

INTERNATIONAL DIGITAL NOMADS: IMMIGRATION LAW OPTIONS IN THE UNITED STATES AND ABROAD

SCOTT TITSHAW*

ABSTRACT

Remote work has become common, allowing many people to choose to work anywhere with an adequate internet connection. Some are adopting a “digital nomad” lifestyle, moving with the seasons or years from place to place, including foreign locations. Yet, such international movement raises immigration and other legal issues. Many countries have adopted specific digital nomad visas and other immigration policies to encourage and regulate this trend. The United States is not one of them. Arguing that the United States should consciously plan for digital nomads, this article compares the current U.S. approach with the innovations of other countries, identifying the advantages and disadvantages of different options. It proposes that the United States adopt Canada’s visitor visa policy allowing remote work for foreign employers as a realistic first step in planning for international digital nomads.

TABLE OF CONTENTS

INTRODUCTION	72
I. DIGITAL NOMAD VISAS AND OTHER OPTIONS ABROAD	74
A. <i>Digital Nomad Visas and Other Trends</i>	74
B. <i>Advantages of Attracting International Digital Nomads</i>	76
C. <i>Disadvantages of Attracting International Digital Nomads</i>	78
II. U.S. OPTIONS FOR DIGITAL NOMADS	80

* Professor of Law at Mercer University School of Law, Visiting Fellow at the Robert Schuman Centre for Advanced Studies, European University Institute, and occasional digital nomad. I thank global migration specialists Glenn Faulk and Katharine Salem for sharing their professional knowledge and experience regarding the growing international digital nomad phenomenon. © 2023, Scott Titshaw.

A. <i>Various Specialized Non-Immigrant Visa Categories</i>	81
B. <i>B Visa Visitors for Business and Pleasure</i>	82
III. PLAYING CATCH-UP – PROSPECTS FOR REFORM	85
CONCLUSION	88

INTRODUCTION

Many people around the world have begun working remotely over the last decade, particularly since 2020, when the global COVID-19 pandemic forced employers to experiment with remote work arrangements. Released from employers’ geographic dictates, some employees are adopting “digital nomad” lifestyles, moving with the seasons or years from place to place, often including international locations.¹ Many others occasionally work remotely from abroad. This article focuses on the legal immigration issues raised by such international movement, reviewing the way many nations have adopted digital nomad visas and other legal innovations before it homes in on U.S. law and options for reforming twentieth-century rules to meet twenty-first-century workplace and travel needs.

Over the past decade, the widespread availability of high-speed telephone and internet connections, video conferencing, artificial intelligence, cloud services, and blockchain technology have changed the working environment for people around the world. Some scholars have characterized the changes wrought by these innovations as a “Fourth Industrial Revolution.”² While it may be too early to attribute such significance to recent changes, they will certainly alter work environments in radical ways, most notably decoupling many workers from employer-dictated physical job sites.

Before the global COVID-19 pandemic began in March 2020, workers, particularly those in so-called knowledge industries, such as finance and information systems, were experimenting with remote work.³ The need for social distancing required by the pandemic accelerated this trend dramatically, forcing more traditional employers and employees to resort to remote

1. The term “digital nomad” has been around since at least the 1990s when it made its way into several book titles. *See e.g.*, ANDREW GORE & MITCH RADCLIFFE, *THE DIGITAL NOMADS GUIDE: EVERYTHING THE MODERN ROAD WARRIOR NEEDS TO TURN THE MACINTOSH POWERBOOK INTO THE COMPLETE MOBILE HABITAT* (1993); TSUGIO MAKIMOTO & DAVID MANNERS, *DIGITAL NOMAD* (1997).

2. Iulia Ticau, Adrian Cioranu, & Vlad Stoicescu, *Community Branding in the Dawn of a Sustainable Fourth Industrial Revolution*, in *PROCEEDINGS OF THE 2022 INTERNATIONAL SCIENTIFIC CONFERENCE NEW CHALLENGES IN ECONOMIC AND BUSINESS DEVELOPMENT—2022: RESPONSIBLE GROWTH*, RIGA, LATVIA 248 (2022).

3. Ticau Santo Milasi, Ignacio González-Vázquez, & Enrique Fernández-Maciás, *TELEWORK BEFORE THE COVID-19 PANDEMIC: TRENDS AND DRIVERS OF DIFFERENCES ACROSS THE EU 5–6*, (OECD PRODUCTIVITY WORKING PAPERS NO. 21, 2021-21); Drew Desilver, *Before the Coronavirus, Telework was an Optional Benefit, Mostly for the Affluent Few*, PEW RSCH. CTR. (March 20, 2020), <https://perma.cc/N75Y-B624>.

work. Even some hyper-locally focused companies expanded their business models to encompass customers and employees far from their physical locale, and many businesses have made these changes permanent.⁴

At the height of the pandemic in 2020, almost two-thirds of paid employment in the United States was done remotely.⁵ That number decreased as the COVID-19 outbreak receded, but over a quarter of full workdays are still completed remotely, and 12.2 percent of workers are fully remote.⁶ The percentage of remote workers in many other countries is also high. For example, over half of the workforce in The Netherlands works regularly from home, as well as more than a quarter of the Irish workforce.⁷

Many remote workers work from home near their employer's physical workspace. These employees save the time and stress of commuting, sometimes also taking personal control over care for children, parents, and other loved ones in the process. Other remote workers radically untether their lives from their employers' chosen bases. The geographic flexibility of remote work allows these employees to locate where they prefer due to lifestyle, natural beauty, proximity to friends and family, or "bang for the buck" in the form of a higher living standard with the same paycheck.⁸ Some pursue "nomadic" lifestyles, regularly moving from one place to another, with or without a permanent domicile. These are global trends, and digital nomads often cross borders while working remotely.⁹

Part I of this article focuses on how some governments worldwide have reacted to international digital nomads, welcoming their presence through special visas and other immigration innovations to encourage them to visit or stay. It also introduces some policy considerations for encouraging this phenomenon and policy problems posed by international digital nomads that could warrant limiting or discouraging them. This part highlights recent Canadian immigration policy that may serve as a model for future change in the United States. Part II examines current U.S. immigration laws that may apply to digital nomads from abroad, noting their limitations and the absence of clear guidance. Part III describes possible legislative reform and

4. Andrew Van Dam, *The Remote Work Revolution is Already Reshaping America*, WASH. POST, Aug. 19, 2022, <https://perma.cc/2WBH-UVS8> (describing hyper-locally focused Chicago construction, roofing and painting outfit that has recognized a competitive advantage in hiring back-office personnel who could work remotely from anywhere in the world).

