Editorial: Expert commissions and migration policy making

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Abstract

More countries are turning to expert commissions to assess labour market and demographic data to help to answer the fundamental migration questions of how many, from where, and in what status newcomers should arrive. Britain has had a Migration Advisory Commission since 2008, and most US immigration reform proposals include commissions to assess labour market, demographic, and other data to provide advice or set quotas on the number of immigrants and temporary foreign workers admitted.

Keywords: Expert commissions, Europe, US, Britain, immigration reform.

Immigration and labour market policy

Ray Marshall, Secretary of the US Department of Labor (DOL) between 1977 and 1981 and a distinguished labour economist with special expertise in efforts to help low-skilled workers, emphasized that the US is a nation of immigrants open to more immigration. Marshall, a member of the 1979-81 Select Commission on Immigration and Refugee Policies (SCIRP) that led to the Immigration Reform and Control Act (IRCA) of 1986, emphasized that IRCA’s failure to include an effective instrument to prevent unauthorized workers from obtaining US jobs allowed illegal migration to increase in the 1990s rather than decrease as expected.

DOL studied the feasibility of creating a federal agency to issue identification numbers to authorized workers that they would present to employers, so that the federal government rather than employers would check worker documentation. Such an approach, Marshall believes, would have reduced discrimination against “foreign-looking” workers and helped to break the symbiotic relationship between some US employers and unauthorized workers. Marshall believes that some US employers prefer to hire unauthorized workers, but say they do so unwillingly because they lack an effective mechanism to screen newly hired workers. In IRCA deliberations, a government-run verification agency was derided as Big Brother and rejected.

Some 2.7 million unauthorized foreigners were legalized in 1987-88, including 40 per cent under a special legalization program for farm workers that was rife with fraud (Martin, 1994). Illegal immigration increased in the 1990s and especially between 2004 and 2007, so that the stock of unauthorized foreigners in the US peaked at 12 million in 2008 before falling to 11 million in 2011 due to the 2008-09 recession, stepped up border and interior enforce-
ment, and improving economic conditions in Mexico (Passel and Cohn, 2011).

The US in summer 2013 is debating comprehensive immigration reforms that have three major elements, viz, more border and interior enforcement to deter unauthorized immigration, legalization for many of the 11 million unauthorized foreigners in the US, and new guest worker programs to admit “needed workers” and perhaps deter illegal entries (Migration News, 2013). Marshall focused on the third element, exploring the potential of a FWAC (Foreign Workers Advisory Commission) to assess labour market data and the trade-offs involved in admitting migrant workers. The FWAC would examine existing data and develop new data to determine how migrant workers affect US labour markets and consider submissions from employers, unions, and others to evaluate employer claims of labour shortages to be resolved by admitting foreign workers to fill particular jobs (Marshall, 2009).

Creating an independent commission to assess labour market data and recommend migrant worker admission numbers has been advocated by several think tanks (Papademetriou et al., 2009). Many employer groups are wary, fearing that an independent commission would not reach the “correct answers” about how many immigrants and foreign workers are needed. Most employer groups favour what they call a “market approach” to migrant numbers, meaning that if employers request all available immigrant or guest worker visas, the quota would automatically increase.

Advocates of a FWAC emphasize that the US government has experience with independent agencies and commissions to study and make recommendations on controversial issues. The Federal Reserve Board provides one example of an independent agency that makes monetary policy decisions, while defence base-closing commissions make recommendations to Congress that must be accepted or rejected by elected representatives. DOL’s Bureau of Labor Statistics generates labour market data free of partisan influence, while the National Research Council and US Sentencing Commission make recommendations to Congress on the issues that they study and assess.

The major argument for a migration commission is that it is very hard to predict the demand for labour, so that migration quotas set in law may soon become outdated in a dynamic economy. Instead of establishing migration quotas in law, and then arguing about whether and how much to raise them if all available visas are requested, as with the H-1B temporary worker program, a FWAC would monitor the labour market and migration developments and make recommendations that both anticipate and react to economic change. Marshall strongly believes that a FWAC would improve US migration policy making.

