

**MADE IN AMERICA: MEDICAL TOURISM AND BIRTH  
TOURISM LEADING TO A LARGER BASE OF TRANSIENT  
CITIZENSHIP**

*Tyler Grant\**

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Tyler Grant

*Transnationalism has become a much larger issue as international travel has increased, and countries are incentivized to ease border controls in order to boost their economies. At times, this comes at a cost. Birth tourism and medical tourism are becoming trends in the United States and Taiwan and are producing differing consequences that policymakers will have to address.*

*Many policymakers in the United States hoped that lifting travel restrictions would spur tourism. While perhaps true, as a result of this policy change, more foreign citizens are now able to perform a cost-benefit analysis of other nations' laws in the hopes of relocating for benefits. With the Fourteenth Amendment to the U.S. Constitution providing citizenship to those born in the United States, thousands of pregnant women legally travel to the United States every year to give birth. This birth tourism ensures those children access to public education and healthcare in the United States. Additionally, U.S. citizens with dual citizenship in countries with affordable national health care, like Taiwan, travel overseas for medical treatment with minimal costs for reentry into those foreign health care systems. Such medical tourism increases medical and educational costs for taxpayers in the countries that provide generous government-sponsored health care. As globalization becomes more prominent, the amount of individuals looking across borders for healthcare and educational opportunities will continue to grow. When individuals cross borders for these opportunities, economic or social strain can result. This Note highlights this tension and discusses how policymakers on the ground are responding to an escalating situation.*

## INTRODUCTION

“AMERICA is the greatest country in the world; with one of the worst health insurance schemes in the world.”<sup>1</sup> This sentiment, articulated by Andrew Lin, a Taiwanese American currently residing in Taiwan, is echoed by many Taiwanese nationals. Conversations with Taiwanese like Lin show a growing frustration with the economic status of Taiwan, as they look to other countries, including the United States and Mainland China, for greater opportunity. Many, including Lin's par-

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<sup>1</sup> Interview with Andrew Lin, Student, Nat'l Taiwan Univ., in Taipei, Taiwan (Jan. 14, 2013).

ents, make the journey to the United States or Canada to seek opportunity.<sup>2</sup>

As worldwide travel regulations ease and domestic healthcare costs increase, citizens are increasingly traveling abroad to receive medical treatment and, in some instances, to give birth. For those who can afford it, international medical and birth tourism are two ways to secure more economical medical treatment and comprehensive healthcare, as well as greater educational and healthcare opportunities for their offspring.

Many countries have already seen potential for this new phenomenon of medical tourism. Countries can opt to specialize in particular high-cost surgeries and offer discounted rates to attract foreign medical tourists. The medical service costs are low, and the medical tourists bring a large influx of capital to the local economies. As a potential result, countries that neglect local health care, yet allow their citizens to travel internationally, run the risk of driving their citizens toward countries that seek them as medical tourists.

Taiwan is one of the countries at risk. With the Taiwanese economy in a recent decline, many Taiwanese citizens are taking advantage of eased international travel regulations to procure healthcare and dual citizenship abroad for their offspring. This increase in international travel may lead to new economic and immigration-related problems for the United States and Taiwan.

At the same time that medical tourism is creating new challenges, “maternity tourism” or “birth tourism” is also a growing trend in East Asian countries. One result of this trend is that citizens domiciled abroad are able to return to their home country for cheap medical procedures. Another result is that citizens with dual citizenship can freely travel and relocate in order to take advantage of more generous domestic entitlement programs, such as education, in a country where they have citizenship but may not have established roots. In Part I, this Note describes birth tourism and its potential effects on the Taiwanese and U.S. economies. It then discusses some of the potential implications of this growing trend. In Part II, it explores the Taiwanese government’s recent steps to more aggressively target medical tourism markets. Finally, this Note will discuss the ways in which Taiwanese nationals are exploiting Taiwan’s domestic national health care program and the resulting effects on the resident Taiwanese population.

#### I. BIRTH TOURISM: DUAL-CITIZENRY THROUGH A LOOPHOLE?

Discussion of immigration in the United States is incomplete. Early in the spring of 2013, I served as a tutor for a twelve-year-old boy in Taipei whose family was preparing to go to the United States for two months to “travel.” When I met his parents, the real reason for the trip was obvious: the boy’s mother was seven-months pregnant.

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<sup>2</sup> *Id.*

The social reality is that pregnant women are traveling to the United States by the thousands using travel visas with the hope of giving birth in the country, which would make their child an American citizen under the Citizenship Clause of the United States Constitution.<sup>3</sup> The Center for Immigration Studies estimates that, of the more than 300,000 children born to foreign citizens in the United States every year, 40,000 are to birth tourists—foreign individuals legally in the United States with a travel visa.<sup>4</sup> This practice of birth tourism, common among Chinese, Taiwanese, and Turkish nationals, has continued to grow in recent years.<sup>5</sup>

While undocumented immigration into the United States across the Mexican border remains the main topic in U.S. immigration debates, birth tourism represents a new topic that many in the United States are ill-prepared to tackle. Birth tourists to the United States mainly come from Pacific Rim countries like Taiwan and China.<sup>6</sup> Some private companies even transport, house, and provide the necessary arrangements for birth tourists to enter the United States and remain until they are able to give birth.<sup>7</sup>

Recently, birth tourism has garnered more media attention in the United States. For example, throughout the latter part of 2012 and early

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<sup>3</sup> U.S. CONST. amend. XIV, § 1; Rachel Lu, *Look Who's Walking: Chinese Birth Tourism Goes Stateside*, FOREIGN POL'Y (Apr. 25, 2014), [http://www.foreignpolicy.com/articles/2014/04/25/chinese\\_birth\\_tourism\\_on\\_rise\\_in\\_usa](http://www.foreignpolicy.com/articles/2014/04/25/chinese_birth_tourism_on_rise_in_usa) (containing estimates from a study that suggests that the number of birth tourists has surged above 10,000 in 2012).

<sup>4</sup> Email from Jon Feere, Legal Policy Analyst, Ctr. for Immigration Studies, to author (Oct. 16, 2014) (on file with author); see generally Jon Feere, *Birthright Citizenship for Children of Foreign Diplomats? Limiting Language in the 14th Amendment's Citizenship Clause Has No Practical Effect*, CTR. FOR IMMIGRATION STUDIES (2011), <http://www.cis.org/sites/cis.org/files/articles/2011/birthright-diplomats.pdf>.

<sup>5</sup> Isil Egrikavuk, *Birth tourism in US on the rise for Turkish parents*, HURRIYET DAILY NEWS (Mar. 12, 2010), <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=birth-tourism-to-the-usa-explodes-2010-03-12>; Keith B. Richburg, *For Many Pregnant Chinese, a U.S. Passport for Baby Remains a Powerful Lure*, WASH. POST, July 18, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/17/AR2010071701402.html>.