5. *Id.*

6. Emma Goldberg, *Return to Office Enters the Desperation Phase*, N.Y. TIMES, June 20, 2023, at B1-B2; Jose Maria Barrero, Nicholas Bloom, Shelby Buckman, & Steven J. Davis, *SWAA August 2023 Updates*, WFH RSCH. 7 (Aug. 5, 2023), <https://perma.cc/BX4M-7H97>.

7. Paul O'Donoghue, *Ireland Records Fastest Growth in Remote Working in the EU*, INDEPENDENT, Aug. 3, 2023, at Business 30, <https://perma.cc/73AZ-YFPX>.

8. Van Dam, *supra* note 4.

9. Sergei Soares, Florence Bonnet, Janine Berg & Rodrigo Labouriau, *From Potential to Practice: Preliminary Findings on the Number of Workers Working from Home During the COVID-19 Pandemic*, ILO (Mar. 2021) (estimating that 557 million workers (17.4 percent of global employment) was completed "from home" in the second quarter of 2020); *Should OECD Countries Develop New Digital Nomad Visas?* 27 MIGRATION POL'Y DEBATES 1, 1 (2022), <https://perma.cc/E6BK-LLUZ> (discussing the increasingly common phenomenon of cross-border freelancing and remote work).

administrative approaches to existing laws to facilitate and regulate U.S. stays by international digital nomads. Finally, this article recommends following the Canadian path to allow remote work for foreign nationals in some traditional visa statuses and considering statutory reform when it becomes feasible.

I. DIGITAL NOMAD VISAS AND OTHER OPTIONS ABROAD

Since 2019, many countries have responded quickly to the growing boom in remote work by clarifying immigration options for visiting foreign nationals working temporarily for employers abroad. Subpart A describes how some have created innovative new visas aimed to attract international digital nomads while others, like Canada, have clarified how these remote workers qualify under preexisting temporary visa categories. Subparts B and C discuss the advantages and disadvantages this trend may have for workers, employers, state entities, and affected local communities.

A. *Digital Nomad Visas and Other Trends*

At least thirty countries and territories have introduced digital nomad visas,¹⁰ including visas aimed at individual foreign nationals working for companies abroad.¹¹ In some cases, they also include options for self-employed visitors, entrepreneurs, or independent contractors working remotely on behalf of enterprises or customers abroad.¹² A few countries, like Canada, which have not adopted digital nomad visas, have clarified how foreign nationals can use traditional visas for students, dependents, or tourists while working remotely for employers abroad.¹³ Yet, most countries, including the United States, have not yet developed a clear policy regarding foreign nationals working remotely for enterprises located abroad.¹⁴

Estonia was the first country to adopt a visa specifically aimed at international teleworkers in 2019.¹⁵ This visa allows foreign nationals to stay in Estonia while using telecommunications technology to work remotely for foreign companies or as freelancers with primarily foreign clients.¹⁶ Estonia

10. Nick Dreher & Anna Triandafyllidou, *Digital Nomads: Toward a Future Research Agenda*, in MIGRATION AND INTEGRATION WORKING PAPER 17 (Toronto Metro. Ctr. for Immigr. and Settlement & CERC, No. 2023/04, 2023), <https://perma.cc/F9AB-SJQP>; see also Kate Hooper & Meghan Benton, *The Future of Remote Work: Digital Nomads and the Implications for Immigration Systems*, MIGRATION POL'Y INST. 27–31 (Jun. 2022) (providing a detailed list of 29 jurisdictions as of June 2022), <https://perma.cc/H9C5-A7C8>.

11. Dreher & Triandafyllidou, *supra* note 10.

12. See GMS ANALYTICS COMM., *Summary of Responses to the Summer 2020 AILA GMS Survey on Remote Working*, AILA Doc. No. 20101431 (Posted 10/14/20) (listing 10 countries with visa options for “remote, no entity sponsorship” and 17 for “remote, no office sponsorships”) (emphasis omitted).

13. See *infra* Part I.

14. See *infra* Part II.

15. Hooper & Benton, *supra* note 10, at 20. These visas were first issued in 2020. Hannah Brown, *FAQs About Estonia's Digital Nomad Visa*, REPUBLIC OF ESTONIA E-RESIDENCY (Jul. 7, 2020), <https://perma.cc/TDA2-GQ4G>.

16. Brown, *supra* note 15.

approves the visa for up to one year for applicants who prove they work for an employer or clients abroad and have a minimum monthly gross income of 4,500 Euros.¹⁷ Applicants must also have a health insurance contract covering illnesses or injuries in Estonia.¹⁸

Many other countries have followed this model, including time restrictions and telework, minimum income, and health coverage requirements.¹⁹ Yet, the maximum duration, required income, eligibility of free-lance workers, and even the names of the visas vary from place to place. For example, in addition to the widely adopted “Digital Nomad Visa” designation, the Cayman Islands has a “Global Citizen Concierge Program,” Cyprus provides “Remote Work Visas,” Hungary offers “White Cards,” and Dubai has a “Virtual Working Program.”²⁰ Aruba may have developed one of the most appealing names, calling its U.S.-national-focused alternative “One Happy Workation.”²¹

Brazil recently adopted a digital nomad visa program. In January 2022, its National Immigration Council published a resolution providing for temporary visas for “digital nomads” teleworking for employers abroad.²² Successful applicants must provide proof of health insurance, an employment or service contract from a foreign source, and at least US\$1,500 per month of income or bank statements showing at least US\$18,000 in savings.²³ These visas are initially available for up to one year, afterward, they may be renewed for an additional year.²⁴

Brazil’s announcement was typical of nomad visas in that it made no mention of visas for dependents of “digital nomads.” Estonia specified that the minor children, spouses, or same-sex partners of its digital nomad visa holders may also apply for visas.²⁵ But many other countries with digital nomad visas do not seem to have anticipated family members accompanying “nomads.”²⁶

Though Canada has not amended its immigration statutes to attract digital nomads, Canadian immigration authorities have made it clear foreign visitors may work remotely for foreign employers for up to six months without a

17. *Id.*

18. *Id.*

19. Hooper & Benton, *supra* note 10, at 27–31 (Appendix Table A-1 listing some requirements for various countries).

20. *Id.* at 27–31.