Migration commissions in Europe

Biffl emphasized that Austria, which had the EU’s lowest unemployment rate of less than five per cent in spring 2013, introduced a new points-based selec-
tion system for non-EU foreigners July 1, 2011. There are four types of immigrant or Red-White-Red visas, including for university graduates, for skilled workers in shortage occupations, for key workers, and for foreign graduates of Austrian universities, who can get job-search visas to stay in Austria and look for a job.

The program most similar to what is being debated in the US is for skilled workers. The Minister of Labor in consultation with the Minister of Economics issues an annual regulation (Fachkräfteverordnung) that defines shortage occupations for the year ahead. For 2013, there are 25 shortage occupations, mostly in construction-related trades such as machinists, roofers, welders, and carpenters.

The Austrian assessment of the labour market is “political” in the sense that the staff of federal ministries determine which occupations face labour shortages and establish quotas on the number of immigrants and foreign workers to admit. However, Biffl emphasizes that the labour market and skills monitors help to identify labour shortages by modelling the economy and the number of workers required to fill jobs and by estimating the number and skills of workers available. Austria’s system to monitor the integration of foreigners, which involves an integration coordinator and an independent expert commission, may serve as a model for more inclusive labour migration policy making that would similarly involve a “migration czar” and an expert advisory board.

The British MAC (Migration Advisory Committee), established in 2007, is an independent body charged with answering 3-S questions, viz, (1) for occupations requiring skills, is there (2) evidence of labour shortages that (3) can sensibly be filled by migrant workers? The MAC developed a methodology to answer these questions in 2008, and reviewed its methodology in 2010 (MAC, 2010).

The MAC was established after a decade of large-scale immigration to Britain. Between 1997 and 2007, the share of migrants in the UK labour force rose from 7.5 to 12.5 per cent, and two thirds of the net 2.1 million additional jobs in the UK over the decade were filled by migrants. The Labour government released several studies showing that this immigration was economically beneficial (UK Home Office, 2007), but fears of “too many migrants” contributed to the replacement of the Labour government with a Conservative-Liberal coalition government in 2010 that promised to reduce net immigration from the hundreds of thousands to less than 100,000 by 2015.

The outgoing Labour government established a five-tier system to reduce the number of entry channels from over 80 to five in 2007. Tier 1 is for highly skilled workers without a British job offer, Tier 2 is for skilled workers with job offers, Tier 3 (not yet used) is for low-skilled workers, Tier 4 governs admissions of foreign students, and Tier 5 is for foreigners entering the UK primarily for non-work purposes, such as working holiday makers.

Tier 2 is most relevant for the MAC and US discussions. If the MAC de-
determines there are labour shortages in an occupation, it can put the occupation on a shortage list, freeing employers from the need to test the British labour market to determine if local workers are available. A second Tier 2 entry channel admits foreign workers after British employers have tried and failed to find local workers, but the foreign workers selected by the British employer must pass a points test to get work visas. The third Tier 2 entry channel is for intra-company transfers.

To determine if there are labour shortages, the MAC relies on both top-down national labour market indicators and bottom-up evidence from employers, unions, and others. There are 12 major top-down indicators for each occupation (MAC 2010, 44), including:

- Three price-based indicators such as the growth in wages in the occupation,
- Four volume-based indicators such as the growth in employment or the unemployment rate in the occupation,
- Three employer-based indicators such as employer reports of labour shortages, and
- Two other indicators, including job vacancy data

The MAC considers an indicator to suggest there is a labour shortage if the indicator passes a “median plus 50 per cent of the median” test. For example, if the median wage increase in all occupations is two per cent, the median increase a shortage occupation must be at least three per cent to suggest there is a shortage. If at least half of the 12 indicators satisfy the 50+50 test, the MAC concludes there is a “potential labour shortage.”

