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## MIGRATION AND DOMESTIC LABOR MARKETS

### Auctions and employer demand versus public policy

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#### Executive summary

**A**n important aspect of international migration management is how to adjust the flow of migrant workers to the needs of national economies. There are two different approaches to this challenge: a system that is demand, or employer, driven, and one that is largely policy driven. Although it does not do it very well, the United States basically uses demand- or employer-driven processes, which are limited by congressional caps and regulations. All other countries with significant immigration flows rely on more flexible, policy-driven systems that weight employer demand heavily but include factors to protect the interests of workers and the public.

A recent Brookings Institution paper, *Rationalizing U.S. Immigration Policy: Reforms for Simplicity, Fairness, and Economic Growth*, by Giovanni Peri, proposes an auction system as a way to reform the American demand-driven

system for employment-based migration. Although economists have long suggested migrant labor auctions, most immigration countries, including Canada, Australia, and the United Kingdom, have rejected them. This paper critiques Peri's auction proposal and compares it with the broader, policy-driven processes used by most immigration nations.

An employer-driven system (such as an auction) might have the advantage of simplicity, and it certainly serves the interests of employers. However, such systems have almost universally been rejected because, relative to a policy-driven system, they do not adequately reflect the interests of the public or of foreign and domestic workers. On the other hand, a policy-driven system for the United States that is well designed and effectively administered would facilitate coordination with other economic and social policies and provide much better data for decision making, research, and evaluation.

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To be successful, such a policy-driven system for selecting migrant workers must be embedded in a comprehensive framework that includes:

- the rational control of national borders and internal migration processes
- an adjustment of status for qualified unauthorized migrants
- a work authorization system based on a secure means of identifying migrant workers and stiff penalties for violation of immigration law
- high-level federal responsibility for employment-based migration
- a highly professional data, research, and evaluation entity

In sum, a policy-driven system is both more appropriate and more sustainable than an employer-driven auction system, and, to be effective, policy-driven processes must be embedded in a reformed comprehensive migration framework.

## Introduction

A key aspect of migration management is how to adjust the flow of migrant workers to the needs of domestic economies. There are two different approaches to this challenge: a system that is employer (or demand) driven, and one that is policy driven. Although it does not do it very well, the United States relies mostly on employer-driven processes limited by congressional caps and regulations. All other immigration countries rely on more flexible, policy-driven systems that weight employer demand heavily but include factors to protect the interests of workers and the public.

A recent paper by Giovanni Peri (2012) proposes auctions as an effective way to reform the American demand-driven system. Although economists have long suggested migrant labor auctions, most immigration countries, including Canada, Australia, and the United Kingdom,

have rejected these employer-driven mechanisms in favor of policy-driven processes that assign heavy weight to demand but also accommodate broader national economic and social objectives (Marshall 2009; Marshall 2011).

Peri provides some useful suggestions for immigration reform, including the need to adjust the status of unauthorized immigrants, reexamine country quotas, simplify the employment-based visa categories, provide provisional visas, adjust foreign worker flows to domestic labor-market needs, use pilot programs to test reforms, and improve the mobility of indentured temporary foreign workers (TFWs).

There are, however, three serious problems with Peri's auction proposal:

- An auction system would serve employers' interests but not necessarily the public interest.
- Market competition and the limited mobility workers would have "between permit holding employers" would not adequately protect foreign or domestic workers.
- Auctions would not streamline the system as Peri claims. Peri leaves to a gridlocked Congress the responsibility to make ad hoc decisions on the number of auctions and other key issues. And an auction system does not produce adequate data to enable immigration officials to effectively administer economic migration.

The following section discusses the evolution of migration policy in "immigration nations," excluding the United States, away from demand-driven systems and toward policy-driven, high-value-added systems. The balance of this report analyzes the Peri auction proposal.

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## Employer or policy driven? The United States stands alone

In reforming its broken immigration system, the United States has much to learn from other “immigration nations,” especially Canada, Australia, and the United Kingdom. For much of our history, U.S. policy had much in common with Canada’s and Australia’s. Each sought immigrants to occupy vast open spaces and meet the early labor and skill needs of its manufacturing and agricultural economy, and all three based their immigration policies mainly on family reunification. Moreover, the United States, the United Kingdom, Canada, and Australia also sought to attract mainly “European” or “white” immigrants in order to maintain racial and ethnic homogeneity. However, in the 1960s all of these countries abandoned their discriminatory policies, which had become politically unacceptable and incompatible with the need to attract economic migrants from all over the world.

The United Kingdom—one of Europe’s most densely populated countries—is not a traditional “immigration nation.” Indeed, until the 1990s it had a zero net immigration policy that allowed migration growth to just offset the outmigration of British residents. Net migration escalated rapidly in the 1980s and 1990s, causing the United Kingdom to become an immigration nation; by 2009 it had almost as high a proportion of foreign born in its population (11 percent) and workforce (13 percent) as the United States (12.5 percent and 15.5 percent, respectively). The Labor government that took office in 1997, just as net immigration was escalating particularly rapidly, made employment-based migration an important part of its value-added economic policies and, like Canada and Australia, stressed the importation of skilled relative to less-skilled and family-based immigrants. The United Kingdom also made significant improvements in migration management, in particular by creating the highly professional Migration Advisory Committee (MAC).<sup>1</sup>

All high-income countries have similar economic and demographic realities that have caused economic migra-

tion to become much more important for national and personal welfare. Their economies have all become much more competitive and knowledge intensive, as well as more deeply integrated into global product and labor markets, and this shift gives higher priority to skills, knowledge, and the need to formulate strategies to maintain or improve national and personal incomes. In addition, all high-income countries have aging native populations and declining ratios of workers to non-workers; all have native residents who tend to shun less-attractive jobs as their incomes rise; and all face serious fiscal problems, especially during recessions, because of the rising costs of health care and other public support systems. It has become clear that immigration can either improve or exacerbate the challenges presented by these factors, depending on how well it is managed and coordinated with other economic and social policies.