21. *Id.* at 27.

22. Daniela Lima & Gabriela Voss Chagas Lessa Villaca, *AILA GMS Analytics Committee LATAM Project*, AILA Doc. NO. 22022305 (Feb. 15, 2022).

23. *Id.*

24. *Id.*

25. Brown, *supra* note 15.

26. Some countries do not have visas for dependents. *See, e.g., White Card*, [Hungarian] Director General for Aliens Policing, <https://perma.cc/KES8-26LN> (“No residence permit may be issued to a family member of a third-country national holding a White Card on the grounds of family ties.”) (last visited Nov. 18, 2023); Hooper & Benton, *supra* note 10, at 21 (giving Panama as an example of countries with no dependent visa for digital nomads). Other countries merely enhance financial requirements for applicants with dependents; *Id.* at 27–31.

work permit.²⁷ Canadian immigration regulations define “work” as activity “in direct competition with the activities of Canadian citizens or permanent residents in the Canadian labour market.”²⁸ This means no work permit is required for “a business visitor to Canada,” defined to encompass “a foreign national . . . who seeks to engage in international business activities in Canada” where “(a) the primary source of remuneration . . . is outside Canada; and (b) the principal place of business and actual place of accrual of profits remain predominately outside Canada.”²⁹ Immigration, Refugees and Citizenship Canada (IRCC) has specifically published a clarification that no “work” requiring authorization results from “long distance (by telephone or internet) work done by a temporary resident whose employer is outside Canada and who is remunerated from outside Canada.”³⁰ Presumably, this rationale would apply to students and dependents in other temporary visa categories as well as those in visitor visa status.

B. *Advantages of Attracting International Digital Nomads*

It is easy to see the attraction of exploring the world while earning a living and progressing in one’s career, particularly for workers in countries like the United States with very limited vacation time. Digital nomads might work while enjoying travel and adventure, spending their free hours exploring new places and cultures. With rental apps like AirBnB and Vrbo, nomads may pay less for lodging elsewhere than they would pay to rent a full-time home near a U.S. urban center and pay premium prices for one- or two-week vacations. When nomads choose lower-priced locations, their paychecks go further and they may even save more. Of course, international nomads may also face unanticipated problems. They may create gaps in their healthcare coverage or unemployment insurance. Due to complex and unclear laws in these new situations, they may also find themselves in legal gray areas or worse.

Employers may be neutral on where employees are located if they are working entirely remotely, and time and technical obstacles are overcome. Employers pay the same amount for the same work product, and their employees are happy. They may also save on the costs of office space. They may even attract more qualified employees from distant locations. On the other hand, employers may open themselves up to complex transnational issues related to legal filings, salary withholding, and even legal liability.³¹ Some employers with remote employees have recently expressed surprise

27. *Temporary Foreign Worker and International Mobility Programs: What is Work?*, GOV’T OF CANADA, <https://perma.cc/V5TY-YVN3> (last visited Nov. 5, 2023); *How Long Can I Stay in Canada as a Visitor*, <https://perma.cc/3GAS-JSN7> (last visited Nov. 30, 2023).

28. IMMIGR. AND REFUGEE PROTECTION REGULS., SOR 2002–227, ¶ 2.

29. *Id.* ¶¶ 186–87.

30. *Temporary Foreign Worker and International Mobility Programs: What is Work?*, *supra* note 27.

31. See Hooper & Benton, *supra* note 10, at 8–12 (listing many potential challenges and opportunities employees and employers should consider in the context of international digital nomadism).

and concern to discover their employees have already been living in far-flung locations without the employer's awareness.

Governments are the final actor with a powerful interest in digital nomads. They face substantial policy arguments for encouraging, regulating, or discouraging this practice, ranging from economic development and cultural enrichment to public expense and unpopular gentrification.

Several countries have heavily marketed their new visas to attract international digital nomads. Recently, when Brazil adopted a digital nomad visa, its National Justice Secretary explained that Brazil was following a global trend to boost tourism, asserting that the nomad's income from overseas would "warm up the Brazilian economy."³² Other countries have pointed to the same goal when considering whether to offer digital nomad visas. Indonesia's Tourism Minister, for example, recently proposed a new visa category to allow foreign nationals to work remotely in Indonesia for up to five years without paying Indonesian income tax, so long as companies outside the country employ them.³³

In addition to the countries with special digital nomad visas, Canada has pushed aggressively to attract highly qualified international workers, particularly third-country talent that previously contributed to the United States. In the summer of 2023, Sean Fraser, the Canadian Minister of Immigration, Refugees, and Citizenship (IRCC), publicized an effort to develop "innovation streams" aimed to attract U.S. H-1B specialty occupation employees and other "highly talented individuals."³⁴ One "key pillar" of this push is "promoting Canada as a destination for digital nomads[.]" emphasizing the current ability of digital nomads to visit Canada for up to six months while working remotely for a foreign employer.³⁵ Minister Fraser expressed the hope that some of the digital nomads would later decide to work for Canadian employers and apply for longer-term status, announcing that the IRCC is considering "whether additional policies to attract digital nomads to Canada would be desirable."³⁶ Minister Fraser's well-publicized "digital nomad strategy" emphasizes that nomads will "spend money in communities" in Canada, and Canadian innovation leaders hope the strategy "will build linkages with talented people who will be more likely to invest their

32. Claudia Felczac, *Brazil Outlines Visa Rules for Digital Nomads*, AGENCIA BRASIL (Jan. 24, 2022), <https://perma.cc/WLM2-FGZW>.

33. Sankskriti Falor, *Explained: Indonesia's New Visa Policy, Which Allows Travelers to Live Tax-Free*, INDIAN EXPRESS (Jul. 13, 2022, 9:17AM), <https://perma.cc/J9YB-DL7X>.

34. *Canada's Tech Talent Strategy*, GOV'T OF CANADA, <https://perma.cc/SCP5-ZLMH> (last modified June 27, 2023); The path for U.S. H-1B employees was so successful that its initial 10,000 slots were filled in just one day. Darren Major, *Program to Attract Tech Workers from the U.S. Hits Capacity One Day After Opening*, CBC NEWS (Jul 18, 2023), 7:12PM, <https://perma.cc/QGE8-3P77>.