Top-down analysis of indicators is combined or dovetailed with bottom-up evidence before the MAC concludes there is a labour shortage in a particular occupation. Sometimes only some job titles or occupations in particular regions within a more broadly defined occupation are considered to have labour shortages after a review of bottom-up evidence.

Most EU Commission recommendations for more migration are based on supply or demography. They emphasize that the number of working age (18-64) residents is declining, that low birth rates are unlikely to increase, and that the number of persons 65 and older is rising. To keep largely pay-as-you-go social welfare systems viable, EU member states will have to raise retirement ages, reduce benefits to the elderly, or increase the labour supply by raising labour force participation rates among current residents or by admitting immigrants.

These EU-level concerns are macro, concerned more with the overall supply of labour rather than complaints of labour shortages in particular sectors, such as for S&E workers, construction craft workers, or seasonal farm workers. Chaloff noted that detailed labour market data are available in many European countries that could be used to assess labour shortage complaints and to make labour supply and demand projections for detailed occupations. La-
bour shortage indices and occupation lists are developed inside many European governments, and play a role in migration management, but the labour market test is still the main procedure used to admit most migrant workers.

For example, Sweden has a shortage occupation list that includes occupations that score 3.3 or more on a scale of up to five, but less than one per cent of the migrant workers admitted between 2009 and 2011 were admitted because they were in shortage occupations. Indeed, significant numbers of farm workers, restaurant helpers, and cleaners were admitted even though these occupations scored two or less on the five-point scale, closer to labour surplus than shortage.

The story is similar in other European countries. France has had 10 to 30 occupations on its shortage list in recent years, but there is no relationship between the number of shortage occupations and the unemployment rate. Denmark’s shortage list is based on employer complaints of problems finding workers, but only two per cent of labour permits were granted on the basis of the shortage list. Spain and Italy have top-down systems that collect data and information from local labour markets, and share it with employers and unions, but the executive retains control over the list (in Spain) and over how many foreign workers can be admitted (in Italy).

Chaloff concludes that most European countries rely on existing labour market indicators and analyses and internal or bureaucratic expertise to determine if there are labour shortages. Governments consult employers and unions, but ministries retain control, and they can change policy quickly, as Spain did after the 2008-09 recession. The “expertise” used to justify ministerial decisions can be and sometimes is contested but, except in the UK, there is little impetus to create independent commissions to provide advice on admissions criteria. Instead, most European countries develop shortage lists and migration targets internally, and consult with stakeholders such as unions and employers to achieve consensus on how many migrant workers to admit.

Population projections and migration commissions

Europe is shrinking. Most projections assume that the current population of 740 million will shrink toward 700 million by 2050, with the fastest population declines in southern and eastern European countries. If there are no changes in labour force and retirement patterns, welfare states that now have four working-age residents to support each person over 65 will soon have only two.

Without immigration, the population of the EU-27 countries, now 500 million, is projected to decline toward 450 million in 2050 (Muenz 2011). If Europeans continue to retire at current ages, the EU-27 labour force would drop sharply, from about 240 million in 2010 to 175 million in 2050.

There are several alternatives to immigration to maintain EU-27 workforces, including raising the normal retirement age and encouraging higher labour
force participation rates, especially for women. However, raising the retirement age, increasing the share of adults who work, and admitting immigrants highlights trade-offs between competing goods that can be difficult to resolve.

For example, should the retirement age to receive full benefits be raised for all workers, or should there be different full-benefit retirement ages depending on the nature of the work, with a lower full-benefit retirement age for manual workers? Should tax monies be spent on child-care facilities or used in other ways to raise female labour force participation? Should older workers who lose “good jobs” as manufacturing be expected to accept lower-wage jobs until they retire, be retrained for new jobs, or allowed to be considered disabled so that they can retire early?