Beginning in the 1980s, the policies of Canada, Australia, the United Kingdom, and all other immigration nations began to diverge markedly from those of the United States. Most basically, these other countries developed value-added competitiveness strategies designed to maintain or improve their incomes in the emerging competitive and knowledge-intensive economic environment. These value-added strategies sought to improve productivity, quality, and flexibility through high-performance work organizations that required more highly skilled workers using leading-edge technology, nurtured by supportive public policies. The alternate direct-cost (mostly wages) strategy, followed in the United States by default, seeks to maintain or improve incomes through more manual labor and physical resources and therefore not only is self-limiting but (in a high-income country) also implies lower wages for many if not most workers and greater inequality of wealth and income. Canada, Australia, and, to a lesser extent, the United Kingdom have rejected this “low-road” strategy as incompatible with sustainable, shared prosperity and democratic institutions.

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The move to value-added economic strategies required supportive public education, health care, income supplementation, and migration systems. And it shifted the emphasis of migration policy from family reunification to economic migration in order to admit foreign workers with skills not readily available in domestic economies. These other immigration nations reduced the share of family immigrants to a third or less of the total, awarding instead the great majority of visas to economic migrants. The United States, by contrast, continues to issue 60 percent or more of visas for family reunification and only 15 percent or less for economic reasons, about the same proportion as for humanitarian (mainly refugees and asylum seekers) and diversity purposes.

To some extent the family–economic dichotomy is misleading because many family reunification migrants will work, and most economic immigrants have families. In fact, Australia counts skilled workers’ family members as skilled migrants, and Canada’s skilled worker program awards points for the qualifications of principal applicants’ spouses or partners. In the United States, the spouses and children of economic immigrants are counted under the employment-based (EB) cap.<sup>2</sup> These classifications therefore signify the basis for admission, not what migrants do after they enter a country. And some migrants who enter under temporary visas acquire permanent residency through family visas. In 2003, for example, among individuals acquiring green cards who first entered the United States as students, 56 percent obtained those cards by marrying a U.S. citizen, while only 20 percent were sponsored by a U.S. employer (Rosenzweig 2006). Still, it is clear that however immigrants are classified, other immigration nations admit two to three times larger proportions of migrants for economic reasons than does the United States.

For economic, fiscal, political, and social reasons, other immigration countries also admit much larger proportions of highly educated migrants. The economic reason is to support high-value-added economic policies. This is

done by selecting migrants who complement and do not compete with domestic workers, thereby avoiding the displacement of domestic workers with migrants or the use of foreign workers to depress wages.

The fiscal reason for this policy is to attract workers who can support themselves and their families and pay more in taxes than they receive in health care and other public benefits. This motive became increasingly important as health, education, and other public benefits became both more costly and more important components of high-value-added strategies. In addition, at the macroeconomic level skilled workers have a positive fiscal impact because they boost value-added economic growth.

The emphasis on skilled migrants to fill jobs for which domestic workers cannot be found likewise serves the important political objective of maximizing public support for migration and minimizing the power of anti-immigrant social and political forces. Effective policies to control unauthorized migration are particularly important because unauthorized migration is a major source of anti-immigrant sentiment. Public support for migration policies also is enhanced by well-managed migration with a high level of transparency and credible data and analyses, which help convince voters that the government has migration under control.

It is beyond the scope of this paper to explore the reasons for the divergence of migration policies between the United States and other immigration nations, but some factors should be noted. The first of these is that the United States has had a greater aversion to coherent policies of any kind and gives much lower priority to the effective management of public programs. To some extent this is the product of our less-unified national government that, relative to parliamentary systems, makes it more difficult to develop coherent policies and programs. The inability to establish comprehensive immigration policies and effective migration management systems, along with a much more challenging geographic environment, has permitted a much larger U.S. unau-

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thorized migrant population, and its presence impedes the implementation of effective, legal employment-based migration policy. Indeed, the contentious debate over unauthorized immigration has distracted political and public attention from the important task of developing a more coherent economic migration policy.

## **Auctions: A demand-driven system**

The auction proposal by Giovanni Peri (2012) would use “market-based auctions” to

allocate employment-based permits to employers and visas to immigrants that have the greatest propensity to contribute to economic activity and thus to generate the largest benefits for the U.S. economy. The auctions would generate revenues for the federal government; the government could use that revenue to compensate local communities that deliver social services to immigrants, or to invest in the skills of American workers. (Peri 2012)

Peri’s system would be implemented in phases “starting with a pilot program...to allocate temporary employment visas.” The “second phase would expand the auction to labor [employment]-sponsored visas.” The “final phase would provide a reassessment of the balance between employment-based and family-based visas, as well as a broad simplification of complicated rules in the current system such as country quotas.” As under the current U.S. system, workers would have the option to bring their spouses and minor children with them, and the

number of auctions would be prescribed by Congress and the permit fee would be determined in the auction. ... Employers would have the ability to resell or trade permits and foreign-born workers would have the flexibility to move between permit-holding employers. This added flexibility on both sides provides an element of protection

for workers via competition. This new proposal would thus eliminate the cumbersome ex ante labor verification procedures for employers who intend to hire immigrants. (Peri 2012)

We do not know how well Peri’s auction system would work because such a system has never been tried, and he does not provide many specifics. Even so, the obvious problems with his auction proposal make it an inferior choice to a sensible alternative: a high-value-added, policy-driven system reinforced by an independent Commission on Foreign Workers (CFW); smart regulations; and perhaps a points-based system, used in most immigration nations (Marshall 2011) but which Peri rejects.