35. *Canada's Tech Talent Strategy*, *supra* note 34.

36. *Id.*

time and skills in Canadian companies.”³⁷ These are two major reasons why different jurisdictions seek to attract digital nomads.

Canada, Brazil, and Indonesia encourage foreign digital nomads for the typical reason: economics. Like Brazil and Indonesia, many countries with strong tourist economies offer special digital nomad visas to compete for the resources of longer-term tourists. Some countries, like Canada and Estonia, encourage innovative and highly skilled visitors to contribute to their economies and possibly stay longer, seeking residency or citizenship.³⁸

Some States and local governments have sought to attract well-educated, skilled, or high-income individuals to particular underdeveloped areas,³⁹ but this is difficult to ensure in societies that generally recognize internal freedom of movement.⁴⁰ Of course, remote work options may also discourage “brain drain” by allowing ambitious local talent to remain at home while working for well-healed employers abroad, a phenomenon that arguably could be encouraged by exposure to digital nomads visiting from abroad.

C. *Disadvantages of Attracting International Digital Nomads*

Although international digital nomad arrangements can be attractive, many potential complications and problems exist for employers, employees, and host communities. Employers may find they have a “permanent establishment,” resulting in regulatory requirements regarding employment and labor laws, data privacy issues, payroll and withholding mandates, and other tax consequences.⁴¹ Employees may face professional licensing issues, benefit portability issues, healthcare coverage issues, tax confusion, or even double taxation.⁴²

Host communities could suffer from gentrification as international digital nomads may increase housing costs and other inflation, exacerbate cultural differences, and create local resentment toward insular expat communities.⁴³

37. Arthur White-Crummey, *Canada to Launch ‘Digital Nomad Strategy,’ Other Measures to Woo International Talent*, CBC NEWS (June 27, 2023, 8:53PM), <https://perma.cc/6CC2-QRC6>.

38. See *Canada’s Tech Talent Strategy*, *supra* note 34; Charlie Duxbury, *Have Work, Will Travel: Why Estonia Wants Digital Nomads: Baltic State Launches Visa Scheme to Attract Remote Workers*, POLITICO (July 14, 2020, 2:22PM), <https://perma.cc/29K9-Z5W3>.

39. See Hooper & Benton, *supra* note 10, at 14 (describing a network of 27 rural Spanish towns and villages that have created a “national host village network for teleworking”); Sasha Baglay & Delphine Nakoche, *The Implications of Immigration Federalism for Non-Citizens’ Rights and Immigration Opportunities: Canada and Australia Compared*, 43 AM. REV. CANADIAN STUD. 334, 339–41 (2013).

40. While Canada and Australia have adopted point systems favoring permanent residents locating in underdeveloped areas, such continuous and close government involvement in limiting free movement of visitors is problematic in a free society. See Universal Declaration of Human Rights art. 13(2) (“Everyone has the right to free movement and residence within the borders of each state.”); see also *Saenz v. Roe*, 526 U.S. 489, 498 (1999) (right to interstate travel is firmly embedded in constitutional jurisprudence); Treaty of the European Union art. 3(2) (warranting EU citizens free movement “without internal frontiers.”).

41. Hooper & Benton, *supra* note 10, at 10–11.

42. See *id.* at 10–12.

43. See e.g., Mohammad Thoriq Bahri & Derajad Sulisty Widhyharto, *Social Network Analysis (SNA) on #Kristengray Hashtag: Understanding Gentrification Side Effects Behind the Digital Nomad Phenomenon*, 10 J. STUDI PEMUDA 75, 86–87 (2021).

Also, countries may lose their local workers to remote work abroad as well as hosting digital nomads from elsewhere. This phenomenon could lead to the same economic problems as with outsourcing generally, particularly pressure to race to the bottom when it comes to taxation and social welfare contributions from affluent workers. On the other hand, international remote work may help level the playing field among unequal countries to the extent highly skilled and well-paid workers shift and contribute to less developed economies, where their resources go further.⁴⁴

Digital nomads have created a network of sources for information based on assumptions, internet sources, and anecdotal episodes from their own experiences, but this information can be highly misleading. For example, one American “nomad” so enjoyed her extended stay in Bali, Indonesia, during the height of the COVID-19 pandemic that she created a new business publicizing and advising potential new “nomads” about the possibilities of starting a business in Indonesia, avoiding income taxes, and enjoying a tolerant climate for LGBT visitors there.⁴⁵ She was mistaken on several counts. Indonesian authorities eventually deported her, citing her call for other digital nomads to move to Bali during the pandemic in violation of Indonesian health protocol rules.⁴⁶ Indonesian authorities also cited her promotion of the local LGBT community, indicating that she misunderstood local tolerance and that the conservative population of Indonesia is not as “queer-friendly” as she was advertising.⁴⁷ Indonesia’s negative reaction to this “nomad” may also have stemmed from the misconceptions she had publicized in her viral social media accounts, namely that digital nomads in Indonesia could legally avoid income taxation altogether. On the contrary, the United States famously subjects all its citizens and permanent residents to income tax on their worldwide income regardless of where they live or earn income.⁴⁸

The consequences of digital nomadism are particularly pronounced in highly unequal international contexts, especially when authorities in temporary destinations do not anticipate and plan for digital nomads. One of the primary reasons cited for digital nomads to locate in Bali is the cost of living. The average income in Bali is around \$170 per month.⁴⁹ Obviously, “nomads” earning very mediocre incomes by U.S. or European standards would earn much more relative to the local economy. Thus, they presumably could access relatively affluent accommodations, entertainment, products, and services in comparison to the local population. This magnifies the gentrification issue of domestic digital nomads within more developed countries,

44. Although the jury is out on this point, it does seem to be an assumption behind the rush of some developing countries to adopt digital nomad visas.

45. See Bahri & Widhyarto, *supra* note 43, at 86.

46. *Id.* at 76–77.

47. See *id.* at 87.

48. INTERNAL REVENUE SERV., IRS Tax Tip 2023-36, *Reporting Foreign Income and Filing a Tax Return When Living Abroad 1* (Mar. 21, 2023), <https://perma.cc/TQG2-JGTV>.

49. Bahri & Widhyarto, *supra* note 43, at 86.

and it may reek of “colonialism” to those on the receiving end of past imperialism.