<sup>6</sup> See Feere, *supra* note 4.

<sup>7</sup> Birth Tourism Agencies, GOOGLE RESULTS, <https://www.google.com/> (searching term “美国宝宝” produces results such as Yang Baobao Yue Zi Zhongxin Zixun Wang (洋宝宝月子中心资讯网), MYUSBABY, <http://www.myusbaby.com> (last visited May 5, 2014); ABC VIP BABY, <http://www.abcbabyvip.com> (last visited May 5, 2014). This search produces over fifty websites for advertisements related to birth tourist locations and maternity hotels in many different areas of California. The services range from \$12,000 to \$85,000 with options varying from room, board, meals, travel, and documentation to nursing services and high-class shopping trips.

2013, individuals in Chino Hills, California made national news for protests of apartment buildings alleged to be “maternity hotels.”<sup>8</sup> In *The Washington Post*, longtime birth tourist business-owner Robert Zhou reminded Americans that his company does not “encourage moms to break the law—just to take advantage of it.”<sup>9</sup>

A. *The “Loophole” in the Fourteenth Amendment and How the United States Has Responded to It*

The notion that American citizenship should be granted by birth has a long and complex history that continues to be shaped by current debates about immigration into the United States. The Naturalization Act of 1790 was the first law enacted by Congress to establish the requirements for U.S. citizenship.<sup>10</sup> Following the abolition of slavery, the Fourteenth Amendment, adopted in 1868, sought to grant all Americans born within the United States standing to file suit, partly in an effort to avoid outcomes similar to that of the notorious case of *Dred Scott v. Sandford*.<sup>11</sup> At first, Senator Trumbull of Illinois proposed the amendment to read:

that all persons of African descent born in the United States are hereby declared to be citizens of the United States and there shall be no discrimination in civil rights or immunities among the inhabitants of any State or Territory of the United States on account of race, color, or previous condition of slavery.<sup>12</sup>

However, major disagreements in the Senate ultimately resulted in the language that appears today.<sup>13</sup> As passed, the Citizenship Clause reads, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.”<sup>14</sup> A conversation with Jon Feere, a policy analyst at the Center for Immigration Studies, revealed that the Citizenship Clause is much more complicated than it appears at first glance.<sup>15</sup> Immigration becomes even more complex when analyzing how U.S. immigration au-

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<sup>8</sup> Dan Whitcomb, *Maternity Tourism Becomes Center Of Debate In Los Angeles County Crackdown On Immigrant Birth Homes*, HUFFINGTON POST (Jan. 29, 2013, 9:52 PM), [http://www.huffingtonpost.com/2013/01/30/maternity-tourism-los-angeles\\_n\\_2578253.html](http://www.huffingtonpost.com/2013/01/30/maternity-tourism-los-angeles_n_2578253.html).

<sup>9</sup> Richburg, *supra* note 5.

<sup>10</sup> Emily Kendall, *Amending the Constitution to Save a Sinking Ship? The Issues Surrounding the Proposed Amendment of the Citizenship Clause and “Anchor Babies,”* 22 BERKELEY LA RAZA L.J. 349, 351 (2012).

<sup>11</sup> *Id.* at 352–53.

<sup>12</sup> CONG. GLOBE, 39th Cong., 1st Sess. 497 (1866).

<sup>13</sup> Kendall, *supra* note 10, at 354.

<sup>14</sup> U.S. CONST. amend. XIV, § 1.

<sup>15</sup> Telephone Interview with Jon Feere, Legal Policy Analyst, Ctr. for Immigration Studies (May 6, 2014).

thorities must address a growing situation despite the Constitutional loophole.<sup>16</sup>

In an effort to address the “loophole” created by the Citizenship Clause, many states have implemented policies to prevent “anchor babies”—children born to undocumented parents in the country and used as an “anchor” into U.S. citizenship for the parents—but federal law, the ultimate authority on regulating immigration, is largely silent on birth tourism.<sup>17</sup> This makes law enforcement problematic, since technically these “tourists” enter the country legally.<sup>18</sup> However, birth tourism seems to strike many as unethical because it allows foreign citizens to take advantage of a “loophole” to gain U.S. citizenship for their children.<sup>19</sup>

As a result, government at the local, state, and federal level in the United States is taking aim at the problem. Currently, birth tourism is only regulated through the federal provisions enforced by the U.S. Customs and Border Protection, an agency of the U.S. Department of Homeland Security. Travelers are admitted into the United States at the “discretion of the admitting U.S. Customs and Border Protection (CBP) Officer.”<sup>20</sup> The main concern of the CBP officer in admitting a pregnant woman to the country is whether or not the individual is “likely to become a ward of the government (meaning that the government must provide medical care because [the individual] do[es] not have medical coverage).”<sup>21</sup> If this circumstance is met, travelers can be denied entry into the United States. Official CBP policy provides that officers will consider “the date [the traveler] is due for delivery . . . length of time [the traveler] intend[s] to stay in the U.S. . . . evidence that [the traveler] [has] sufficient medical insurance . . . and that [the traveler] intends to return home.”<sup>22</sup>

A conversation with Los Angeles–based U.S. immigration lawyer, David Huang, revealed some of the frustration with current immigration policy. “I am an immigrant myself,” he said, “but my family did it the right way, entering the country, learning the language, and following the process.”<sup>23</sup> Lou Alfonso, a board member for the Chinese American As-

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<sup>16</sup> See Feere, *supra* note 4.

<sup>17</sup> Kendall, *supra* note 10, at 366–68.

<sup>18</sup> Lu, *supra* note 3 (estimating that the number of birth tourists has surged above 10,000 in 2012).

<sup>19</sup> Telephone Interview with Jon Feere, *supra* note 15.

<sup>20</sup> *Visit the U.S. while pregnant and the risks involved*, U.S. CUSTOMS AND BORDER PROTECTION, [https://help.cbp.gov/app/answers/detail/a\\_id/882/~/visit-the-u.s.-while-pregnant-and-the-risks-involved](https://help.cbp.gov/app/answers/detail/a_id/882/~/visit-the-u.s.-while-pregnant-and-the-risks-involved) (last visited May 5, 2014).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Telephone Interview with Daniel T. Huang, Attorney, Haven Law Grp., P.C. (Apr. 30, 2014). Our interview consisted of questions regarding the state of birth tourism and how he interfaces with birth tourists as his clients through his work with the U.S. Customs and Border Protection Agency. Mr. Huang is a member of the American Immigration Lawyers Association and has been inter-

sociation of Chino Hills, views birth tourism as “an entirely sinister kind of way of achieving U.S. citizenship.”<sup>24</sup> Huang and Alfonso, as well as other legal immigrants in the greater Los Angeles area, point to the long-term costs and magnitude of birth tourism.<sup>25</sup> While some groups have called for alterations to the Fourteenth Amendment, Mr. Huang believes there is some political “middle ground” and points to recent efforts in Saipan as a favorable example.<sup>26</sup>

