate of U.S. mobility had diminished to roughly 14 percent.[9]

Most moves are local. In the U.S., the median distance of a move in a given year is about ten miles.[10] Roughly three-fifths of American movers remain in the same county, one-fifth move to a different county in the same state, and one-fifth move either to a different state or country.[11] One of France's basic subnational units of government is the *dèpartement*, which on average is twice the area of a U.S. county. Three quarters of French movers in a given year choose to remain in the same department.[12]

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[8] U.S. Census Bureau, *Current Population Reports P20–538, Geographical Mobility, March 1999 to March 2000*, at 3 (indicating a moving rate, per year, of 32.5 percent for renters, and 9.1 percent for owners); Ahn & Blazquez, *supra* note 2, at 7 (2007) (indicating, in 1995–2001, a 17 percent annual moving rate for French tenants, and a 4 percent rate for French owners).

[9] U.S. Census Bureau, *Annual Geographical Mobility Rates, By Type of Movement: 1947–2008*, available at http://www.census.gov/population/www/socdemo/migrate.html [hereinafter *U.S. Mobility Rates*].

[10] Larry Long et al., *Migration Distances: An International Comparison*, 25 DEMOGRAPHY 633, 638 (1988).

[11] *U.S. Mobility Rates, supra* note 9.

[12] Courgeau & Lelièvre, 59 *Population* 703, 707 (2004–05) (reporting data for the 1990s). *See also* André de Palma, Nathalie Picard, Paul Waddell, *Discrete Choice Models with Capacity Constraints: An Empirical Analysis of the Housing Market of the Greater Paris Region,* 62 J. URB. ECON. 204, 207 (2007) (reporting that in 1998, 68 percent of movers to dwellings in Ile-de-France (greater Paris) came from Ile-de-France).

II. Factors Other Than Housing Policy That May Influence a Nation's Rate of Population Mobility

This essay focuses on the possible effects of a nation's legal policies on the frequency of household moves. Others variables, of course, also matter. If sufficient data were available, a person skilled at regression analysis (as I am not) potentially could test the statistical significance of various factors.

A. Cultural Influences

Cultural traditions surely affect moving rates.[13] Nineteenth-century commentators such as Alexis de Tocqueville and Frederick Jackson Turner took note of the unusually strong American penchant for mobility.[14] In a long settled nation such as France, members of a family are more likely to identify with a specific place.[15] Virtually all Americans, by contrast, are either immigrants or descendants of immigrants. Table 1 indicates that mobility generally is far higher in the overseas nations that were once British colonies than it is in nations of old Europe. The structure of religious institutions may also have consequences. Members of Catholic parishes, for example, tend to be less mobile than members of Jewish synagogues.[16]

[13] *Cf.* Long, *Residential Mobility Differences*, *supra* note 3, at 142–44 (pointing out the relative stability of national mobility rates); Paola Giuliano, *Living Arrangements in Western Europe: Does Cultural Origin Matter?* 5 J. EUR. ECON. ASS'N 927 (2007) (presenting a cultural interpretation of why young adults in Mediterranean Europe tend to live with their parents).

[14] ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 536 (George Lawrence trans., J.P. Mayer ed. (1969) (1848) ("An American will build a home in which to pass his old age and sell it before the roof is on. . . ."); FREDERIC JACKSON TURNER, THE SIGNIFICANCE OF THE FRONTIER IN AMERICAN HISTORY (1893).

[15] *See* Paul E. White, *Internal Migration in the Nineteenth and Twentieth Centuries*, *in* MIGRANTS IN MODERN FRANCE 13–15 (Philip E. Ogden & Paul E. White eds. 1989) (noting the historically low, or at most moderate, rates of mobility in France).

[16] GERALD GAMM, URBAN EXODUS: WHY THE JEWS LEFT BOSTON AND THE CATHOLICS STAYED (1999).

A family's traditions may also affect the attitudes of family members toward moving. The immigrants who left their old countries to come to the United States had a relatively strong taste for making a fresh start, and may have, through processes of socialization, passed that taste on to their descendents. Conversely, those who chose not to emigrate abroad may have passed on their taste for staying put. These and other causes lend credibility to the stereotypes that France is a nation where family and place loyalties are unusually strong, and the United States, a nation of rootless entrepreneurs ever on the lookout for a new main chance.

Although culture certainly matters, much evidence suggests that policy choices do as well. For example, in Switzerland, a nation of old Europe, the rate of residential mobility is significantly higher than it is in neighboring nations.[17] Switzerland also has, relative to its neighbors, a relatively laissez-faire set of landlord-tenant laws and social housing policies.[18] Conversely, in New York City, the American 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, 83 percent of Chicago's renting households changed dwellings, compared to 65 percent of New York's.[19] If New York is "The Frozen City," as one commentator has dubbed it,[20] general attributes of American culture are unlikely to have alone 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 13 percent for the pre-1914 period, to 7.5 percent for the post-1919 period.[21] Pritchard attributes the drop that began

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[17] *See supra* Table 1.

[18] Strassmann, *Residential Mobility*, *supra* note 4, at 13.

[19] Ingrid Ellen & Brendan O'Flaherty, *How New York Housing Policies Are Different—and Maybe Why*, forthcoming *in* THE WELFARE STATE IN NEW YORK CITY tbl. 7.11 (Irving Garfinkel & Marcia Meyers eds.). In New York City, 70 percent of rental arrangements are either subject to rent regulation or situated in a subsidized project. *Id*. at tbl. 7.1.

[20] Howard Husock, *The Frozen City*, N.Y. SUN, Dec. 3, 2007, op-ed page.