In addition to the issues host countries face at different stages of economic development, digital nomad visas may magnify existing inequality among traveling employees. An unstated assumption in Canada and in countries with specific digital nomad visas seems to anticipate nomads who are well-educated, well-heeled, young, healthy, and – thus – unlikely to use extensive public resources.⁵⁰ Telework, income, and health coverage requirements for digital nomad visas tend to ensure these assumptions are realized. Silence regarding the children or spouses of “digital nomads” indicates that governments anticipate nomads who are single as well as young, affluent, educated, and healthy. Finally, immigration laws commonly prefer visitors or digital nomads from developed countries with stronger passports, reinforcing the privilege of better paid persons from wealthy countries.⁵¹

II. U.S. OPTIONS FOR DIGITAL NOMADS

A casual Google search for digital nomad visas in the United States quickly leads to a website where “Immigration Lawyers Miami” references a “Digital Nomad Visa in USA.”⁵² There is, in fact, no such visa. The website, therefore, switches from this bait to describe traditional immigration categories like H-1B and O-1 visas.⁵³ As explained below, neither of these visas is a likely fit for digital nomads. In fact, there is no completely safe U.S. temporary visa option for most international digital nomads today.

The United States has no specific digital nomad visa. Relevant provisions of the Immigration and Nationality Act of 1952 (INA) date to its original enactment or even earlier. When they were drafted, the closest approximations of e-mail were telegraph messages, and video conferencing was still relegated to science fiction and the video watch of Dick Tracy cartoons.

Neither Congress nor the executive branch seems to have given much thought to the widespread trend of visiting foreign nationals working remotely for an enterprise abroad. Legislative action seems unlikely in the

50. See *supra* Section I.A. (describing employment, minimum income, savings, and healthcare coverage requirements, as well as mixed availability of visas for dependent family members).

51. Compare the Henley Passport Index, <https://perma.cc/6WRU-5EKK> (last visited Nov. 30, 2023) (ranking passports according to the number of destinations their holders can access without a prior visa) with *List of OECD Member Countries*, <https://perma.cc/486Q-FLG4> (last visited Nov. 30, 2023) (38 member states of the OECD) (showing that 32 of the 35 top passports allowing visa-free entry in the most locations correspond to developed states that belong to the OECD). See also Christian H. Kaelin & Dmitry Kochenov, *Kälén and Kochenov’s Quality of Nationality Index (QNI)*, HART PUB., <https://perma.cc/D9RH-UAB3> (last visited Aug 14, 2023) (ranking 159 passports according to their different values for traveling or settling in other countries, which also mainly correspond to the highest levels to OECD member states); *Visa Waiver Program Countries*, <https://perma.cc/4H5R-73LE> (last visited Nov. 30, 2023) (listing 41 countries whose citizens may enter the US without a visa, including 33 of 38 OECD member states).

52. Digital Nomad Visa in USA, IMMGR. LAWS. MIAMI (Mar. 3, 2023), <https://perma.cc/TS7P-ACZY>.

53. *Id.*

current political climate. More surprisingly, immigration officials have not provided any clear administrative guidance about remote work by foreign visitors or others with nonimmigrant visa status, creating a “gray area,” which is not good for either vulnerable noncitizens or U.S. public policy.

A. *Various Specialized Non-Immigrant Visa Categories*

U.S. immigration law starts with the presumption that foreign nationals have no right to enter or reside in the United States; except for refugees from persecution and certain relatives of U.S. citizens and lawful permanent residents, foreign nationals typically must qualify in one of a series of specific visa categories from A visas to V visas, mainly coinciding with the lettered provision of INA §101(a)(15) that describes each category.⁵⁴ Those entering using these temporary visa categories are labeled “non-immigrants” because they generally must not intend to “immigrate” and remain permanently in the United States.⁵⁵

Some international digital nomads might be shoehorned into INA categories such as O-1 outstanding professionals or H-1B specialty occupations. But few qualify for these alternatives, and the processes would be too costly and onerous for most of those who do. O-1 visas, for example, are only available to persons with “extraordinary ability in the sciences, arts, education, business, or athletics . . . demonstrated by sustained national or international acclaim,” whose recognized achievements can be proven “through extensive documentation.”⁵⁶ H-1B visas require a U.S. employer to pay the visa holder the U.S. “prevailing wage” for a “specialty occupation,” they are tied to specific, pre-designated U.S. locations, they cost thousands of dollars in attorney and filing fees, and – if successful – they require a wait of at least three to six months.⁵⁷ One also must literally win a lottery to obtain her first H-1B visa.⁵⁸ There is a statutory limit on new H-1B visa issuance of 65,000 per year.⁵⁹ In the 2024 lottery, more than 780,000 people submitted applications during a

54. See 22 C.F.R. § 41.12 (2023) (U.S. State Department listing of nonimmigrant visa categories).

55. 22 C.F.R. § 41.11 (2020) (presuming immigrant intent and requiring visa applicants to overcome that presumption before visas will be authorized in most nonimmigrant visa categories).

56. 8 U.S.C. § 1101(a)(15)(O).

57. See *FY 2024 H-1B Cap Season Updates*, <https://perma.cc/T7JH-7AEW> (Mar. 27, 2023) (describing the ninety-day “registration” process for the 2024 H-1B lottery, commencing 180 days before the 2024 fiscal year for visa availability commencing Oct. 1, 2023); see also Rachel Refkin, *Remotely Relevant: Addressing Employment-Based Immigration Worksite Location Requirements in the Remote Workspace*, 43 CARDOZO L. REV. DE NOVO 24, 26–31 (2023) (describing other aspects of the complex and expensive H-1B petition process).

58. See U.S. Citizenship and Immigr. Servs., *H-1B Electronic Registration Process*, <https://perma.cc/VT8V-QTKP>. (describing the random selection process USCIS employs to select the cases it will consider).

59. 8 U.S.C. § 1184(g) (20,000 additional visas are available to those with advanced degrees and their families in 2023 compared to a limit of 195,000 H-1B visas per year twenty years ago.); U.S. CITIZENSHIP AND IMMIGR. SERVS., *Characteristics of Specialty Occupation Workers (H-1B): Fiscal Year 2004*, 4 (2006) <https://perma.cc/M4R3-8XTB>.

ninety-day period in the spring of 2023 in hopes of being selected to apply for an H-1B visa valid as of October.⁶⁰

Other nonimmigrant visa categories might provide legal status for some remote workers while in the United States without the same requirements or processes as H or O visas. For example, E-1 treaty trader visas allow nationals of countries with relevant trade treaties to engage in trade in the United States, and they need not be extraordinary or tied to a particular work location.⁶¹ Yet, E visas are only available to executives, managers, and employees with specialized expertise essential to an employer conducting international trade between the United States and the employee's country of citizenship. This and other available categories are not good fits for most international digital nomads, who shift from place to place with few ties.