Peri recognizes the need to improve the mobility of indentured TFWs, but provides for mobility only “between permit holding employers,” and assumes, erroneously, that auction-induced labor market competition and the enforcement of domestic labor laws would adequately protect foreign and domestic workers. Peri also assumes that an employer-driven, market-oriented system would protect the public interest by achieving an efficient allocation of foreign workers. There is, however, no evidence that this would in fact be true. Indeed, mainly because people are not commodities, markets—though valuable institutions—have always been imperfect regulators of employment.

Peri assumes, in addition, that his auction system is the best way to eliminate bottlenecks, inflexibility, and “cumbersome” verification systems for worker protections. However, he does not document the problems with existing verification systems, other than to restate employer complaints. Nevertheless, experience suggests that the processes could be greatly improved through better use of information technology, more effective management systems, and smart participatory regulations that would help protect employers’ legitimate interests, as well as those of workers and the public.

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Much of the system's inflexibility is the result of ad hoc, incoherent congressional controls and quota mandates. An independent professional commission to recommend periodic changes in the foreign worker targets based on much better labor market information would be more flexible than Peri's suggestion that Congress rely on auction data, which would be grossly inadequate for understanding labor markets, making longer-term projections, or identifying occupations where it would be sensible to admit foreign workers.

It would be more expeditious for a Commission on Foreign Workers to make recommendations that Congress could accept, amend, or reject. Making immigration policy by congressional committee without an independent source of data, research, analyses, and recommendations—as is the case today—would be like making monetary policy without the Federal Reserve System with its strong empirical data collection and analytical activities.

In the following sections, we look specifically at the ways an auction might function in today's migrant labor market, assess its ability to address the needs made obvious by the workings of the current system, and contrast it with the benefits of the alternative: a policy-driven, high-value-added immigration system.

### ***Would an auction system protect the public interest?***

Peri assumes that an employer-driven system with auctions would adequately protect the public interest and (together with labor law enforcement) foreign and domestic workers. This is, however, a highly questionable assumption. Public interests are not protected by short-run employer profit-maximizing economic growth—even per-capita economic growth—alone. This is so because high GDP or per-capita GDP growth policies ignore the distributional aspects of rising output. We have, for example, had high per-capita growth in the United States for decades, but most frontline workers and their families are worse off in real terms while most of the benefits of

growth have gone to income recipients at the very top. As Nobel laureate Joseph Stiglitz observed:

America has been growing apart, at an increasingly rapid rate. In the first post-recession years of the new millennium (2002–07), the top 1 percent seized more than 65 percent of the gain in total national income. While the top 1 percent was doing fantastically, most Americans were actually growing worse-off. (Stiglitz 2012, 2)

Since high and rising inequality threatens both our economy and our democracy, the public interest is served by broadly shared prosperity, not just growth in real per-capita income. At the micro level, broadly shared prosperity is promoted by value-added (productivity and quality) competitiveness, not by direct wage and price competition, which, under American conditions, will intensify inequality. In globalized product and labor markets, wages will tend to converge, but it would be better to achieve convergence through more rapid increases in wages in developing countries than primarily by reducing wages in the high-income countries, an outcome likely to result from wage and cost competition. In fact, most people in all countries would be better off with value-added policies than they would through direct wage competition.

Immigration policy therefore should support broadly shared prosperity. An auction based on free-market fundamentalism probably would perpetuate inequality, especially if it imports less-educated foreign workers to compete with and not complement low-income domestic workers who have been the principal victims of growing inequality. For example, a comparative analysis of Canadian and U.S. immigration policies concluded that the Canadian policy-driven immigration system reduced inequality while U.S. policies increased it (Aydemir and Borjas 2007). It is doubtful, moreover, that either a free-market system or democratic institutions could survive the growing inequality produced by an unfettered competitive market system. This is so because gross inequalit-



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ies produce oligarchies in which the wealthy rule—a clear and present danger for the United States.<sup>3</sup>

### ***Would an auction system balance migration needs with complementary social and economic policies?***

Good immigration policy must be fair, transparent, enforceable, and sensible. Fairness requires that the interests of various stakeholders be balanced through consultation and good rulemaking. Since employers are major stakeholders, their legitimate interests should be reflected in the system's rules, processes, and incentives. Formulating good rules requires gathering information and seeking input from employers, workers, experts, public officials, and other stakeholders as appropriate.

Good public policy also requires a proper balance between migration and other social and economic policies. Immigration should not, for example, substitute for domestic policies designed to improve education, labor market, health, or social policy. Although many higher-income countries are becoming more reliant on immigrants for workforce growth, the great majority of new entrants to the workforce will continue to come from domestic education and training institutions, which could be greatly damaged by labor market deregulation and employer-driven migration systems, as has happened in recent years, for example, in the U.K.'s construction industry.<sup>4</sup>

Immigration also has strong political and social implications, tightly linked both to foreign workers' economic success and positive outcomes for resident workers. Foreign workers who meet employers' needs would not necessarily be successfully integrated into communities and societies and might instead be segregated into foreign enclaves or "ghettos"; such segregation could produce social and political pathologies, as has happened in many countries, especially in Europe. Successful immigration nations like Canada and Australia have focused on integrating foreign workers and their families through education, language, values, and family maintenance require-

ments, factors not guaranteed by market forces or promoted by employers. These noneconomic factors also are closely linked to public acceptance of immigration, which, in a democracy, is extremely important. Indeed, a significant component of migration management is realizing the rich advantages of migration while avoiding or minimizing the ever-present dangers of social conflict. Effective migration management also requires continuous changes in migrant selection systems to reflect experience, research, and ongoing evaluations.