[21] R.M. PRITCHARD, HOUSING AND THE SPATIAL STRUCTURE OF THE CITY: RESIDENTIAL MOBILITY AND THE HOUSING MARKET IN AN ENGLISH CITY SINCE THE INDUSTRIAL

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.[22] He makes no mention of any transformation of Leicester's culture.

B. Labor Markets

Table 3 demonstrates that workers in France change jobs significantly less frequently than workers in the U.S. do. There is deep literature within economics on sources of rigidities in the French labor market, much of it focusing on legal restrictions on employers' powers, such as the right to fire.

Scholars have also begun to pay attention to the complex interrelationship between housing markets and job markets.[23] Moving to a new job may prompt a move to a new housing unit.[24] In the U.S., about one-sixth of moves are motivated for work-related reasons of this sort.[25] The relative stickiness of French labor markets therefore tends to dampen residential mobility in France. 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 looking for a job sited beyond

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REVOLUTION 115 (1976).

[22] *Id*. at 183–91.

[23] *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*, 349–350 ÉCONOMIE ET STATISTIQUE 77 (2001); Jakob Roland Munch, *Are Homeowners Really More Unemployed?*, 116 ECON. J. 991 (2006).

[24] See William A.V. Clark, *Changing Jobs and Changing Houses: Mobility Outcomes of Employment Transitions*, 39 J. REGIONAL SCI. 653, 660 (1999) (finding that a household that had a job change is 2.4 times more likely to move to another residence than a household that did not).

[25] Jason Schachter, *Why People Move: Exploring the March 2000 Current Population Survey*, U.S. Census Bureau, Current Population Reports P23-204, at 2 (May 2001) [hereinafter Schachter, *Why People Move*].

TABLE 3

LENGTH OF EMPLOYEE TENURE IN CURRENT JOB[26]

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

feasible commuting distance from that project.

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 dampen residential mobility in France.[27]

III. Legal Policies that Affect Residential Mobility

The standard economic model of a household's moving decision holds that a household moves when its gains from the move exceed its transaction costs of carrying out the move.[28] (Transaction costs should be expansively defined in this context to

[26] Simon Burgess, *Reallocation of Labour* (LSE Working Paper 1999) (data have been rounded).

[27] *See* Giuseppe Bertola & Andrea Ichino, *Wage Inequality and Unemployment: United States vs. Europe*, NBER MACROANNUALS 13 (1995).

[28] 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).

include the mover's net psychological and social costs of relocating.)[29] Empirical studies demonstrate that an increase in the transaction costs of moving indeed dampens mobility.[30]

This part explores various French legal policies that deter, in turn, homeowners and renters from moving. In 2001, 56 percent of French households were owner-occupants, compared to 68 percent of U.S. households.[31] Because, as mentioned, homeowners move far less often than renters do, this disparity make 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 17 percent of the sale price.[32] In the U.S. the comparable percentage is roughly 10 percent.[33] In 2009, the central source of the

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[29] *See infra* note 75 and accompanying text.

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

[31] 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) [hereinafter Laferrère & Le Blanc, *Households in France*]. One source of this difference is the relative difficulty that a homebuyer has in obtaining mortgage financing in France. *See id.* at 160; Maria Concetta Chiuri & Tullio Jappelli, *Financial Market Imperfections and Home Ownership: A Comparative Study*, 47 EUR. ECON. REV. 857 (2003); Richard K. Green & Susan M. Wachter, *The American Mortgage in Historical and International Context*, 19 J. ECON. PERSPECTIVES 93 (Fall 2005).

[32] *See* Van Ommeren & Van Leuvensteijn, *supra* note 30, at 683 (graph).

[33] The figure of 10 percent is derived from data provided in a study of 212 home transfers involving FHA-insured loans. U.S. Dep't of Housing and Urban Development, Office of Policy Development and Research, *Closing Costs* (2000), available at http:/www.huduser.org/

difference was the imposition on most real estate sales, by various levels of French government, of aggregate transfer taxes equal to 5.09 percent of sale price.[34] Many U.S. states and localities also impose real estate transfer taxes and fees, but their total burden is far lower, averaging about 0.5 percent.[35] 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.[36]

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, *notaires* (in France), and attorneys or escrow companies (in the U.S.). In both nations, many of these providers are somewhat cartelized, partly on account of state-

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periodicals/ushmc/spring2000/summary-2.html. The figure excludes the cost of the FHA mortgage insurance premium itself, a charge that most homebuyers do not have to pay. The U.S. estimate, and presumably also the French one, also exclude 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).

[34] Lawrence Graham, French Tax News: The Tax Implications of Buying a House and Renovating It in France (available at http://www.lg-legal.com/assets/Downloadablefile/French_Tax_News_03_2009.pdf?form=). The rates of these *droits de mutation* were lowered during 1996–2000. Strassmann, writing in 1991, reported that house transfer taxes in France then were 9–11 percent. *Housing Market Interventions*, *supra* note 2, at 763. Many other European nations similarly also impose significant transfer taxes. In Spain, the real estate transfer tax in 2009 varied between 6 or 7 percent, depending on the region. According to Per Lundborg & Per Skedinger, *Transaction Taxes in a Search Model of the Housing Market*, 45 J. URB. ECON. 385 (1999), real estate transfer taxes “unambiguously create lock-in effects that reduce welfare.”

[35] *See Closing Costs*, *supra* note 33, at 4 (reporting that, in the sample studied, “government recording and transfer charges” averaged 0.5 percent of the sales price).