Measures taken in Saipan, the capital of the Northern Mariana Islands, which is a territory of the United States, to crack down on this immigration “loophole” provide examples of small-scale responses to birth tourism. From 2010–12, while every other ethnic group on the Islands saw a decline in birthrate,<sup>27</sup> ethnic Chinese saw a more than 175% increase in live births.<sup>28</sup> Increased travel to the Islands, coupled with an expanded visa program, has led the term “pregnancy trains” to become a common euphemism for direct flights from Beijing and Shanghai to the Islands.<sup>29</sup> CBP officials in Saipan have become more aggressive in cracking down on the operators of these maternity hotels, termed by some border officials as “Made in USA” schemes.<sup>30</sup>

Implementing a comparable strategy in the mainland United States could be effective in deterring similar behavior. However, because those born in territories of the United States, such as the Islands, receive the

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viewed by numerous media outlets related to his expertise in U.S. immigration law.

<sup>24</sup> SoCal Connected, *Birth Tourism: Fair Path to Citizenship or Legal Loophole*, YOUTUBE (Mar. 29, 2013), <http://www.youtube.com/watch?v=OIVysJg6uvU>. Chino Hills was largely affected by several police raids of maternity hotels harboring birth tourism operations. Protests of these establishments ensued across the city when two more pronounced houses were closed due to zoning violations.

<sup>25</sup> *Id.*

<sup>26</sup> Katherine Bindley, *‘Maternity Hotel’ in California Suspected of Housing Chinese Women Hoping to Give Birth in the U.S.*, THE HUFFINGTON POST (Dec. 3, 2012, 12:21 PM), [http://www.huffingtonpost.com/2012/12/03/maternity-hotel-chino-hills-california-chinese-women-birth\\_n\\_2231596.html](http://www.huffingtonpost.com/2012/12/03/maternity-hotel-chino-hills-california-chinese-women-birth_n_2231596.html); Peter Grier, *14<sup>th</sup> Amendment: Why Birthright Citizenship Change ‘Can’t be Done,’* THE CHRISTIAN SCI. MONITOR (Aug. 10, 2010), <http://www.csmonitor.com/USA/Politics/2010/0810/14th-Amendment-why-birthright-citizenship-change-can-t-be-done>; Telephone Interview with Daniel T. Huang, *supra* note 23.

<sup>27</sup> Tommy Doty, *Chinese Tops NMI Births*, MARIANAS VARIETY (Mar. 14, 2013), <http://www.mvariety.com/cnmi/cnmi-news/local/54345-chinese-top-nmi-births>.

<sup>28</sup> *Id.* (“A three-calendar-year comparison from 2010–2012 highlights the steep decline in Carolinian (-44 percent), Filipino (-34 percent) and Chamorro (-26 percent) birth rates. In 2012, Chamorros gave birth to 251 babies; Filipinos to 216 and Carolinians to just 44. There was also a significant drop among Koreans giving birth in the NMI from 56 in 2010 to only 32 in 2012.”).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

same citizenship as those born in the mainland United States, Mr. Huang and others say that the country is only beginning to see the effects of years of abused immigration policies.<sup>31</sup>

As an immigration attorney in California, Mr. Huang has been directly involved in numerous cases where birth-tourist mothers have had difficulty reentering the United States on a return visit.<sup>32</sup> On some of these occasions, the mother is barred from reentry. Mr. Huang says that more often than not, this is because the mother, or an “unscrupulous” doctor working on her behalf, has applied for benefits, contrary to American law.<sup>33</sup> It is unclear on these occasions whether the mother is forced to repay benefits received or if she is merely denied entry to the country. But by the time this enforcement measure takes place, the mother has already received the healthcare benefit and obtained U.S. citizenship for her child. Mr. Huang believes birth tourism has a more harmful effect on their children who will have to compete for public resources with the children of nontaxpaying birth tourists. This is the “tip of the iceberg,” according to Mr. Huang, who also says, “time will show that a great social injustice has been done.”<sup>34</sup>

Perhaps in response to critics like Mr. Huang, the greater Los Angeles County area is considering significant measures to deter birth tourists. In 2013, Los Angeles County Supervisor Don Knabe proposed stringent zoning and health code proposals to crack down on the seemingly growing problem.<sup>35</sup> These restrictions have permitted authorities to close three large “maternity houses.”<sup>36</sup> However, it is unclear how preventative the new measures will be for the Los Angeles area.

Broadly speaking, California and New York seem to be the epicenters of the birth tourism industry.<sup>37</sup> To better understand the implications and tactics that state politicians have taken to address the issue of birth tourism, it was necessary to reach out to the California state districts most affected by the growing birth tourism industry. Garret Bazurto, legislative director for California Assembly Member Ed Chau, a Democrat who represents the state’s forty-ninth district, says that the issue became “very real” for the district in late 2012 when the Chino Hills maternity

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<sup>31</sup> Telephone Interview with Daniel T. Huang, *supra* note 23.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Whitcomb, *supra* note 8.

<sup>36</sup> June Chang, *Birth Tourists: Going for the 14<sup>th</sup> Amendment*, CHINA DAILY (USA) (May 17, 2013), [http://usa.chinadaily.com.cn/epaper/2013-05/17/content\\_16506471.htm](http://usa.chinadaily.com.cn/epaper/2013-05/17/content_16506471.htm).

<sup>37</sup> Telephone Interview with Daniel T. Huang, *supra* note 23. Mr. Huang drew this conclusion based on the nature and quantity of cases that he and colleagues have experienced in California and New York, which are main points of entry for Taiwanese and Chinese immigrants.

hotel made national news.<sup>38</sup> Since then, local municipalities have looked to Assembly Member Chau and other politicians for direction in dealing with this complex issue.<sup>39</sup> Mr. Bazarro echoed a valid point when he said that the hardest part is that “technically these mothers aren’t doing anything wrong,” so without “direction from the federal government,” states and local municipalities have to resort to creative “other means” if they want to prevent birth tourism in their areas.<sup>40</sup>

At the state level, three potential responses to the issue of birth tourism are emerging in California. First, Southern California districts are changing zoning requirements and introducing local ordinances targeted at underground birth tourism businesses. In districts already zoned, areas are raising penalties for health and safety violations.<sup>41</sup> Second, under California law, individuals responsible for helping immigrants become U.S. citizens must be specially licensed as immigration consultants under regulated standards.<sup>42</sup> Lawmakers have looked to adopt code provisions or ordinances that would make some of these birth-tourism hotels in violation of state law based on how they are advertised online, given some “interpretative leeway.”<sup>43</sup> Finally, Mr. Bazarro also pointed to the fact that health and housing inspectors are canvassing risk areas more frequently to find violations of housing code that would include some birth-tourism hotels.<sup>44</sup>

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<sup>38</sup> Telephone Interview with Garret Bazarro, Legislative Dir., Office of Cal. Assembly Member Edwin Chau (D-49) (May 7, 2014). Mr. Bazarro provided details on ways in which their and other California districts have responded to the issue of birth tourism, despite Assembly Member Chau not taking a public position on the issue. Mr. Chau’s district is the first majority Asian American district in California. Chino Hills made national headlines for the bust of a house where authorities found numerous pregnant women staying at what was termed a “maternity hotel.”