It might be sensible to allow temporary migration at below-market wages to meet short-run public health and education needs, as has been done by the British government, but, to support more rational choices, the U.K.'s Migration Advisory Committee makes very clear to all stakeholders and the public the negative implications of short-run wage suppression.

### ***Even if everyone gains, can the losers outnumber the winners?***

There is broad agreement on the basic premise for an immigration system to promote national economic interests: If immigrants complement domestic workers and fill vacancies that cannot sensibly be filled by residents, even if remuneration is attractive relative to alternative employment, everyone gains, at least in the short run. However, those domestic workers who compete with foreign workers will have lower wages in the short run or find themselves displaced by foreign workers. There is, however, considerable disagreement about whether the substitution or complementary effects predominate in the real world. American economists have neither the data nor agreed-upon methodologies to accurately measure those processes well enough for policy purposes, thereby leaving too much room for analysts' personal biases. Contradictory studies showing macro and long-run effects of immigration on the domestic economy have limited usefulness for public policies, which must have better evidence to balance the more micro and immediate impacts on winners and losers. The general conclusions from

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international research nevertheless support Peri's claim that the overall economic impact of immigration is small, though many analyses show that the main losers are recent (i.e., five years or less) migrants and domestic workers with similar characteristics. The British Migration Advisory Committee recently confirmed this general finding and concluded that the displacement effects of foreign worker competition are greatest during depressed economic conditions like the current global downturn. MAC found that "for the period 1995–2010, [a] ballpark estimate is that an extra 100 non-EU working-age migrants is associated with 23 fewer native people employed."<sup>5</sup> An international meta-analysis by Longhi, Nijkamp, and Poot (2008) finds inconclusive migrant effects on wages, but suggests stronger negative effects on domestic employment and labor force participation.

### ***Would auctions protect workers from wage depression or job displacement?***

Labor market regulations concerning migrant workers are necessary because market processes such as those proposed by Peri cannot adequately protect workers or ensure that foreign workers will mainly complement and not compete with domestic workers.

Peri believes higher labor costs for employers who hire foreign workers through the auction system will protect American workers from wage depression or displacement, but nothing in his system ensures this outcome. Indeed, there is no reason to believe that the costs employers incur for foreign workers would be higher than prevailing American compensation, migration fees, and recruitment costs. A fundamental migrant worker reality, as Peri shows, is that foreign workers are likely to gain large wage surpluses from working in the United States over what they would expect to earn in their home countries. And employers often prefer foreign workers because of non-wage factors such as limited mobility and positive attitudes about jobs that domestic workers tend to shun. Given these realities, competition would not protect domestic workers because foreign workers with limited

options and low reservation wages would be perceived as more productive at prevailing wages than natives with similar education and skills.

Under existing regulations TFWs are attached to particular employers, thus reducing their bargaining power and ability to protect themselves. Peri would give TFWs mobility only among permit-holding employers. Given that there are more than 7 million employers in the United States, but only a few thousand that use the H-1B or H-2B visa,<sup>6</sup> the TFWs can expect very limited mobility. Temporary foreign worker protections also would be weakened by Peri's requirement that the TFWs could not acquire permanent residency unless their employer recommended them (giving employers inordinate power over the migrant workers), and by the absence of unemployment compensation (UC). It is not clear whether Peri would require employers to pay UC and other payroll taxes on TFWs; if not, this cost advantage would give employers another reason to prefer TFWs over U.S. workers. Peri's rules likewise apparently would not require that wages for foreign workers at least equal domestic market wages or prevent employers from using foreign workers to displace U.S. residents.

There would, in addition, be no labor market test before foreign workers are hired. Reflecting a prevailing employer preference, Peri considers the present worker protection system to be too cumbersome and time consuming, but presents no evidence for this conclusion.

In fact, the verification process for H-1B specialized (usually college-educated) workers is almost perfunctory. An accelerated attestation process to certify employer compliance *ex-ante* would be more acceptable if accompanied by rigorous, random post-entry auditing (which does not occur now). In any event, if the present systems are too cumbersome, the solution is not to abandon worker protections, but to improve them through smart rules arrived at through consultations involving all stakeholders. We can learn a lot from other countries, as well as our own experiences, about how to do this. A regulatory system



would be particularly important for auctions, which would be vulnerable to “gaming” by employers, brokers, or wealthy foreigners looking for expedient ways to bring in family members or other migrants outside the regular visa processes.

### ***Is there a shortage of college-educated workers that could be addressed by an auction?***

Peri presents no credible evidence for shortages of college-educated workers that would justify importing foreign workers. This is, however, a very important and contentious issue that requires more objective data and analyses. As do many journalists and business representatives, Peri cites the quick exhaustion of the 85,000 H-1B visa allotments for private business as evidence of a labor shortage, whereas all it really signifies is that there is a strong demand for college-educated indentured workers who will accept below-market wages. A large percentage of these visas are captured by U.S. firms outsourcing to India. These firms do not themselves experience any shortage of U.S. college-educated workers because their business models largely exclude American workers; they depend instead upon employees imported from low-income countries such as India. There also is anecdotal evidence that employers prefer younger foreign workers to older natives, a practice that could be illegal in the United States.