[36] Graham, *supra* note 34. When the value-added tax applies, however, the transfer tax is much reduced.

enforced entry restrictions and price controls.[37] The French notarial system is notably uncompetitive.[38] French law compels the use of a notary when real estate is transferred and specifies the magnitude of basic notarial fees.[39] Economic theory suggests that these policies would inflate the transaction costs of house sales in France.[40]

2. Land Use Regulations

A nation's system of land use regulation affects the quality, quantity, and cost of housing built, which in turn influences the nation's rate of residential mobility. The two countries adopt quite different approaches. France imposes many more national mandates on localities than does the U.S., where states and municipalities are given a relatively free hand. France also relies on municipalities and other government actors to initiate most major development projects (in the capacity of *un maître d'ouvrage*).[41] The vast majority of American housing development, by contrast, is initiated by a private entrepreneur. In

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[37] *See* Bruce M. Owen, *Kickbacks, Specialization, Price Fixing, and Efficiency in Residential Real Estate Markets*, 29 STAN. L. REV. 931 (1977); Roger Van den Bergh & Yves Montagnie, *Competition in Professional Services Markets: Are Latin Notaries Different?* 2 J. COMPETITION L. & ECON. 189 (2006); John C. Weicher, *Comment: Policy First, Research Afterward—The History of RESPA*, 23 J. REAL ESTATE FIN. & ECON. 297 (2001).

[38] See EZRA N. SULEIMAN, PRIVATE POWER AND CENTRALIZATION IN FRANCE: THE NOTARIES AND THE STATE (1987) (a negative assessment of the system).

[39] Décret n°78-262 du 8 mars 1978 portant fixation du tarif des notaires; Laferrère & Le Blanc, *Households in France, supra* note 31, at 160 (on the required use of a notary).

[40] Some commentators assert, however, that in practice notarial systems can be relatively efficient. See Benito Arruñada, *The Economics of Notaries*, 3 EUR. J.L. & ECON. 5 (1996); Van den Bergh & Montagnie, *supra* note 37 (a work commissioned by the notary federations of France, Belgium, and the Netherlands).

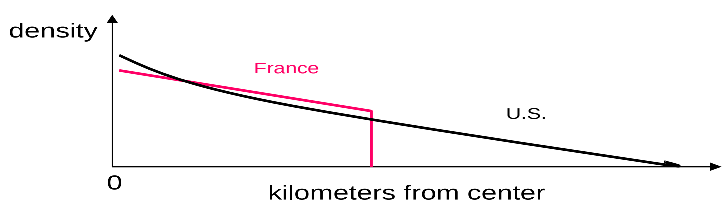
[41] The complexity of the French system of land use regulation makes it opaque to most foreigners. Professor Jean-Bernard Auby of Sciences-Po has informed me that the current system dates largely from the 1950s. He stated that France has recently begun to decentralize more regulatory power to communes and regional governments. His treatise on the subject is JEAN BERNARD AUBY, DROIT DE L'URBANISME ET DE LA CONSTRUCTION (8th ed. 2008).

both nations, land use regulations in practice vary significantly from place to place. In the United States, for example, legal restrictions on housing production tend to be far more severe in the Northeast and the Far West than elsewhere.[42]

Although generalizations are hazardous in this context, the French land use regulatory system appears to restrict the variety of both housing units and neighborhoods more than the American system does. Most French cities and suburbs have a New Urbanist look that many commentators find attractive. There commonly is a sharp boundary between an urbanized area and surrounding agricultural lands. Because large lots are uncommon, French suburbs tend to be denser than American ones. In the U.S., urban sprawl, whatever its vices, appears to give rise to a wider variety of dwellings, lot sizes, and neighborhood grains. Figures 1, 2, and 3 present a graph and two aerial photographs that suggest these differences in urban form. In both France and the U.S., a household's desire to change the attributes of either its dwelling or its neighborhood motivates a solid majority of moves.[43] By limiting the variety of choices available, France's land use policies thus likely dampen the mobility of its population.[44]

Figure 1

Illustrative Density Gradients, By Distance from Center of City or Village



[42] *See, e.g.*, Edward L. Glaeser et al., *Why Is Manhattan So Expensive? Regulation and the Rise in Housing Prices*, 48 J.L. & ECON. 331 (2005); John M. Quigley & Steven Raphael, *Regulation and the High Cost of Housing in California*, 95 AMER. ECON. REV. 323 (2005).

[43] *See infra* text accompanying notes 87–92.

[44] A dyed-in-the-wool New Urbanist might contend, of course, that the quality of French neighborhoods is so uniformly high that fewer households are prompted to move on account of neighborhood dissatisfaction.

Figure 2: Cergy-Pontoise, a suburb northwest of Paris

Figure 3: Mount Kisco, a suburb north of New York City

B. <u>Legal Sources of Stickiness in Rental Housing Markets</u>

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 U.S., and because renters tend to move far more often than homeowners.

1. Landlord-Tenant Law

In the U.S., landlord-tenant law is almost exclusively the province of state governments, an approach that gives rise to a regulatory competition that many observers regard as healthy. France, true to its longstanding tradition of centralized control, has a largely national system of landlord-tenant law. French law imposes more limits than a typical American state does on a landlord's power to evict a tenant or terminate a lease. France also has a nationwide system of mild rent controls that apply to most rental units.