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* After drawing larger attention to the issue in the Los Angeles area, local government officials have called on citizens to report suspicious activity to some success. According to Supervisor Don Knabe, County of Los Angeles – 4th District, the enforcement measures that Los Angeles has taken seem to be working: “Since we started looking into the issue of maternity hotels setting up shop in Los Angeles County, we’ve seen an overall drop in the number of complaints from residents. Our multi-agency task force that has been investigating suspected maternity hotels has seen complaints drop in recent months. Every so often there is a slight spike, but overall our efforts have been successful. Our team continues to meet and go out on investigations as complaints come in.” Telephone interview with Don Knabe, Supervisor, Cnty. of L.A., Cal., 4th Dist. (May 8, 2014).

<sup>43</sup> *Id.*

<sup>44</sup> A neighboring Assembly member to Mr. Chau, Assembly Member Hagan introduced 2013 California bill AB192 that would edit the zoning code to

While discussion at the national level has been limited, the growth in birth tourism has caused some politicians to look at the future implications of earning citizenship through the Citizenship Clause of the Fourteenth Amendment. In 2013, Congressman Rohrabacher of California sent Florida Senator Rubio a recommendation to fix the “abuse of the ‘birthright citizenship’ clause of the 14th Amendment” that he argues has “opened the door to unregulated immigration and instant citizenship for large numbers of foreigners without any of the ‘rule of law’ measures.”<sup>45</sup> During the 2013 Congressional session, Congressman Steve King introduced the Birthright Citizenship Act of 2013 in an attempt to end birthright citizenship in the United States.<sup>46</sup> The bill did not reach the House floor for a vote.

### B. U.S. Immigration Implications

Although birth tourists do not seek American citizenship for themselves, the children of birth tourists have the ability to return as high school or college students to take advantage of cheaper or better education, as well as hundreds of other health and benefit services available to Americans. It is this effect of birth tourism that makes the issue so important. Some argue that this type of immigration is not problematic because these students often receive degrees in science, technology, or math, which are critical to U.S. development.<sup>47</sup> However, data from immigration organizations and economic projections suggest that the num-

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make it a misdemeanor to violate local ordinances by operating a maternity hotel. A.B. 192, 2013–2014 Reg. Sess. (Ca. 2013).

<sup>45</sup> Press Release, Congressman Dana Rohrabacher, *Rep. Rohrabacher to Sen. Rubio: Fix Birthright Citizenship Loophole; Birth Tourism Industry Booming in CA and NY* (Apr. 17, 2013), <http://rohrabacher.house.gov/press-release/rep-rohrabacher-sen-rubio-fix-birthright-citizenship-loophole-birth-tourism-industry>.

<sup>46</sup> Elise Foley, *Steve King Introduces Bill to Stop ‘Anchor Babies’*, THE HUFFINGTON POST (Jan. 4, 2013, 5:37 PM), [http://www.huffingtonpost.com/2013/01/04/steve-king-anchor-babies\\_n\\_2411989.html](http://www.huffingtonpost.com/2013/01/04/steve-king-anchor-babies_n_2411989.html); see also Rebecca Shabad, *Chinese ‘Birth Tourism’ Booming in U.S. Territory*, THE HILL (Feb. 11, 2014), <http://thehill.com/policy/international/198078-lawmakers-concerned-about-chinas-promotion-of-birth-tourism-in>.

<sup>47</sup> Kathleen Brush, *Birth Tourism: An Economic Win for the U.S., Today and Tomorrow*, DAILY FINANCE (Mar. 21, 2013, 1:16 PM), <http://www.dailyfinance.com/2013/03/21/birth-tourism-chinese-anchor-babies-economic-growth/> (arguing that the birth tourism situation is a gain for the United States because Chinese students that participate in this practice seek engineering or tech degrees, degrees that the United States desperately needs for economic growth); Lyndsey Layton, *U.S. Students Lag Around Average on International Science, Math and Reading Test*, WASH. POST (Dec. 2, 2013), [http://www.washingtonpost.com/local/education/us-students-lag-around-average-on-international-science-math-and-reading-test/2013/12/02/2e510f26-5b92-11e3-a49b-90a0e156254b\\_story.html](http://www.washingtonpost.com/local/education/us-students-lag-around-average-on-international-science-math-and-reading-test/2013/12/02/2e510f26-5b92-11e3-a49b-90a0e156254b_story.html).

ber of these graduates staying in the United States is diminishing as economic growth progresses in China and Taiwan.<sup>48</sup> Thus, standing alone, birth tourism may not be the most critical issue in the U.S. immigration debate.

Certainly, no one faults parents for wanting to give their children the best opportunities possible. But it seems as if public policy is lagging when American politicians were quick to act on the undocumented resident “anchor baby” phenomenon of the late 1990s and early 2000s, and have yet to address or discuss the problem of birth tourism.<sup>49</sup> Birth tourism may frustrate those who enter the country legally and gain U.S. citizenship through relevant legal channels according to federal law. A Pacific Rim tourist circumvents this process by using a deceptive visa entry statement to enter the United States in order to give birth and earn their child a U.S. birth certificate and Social Security number.

### C. *The Effect of Taiwan Birth Tourism*

Although China is likely the greatest participator in American birth tourism,<sup>50</sup> Taiwan is a country where healthcare, citizenship, and transnational relationships intersect. Taiwan’s Ministry of the Interior and the Immigration Office’s National Police Agency claim that there are so many Taiwan-U.S. dual citizens that the number would be “uncountable.”<sup>51</sup> From anecdotal and statistical information, it appears that most birth tourists and their U.S. citizen child do not stay in the United States

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<sup>48</sup> Samantha Huang, *Taiwanese Entrepreneurs Say Goodbye to the U.S., Hello China*, FORBES (Nov. 6, 2012, 10:00 AM), <http://www.forbes.com/sites/ciocentral/2012/11/06/taiwanese-entrepreneurs-saying-goodbye-to-the-u-s-hello-to-china/>; Jose Pagliery, *America’s Brain Drain Dilemma: Immigrant Students Who Leave*, CNN (Feb. 1, 2013, 11:18 AM), <http://money.cnn.com/2013/01/31/smallbusiness/stem-immigrants/> (“Immigrants make up a surprisingly large share of STEM students in Master’s and Ph.D programs: more than 40%. The sheer number has ballooned to 205,600 students as of 2011, according to Immigration and Customs Enforcement records.”).