B. *B Visa Visitors for Business and Pleasure*

The B visitor visa (and ESTA entry for a visitor whose visa can be waived due to their privileged nationality)⁶² appears to be the most fitting option for most international digital nomads. It typically authorizes six-month stays in the United States for a foreign national

(other than one coming for the purpose of performing skilled or unskilled labor or as a representative of the foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.⁶³

Immigration officials have relied on this statutory language to divide the B visa category into B-1 business visitor visas and B-2 visas for visitors for pleasure. This is consequential, as U.S. Customs and Border Protection (CBP) guidance states that “[y]ou may engage in B-2 [pleasure] visa activities while admitted under a B-1 [business] visa. However, you may not engage in business activities while admitted under a B-2 visa.”⁶⁴ This distinction complicates the U.S. visitor analysis compared to its Canadian counterpart, which does not formally subdivide visitor visas.⁶⁵

60. U.S. Citizenship and Immigr. Servs., *H-1B Electronic Registration Process*, <https://perma.cc/VT8V-QTKP>.

61. 8 U.S.C. § 1101(a)(15)(E)(i).

62. U.S. CUSTOMS AND BORDER PROTECTION, *ESTA Application*, <https://perma.cc/KUB9-6SSJ> (last visited Nov. 5, 2023) (listing 40 countries, whose nationals qualify under ESTA).

63. 8 U.S.C. § 101(a)(15)(B). Unlike six months on a B visa, ESTA entries without a visa are limited to three months.

64. U.S. CUSTOMS AND BORDER PROTECTION, *B-1 Permissible Activities*, <https://perma.cc/WK9Y-XHHV> (last modified Jan. 4, 2022).

65. See *Does a Business Visitor Need a Special Visa to Enter Canada*, GOV'T OF CANADA (Oct. 25, 2023), <https://perma.cc/SP6Y-CVFB> (“No, business visitors who need a visa or an electronic travel authorization (eTA) must complete the visitor visa or eTA form. The eTA and visitor visa cover all visitors, including those coming to Canada on business.”).

The U.S. State Department defines “business” as “conventions, conferences, consultations, and other legitimate activities of a commercial or professional nature[, but i]t does not include local employment or labor for hire [.]”⁶⁶ It excludes productive work from “pleasure,” described as “activities of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment, and activities of a fraternal, social, or service nature. . . .”⁶⁷ This may confuse those who find more pleasure in productive work than medical treatment, but it makes sense if considered under the lodestar aim of protecting workers from foreign economic competition.

Because of the significant overlap between the B-1 and B-2 visa categories, the State Department often deems it appropriate to issue B-1/B-2 visas for those likely to participate in some mix of these two authorized activities during their visits.⁶⁸ Yet, CBP does not admit visitors in hybrid B-1/B-2 status for any particular visit.⁶⁹

In other countries without digital nomad visas, workers still often work remotely after entering with a tourist visa.⁷⁰ U.S. immigration authorities are certainly aware that people with B visa status also work remotely while visiting the United States. Yet, they have not clarified whether visitors violate their B visa status if they work remotely for foreign employers.

Directors of the CBP office in South Florida, a leading winter locale for visiting “snow birds,” recognize that “[w]orking remotely from the US for a foreign employer, by itself, is not a violation of B visitor status” so long as “the work is incidental to the primary purpose of the trip,” which is a permissible visit.⁷¹ But relying on this opinion at ports of entry outside of South Florida would be risky. CBP’s national directors recently indicated that the issue of teleworking, if it “comes up in the course of inspection” at the border, could lead to careful scrutiny in secondary inspection.⁷² In the context of social media “influencers,” CBP demonstrated how ambiguous its approach to this issue can be, explaining that

CBP does not have the resources to have officers ask everyone going to Disney, ‘will you be teleworking while on vacation?’ But if the traveler volunteers information that may raise concerns . . . , the officer will

66. 22 C.F.R. § 41.31(b)(1) (2019).

67. 22 C.F.R. § 41.31(b)(2)(i) (2019).

68. U.S. DEP’T OF STATE, 9 FOREIGN AFFAIRS MANUAL § 402.2-3 (2021).

69. Minutes from L.A. County Bar Ass’n, Immigration Section & AILA, Southern California Chapter, C.B.P. Liaison Meeting, September 6, 2023, <https://perma.cc/S583-YAPR> (confirming that CBP will only admit someone in “one [B visa] category at a time”).

70. See Hooper & Benton, *supra* note 10, at 19 n. 49 (citing author interviews with organizations in Croatia, Madeira, Malta, and the Digital Nomad Association for the proposition that “digital nomads often use tourist visas for shorter stays, regardless of the visas’ official rules on working remotely.”).

71. AILA South Florida – CBP Liaison Meeting – 12/2/2022: Questions and Answers, AILA Doc. No. 23010932 (posted Jan. 9, 2023).

72. AILA CBP OFO Liaison Committee Meeting with U.S. Customs and Border Protection, Office of Field Operations (OFO), Washington D.C., Wednesday, October 19, 2022 (committee notes not reviewed or approved by CBP OFO), AILA Doc. No. 22100700 (posted 12/16/22) [hereinafter *Dec. 2022 AILA CBP OFO Liaison Committee Meeting*].

pursue a line of questioning and . . . ultimately have to make an admissibility decision.⁷³

This CBP approach leaves noncitizens to the largely unfettered discretion of thousands of individual border officers with no clear guidance. Many likely base decisions on personal prejudice, anecdotal experience, and other arbitrary considerations as they must apply unclear, early-twentieth-century standards to modern telecommuting situations.⁷⁴ Although this area is “gray,” the consequences could be extreme. For instance, noncitizens are “inadmissible” if they seek a visa or admission by “willfully misrepresenting a material fact,”⁷⁵ and the State Department presumes “willful misrepresentation” where noncitizens engage “in unauthorized employment on B1/B2 non-immigrant status” within 90 days of application or admission.⁷⁶ “Inadmissibility” prevents future immigration benefits or admission and can render a noncitizen “deportable” as well.⁷⁷

Both CBP and the State Department cite *Matter of Hira*,⁷⁸ an opinion of the Board of Immigration Appeals (BIA) affirmed in 1966 by the Attorney General, as the “clearest legal definition” of B-1 business activities.⁷⁹ *Matter of Hira* echoed the 1929 U.S. Supreme Court opinion in *Karnuth v. Albro*, which read the term “business” in the 1924 version of the business visitor statute to focus on “intercourse of a commercial character,” intending to exclude the “performance of labor for hire.”⁸⁰ *Matter of Hira* also relied on two BIA precedents that interpreted “commercial character” broadly, even allowing some local labor “incidental to” legitimate activities of a commercial or professional character.⁸¹ All of these cases focused on the primary purpose of B visa work restrictions to protect “American labor against an

73. *Id.* at 4.