Limits on landlord evictions and lease terminations. In 1948, French lawmakers embraced the general principle that a tenant has a "right to remain in the premises."[45] Subsequent legislation continues to pay honor to this principle. The key governing statute, la loi Mermaz-Malandain, enacted in 1989, requires an individual landlord to offer a new tenant a minimum of a three-year lease.[46] For a corporate landlord (*une personne morale*), the minimum term is six years. A tenant can terminate one of these leases at any time by giving three months notice. A landlord, however, is held to the full

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[45] Loi n° 48-1360 du 1[er] septembre 1948, art. 4. *See* Maud Loiseau & Catherine Bonvalet, *The Impact of the 1948 Housing Law on Residential Trajectories in the Paris Region*, 60 POPULATION-E 301, 302 (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) (offering criticism), *with* Florence Wagman Roisman, *The Right to Remain*, 86 N.C. L. REV. 817 (2008) (urging American litigators to push for judicial recognition of a tenant's right to remain).

[46] Loi n° 89-462 du 6 juillet 1989, J.O., 8 July 1989, p.8541. This law exempts from its coverage several significant types of tenancies, including furnished rentals.

term. In addition, at the end of the term the landlord must offer the tenant a renewal of a lease, except in a few special circumstances, such as when the landlord wishes personally to reside in the dwelling.[47] This lessens the number of tenant moves generated by landlord decisions to terminate their relationship. Most U.S. states are far more supportive of freedom of contract. They typically permit a landlord and tenant to come to agreement on, for example, a periodic tenancy, a term of years of almost any length, and a lease that a tenant is not automatically entitled to renew.[48]

To further honor the principle of a "right to remain," French law makes it difficult for a landlord to evict a tenant, even one in breach on account of nonpayment of rent.[49]

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[47] In several respects, French landlord-tenant law is more disadvantageous to a corporate landlord than to an individual landlord. As noted, an individual 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 multi-unit residential buildings. Condominiums units comprise 26 percent of the total French housing stock, as opposed to 7 percent of the U.S. stock. (The latter figure includes units in cooperatives as well.) The distinctive Hausmanian buildings in the heart of Paris, for example, tend to be held in condominium as opposed to corporate or partnership ownership. Moreover, renters occupy about 50 percent of occupied condominium units in France, but only 32 percent of U.S. condominium units. ANIL, *Le Parc de Logements en Copropriété en France*, HABITAT ACTUALITÉ, N°89, at 6–8 (Mai 2004); U.S. Census Bureau, *American Housing Survey for the United States, 2007*, tables 1A-1, 3-1, 4-1. A large fraction of private-sector tenants in France thus have, as their landlords, individual owners of condominium units. In these situations, the structure of property rights is unusually complex, making governance of these multi-unit buildings far more difficult than it would be if these buildings were in hands of single owners. *See* Henry Hansmann, *Condominium and Cooperative Housing: Transactional Efficiency, Tax Subsidies and Tenure Choice*, 20 J. LEGAL STUD. 25 (1991).

[48] There are exceptions. In New Jersey, a landlord must show "good cause" to refuse to renew a residential lease. N.J. STAT ANN. § 2a:18-61.1 (2000). 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. App. 2002).

[49] Natalie Boccadoro & Anthony Chamboredon, *France* 5 (available at www.iue.it/LAW/) (describing evictions as "almost impossible").

The governing regulations prohibit, with rare exception, evictions between November 1 and March 15 (and for an even longer period in Paris).[50] Some French landlords report that an eviction takes on average eighteen months to complete. In addition, the local officials authorized to carry out a residential eviction are entitled to decline to do so and instead render compensation to the landlord.[51] American states generally are far less protective of a tenant in breach. In most states, a landlord can complete a residential eviction in two or three months. Evictions typically take place year round, except perhaps during the end-of-the-year holidays or when the weather is unusually cold or wet.[52]

Rent controls. Rent controls have been and are more prevalent in France than in the U.S. France imposed a moratorium on the collection of many residential rents during World War I and maintained various rent controls during the following decades.[53] In 1948, in an effort to revive the private housing sector, France enacted a statute that gradually reduced the number of dwellings units with controlled rents. By 2002, the strict rent controls still authorized by the 1948 law applied to only 1 percent of French residential tenancies (3 percent of those in Paris).[54]

In the U.S., various short-lived state and local rent control measures were enacted just after the end of World War I. During World War II, the federal government implemented strict rent controls nationwide, but then lifted them after the war concluded. The post-war New York legislature, however, chose to retain strict controls in the City of New York and later supplemented them with a milder program known as rent stabilization. During the high-inflation years of the late 1970s, a few dozen other American cities adopted rent controls, but usually of a mild variety. A solid majority of

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[50] *Id*. at 18.

[51] *See* Roisman, *supra* note 45, at 847 n.126.

[52] *Id.* at 847 n.128; Manny Fernandez, *Marshals on Hiatus, Putting Holiday Evictions on Hold*, N.Y. TIMES, Dec. 22, 2008, at A27.

[53] Tyler Stovall, *The Consumers' Wars: Paris, 1914–1918*, 31 FRENCH HIST. STUD. 293 (2008); Leon Bettendorf & Erik Buyst, *Rent Control and Virtual Prices: A Case Study of Interwar Belgium*, 57 J. ECON. HIST. 654 (1997).

[54] *See* Loiseau & Bonvalet, *supra* note 45, at 302–03.

American states have enacted statutes that forbid local rent controls of any sort.[55]

Although strict rent controls thus apply to only a tiny fraction of dwellings in both nations, France, unlike the U.S., currently has a nationwide system of mild controls. La loi Mermaz-Malandain of 1989 limits a landlord's power to increase the rent of a sitting tenant. The system is mild because it allows for vacancy decontrol; once a sitting tenant departs, the landlord is free to charge whatever the market will bear. The law protects sitting tenants in several ways. A nationwide construction index, which typically greatly understates the rate of increase in market rents, sets an immutable ceiling on rent increases during the term of the lease. Moreover, at the end of a minimum three-year lease (for example), the statute not only compels the landlord to renew in most instances, but also limits rent increases to those that the national index permits. To raise rent by a greater amount, a landlord must prove that the former rent "manifestly undervalued" the premises.[56] In practice, few landlords 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.