Teitelbaum reviewed US population projections. In 2008, the US Census Bureau projected a population of 439 million in 2050; in 2012, it projected a population of 400 million in 2050. The major reason for the smaller projected population was a changed migration assumption. The 2008 projection assumed that net immigration would be almost 1.4 million in 2015 and then rise to two million in 2050, while the 2012 projection assumed almost 800,000 immigrants in 2015 and 1.2 million in 2050. The Census Bureau assumes that net migration will be some percentage of US residents, and small reductions in this assumed percentage mean smaller US population in 2050.

Long-term population forecasts are often used to advocate for particular policies now. Ben Wattenberg (1987) wanted western industrial countries to embrace policies to raise fertility, so he projected their population to 2100 assuming a fertility rate of 1.5, that is, women will average 1.5 babies each. Under this assumption, the population of the “West” would peak at 800 million in 2020 and then fall, while the population of what Wattenberg called the “industrial communist world” was projected to almost equal that of the west in 2100. In fact, fertility in the “West” has risen from its mid-1980s levels, and fertility in the ex-USSR and former Warsaw Pact countries has fallen. Racial and ethnic shares of the population also change over time, as do the definitions of who is in a particular category.

Teitelbaum concluded that projections are essential and uncertain, potentially informative and potentially misleading, making it important to understand their underlying assumptions. Teitelbaum contrasts the very different estimates of how many additional immigrants could have arrived if the Comprehensive Immigration Reform Act of 2007 (S 2611) were enacted. Estimates ranged from less than 30 million to over 200 million additional immigrants over two decades, in part because of assumptions about how many additional visas would be utilized.

Lowell emphasized that it is hard to forecast the demand for work-related visas to enter the US. For Brazil and China, the number of temporary visas

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1 The US working age population is expected to increase from 197 million in 2012 to 239 million in 2060, as the share of the total population that is 18 to 64 drops from 63 per cent to 57 per cent.

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issued rose much faster than projected after 2003. The 2006 Senate immigration reform proposal would have allowed “market forces” to adjust immigration levels, and produced a wide range of estimates of how many immigrants would arrive. Projections of Mexico-US migration missed the downturn after 2008-09.

Most immigration reform proposals would increase the admission of temporary foreign workers at the top and bottom of the job ladder, in science and engineering (S&E) and agricultural occupations. Several would also increase the number of employment-related immigrant visas by “stapling a green card” to the diplomas of foreigners who earn advanced degrees in S&E fields from US universities, and most would adjust the immigrant visa system to expedite immigrant visas for foreigners in S&E occupations from countries such as China and India.

Lowell noted that it is much harder to project the future demand for US workers than the future supply of US workers. Many of the labour shortage projections that aim to open doors wider to immigrants and temporary workers begin with demography. They point to slower growth in the US labour force, but fail to acknowledge that rising wages induced by fewer workers may reduce the demand for workers and increase the supply. The “market-mechanism” favoured by employers, which would increase the number of guest worker visas if all are requested, could reduce expected increases in wages over time, putting some employers on an immigration treadmill as they (honestly) assert that, without immigrants, they would go out of business.

Teitelbaum and Lowell acknowledge that projections can go awry, but they believe population and immigration projections are necessary. Short-run projections for the next several years can help policy makers and are subject to fewer errors. Medium-to-long run projections, even if they turn out to be wrong, identify the factors that decision makers must consider; when these projections are wrong, it is useful to study the assumptions on which they are based in order to minimize similar errors in new projections.

Conclusions
The US is debating immigration reforms centred on legalizing 11 million unauthorized foreigners and ensuring an end to three decades of large-scale illegal migration. An expert commission could help to resolve one of the most contentious elements of the three major elements of comprehensive immigration reform, regulating the future flow of guest workers.