74. When asked to clarify issues regarding remote work in B status, CBP directors have indicated the agency still applies standards developed in older cases, including a focus on “source of remuneration, impact on the local labor market, and where the traveler is getting paid.” *Id.* As described below, these considerations closely resemble the bases for Canada’s clear allowance of remote work by visitors.

75. 8 U.S.C. § 1182(a)(6)(C)(i).

76. U. S. DEP’T OF STATE, 9 F. A. M. § 302.9-4(B)(3)(g)(2)(b)(i).

77. 8 U.S.C. § 1227(a)(1)(A) (“Any alien who at the time of entry . . .” was “. . . inadmissible by the law existing at such time is deportable.”).

78. 11 I. & N. Dec. 824, 829 (1966).

79. U. S. DEP’T OF STATE, 9 F. A. M. § 402.2-5(A)(b) (calling *Matter of Hira*, “[t]he clearest legal definition” distinguishing “appropriate B-1 activities” from inappropriate “activities that constitute skilled or unskilled labor”); *Dec. 2002 AILA CBP OFO Liaison Committee Meeting, supra* note 72 (agreeing that “CBP still consider[s] *Matter of Hira* . . . as the leading authority to determine permissible business activities for a visitor.”).

80. *Matter of Hira*, 11 I. & N. Dec. 824, 829 (B.I.A. 1965); *Karnuth v. Albro*, 279 U.S. 231, 244 (1929).

81. *Matter of Cortez-Vasquez*, 10 I. & N. Dec. 544, 546–47 (1964) (allowing a B-1 visitor to purchase, load, and sometimes cut up wood at U.S. ranches before hauling it back to sell in Mexico); *Matter of G – P –*, 4 I. & N. Dec. 217 (1950) (purchasing and loading scrap paper in the US to transport and sell in Mexico).

influx of foreign labor.”⁸² In addition to nonimmigrant intent and the temporary nature of each individual visit, *Matter of Hira*, therefore, looked to the purpose of protecting U.S. labor from competition when it defined B-1 “business” by focusing on whether “the principal place of business and the actual place of eventual accrual of profits, at least predominantly, remains in the foreign country.”⁸³

III. PLAYING CATCH-UP – PROSPECTS FOR REFORM

When the INA was enacted in 1952, the idea of digital nomads would have been pure science fiction. Of course, it now fails to provide clear answers when applied to remote workers. Ideally, the INA would be amended to address employment in modern remote work contexts. If not, the Department of Homeland Security (DHS), including CBP, and the State Department should set clear guidance regarding how the INA applies to remote workers. Because they have not yet done so, everyone is left in a “gray” area where it is unclear whether someone can work remotely for employers abroad after admission on an ESTA visa waiver or on a visitor visa, student visa, employment visa, or dependent visa (e.g., the spouse and children of temporary workers in H-1B visa status). This ambiguity of statutory, regulatory, and administrative guidance creates a lacuna that invites DHS employees to exercise unintended levels of discretionary power in arbitrary and discriminatory ways.

Like the many foreign legislatures that have already addressed the advent of remote work, the U.S. Congress might wish to encourage visitors, tourists, students, and others by enacting a regime that attracts foreign nationals working remotely for employers abroad, particularly if they can prove they have sufficient income or other funds and health insurance. Such legislation could be especially advantageous if noncitizens could be funneled into areas with depressed economic conditions and other locales that are desperately seeking investment and growth.

U.S. cities like Tulsa, Oklahoma, are working hard to entice teleworkers to locate there.⁸⁴ Local communities can offer carrots in the form of monetary incentives and workspace with outstanding internet connections, but immigration benefits could provide a stronger incentive to attract noncitizen

82. See *Karnuth v. Albino*, 279 U.S. at 243–44; see also *Matter of Cortez-Vasquez*, 10 I. & N. at 547 (noting the wood gathering and cutting business is not “attractive or desirable to United States citizens because of the expense involved.”).

83. *Matter of Hira*, 11 I. & N. at 827, 30. The Board restated the rule of *Matter of G – P –*, 4 I. & N. at 221–22, a case based on the parallel 1924 Act, observing “the significant considerations” are a “clear intent . . . to continue the foreign residence and not abandon the existing domicile; [2] the principal place of business and the actual place of eventual accrual of profits, at least predominantly, remains in the foreign country; [3] the business activity itself need not be temporary, . . . [but] the various entries into the United States . . . must be . . . of a plainly temporary nature.”

84. Zeninjor Enwemeka, *Cities Like Tulsa in Oklahoma are paying people to move there*, NPR (Mar. 31, 2022) (describing the “Tulsa Remote” program, which pays remote workers \$10,000 to move to Tulsa and commit to remain at least one year).

teleworkers. Effective programs of this type might help revitalize economically depressed areas as remote workers' pay local taxes and spend money in local establishments to purchase goods and services. Such programs could also begin to ameliorate gentrification problems by domestic or international digital nomads, who might otherwise flock to expensive urban centers and popular tourist locales.

While it is generally very difficult for the government to dictate where people live within the United States, there is precedent for geographic requirements in the immigration context. For instance, medical graduates in J-1 visa status, who must normally return home for two years before they will be eligible to return to the United States, may receive a waiver if they are willing to work full-time for three years in a medically underserved area.⁸⁵ While the tools for ensuring that a foreign national remains in a particular locale would be somewhat different for remote workers with no U.S. employer, this could be overcome, particularly if the motivated local development authorities maintained a facility for remote workers to check in regularly as well as to work with good internet connections and other perks. A further enforcement motivation might stem from requiring proof of compliance before the person may obtain any future U.S. immigration benefit.