In the aggregate, French landlord-tenant law tends to reduce the nation's residential mobility. Many studies have shown that rent ceilings have lock-in effects.[57] A tenant, who would have left in the absence of the controls, remains in residence on account of the relatively low rent.[58] Moreover, when a landlord anticipates having great

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[55] Mitchell Pacelle, *Rent Control Crusade Plays Last Stop in New York*, WALL ST. J., June 13, 1997, at A2.

[56] *Id.*, art. 17c.

[57] *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). *See also* Ellen & O'Flaherty, *supra* note 19, at 39 (stating that the average length of the current tenure of a rent-controlled tenant in New York City is 10.6 years, a period 56 percent longer than that of a household living in an unregulated apartment.)

[58] In some contexts, a tenant may be able to illegally transfer residency rights to another household in return for key money, thereby lessening the effect of the constraint.

difficulty in severing a relationship with an undesirable tenant, the landlord has an incentive to screen prospective tenants far more carefully and, at the extreme, even to leave a dwelling vacant. These responses by landlords increase the transaction costs of rental transactions and aggravate housing shortages. Both in turn reduce the rate of population mobility.

2. Housing Assistance Policies

Since the early twentieth century, both the United States and France have established a complex and ever-changing array of housing subsidies for tenants of low and moderate income. For a variety of reasons, the French system is far more likely than the U.S. system to significantly impair tenant mobility. Indeed, on the whole 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: *projected-based* and *tenant-based*. In both France and the U.S., 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, his name typically would fall to the bottom of the queue. If the tenant were to accept and move in, however, thereafter the benefits of the subsidy would not be portable. If the tenant were later to vacate the apartment, he would lose the benefits of the housing subsidy and the authorities would offer occupancy of the premises to another household.

The tenant-based housing aids in both the United States and France take the form of housing allowances. 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 American housing economists tend to regard tenant-based housing assistance as superior to project-based assistance.[59]

[59] *See e.g.*, Laferrère & Le Blanc, *Households in France*, *supra* note 31, at 171–74; Edgar O. Olsen, *Housing Programs for Low-Income Households*, *in* MEANS-TESTED TRANSFER

As Table 4 indicates, in France 40 percent of tenants live in subsidized housing projects, most of which are called HLM (*habitation à loyer modéré*). These tenants' units constitute 17 percent of the total French housing stock, a percentage of "social housing" that is middling for a European nation.[60] The most massive clusters of subsidized housing, such as *Les Grands Ensembles*, have mostly been located in suburbs.[61] The organizations that develop and manage HLM projects receive aid in the form of low-interest government loans and tax exemptions. These organizations may be loosely described as local and regional public-private partnerships.[62] Because HLM entities and municipalities initiate most new multi-family housing projects, the designs of these projects tend to be less varied than they would be if private developers were actively involved.

PROGRAMS IN THE UNITED STATES 365 (Robert A. Moffitt ed. 2003); JOHN WEICHER, PRIVATIZING SUBSIDIZED HOUSING (1997).

[60] Circa 2000, social rental housing of this sort constituted about 34 percent of the total housing stock in the Netherlands, 22 percent in the United Kingdom, 7 percent in Germany and Switzerland, and 1 percent in Spain (where subsidies are primarily provided to home purchasers). Economic Commission for Europe, *Guidelines on Social Housing* 15 (2006); Montserrat Pereja Eastaway & Ignacio San Martin, *General Trends in Financing Social Housing in Spain*, 36 URB. STUD. 699 (1999).

[61] In the suburbs of Paris, 63 percent of rental apartments are in HLM projects; within the City of Paris itself, the figure is 29 percent. 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 (2001).

[62] *See* Paul E. White, *Immigrants, Immigrant Areas and Immigrant Communities in Postwar Paris, in* MIGRANTS IN MODERN FRANCE, *supra* note 15, at 195, 198–200.

TABLE 4

APPROXIMATE PERCENTAGE OF RESIDENTIAL TENANTS RECEIVING RENTAL AID, C.2001[63]

	France	United States
Reside in a Subsidized Project	40%[64]	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%

In the largest French cities, rents in HLM projects, per square meter, are about half of what they are in the private rental sector.[65] This rent discount typically is far larger than the discounts French tenants receive under the nation's mild system of rent control. On account of the deep antipathy of French policymakers to rent increases, the rents of a HLM tenant are seldom hiked, even when a tenant's income has increased markedly after initial admission.[66] This policy fosters long tenant stays in HLM projects, particularly those located in better neighborhoods.[67]

As Table 4 shows, in the United States, about 13 percent of tenants reside in subsidized projects, about one third the comparable percentage in France. In the U.S.,

[63] Laferrère & Le Blanc, *Households in France*, *supra* note 31, at 161, 166.

[64] Nearly half of HLM tenants also have the benefit of a housing allowance. *Id*. at 163.

[65] *See* Loiseau & Bonvalet, *supra* note 45, at 304.

[66] Laferrère & Le Blanc, *Households in France*, *supra* note 31, at 162–63.

[67] *Id*. at 167, 171.

"public housing" refers to projects owned and managed by local public agencies. By 2009, however, units in public housing units in the U.S. were far outnumbered by the units in subsidized projects developed and managed by non-profit or limited-profit associations making use of programs such as the Low Income Housing Tax Credit. A landlord who manages a subsidized project in the United States is far more likely than one in France to be required by law to raise the rent of a tenant whose income has risen. A rent hike of this sort may prompt the tenant to exit.