Peri, in line with many business and media critics, exaggerates the limitations on the current supply of college-educated foreign workers by ignoring several facts: There are numerous exceptions to the 85,000 ceiling (an annual average of about 250,000 H-1B visa applications were approved between 2005 and 2010);<sup>7</sup> H-1B workers who have exhausted their six-year eligibility can remain in the United States while awaiting permanent residency but are not counted as H-1B visa renewals; and the supply of L-1 “intra-company transfer” visas is numerically unlimited (an average of about 75,000 a year were granted between 2005 and 2011). As a result of these exceptions, the evi-

dence shows a large (but, unfortunately, unknown) supply of foreign college-educated workers available at any given time.

This supply is augmented by significant numbers of international students who remain in the United States after completing their studies, and foreign students earning U.S. bachelor’s and master’s degrees who acquire Optional Practical Training (OPT) visas for 12 months for each degree; science, technology, engineering, and mathematics (STEM) graduates are eligible for an additional 17 months (i.e., 29 months total). There are no numerical limits on the OPT program, and few applications are denied. Since the 29-month OPT program began in 2008, over 35,000 STEM extensions have been granted, and 5,000 applications were pending as of June 2012 (Thibodeau 2012). OPT graduates are also eligible for H-1B visas.

There also is evidence that many foreign students remain in the United States after they graduate. For example, Michael Finn (2010, i) reported that the overwhelming majority of foreign students receiving science and engineering Ph.D.s remained in the United States. The foreign born made up about 40 percent of the science and engineering workforce with doctorates, and the stay rates after graduation for temporary resident doctorate recipients in 2007 were:

- One-year stay rate (2006 graduates): 73 percent
- Two-year stay rate (2005 graduates): 67 percent
- Five-year stay rate (2002 graduates): 62 percent
- Ten-year stay rate (1997 graduates): 60 percent

Other evidence casts doubt on a general shortage of college-educated workers. The unemployment rate among college graduates under age 25, who compete most directly with H-1B visa holders, averaged 8.5 percent in 2011, up from 5.4 percent in 2007 before the Great Recession started. And underemployment (which includes the jobless, involuntary part-timers, and those

who quit looking for work) was 19.1 percent, while the real wages of young college graduates were down by 4.6 percent. Indeed, the only male college graduates to experience even small increases in real median incomes between 2000 and 2009 were those holding Ph.D.s (who saw a 1.2 percent increase); bachelor's degree holders' incomes fell by 8.0 percent (Marshall, forthcoming).

Complaints about inadequate numbers of visas for college graduates often claim that the United States is losing many foreign job-creating entrepreneurs because of the caps on H-1B visas. Until recently, the H-1B could not be used to establish startup companies because of the requirement that foreign applicants have a job offer. However, in 2011 the Obama administration made it possible for foreign entrepreneurs to qualify for H-1B visas if the applicants' employment is decided by the startup's board or shareholders. The administration further eased the admission of foreign entrepreneurs by allowing them to obtain visas without an employment offer, removing the requirement that H-1B workers' employers sponsor them for permanent residence in the United States. And the Obama administration made it easier for applicants to obtain EB-5 visas for foreigners who invest \$500,000 in a U.S. project that generates at least 10 jobs (Jordan 2011).

Thus, despite numerous complaints, it is not clear that the United States loses many valuable foreign entrepreneurs and investors because of visa limitations. But this lack of specific information suggests another important need for independent migrant data, research, and evaluation.

Further evidence of slack labor markets for college graduates is suggested by the fact that most—including STEM majors—are having trouble finding jobs in occupations for which they have trained. It is estimated, for example, that there are at least three times as many people with engineering degrees working in non-engineering as engineering occupations, and a large percentage of college graduates are in jobs that do not require baccalaureate degrees.<sup>8</sup> For example, Peter Cappelli notes, “The per-

centage of employees who are overqualified for their jobs, as defined by having at least three more years of education than is required by the job they hold, is about three times greater than the proportion of people who are underqualified, using the same definition” (Cappelli 2012). And a 2012 report found that of 9 million young people who earned degrees between 2006 and 2011, 2 million (22.7 percent) said their jobs did not require higher education (Kiplinger 2012).

It is commonly argued that the low ratio of qualified applicants to job vacancies is strong evidence of a skills mismatch that could be improved by importing foreign workers. However, Cappelli offers some cogent evidence that vacancy data do not reflect real job openings:

- Companies usually solicit more applications than they have jobs available.
- Because of a long period of excess supplies of college graduates, companies have become extremely selective in the applicants they actually hire; employers leave vacancies unfilled in order to increase productivity from existing employees, reduce costs, and increase profits; and employers are reluctant to train new hires and instead seek exceptional fully qualified workers.
- Employers' reliance on computerized screening programs, which do not define job requirements very well, causes qualified applicants to be rejected—indeed, applicants who specify expected wages higher than those offered by employers sometimes are rejected as “unqualified.” (Cappelli 2012, 26–27)

Cappelli's evidence also explains why some employers prefer H-1B and other foreign workers: These workers are willing to accept lower wages (see Wadhwa 2008) and are much less likely than more mobile domestic workers to move to other employers after acquiring valuable skills in short supply. This is a particularly important concern where demand for skilled workers is rapidly increasing. Thus, although media and business reports often warn of

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“looming” general shortages of science and engineering graduates, there are ample grounds for skepticism because these claims usually evaporate under careful objective scrutiny. Most such assessments confirm Michael Teitelbaum’s conclusion: “...no one who has come to the question with an open mind has been able to find any objective data suggesting ‘shortages’ of scientists and engineers” (Teitelbaum 2007).