Although the ideal solution to ambiguities in the current U.S. approach to remote work would be legislative reform, we live in an era of congressional dysfunction and inability to agree on change. Congress has not enacted meaningful reform to legal immigration in almost forty years. Therefore, an administrative reinterpretation of antiquated immigration statutes is more likely to provide short-term progress.

As described in Part II-B, the current U.S. approach to B visitors seeks to ensure they do not have immigrant intent and that each visit is temporary. Following *Matter of Hira*, the limits of the B visa statute look to protect U.S. labor from competition, defining B-1 "business" by focusing on whether "the principal place of business and the actual place of eventual accrual of profits, at least predominantly, remains in the foreign country."⁸⁶ This analysis closely echoes the Canadian logic for requiring no work permit for a visitor where "(a) the primary source of remuneration . . . is outside Canada; and (b) the principal place of business and actual place of accrual of profits remain predominately outside Canada."⁸⁷ U.S. authorities should consider adopting the reasoning of their Canadian counterparts.

85. 8 U.S.C. § 1184(l)(1)(D); U.S. Citizenship and Immigr. Servs., *Conrad 30 Waiver Program* (May 15, 2020), <https://perma.cc/83HE-3NCP>. The Australian and Canadian point-based permanent residence programs also regulate regionally based advantages for some immigrants, which could be instructive; See e.g., TERRITORY AUSTRALIA, *Eligibility, Skilled Work Regional (Provisional) (subclass 491) visa and Skilled Nominated (subclass 190) visa* (Oct. 19, 2023), <https://perma.cc/KHM3-DUCT> (describing some aspects of a required commitment to the Northern Territory for immigrants its government nominates).

86. *Matter of Hira*, 11 I. & N. at 827—30. See also note 83 above.

87. IMMIGR. AND REFUGEE PROTECTION REGULS., *supra* note 28, ¶¶ 186–87.

U.S. immigration officials must address several additional complications, however, before adopting the Canadian example. First, the formal U.S. distinction between visitors for business and pleasure creates a conceptual complication. It does not seem natural to call a foreign worker coming to the United States to explore the coast of Maine a “business visitor,” even if she also works remotely from her hotel room. The sole purpose of her visit seems to be pleasure, but the current policy appears to foreclose *any* work in B-2 visa status. Yet, this issue is surmountable. One could view remote work for a foreign employer as purely incidental to the purpose of being in the U.S. in B-2 status. Alternatively, one could issue a valid B-1 visa to continue working remotely for an employer abroad while legitimately engaging in B-2 activities long allowed in B-1 status. Of course, an even more straightforward approach would be to admit these visitors in combined B-1/B-2 status without insisting on an often artificial distinction in such cases. The INA statute does not require such a bright-line distinction between B-1s and B-2s.

Second, a complication may stem from the statutory requirement that a visitor “has a residence in a foreign country that he has no intention of abandoning.”⁸⁸ For international digital nomads who truly have no home base, this poses a serious complication. Yet, this issue, too may be overcome. CBP will admit visitors who do not intend to return to their prior residence if they demonstrate a clear intention to establish a future residence in another country after visiting the United States.⁸⁹ Thus, CBP could admit digital nomads who have preplanned residence in another country after leaving the United States.

Third, from a policy perspective, DHS may be concerned that employees and employers could “game the system” to create unauthorized competition with U.S. employees. In a world of multinational enterprises, it may be difficult to determine whether a foreign national working in the United States for an employer abroad is performing work that U.S. citizens might otherwise do. Until the INA is amended to encompass the modern workplace, it could appear particularly unfair to U.S. employers if noncitizens may lawfully perform remote work in the United States for *foreign employers* while *U.S. employers* must undergo long and expensive processes before their foreign employees may work in the United States, remotely, or otherwise. But refusing admission to visitors who wish to work remotely in the United States would not effectively address the underlying policy concern here. Employers can and do outsource work to employees situated abroad in completely acceptable and legal ways. (Canada and dozens of other nations have declared themselves willing to serve as locales for those workers.) Such outsourcing advantages foreign workers outside the United States and thwarts the goal of

88. 8 U.S.C. § 1101(a)(15)(B).

89. 9 F.A.M. 401.1–3(E)(2) (explaining that the “residence in a foreign country does not need to be the applicant’s current residence,” and providing the example of an applicant who has been living in Germany, who “may meet the residence abroad requirement by showing a clear intention to establish a residence in Canada after a temporary visit in the United States.”).

protecting U.S. workers from foreign competition but without the counter-vailing economic advantages brought by remote foreign workers spending money earned abroad in the United States.

CONCLUSION

Political leaders of different stripes generally recognize the U.S. immigration system is “broken” and needs comprehensive reform. Unfortunately, the immigration goals of Members of Congress are so polarized that legislative reform is highly unlikely. When substantive statutory reform does eventually occur, it should include well-thought-out consideration of the treatment of virtual workers in various employment-based visa categories, including those discussed above. In the meantime, DHS and State Department officials should think through virtual work issues and issue clear guidance wherever possible for interpreting the current statutes in the context of international digital nomads. At a minimum, they should provide guidance regarding whether remote work for employers abroad is unauthorized U.S. employment for nonimmigrants with no work permit or visa status that specifically authorizes the work.

Fortunately, there may be growing awareness at DHS of the need to address remote work for international visitors. CBP indicated in October 2022 that it would provide no further guidance to resolve the remote work issue because “there is no change in the law or regulations.”⁹⁰ However, it recently updated that position to indicate it is aware of issues “regarding Influencers and Incidental vs. Primary purpose of travel,” and “DHS is . . . crafting a potential policy.”⁹¹ Hopefully, they will consider remote work generally and follow the Canadian example, recognizing that the realities of portable working arrangements can be accommodated consistent with the intent and language of Congress when it enacted our current immigration statutes in 1952. And, perhaps, Congress will eventually step in to modernize the INA provisions related to remote work that do not lend themselves to administrative change.

90. Dec. 2022 AILA CBP OFO Liaison Committee Meeting, *supra* note 72.

91. AILA CBP Liaison Committee Meeting with U.S. Customs and Border Protection, Washington D.C., Thursday, April 27, 2023, AILA Doc. No. 23033001 (Apr. 27, 2023).