Table 4 also indicates that about 6 percent of tenant households in the U.S. benefit from housing allowances, popularly known as Section 8. France has had a variety of significant housing allowance programs.[68] These, unlike Section 8, are made available to all applicants as an entitlement and are broadly distributed.[69] Of the French tenants who do not reside in HLM projects, some 40 percent receive housing allowances.

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.[70] 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 20.0 years; of tenants in HLM projects, 10.0 years; and in the private rental sector, 5.6 years.[71] A nation's housing policies plainly can dramatically influence tenant mobility.

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[68] *See* Anne Laferrère & David Le Blanc, *How Do Housing Allowances Affect Rents? An Empirical Analysis of the French Case*, 13 J. HOUSING ECON. 36 (2004) (describing the system).

[69] Laferrère & Le Blanc, *Households in France*, *supra* note 31, at 163.

[70] *See* sources cited *supra* note 57; Thierry Debrand & Claude Taffin, *Les Facteurs Structurels et Conjoncturels de la Mobilté Résidentielle depuis 20 Ans*, 381–382 ÉCONOMIE ET STATISTIQUE 125 (2005) (finding that, in 2002 (in contrast to 1984), HLM tenants were less mobile than private-sector French tenants); Gobillon, *supra* note 23, at 87, 96 (asserting that HLM tenants are relatively immobile); 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).

[71] Loiseau & Bonvalet, *supra* note 45, at 305.

IV. Is a Higher Rate of Residential Mobility Desirable?

Is a nation's rate of residential mobility an important social indicator, one as weighty as, say, its crime rate, unemployment rate, or literacy rate? Politicians rarely mention mobility issues, a clue that they think few voters care about it. This section argues that mobility issues 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.[72]

A. The Welfare Effects of Residential Mobility

To simplify, this initial attempt to provide a method of normative evaluation puts to the side various pertinent values such as freedom, self-actualization, and distributive justice. The focus instead is on utilitarian consideration of costs and benefits, which include social consequences such as the effects of residential moves on the stock of social capital.

1. The Mover's Decision

As noted, the standard economic model of a relocation decision assumes that a household moves when its expected gains from a move exceed the costs it expects to bear in accomplishing the move.[73] Among these costs, economists traditionally have stressed out-of-pocket costs and the value of the time that movers spend on making arrangements.[74] An experienced mover might also anticipate, however, that a shift to a new living environment would give rise to net social and psychological costs (or benefits), and take those into account as well.[75]

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[72] An early collection of essays is RESIDENTIAL MOBILITY AND PUBLIC POLICY (W.A.V. Clark & Eric G. Moore eds. 1980).

[73] *See supra* note 28 and accompanying text.

[74] *See* Haurin & Gill, *supra* note 32.

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

What is known about these latter sorts of costs? According to Stephanie Stern, psychologists who have studied adult movers in the U.S. have found that a move commonly causes some short-term stress, but no long-term psychological impairment.[76] 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.[77] (An altruistic caretaker would take into account any negative effects of a move on a child, but some caretakers may be less than completely altruistic.)[78]

Several studies indicate that movers do take into consideration the expected private social costs of moves, such as diminutions in their own stocks of social capital.[79] According to Robert Putnam's "lean and mean" definition, social capital consists of "social networks and the associated norms of reciprocity and trustworthiness."[80] In the context of residential mobility, it is useful to distinguish among various types of social capital. Local social capital differs from nonlocal social capital, such as involvement in a

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

[77] *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 76, at 1117–19 (reviewing the literature).

[78] *Cf.* Jacob Mincer, *Family Migration Decisions*, 86 J. POL. ECON. 749 (1978) (predicting that a household member would internalize most of the effects of a move on other household members).

[79] *See* Kamhon Kan, *Residential Mobility and Social Capital*, 61 J. URB. ECON. 436 (2007) (finding that households with large amounts of local social capital are less likely to move a long distance); Quentin David et al., *Local Social Capital and Geographical Mobility: Some Empirics and a Conjecture on the Nature of European Unemployment*, IZA Discussion Paper No. 3669, at 11 (August 2008) (reporting a similar finding).

[80] Robert D. Putnam, *E Pluribus Unum: Diversity and Community in the Twenty-First Century*, 30 SCANDINAVIAN POL. STUD. 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 warm feelings of solidarity that are valued for their own sake.

national professional association.[81] In addition, most people have relatively strong social ties with family members and personal friends, and relatively weak social ties with neighbors as such.[82] An increase in physical distance tends to be more damaging to a weak tie than to a strong tie.

A mover can anticipate that a move will have different effects on different types of social relations. A long-distance move is likely to have little or no effect on nonlocal social capital, but a large effect on local social capital. Most moves of course are local, with the typical relocation in both the U.S. and France involving a distance of ten miles or less.[83] A move of that distance is unlikely to jeopardize local relationships cemented by strong ties, such as connections with family members and close friends who live locally. A move of a few miles, however, *is* likely to rupture weak-tie relations with neighbors on one's former block. Stern reports, however, that American movers typically are able to establish satisfactory social ties with their new neighbors within less than two years.[84] A local mover who anticipated this outcome would be little concerned about the attenuation or loss of social connections with prior neighbors.

2. The Many Potential Private Benefits of a Residential Move

A move can confer a wide variety of private benefits on those who move, but also potentially give rise to social costs. First, the possible benefits. In the 1990s, census officials in both the U.S. and France began to ask movers why they had moved.[85]

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[81] See David et al., *Theory*, *supra* note 2. Kan, *supra* note 79, also develops the notion of local social capital.