The three keys to comprehensive immigration reform were debated extensively in the Senate 2006 and 2007, viz, more effective enforcement at the workplace to keep unauthorized foreigners away from US jobs, legal status for unauthorized foreigners in the US, and admitting more guest workers to fill US jobs. Each is controversial. For example, should the Social Security Administration issue new secure cards that workers present to employers when hired, or should a government agency verify worker documentation and pro-
vide workers with verification numbers to provide to employers? Should unauthorized foreigners be offered a fast or slow track to immigrant status and US citizenship?

The new guest worker element may be most contentious of the three reform prongs. Some maintain that, because the Immigration Reform and Control Act of 1986 included only enforcement and legalization provisions, it set the stage for later illegal migration because especially low-skilled foreigners and their US employers had few legal channels to find each other. Others maintain that some US employers prefer guest workers because they are tied to the employer; if they lose their jobs, the guest workers must leave the US.

A bipartisan group of Senators in 2006 and 2007 tried to find a compromise by admitting a base number of guest workers and allowing the number to rise automatically if employers requested all available visas. Unlike current guest worker programs, these guest workers would have been free to change US employers and, after working in the US several years, guest workers or their employers could apply for immigrant status. The debate quickly shifted to numbers and adjustment mechanisms and, after Senator Byron Dorgan’s (D-ND) amendment to phase out the new guest worker program after five years was approved with the support of, inter alia, then Senator Barack Obama (D-IL), employer support for comprehensive immigration reform evaporated.

Several think tanks have proposed an independent commission to bridge the gap between proponents and sceptics of more guest workers. Many employers remain sceptical, fearing that a commission that looked at top-down labour market data and bottom-up evidence submitted by employers, unions, and others would conclude that more guest workers were not needed.

Britain has had a Migration Advisory Commission since 2008 to provide advice to the government on whether there are labour shortages that should be filled by non-EU migrant workers. There are three key lessons from the MAC. First, the MAC improved the quality of the debate over labour shortages by making its reasoning transparent and publishing its findings. The MAC can highlight whether wages in shortage occupations have been rising faster than average, and whether the number of job vacancies exceeds the number of job seekers.

Second, the MAC can find that there is a labour shortage and decide not to recommend that migrant workers be admitted to fill it. The MAC may decide that, for example, even if there is a shortage of carpenters, it would be better to improve the British training system rather than admit migrant carpenters.

Third, the MAC can highlight the trade-offs between competing goods that lie at the core of most migration debates. Raising requirements to fill a job, but not raising wages, is a recipe for labour shortages, as became apparent when the requirements to provide social care to the elderly and disabled were raised but salaries were not; soon two-thirds of the care givers were migrants willing to share housing in high-cost London. Simply training more British
care workers, in this case, would not remedy the shortage, since British workers can earn more elsewhere.

There are many partial and uncomfortable truths in migration policy making that a commission could make transparent. For example, higher wages may not draw huge numbers of local workers into farm work, but they could spur labour-saving mechanization. Higher wages for workers who provide non-tradable services such as care for the elderly with tax monies force a debate on how much to spend on such care.

A commission can help to substitute data and analysis for assertion in the debate over the need for foreign workers, give voice to advocates by considering both top-down and bottom-up evidence, and make the trade-offs underlying competing objectives such as decent wages and low taxes more transparent. However, a commission cannot answer what are ultimately political questions about which competing interest should get a higher priority.

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Along with the guest-edited papers on expert commissions and policy perspectives, in this issue, we have also included three regular research papers. Edwards and Huskey present an experiment designed to test some of the predictions of the Harris-Todaro model of migration. They analyse the determinants of an individual’s return migration decisions. Their findings are overall in line with the predictions of the model. Aydée examines spatial regularities between non-immigrant and immigrant numbers in two different ways using data from four Canadian population censuses from 1991 to 2006. Kobelinsky elaborates on the decision-making process in the French Court of Asylum, which reviews appeals about decisions of the French Office for the Protection of Refugees and Stateless Persons, granting or refusing refugee status. This paper is based on data collected between 2009 and 2011 over 14 months of ethnographic fieldwork at the Court.

References


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