<sup>49</sup> Ed Hornick, *Is the Next Immigration Fight Over ‘Anchor Babies’?*, CNN (Apr. 28, 2011), <http://www.cnn.com/2011/POLITICS/04/28/anchor.baby/>.

<sup>50</sup> Hannah Beach, *I Want An American Baby! Chinese Women Flock to the U.S. to Give Birth*, TIME (Nov. 23, 2013), <http://world.time.com/2013/11/27/chinese-women-are-flocking-to-the-u-s-to-have-babies/>.

<sup>51</sup> Luyi Lien, *Obtaining Dual-Citizenship for their Babies: The Experience of Taiwanese Women Giving Birth in the United States* 53 (May 2006) (unpublished Ph.D. dissertation, University of Minnesota), available at <https://books.google.com/books?id=DNZooErFKUQC&lpg=PP1&dq=Obtaining%20Dual-Citizenship%20for%20their%20Babies%3A%20The%20Experience%20of%20Taiwanese%20Women%20Giving%20Birth%20in%20the%20United%20States&pg=PP1#v=onepage&q=Obtaining%20Dual-Citizenship%20for%20their%20Babies:%20The%20Experience%20of%20Taiwanese%20Women%20Giving%20Birth%20in%20the%20United%20States&f=false>.

but return to their country of origin.<sup>52</sup> This may have important consequences. As Taiwan-China relations improve, and the Taiwanese economy worsens, an increasing number of Taiwanese citizens are using their dual citizenships in the United States, Australia, and other countries to work abroad and then return to Taiwan for cheap medical treatment.<sup>53</sup> This phenomenon deserves special attention. While the group of people involved in this “transient citizenry” may be small now, as economies of scale shrink, the push-pull economics of finding the best healthcare deal, for example, could prove to make the United States and Taiwan operate more efficiently, encourage greater conversations in immigration debates, and perhaps be a way of generating wealth for otherwise poor countries. The transient citizenship that birth tourism creates and its implications for global health policy are discussed further in Part II.

## II. TAIWAN MEDICAL TOURISM: AN EMERGING MARKET

The issue of birth tourism illuminates an even broader globalization trend in which citizens can travel to one country to take advantage of better education and another for low-cost healthcare. For example, as foreign travel has become more economical over the last two decades, Americans have more frequently taken advantage of low-cost medical procedures abroad, and in the process, invested capital into historically poorer countries. This emerging market is commonly referred to as “medical tourism.”<sup>54</sup>

Taiwan is a good case study for this globalization trend due to the size of its economy, and as this Note will demonstrate, the willingness of many of its citizens to “shop” abroad for better opportunities. Moreover, Taiwan’s close relationship to low-cost healthcare and its intersection with birth tourism highlight the country’s role in the broader globalization trend this Part describes. As cross-strait relations improve between Mainland China and Taiwan, the medical tourism market is predicted to increase in its worth to the Taiwanese economy.<sup>55</sup> Exploring more fully the development and expansion of the Taiwanese healthcare system will illuminate the potential issues that the medical tourism industry has experienced since the Taiwanese have grown more inclined to seek opportunities abroad.

Following the end of martial law in 1987, Taiwan began to experience nearly three decades of economic growth as markets expanded and

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<sup>52</sup> Feere, *supra* note 4.

<sup>53</sup> Huang, *supra* note 48. Many Taiwanese are taking jobs in Mainland China as a way for the KMT party, under the leadership of Taiwan President Ma Ying-jeou, to bridge and strengthen cross strait relations.

<sup>54</sup> *Medical Tourism Statistics and Facts*, PATIENTS BEYOND BORDERS, <http://www.patientsbeyondborders.com/medical-tourism-statistics-facts> (last visited Nov. 3, 2014).

<sup>55</sup> Cindy Sui, *Taiwan Taps China for Lucrative Medical Tourism Market*, BBC NEWS (Mar. 31, 2011), <http://www.bbc.com/news/business-12889648>.

the U.S.-Taiwan trade relationship improved.<sup>56</sup> In the wake of this growth, Taiwan adopted the National Health Insurance (NHI) Program to combat poverty and expand medical coverage.<sup>57</sup> After years of intense study by government officials, Taiwan created a healthcare hybrid of sorts, combining the best versions of the U.S. Medicare system and the Canadian single-payer system.<sup>58</sup> The result was a single-payer, government-run program that requires universal participation.<sup>59</sup> The system in Taiwan took off with nearly ninety-two percent of Taiwanese citizens enrolling in the program by the end of 1995 and more than ninety-seven percent by 2001.<sup>60</sup>

The system has made medical services more accessible to all income brackets.<sup>61</sup> Taiwan's healthcare model has been ranked as one of the strongest in terms of equity in healthcare financing.<sup>62</sup> The World Health Organization uses the FFC index to survey household income and expenditures related to healthcare and found that Taiwan has seen improvement over time since its implementation of the NHI system.<sup>63</sup>

Unfortunately, despite its success in providing nearly universal medical services to its citizens, Taiwan still has a long way to go before it creates an economically efficient healthcare system. In 2013, Taiwan

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<sup>56</sup> *Taiwan Ends Four Decades of Martial Law*, N.Y. TIMES (July 15, 1987), <http://www.nytimes.com/1987/07/15/world/taiwan-ends-4-decades-of-martial-law.html>; *Taiwan GDP Growth Rate*, TRADING ECONOMICS, <http://www.tradingeconomics.com/taiwan/gdp-growth> (last visited Nov. 3, 2014).

<sup>57</sup> T.R. Reid, *Taiwan Takes the Fast Track towards Universal Healthcare*, NPR (Apr. 15, 2008), <http://www.npr.org/templates/story/story.php?storyId=89651916>.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Jiu-Fen, Rachel Wu & William C. Hsiao, *Does Universal Health Insurance Make Health Care Unaffordable? Lessons From Taiwan*, 22 HEALTH AFF. 77, 79 (2003), available at <http://content.healthaffairs.org/content/22/3/77.full.pdf+html> [hereinafter Jiu-Fen, *Lessons From Taiwan*].

<sup>61</sup> *Id.* ("The comprehensive NHI benefit package has largely equalized people's financial access to health services. Most preventive services are completely free (annual checkups, maternal and child health care, and regular well-child care up to age six). Regular office visits have a modest copayment (US\$5 per visit), from which poor households are exempt.").