[82] *See also* Stern, *supra* note 76, at 1122–24 (discussing the relative weakness of most households' social ties with neighbors).

[83] *See supra* text at note 10 .

[84] Stern, *supra* note 77, at 1115–17.

[85] The statistics for the U.S. provided in this subpart pertain to 1999–2000 and are drawn from Schachter, *Why People Move*, *supra* note 25, at 4. Those for France are drawn from a table in Gobillon, *supra* note 23, at 84. Gobillon compiled his figures from the European Community Household Panel (1994–1996).

Respondents in both nations identified a wide variety of anticipated advantages.[86] Because respondents in the two nations were asked somewhat different questions, the comparative statistics provided below are only suggestive.

Taking on a new job. In the U.S., 16 percent of movers stated that they had moved primarily for an employment-related reason. The comparable figure in France was 26 percent. In both nations, the longer the distance of a move, the more likely the move was work-related.[87] Housing and land use policies that dampen mobility obviously tend to prolong job mismatches. A worker unhappy in her current job, for example, might decline to shift to a better one at a distant location if the shift would require either a lengthy commute or a move that would result in the loss of the benefits of living in a rent-controlled unit or subsidized housing project.[88]

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 motivated not by work (or neighborhood) considerations, but rather by household and housing considerations.[89]

Because U.S. movers are asked more precise questions, more is known about their motivations. Roughly one-fourth of U.S. movers relocate in order either to cohabit with a new housemate, or terminate a former cohabitation arrangement.[90] Young adults tend to move more often than others because they are in a particularly volatile stage of the

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

[87] Of U.S. moves across a county line, 31 percent are work-related, compared to 6 percent of moves within a county. In France, 62 percent of inter-department movers report that their move was work-related, compared to 20 percent of intra-department movers.

[88] Housing lock-ins similarly can perpetuate lengthier commuting distances between intimates, for example, by deterring someone from relocating to be closer to friends or family members.

[89] In France, 76 percent of intra-communal movers identified this motivation.

[90] On the formation, structure and internal dynamics of households, see generally ROBERT C. ELLICKSON, THE HOUSEHOLD: INFORMAL ORDER AROUND THE HEARTH (2008).

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 adult children.[91]

Another one-fourth of U.S. moves are sparked by the desires of a stable group of cohabitants to shift to a dwelling whose physical attributes are more suitable than their present abode. A prospering middle-aged couple with growing children, for example, might be on the lookout for a larger house with a bigger backyard. Observe that satisfying this wish may not 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. Occupant-ownership enhances an occupant's security of possession and, by eliminating the landlord, greatly reduces the transaction costs of household governance.[92] Some movers, conversely, seek to switch from the simplicity of ordinary fee-simple homeownship to the complexity of structured life in a common-interest community.

The greatest costs of laws that limit mobility likely stem from their suppression of these sorts of quotidian adjustments in household arrangements. Policies that impede the functioning of the market for households may force an individual to live with unwanted housemates, to remain in an unsuitable dwelling, or to put up with an unwanted tenure arrangement. It appears that no attempts have been made to estimate the magnitude of these sorts of costs of antimobility policies. For what it's worth, in France individuals who have made a local move do report sharply higher levels of satisfaction with their housing.[93]

Opting for a new neighborhood. A household may move to a nearly identical dwelling in the same municipality simply in order to bring about a change in local

[91] 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 possible.

[92] On the relative advantages of owning and renting a home, see ELLICKSON, *supra* note 90, at 86–91.

[93] Ahn & Blazquez, *supra* note 2, at 9.

surroundings. In the U.S., these sorts of reasons motivate perhaps ten percent of moves.[94] 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.

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.[95] Interstate and international migrants also presumably are alert to how higher-level governmental units differ along these dimensions.[96] Many commentators regard Tiebout-style competition to be generally beneficial. 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 keeps politicians on their toes. Legal policies that restrain residential mobility lessen both of these beneficial effects.

It is notable that neither U.S. nor French census-takers explicitly asked movers whether they had relocated in order to associate themselves with a more suitable government. Perhaps the soundings that the officials had taken when they were designing their survey instruments indicated that few movers would volunteer this response.[97] In

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[94] *See* Barrett A. Lee et al., *Neighborhood Context and Residential Mobility*, 31 DEMOGRAPHY 249 (1994) (finding that neighborhood considerations typically play only a minor role in a mover's decision).

[95] Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416 (1956); see also THE TIEBOUT MODEL AT FIFTY (William A. Fischel ed., 2006). *But cf*. Todd E. Pettys, *The Mobility Paradox*, 92 GEO. L.J. 481 (2004) (expressing doubts about the merits of Tiebout-style competition).

[96] Ilya Somin, *Tiebout Goes Global: International Migration as a Tool for Voting with Your Feet*, 73 MO. L. REV. 1247 (2008).

[97] The American Housing Survey, which offers interviewees a particularly large menu of reasons for moving, also does not explicitly include Tieboutian motivations. See *American Housing Survey*, *supra* note 47, at tbl. 2-11.

any event, it appears that, when households "vote with their feet," economic and social considerations, and not political considerations, tend to dominate their thinking.

Weather. Less than 2 percent of long-distance moves in the U.S. are motivated to bring about a change of climate. This low figure nonetheless is sufficient to generate, over time, steady population growth in places with highly attractive climates and consumer amenities.[98] By extension, even if only a small fraction of households move each year for Tieboutian reasons, their decisions over time could have a large cumulative impact on local policies.