In contrast to these skeptical considerations, many business representatives, media reports, and economic analysts project a strong demand for college graduates, partly because of the need for higher skills in a more competitive and knowledge-intensive globalized economy and partly because slack labor markets and declining real wages for most college graduates will enable employers to continue to hire overqualified workers for real vacancies. The McKinsey Global Institute, for example, projects the 2020 demand for workers with bachelor’s degrees or higher to be 58 million and the supply to be 56.5 million—a deficit of 1.5 million (Manyika et al. 2011). The joblessness for workers with lower levels of education will continue to be high, partly because college graduates will be preferred for jobs that do not actually require college-level knowledge and skills.

Thus, if properly measured, there could well be shortages of college-educated workers in some specific fields and geographic locations, but Peri presents no such evidence. And his auction system would not give us accurate information about the duration of the shortages, the occupations involved, the geographic distribution, or other characteristics needed to determine if it were sensible to use immigration to overcome those shortages.

### ***Is there a shortage of ‘less-educated’ workers that could be addressed by auctions?***

Peri’s assumptions about the need for a large program for TFWs with less than a college education are even more questionable. His only evidence for a shortage of

these workers is the fact that domestic workers with more options shun inferior jobs, a phenomenon common to all high-income countries. However, this observation does not prove that there is either a shortage of such workers or that migration would be the best way to overcome those shortages. Indeed, as Philip Martin has demonstrated, unless inferior jobs are improved through technological change, better management, and work restructuring, there could be perpetual shortages as successive waves of immigrants leave those jobs for better opportunities as soon as possible (Martin 2009). From a public policy perspective, therefore, it might not be sensible to perpetuate a continuous flow of migrants for these low-wage, low-skill, low-productivity jobs.

It likewise is highly questionable that the United States faces a general shortage of less-educated workers. The McKinsey Global Institute research cited earlier, for example, projects the 2020 demand for workers without a high school degree to be 13.6 million and the supply to be 19.5 million, for a surplus of 5.9 million. McKinsey projects a surplus of 800,000 for high school graduates (a demand of 43.3 million with a supply of 44.1 million) (Manyika et al. 2011, 39).

Furthermore, wage and employment data certainly do not suggest a shortage of less-skilled workers. Young high school graduates had an unemployment rate of 21 percent in 2011, more than double that of young college graduates. And the real median income for male high school graduates 25 and older fell 11.5 percent between 2000 and 2009; it fell 16.3 percent for those with nine to 12 years of education and no diploma (Marshall, forthcoming, 17).

For a variety of reasons, most other high-income immigration countries greatly restrict the number of less-educated foreign workers. First, low-income workers generally have negative fiscal implications for countries with costly social supports and education systems (as Peri’s citations and numerous empirical studies show; see Rowthorne 2008). Second, these countries have generally

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adopted high-value-added economic strategies that seek to avoid a large proportion of low-wage jobs (with 25 percent of its jobs classified as low wage, the United States has the highest proportion of such jobs among OECD countries surveyed; Denmark, with 8.5 percent, has the lowest; see Marshall, forthcoming, and Gautié and Schmitt 2010). These countries also import a higher proportion of college-educated workers in order to minimize the political, economic, and social consequences of growing inequality of wealth and income (Aydemir and Borjas 2007; Marshall 2011).

Most high-income countries likewise give first preference for work requiring less education to resident youth, older people, and qualified workers who have been marginalized for whatever reason. If foreign workers are imported, it is in highly restricted categories and for specific time periods, like summer jobs, agricultural harvesting, holiday maker programs, and other jobs for which it might be sensible to import migrants because sufficient supplies of domestic workers are not available at the times and places they are needed.

A significant negative factor in importing less-skilled foreign workers has been exploitation, made possible because of these workers' dependent status and their vulnerability to abuse by labor brokers (whose numbers probably would be augmented by Peri's suggestion that successful auction bidders be able to sell permits), human predators, employers, and others. Indeed, even countries such as Canada and Australia, with stronger worker protections and labor market institutions than ours, have found it difficult to protect both the TFWs and the domestic workers with whom TFWs compete. The inherent vulnerability of less-educated TFWs makes it hard to enforce typical complaint-driven labor protection regimes (Marshall 2011; Nakache and Kinoshita 2010).

Those who claim the need for a large TFW or "guest worker" program for less-educated workers likewise tend to focus on the caps for particular visas, such as the H-2B, and ignore the many other ways authorized foreign

workers enter the United States—especially through family reunification visas, which are more than three times as numerous as those issued for economic purposes. However, as noted earlier, most family-based migrants will work outside their homes and have had, and will continue to have, a profound impact on the composition of the U.S. workforce. According to some experts, for example, all forms of migration from Mexico have greatly reduced the net flow of unauthorized Mexico-U.S. immigration. According to the Mexican Migration Project, in 2010, 517,000 Mexicans entered the United States as authorized temporary workers; another 888,000 entered on business visas, and 30,000 were exchange visitors. And since 1996, 125,000 Mexicans have become naturalized citizens each year, while net illegal immigration from Mexico has fallen to virtually zero (Castañeda and Massey 2012).

It is, however, too early to tell if the unauthorized flow from Mexico will resume after the current economic downturn ends. Some immigration specialists believe that the main reason for the slowdown in unauthorized immigration is the downturn-induced reduction in demand for foreign workers, not the Obama administration's stronger enforcement activities, which these observers consider to be largely ineffective. Even without comprehensive U.S. immigration reform, it is likely that economic development and sharply lower birth rates in Mexico, along with stronger enforcement policies, will cause post-downturn unauthorized entries into the United States to be much lower than they were before the economic slump, despite declining wages in Mexico (which, like the United States, has mainly a low-wage competitiveness strategy).