<sup>62</sup> *National Health Expenditure*, TAIWAN MINISTRY OF HEALTH AND WELFARE, [http://www.mohw.gov.tw/EN/Ministry/Statistic.aspx?f\\_list\\_no=474&fod\\_list\\_no=4535](http://www.mohw.gov.tw/EN/Ministry/Statistic.aspx?f_list_no=474&fod_list_no=4535) (last visited May 5, 2014) (Reporting that Taiwan ranks 31st by a World Health Organization ranking of top spending on healthcare expenditures and strength of purchasing power parity).

<sup>63</sup> Jiu-Fen, *Lessons From Taiwan*, *supra* note 60, at 81 ("(0.992 in 1998 versus 0.881 in 1994). The change in the FFC index indicates that the share of health financing burden borne by households has become more equal since the NHI's introduction . . . ." The data shows the United States ranks as the least equitable country in healthcare financing with money borne per household: Canada (0.974), Germany (0.978), Japan (0.977), and the United States (0.954)).

spent more than 6.6% of GDP on healthcare, and politicians continue to be reluctant to increase premiums for fear of political repercussions.<sup>64</sup> In lieu of increased spending, the Taiwanese government has resorted to borrowing from banks and increasing public debt in order to satisfy the nation's growing healthcare demands.<sup>65</sup>

While Taiwan has not reached the medical tourism levels of its neighbors Thailand and Singapore, projections indicate "Taiwan's medical tourism industry is only in its infancy."<sup>66</sup> In 2010, Taiwan recorded nearly \$20 million U.S. dollars in revenue from medical tourism.<sup>67</sup> By comparison, neighboring medical-tourism meccas Thailand and Singapore recorded earnings in the billions of dollars. For example, in 2012, Thailand recorded \$2.4 billion from medical tourism.<sup>68</sup> Nonetheless, Taiwan has made a considerable effort to ensure that medical tourism will continue to grow. In June 2014, Taiwan's Medical Tourism Association (MTA), the Ministry of Health & Welfare, and the Taiwan External Trade Development Center (TAITRA) collaborated to create a global showcase advertising Taiwan's growing medical tourism market and sophisticated, top-rate healthcare system.<sup>69</sup>

In addition, Taiwan expects medical tourism numbers to increase as relations with China improve.<sup>70</sup> Now that the ban on individual Mainland Chinese visas has been lifted, it is likely that tourism will continue to grow between China and Taiwan. In 2010, Taiwan welcomed over

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<sup>64</sup> Chien Jien-wen 錢建文, *Healing a Failing Healthcare System*, TAIPEI TIMES (Aug. 8, 2014), <http://www.taipeitimes.com/News/editorials/archives/2014/08/08/2003596897/2>; *National Health Expenditure*, TAIWAN MINISTRY OF HEALTH AND WELFARE [http://www.mohw.gov.tw/EN/Ministry/Statistic.aspx?f\\_list\\_no=474&fod\\_list\\_no=4535](http://www.mohw.gov.tw/EN/Ministry/Statistic.aspx?f_list_no=474&fod_list_no=4535) (last visited May 5, 2014).

<sup>65</sup> Reid, *supra* note 57.

<sup>66</sup> Sarah Tung, *Is Taiwan Asia's Next One-Stop Plastic-Surgery Stop?*, TIME (July 16, 2010), <http://content.time.com/time/world/article/0,8599,2004023,00.html>.

<sup>67</sup> *Id.*

<sup>68</sup> Chantal Herberholz & Siripen Supakankunti, *Medical Tourism in Malaysia, Singapore, and Thailand*, CENTRE FOR HEALTH ECONOMICS, CHULALONGKORN UNIVERSITY 2 (2013), available at [https://editorialexpress.com/cgi-bin/conference/download.cgi?db\\_name=SERC2013&paper\\_id=230](https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=SERC2013&paper_id=230).

<sup>69</sup> *One-Two Punch Propels Taiwan's Medical Tourism Sector*, BUSINESS WIRE (Apr. 22, 2014), <http://www.businesswire.com/news/home/20140422005671/en/One-Two-Punch-Propels-Taiwan%E2%80%99s-Medical-Tourism-Sector#.VD71GNR4rZg>.

<sup>70</sup> *Taiwan Lifts Historic Ban On Chinese Solo Tourists*, THE INDEPENDENT (June 22, 2011), <http://www.independent.co.uk/travel/news-and-advice/taiwan-lifts-historic-ban-on-chinese-solo-tourists-2301154.html> [hereinafter Independent, *Taiwan Lifts Ban*] (On June 22, 2011, Taiwan lifted the ban on visas for individual Chinese travelers. The ban, which had been in place for decades, required Mainland Chinese to travel to the island through group tour companies).

972,000 Chinese visitors, a 195% increase from 2009.<sup>71</sup> In 2011, before the ban was lifted, Taiwan saw an increase of sixty-seven percent to 1.63 million Chinese visitors.<sup>72</sup> Rough estimates from the Taiwanese Travel bureau indicate that Chinese tourists are on pace to triple in 2014 as China has found Taiwan to be its new tourist “playground.”<sup>73</sup> With increased tourism comes more business from Chinese nationals who have lower health standards and longer lines at home in the Mainland.

Currently, Taiwan specializes in transplant surgeries. However, Taiwan’s main medical tourism agencies have advertised plans to expand the market to be a hub for Mainland Chinese and Americans to receive heavily discounted plastic surgeries.<sup>74</sup>

Westerners receiving medical attention in historically developing countries may be an uncomfortable prospect at first. Easing Westerners’ concerns over medical tourism to some extent relies on the availability of certification for hospitals by the Joint Commission International, which designates certain hospital standards that Western tourists are more accustomed to in the United States.<sup>75</sup> In neighboring Thailand, medical tourism is expected to earn over 100 billion baht (over \$3 billion U.S. dollars) in 2015, which will account for 0.4% of Thai GDP.<sup>76</sup> As wealth in Singapore continues to increase, business has been shifting to countries that can offer lower operating costs, which bodes well for Taiwan’s medical tourism industry.<sup>77</sup> In 2013, approximately 230,000 people visited Taiwan for medical tourism. Of these, fifty percent were of Chinese origin, while only ten percent were American; the other forty percent were split between other East and Southeast Asian countries.<sup>78</sup> More staggering is the amount of revenue the Taiwanese generated from medical tourism. Estimates from 2013 indicate that \$13.5 billion New

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<sup>71</sup> See generally Tung, *supra* note 66.

<sup>72</sup> *Taiwan Lifts Ban*, *supra* note 70.

<sup>73</sup> *Taiwan Increasingly Popular with Chinese Visitors*, WANT CHINA TIMES (Apr. 8, 2014, 1:12 PM), <http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20140408000063&cid=1103>; Victoria Ruan, *Taiwan Emerges as New Playground for Mainland Chinese Tourists*, SOUTH CHINA MORNING POST (May 5, 2014, 6:44 PM), <http://www.scmp.com/business/china-business/article/1504444/taiwan-emerges-new-playground-mainland-china-tourists>.