For all the reasons just listed, the members of a household may reap major private benefits from a move. The willingness of movers to incur the psychological, social, and transaction costs of relocation indicates how highly they value their anticipated gains.

3. The Potential Social Costs of Residential Moves

The fact that a move is in the interest of a mover does not necessarily mean, however, that it is serves the greater good.[99] A move may give rise to negative social externalities in both the sending and receiving neighborhoods. As members of a faculty department that has been raided by other institutions know only too well, the departure of a person from a social milieu may be demoralizing. Similarly, in some social contexts, the arrival of strangers may reduce trust and social solidarity. A person considering a move is likely to ignore the effects of the move on residents of both the sending and receiving localities. These effects are highly unlikely to be internalized by means of Coasean bargaining and therefore are true externalities.

Social scientists have yet to shed much light on the magnitude of social externalities of this nature.[100] Several thoughtful commentators seem to regard the net

[98] *See* Yong Chen & Stuart S. Rosenthal, *Local Amenities and Life-Cycle Migration: Do People Move for Jobs or Fun?* 64 J. URB. ECON. 519 (2008).

[99] *See* Sjaastad, *supra* note 75, at 91–92.

[100] *But cf*. Edward L. Glaeser et al., *An Economic Approach to Social Capital*, 112 ECON. J. F437 (2002) (offering some theory).

social externalities from moves to be negative and possibly significant. 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.[101] Ellen and O'Flaherty cautiously praise policies in New York City that have contributed to the "stability" of residential arrangements there.[102]

To gain traction on the difficult and little-explored issue of the optimal rate of residential mobility, I offer a simple utilitarian test (one that a commentator such as Radin would likely regard as seriously incomplete).[103] My test supposes that a household move is socially desirable only when the net gains reaped by those who move exceed any net negative social externalities that the move causes.[104]

The empirical literature on social capital, as it matures, promises to improve understanding of the effects of departures and arrivals on levels of trust and cooperation within a social milieu.[105] Some studies indeed suggest that a higher rate of residential turnover, whether of homeowners or renters, does somewhat diminish a neighborhood's stock of social capital.[106] Moreover, as Glaeser et al. have shown, a person who expects to move soon is likely, all else equal, to make smaller investments into developing local social capital.[107] Transients in a neighborhood, for example, are less likely to become involved in local politics.

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[101] Margaret Jane Radin, *Residential Rent Control*, 15 PHIL. & PUB. AFF. 350 (1986)

[102] Ellen & O'Flaherty, *supra* note 19, at 37–43 [ms pages].

[103] Other values that might be incorporated into a richer normative analysis are mentioned *supra* text following note 72, and *infra* note 112.

[104] A move may generate net positive externalities. S*ee infra* text accompanying notes 110–111. When it does, and when the mover also is mentally competent, a move can be presumed to advance utilitarian goals.

[105] The best-known work on social capital is ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY (2000).

[106] See Stern, *supra* note 76, at 1125–26 (citing studies).

[107] Glaeser et al., *supra* note 100, at F439, F450.

A high rate of residential mobility thus can unquestionably give rise not only to private benefits but also to social costs. These negative effects should not be exaggerated, however. There certainly is no simple positive correlation between a low rate of residential mobility and a high stock of social capital. According to most metrics, France, despite its relative stability, has a significantly lower level of social capital than does the United States.[108] The State of New York, which includes the "frozen" City of New York, has one of the lowest levels of social capital of the states outside the South.[109] (Of course, if these jurisdictions had not adopted antimobility policies, it is possible that their stocks of social capital would be even lower.)

Moreover, residential moves may give rise to positive externalities as well as negative ones. The arrival of newcomers, for example, may lessen xenophobia, enhance bridging social ties, and create synergies that augment others' human capital.[110] Indeed, some analysts assert that the externalities from residential moves are positive on balance and therefore that the nations of Europe, for their part, should take affirmative steps to accelerate rates of migration.[111]

V. Conclusion

The private benefits of a residential move may be massive. Relocating may enable an individual to find a more suitable match with, among others, a job, a group of housemates, a dwelling, a neighborhood, and a municipality. Some moves, however, undoubtedly degrade local social networks and lessen trustworthiness. Who would want

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[108] One cross-country study of levels of civic cooperation and trust placed France in the bottom third, on both dimensions, of the nations studied. The study, based on the World Values Surveys, ranked Germany and Spain around the middle, the United States in the top two-fifths, and 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).

[109] See PUTNAM, BOWLING ALONE, *supra* note 105, at 298.

[110] *See* Bonin et al., *supra* note 2, at 52. Tieboutian moves that signal political evaluations can also give rise to positive externalities.

[111] *Id.* at 51. *See generally id*. at 50–69 (discussing "optimum mobility").

to live in permanently in a neighborhood where other residents turn over as rapidly as passengers at a hub airport? Even judged solely through a utilitarian lens, increases in mobility rates therefore are not always to be applauded.[112] Theoretical and empirical analysis of the social externalities arising from residential mobility remains in its infancy. A commentator therefore cannot confidently proclaim that Americans should be glad that they live in a country where annual mobility rates are twice those in France. But, perhaps on account of values instilled by a father who was a third-generation homesteader, I tentatively suggest that this does seem to be an advantage.[113]

[112] A richer normative framework for evaluating mobility issues might explicitly consider, for example, the importance of "freedom to move" as a human liberty, and also the distributive effects of moves, such as the possibly regressive effects of others' moves on the poor residents of a gentrifying neighborhood.

[113] At workshops where a draft of this paper 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.