In any case, it is hard to imagine future general shortages when we already have a large supply of low-income workers who would be the main losers from a massive TFW program; if we adjust the status of millions of unauthorized migrants and allow them to bring in their immediate family members, as we should, the United States could

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have a continuing flow of less-educated workers. A value-added, shared-prosperity strategy would give high priority to improving opportunities for these and other low-wage workers, not to importing people to compete with them.

Peri's argument that a large TFW program would relieve illegal immigration likewise is highly questionable. Indeed, in the long run such programs probably do more to accelerate unauthorized immigration than to retard it, as demonstrated by many foreign experiences as well as by our 1942–1964 Bracero program. And, as noted, preventing TFWs from becoming unauthorized migrants is a constant challenge to all TFW programs. Peri also misreads the main reason for the failure of the 1986 Immigration Reform and Control Act (IRCA). It was not the absence of a large TFW program, but the failure to develop an effective work authorization system—with a secure identifier—that caused IRCA to fail. It was particularly ludicrous to put employers motivated to hire unauthorized workers in charge of verifying 26 easily counterfeited identifiers.

The chances of more successfully managing the legal flows of foreign workers would be greatly enhanced by adapting the flow of TFWs to real shortages and significantly reducing the pool of unauthorized migrants. The only sensible way to do this is to adjust their status. It is highly unlikely that a large proportion of unauthorized migrants with long tenures and deep roots in the United States,<sup>9</sup> including citizen children and family members, will “self-deport,” as some commentators and politicians believe. There is a higher probability that punitive enforcement policies and anti-immigrant sentiments will make matters worse by forcing unauthorized migrants even deeper into underground economies. Experience in other immigration nations suggests, moreover, that unauthorized immigration can be controlled without large TFW programs for less-educated workers.

Again, there might be specific shortages of less-educated workers that migrants could sensibly fill, but this will not be revealed through an auction system. An independ-

ent professional agency should produce much better data, measurements, and labor market assessments—especially of the implications of adjusting the status of millions of unauthorized workers and the employment effects of family-based migration—before we change the limits on less-educated TFWs. We should, however, reform existing programs to more effectively meet employers' legitimate needs while protecting the interests of foreign and domestic workers and the public.

### ***Would an auction system protect workers or make labor markets more efficient?***

There are many reasons to doubt that Peri's auction system would adequately protect either foreign or domestic workers or cause labor markets to be more efficient.

First, though competitive market theory assumes that workers are homogenous, this certainly would not be the case with an auction for indentured foreign workers. Employers would bid for permits to hire college-educated or non-college-educated workers—obviously very broad categories. If employers can then hire any foreign worker who meets these broad qualifications, they obviously would select the most qualified, whose productivity would exceed the minimum specified by the job. This would lead to wage depression for current TFW programs; i.e., even where a prevailing wage is required, it is set for the *job*, not the *worker*, so employers can hire over-qualified TFWs, thus depressing wages.

Second, for a number of reasons migrant workers are not likely to be able to bargain for wages commensurate with their contribution to employers. Their propensity to bargain is diminished by the migrant wage surplus (the large gap between their home wages and wages in the United States), as well as their limited mobility, indentured status, and dependence on the employer, not only for their jobs but also for acquiring permanent resident status.

Third, without explicit worker protections (market tests, prevailing wages, and prohibitions against displacing American workers), an auction could exacerbate existing

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labor market inefficiencies by suppressing or even depressing wages.<sup>10</sup> In an efficient market, employers would respond to labor shortages by raising wages, but as Cappelli (and much labor market experience) shows, employers are extremely reluctant to raise wages. They therefore define a labor shortage as an inability to recruit enough highly qualified workers at *current* wages. Without labor market protections, auctions could strengthen wage suppression and probably depress domestic wages even further, for the following reasons:

- Employers already discriminate against some workers for reasons unrelated to productivity (e.g., gender, race, and age). An auction would provide employers with legal ways to discriminate against older domestic workers in favor of younger or highly qualified migrants, thus adding to what is already a serious labor market distortion.
- An auction could permit companies to reduce or eliminate training for their employees, which would not be in the long-run interests of the national economy or domestic workers, thus exacerbating another current labor market failure.
- Peri makes the dubious claim that auctions would increase efficiency by making markets more predictable. An employer-driven foreign-worker market would surely be less predictable than, say, the Canadian and Australian policy-driven systems with ministerial discretion and the award of points reflecting research-based characteristics strongly associated with successful foreign worker adjustments to jobs and communities.
- Peri asserts that an auction would protect domestic workers by assuring higher costs for immigrant workers, but, as noted, this is a very uncertain outcome. There are more predictable ways to ensure that foreign workers always cost more than similar domestic workers: specify higher minimum wages (or give more points) for shortage occupations, as is done in other countries.

Finally, Peri argues that importing more foreign workers would help domestic workers in the long run by stimulating innovation, productivity, and higher wages. But unless the foreign workers complement domestic workers and fill real shortages, innovation might instead be retarded in favor of perpetuating marginal industries dependent on the immigration wage subsidy. Migrants imported for jobs that could not be filled with Americans at high shortage-induced wages in a full-employment economy would likely complement domestic labor and capital, thus stimulating innovation (Drinkwater 2007; Ruhs 2008).