<sup>74</sup> Tung, *supra* note 66 (“Some of the biggest savings are in liver-transplant surgery, which runs to around \$91,000, compared with some \$300,000 in the U.S.”).

<sup>75</sup> Caroline Eden, *The Rise of Medical Tourism in Bangkok*, BBC TRAVEL (Sept. 4, 2012), <http://www.bbc.com/travel/feature/20120828-the-rise-of-medical-tourism-in-bangkok>; *About JCI*, JOINT COMMISSION INTERNATIONAL, <http://www.jointcommissioninternational.org/about/>.

<sup>76</sup> Eden, *supra* note 75.

<sup>77</sup> *Id.*

<sup>78</sup> Telephone Interview with Xie Yun Xuan (謝昀軒), Specialist, Taiwan Task Force for Medical Travel, Taiwan Ministry of Health (May 9, 2014) (rough estimates for the 2013 fiscal year).

Taiwan Dollar (approximately \$449 million U.S. dollars) was earned from foreign nationals purchasing medical services in Taiwan.<sup>79</sup>

*A. At an Economic and Social Crossroads:  
Where Medical and Birth Tourism Intersect*

Taiwan's role in both birth tourism and medical tourism—as a result of its universal healthcare system as well as its growing market share of medical tourism—allow it to highlight the broader globalization trend this Part describes.

On October 2, 2012, the United States adopted a visa-waiver program with Taiwan that could have serious financial and political implications for both countries.<sup>80</sup> Increasing birth tourism and a larger number of individuals returning to Taiwan to take advantage of affordable medical insurance and low medical costs could raise insurance premiums for all Taiwanese, increase the number of citizens who return to Taiwan to claim cheaper health insurance, and put a heavier burden on U.S. taxpayers for public schools.

A growing phenomenon for the Taiwan Ministry of Health is the ability of Taiwanese citizens living abroad to reinstate their domestic medical benefits through a small fee.<sup>81</sup> Meanwhile, birth tourism may be on the rise. The U.S.-based Center for Immigration Studies estimated that of the more than 300,000 children born to foreign citizens in the United States every year, 40,000 are born to birth tourists who are legally in the United States.<sup>82</sup> The National Center for Health Statistics tallied 7,670 births to mothers who used a foreign address.<sup>83</sup> However, this estimate is likely low due to birth-tourist mothers often using a hotel or other current U.S. address for the child's birth certificate.<sup>84</sup> This rise in birth tourism could increase the number of dual Taiwan-U.S. citizens, which could, in turn, lead to an increase in individuals returning to Taiwan for healthcare reinstatement.

<sup>79</sup> *Id.*

<sup>80</sup> *Visa Waiver Program*, AMERICAN INSTITUTE IN TAIWAN, <http://www.ait.org.tw/en/vwp.html> (last visited Sept. 10, 2014).

<sup>81</sup> Wu Jiawen & Shen Yong Yin (吳嘉文 沈泳吟), *Huaqiao Fan Tai Jiuyi! Jianbao Zhichu Bannian 7 Qian Wan (Overseas Chinese to return to Taiwan for medical treatment! Healthcare spending half a year to 70 million)* (華僑返台就醫! 健保支出 半年7千萬), THE CHINA TIMES (Feb. 25, 2014), <http://www.chinatimes.com/realtimenews/20140225003713-260405>.

<sup>82</sup> Telephone Interview with Jon Feere, *supra* note 15.

<sup>83</sup> Frank James, *Influx of U.S. 'Birth Tourists' More Trickle Than Flood*, NPR (Apr. 14, 2010, 5:18 PM), [http://www.npr.org/blogs/thetwo-way/2010/04/influx\\_of\\_us\\_birth\\_tourists\\_mo.html](http://www.npr.org/blogs/thetwo-way/2010/04/influx_of_us_birth_tourists_mo.html).

<sup>84</sup> *Birth Tourism*, NUMBERSUSA EDUC. & RES. FOUND., (Jun. 9, 2011, 1:23 PM), <https://www.numbersusa.com/content/learn/issues/birthright-citizenship/birth-tourism.html>.

The data suggest that Taiwan may be experiencing such an effect. According to the Taiwan Bureau of Health, the number of Taiwanese citizens living abroad who returned to Taiwan in 2008 for medical procedures was estimated at 17,000.<sup>85</sup> This number is expected to increase as global health care costs rise. It is estimated that these returnees have cost the Taiwanese taxpayers over \$123 million NTD; a number that analysts project will continue to increase.<sup>86</sup> According to a special report by *The China Times*, in the first six months of 2013, there had already been more than 18,000 returnees costing taxpayers more than \$70 million NTD (over \$20 million U.S. dollars).<sup>87</sup>

Domestically in Taiwan, there is deep frustration with the fairness of the NHI program.<sup>88</sup> A payroll tax for the Taiwanese workforce pays for these low-cost healthcare premiums.<sup>89</sup> Under current regulations, as of January 2013, returning Taiwanese citizens need to pay certain insurance premiums based upon their absence from paying into the NHI program in order to be reinstated.<sup>90</sup> The program has run a deficit for the past several years and premiums to cover the growing gap between costs and taxes are predicted to continue to rise.<sup>91</sup>

However, Taiwanese citizens seeking work and opportunities abroad is a trend that has been developing and will continue to develop as visa requirements and relations improve between Taiwan, China, and the United States. In fact, in the 1990s, migration specialists created the term “astronauting” to describe the transnational commute, primarily by Taiwanese fathers, between work and home.<sup>92</sup>

At the same time that an increasing number of Taiwanese citizens may be seeking opportunities abroad for themselves, lifting travel-visa requirements for Taiwanese to travel to the United States will undoubtedly ease the challenges to birth tourism. Yet, such action could also add to the U.S. immigration problem. While only anecdotal evidence exists

<sup>85</sup> Telephone Interview with Xie Yun Xuan (謝昀軒), *supra* note 78.

<sup>86</sup> Wu Jiawen & Shen Yong Yin (吳嘉文 沈泳吟), *supra* note 81.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Worldwide Personal Tax Guide 2013-2014*, HSBC, [http://www.expat.hsbc.com/1/PA\\_ES\\_Content\\_Mgmt/content/hsbc\\_expats/pdf/en/global\\_tax\\_navigator/taiwan.pdf](http://www.expat.hsbc.com/1/PA_ES_Content_Mgmt/content/hsbc_expats/pdf/en/global_tax_navigator/taiwan.pdf); see generally Anne Underwood, *Health Care Abroad: Taiwan*, N.Y. TIMES (Nov. 3, 2009), [http://prescriptions.blogs.nytimes.com/2009/11/03/health-care-abroad-taiwan/?\\_php=true&\\_type=blogs&\\_r=0](http://prescriptions.blogs.nytimes.com/2009/11/03/health-care-abroad-taiwan/?_php=true&_type=blogs&_r=0).

<sup>90</sup> Wu Jiawen & Shen Yong Yin (吳嘉文 沈泳吟), *supra* note 81 (The Taiwanese government closed some loopholes requiring returning Taiwanese to pay certain rates. There is no fault for a six-month absence; however, returnees have to pay more than \$2,000 if absent longer than two years.).

<sup>91</sup> Chien Jien-wen 錢建, *supra* note 64.

<sup>92</sup> Manying Ip, *Returnees and Transnationals: Evolving Identities of Chinese (PRC) Immigrants in New Zealand*, 33 J. OF POPULATION STUD. 61, 77 (2006).

to suggest that offspring of birth tourists, as dual citizens of Taiwan and the United States, could relocate in the future to receive benefits, American colleges, high schools, and hospitals may experience future financial strain as a result. Such a possible consequence of this globalization trend appears to be unaddressed in current debates surrounding immigration.

In addition, as a result of these policies and overall trend, Taiwan faces potentially significant and rising costs. According to reports by the Taiwan Ministry of Health, in 2011, reinstatement costs were \$567 million U.S. dollars while medical costs incurred were over \$700 million U.S. dollars.<sup>93</sup> The gap is increasing between medical costs versus reinstatement fees. In 2010, medical costs minus reinstatement costs were less than \$100 million U.S. dollars.<sup>94</sup> While the policy adoption of a six-month premium reinstatement aims at closing this gap, it is not enough.

### *B. Possible Policy Outcomes to Balance U.S.-Taiwan Migration in Healthcare and Birth Tourism*

There are several potential policy responses to the rise in medical and birth tourism. The first response might be to create a more positive economic climate in Taiwan. Stephen Chen, a Taiwanese American who lives in the United States, points to economic disparities as a key reason behind such relocations: "It's easier to find a job [in the United States] than in Taiwan, at least that's the perception [in Taiwan]."<sup>95</sup> While economic growth in Taiwan has remained at a constant, steady increase over the last three years, perceptions of economic security are not so high. The approval rating of Taiwanese President Ma Ying-Jeou and his party's economic policies, which have fallen below twenty percent, might be indicative of this sentiment.<sup>96</sup> Creating greater economic security, rather than sending jobs to Mainland China, the United States, or Canada, could reduce birth tourism somewhat and cause workers to stay in Taiwan.

Second, Taiwan and the United States could adjust immigration laws to account for birth and medical tourism. While arriving in the United States as a pregnant "tourist" is not illegal, misrepresentation on visa forms and during interviews with Immigration and Customs agents can

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<sup>93</sup> Telephone Interview with Xie Yun Xuan (謝昀軒), *supra* note 78.

<sup>94</sup> *Id.*

<sup>95</sup> Cindy Sui, *Why China is the Land of Opportunity for Young Taiwanese*, BBC (June 26, 2014, 4:28 PM), <http://www.bbc.com/news/world-asia-27864814> ("Taiwan's stagnant wages and lacklustre economy are driving an increasing number of its young to look to China for career advancement."); Interview with Stephen Chen, Student, Washington & Lee Univ., in Lexington, VA (Jan. 25, 2014).

<sup>96</sup> *Ma the Bumbler*, THE ECONOMIST (Nov. 17, 2012), <http://www.economist.com/news/asia/21566657-former-heart-throb-loses-his-shine-ma-bumbler>.

result in inadmissibility to the United States.<sup>97</sup> Birth tourism companies coach immigrants on what to say to customs officials and on how to fill out visa forms.<sup>98</sup> The United States could deter birth tourism with harsher penalties, stricter enforcement of existing laws, or emulate the hard line that U.S. territories have taken against birth tourism.<sup>99</sup>

Third, Taiwan could end dual citizenship by requiring adults to choose which citizenship to recognize. This may help guard the country's NHI program from individuals returning to Taiwan for healthcare benefits without having adequately paid into the system.

Lastly, "the most effective way for us to decrease the rate of birth tourism is to promote peace and stability in regions where birth tourists originate and to strengthen mutually each other's economic development."<sup>100</sup> Illustrating such a concern, countless Taiwanese parents remember the 1996 Taiwan Strait crisis and earlier crises, and regard an escape plan for their children as a necessity.<sup>101</sup>

Few can fault individuals for seeking economic opportunities for their children in tough financial times. The United States and Taiwan must work together to regulate transient citizens who seek benefits and rights without taking on the responsibilities of citizenship, or the consequences could be costly, ruining travel opportunities for all.

#### CONCLUSION

The phenomena of birth and medical tourism highlight the growing transnationalism trend that many countries must address. The effects of these practices on healthcare and immigration policy are especially prominent, and Taiwan's role in these practices make it an interesting lens through which to describe this neglected area of transnationalism.

While some effects of birth and medical tourism may be positive, such as economic stimulus of countries that seek to cater to those seeking low-cost healthcare, this trend may come with a cost. Countries look to maximize healthcare and education benefits for a stable constituency. However, when the citizenry is in motion, countries like Taiwan and the United States are forced to respond with various measures to maximize taxpayer revenue to keep services at former levels. In cases like birth tourism, the U.S. federal government has yet to create an effective way

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<sup>97</sup> *USCIS Policy Manual, Chapter 2: Overview of Fraud and Willful Misrepresentation*, U.S. CITIZENSHIP & IMMIGRATION SERVS., (Sept. 9, 2014) <http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume8-PartJ-Chapter2.html>.

<sup>98</sup> Gary Chodorow, *Shady Chinese Agencies Promoting U.S. Birth Tourism – Part 3: Policy Responses*, U.S. & CHINA VISA L. BLOG (Nov. 24, 2013), <http://lawandborder.com/undercover-investigation-shady-chinese-agencies-promoting-u-s-birth-tourism-part-2/>.

<sup>99</sup> See *supra* text accompanying notes 27–31.

<sup>100</sup> Interview with Stephen Chen, *supra* note 95.

<sup>101</sup> *Id.*

to respond to immigration challenges due to the complexity of the immigration issue. Though, this has not stopped local and state governments from attempting to address birth tourism.

In Taiwan, the practices of some Taiwanese citizens who return from working abroad to take advantage of cheap medical procedures stir the ire of the local taxpayers. Politicians have responded by requiring an increased premium reinstatement fee. However, this does not move towards repatriation or greater income for the Taiwanese. A growing birth tourism market in the United States certainly makes having only one passport less appealing.

As a result of medical and birth tourism, countries will increasingly be faced with new and more complicated issues related to the growing number of transnational citizens. Countries like Taiwan, China, and the United States must decide how best to respond to these trends. Medical and birth tourism can produce wealth, but negative effects are also prominent. As global citizens look across borders to maximize opportunities, policymakers in the United States and across the world will need to weigh the value and importance of birth and medical tourism.