### ***Auctions, or a points-based system?***

Peri misinterprets points-based systems (PBS), which he considers to be less effective than auctions for selecting foreign workers. Points-based systems are not inflexible, as he alleges, and have a number of advantages compared with auctions.

First, many countries have had considerable experience with PBS since they were developed in Canada in the 1960s. There are, however, no modern experiences with auction systems to allocate visas among foreign workers; such systems have been rejected by the United States and other immigration nations.

Second, a points-based system is more flexible and provides many advantages relative to an auction. Points can be configured to address the interests of employers, workers, and the public:

- Employers' interests can be reflected by giving major points for a job offer and attributes (such as age and domestic education, training, and experience) favored by employers.
- Workers can be protected by giving major points for shortage occupations, above-average wage offers, or for other eligibility requirements to ensure that migrants complement and do not displace or cost less than the employment of domestic workers.



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■ The public interest can be protected by providing points for factors that are most likely to cause foreign workers to succeed, especially occupations in short supply, verified levels of language competency, occupational skills, age, family characteristics, the ability to support dependents, and the willingness to locate in places with labor shortages. The Canadian points-based foreign-worker recruitment system, for example, has not only identified foreign workers most likely to succeed, but also has contributed to the best-educated second generation of immigrants in the Western world and reduced income inequality (while our system has increased it, as an auction system probably would continue to do) (Picot and Sweetman 2012). We should note, however, that a PBS is only one component of a foreign-worker selection system, designed to recruit highly skilled workers and their families. In Canada, for example, 45.7 percent of all immigrants and 56.9 percent of all economic immigrants were selected through the PBS in 2010 (Picot and Sweetman 2012, 31).

Third, by making the reasons for importing foreign workers more objective and transparent, a points system garners public acceptance, a very important factor for a highly contentious process. Indeed, it is not entirely a coincidence that Canada developed the PBS in the 1960s when it abandoned its “whites only” immigration policy.

Fourth, points can be changed to reflect research and experience. And a PBS facilitates automation of the selection process (the efficiency of which is a major challenge for employment-based migration systems that seek to adjust migration to dynamic market conditions) and provides much more data to support a research-based system.

## Conclusion

There are two broad processes that can be used to select migrant workers: demand or employer driven on the one hand, and policy driven on the other. An employer-driven

system (such as an auction) might have the advantage of simplicity and certainly serves the interest of employers. However, such systems have almost universally been rejected because, relative to a policy-driven system, they do not adequately reflect the interests of the public or foreign and domestic workers. Meanwhile, a policy-driven system that is well designed and effectively administered would facilitate coordination with other economic and social policies and provide much better data for decision making and research and evaluation. An effective migrant selection process must be embedded in a comprehensive framework that would include rational control of borders and internal migration processes; adjustment of status for qualified unauthorized migrants; a work-authorization system based on a secure identifier and stiff penalties; high-level federal responsibility for employment-based migration; and a highly professional data, research, and evaluation entity.

It is particularly important to address unauthorized immigration, which has created a class of residents who incur increasing (even fatal) risks to reach the United States. They and their children (even those who are citizens) suffer serious legal and quality-of-life handicaps as long as they are outside our legal system. In addition, unauthorized immigration invites anti-immigrant sentiment; makes it difficult to develop an effective legal migration system; undermines the rule of law; depresses wages and working conditions for all workers, especially those who compete directly with the unauthorized; is unfair to immigrants trying to navigate our opaque and cumbersome legal system; and diverts political attention from crafting a much-needed rationalized legal migrant worker system.

It is simplistic to argue that we should not adjust the status of people who violated our poorly designed and hard-to-enforce immigration laws. Unauthorized migrants have many co-conspirators, including employers who hire them, U.S. and foreign government officials who provide them sufficient legal documents to function

just outside of our legal system, churches and community organizations that shelter unauthorized migrants, and members of Congress who not only pass bad laws but, until recently, often fought their enforcement in their districts. The only sensible solution is to adjust the status of these migrants while simultaneously developing more effective border, internal, and work-authorization enforcement processes to minimize future unauthorized flows of migrants expecting opportunities to gain legal residence. Clearly, the development of effective legal migrant worker processes is a necessary component of migration management.

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## Endnotes

1. For background, see “The Migration Advisory Committee,” Home Office, U.K. Border Agency website, <http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/>.
2. The annual limit for employment-based immigrants in the United States is set at 140,000. Approximately half of the total is granted to family members of EB immigrants.
3. For discussions of this point, see Acemoglu and Robinson (2012) and Stiglitz (2012).
4. See Ruhs and Anderson (2010), Chapter 8.
5. Available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/27-analysis-migration/01-analysis-report/analysis-of-the-impacts?view=Binary>.

6. The H-1B visa allows U.S. employers to temporarily employ foreign workers in specialty occupations if they possess a bachelor’s degree or higher or equivalent experience. The H-2B visa applies to foreign workers who do not possess a university education and will be employed in nonagricultural positions that are temporary or seasonal in nature.
7. Calculated from Department of Homeland Security reports cited by Department for Professional Employees (2012), p. 11.
8. Harold Salzman, senior research associate at the Urban Institute, reported in November 2007 that “[t]he overall STEM workforce totals 4.8 million, which is less than a third of the 15.7 million workers who hold at least one STEM degree” (Salzman 2007, 8).
9. According to the Pew Hispanic Center, 85 percent of unauthorized migrants in the United States have resided in the country for at least five years, and 63 percent for at least 10 years. See Taylor et al. (2011).
10. *Suppressing* means not allowing wages to rise when demand exceeds supply at current wages; *depressing* means increasing supplies of labor to reduce current wages.

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