



April 27, 2021

The Honorable Zoe Lofgren
United States House of Representatives
Washington, DC 20515

The Honorable Tom McClintock
United States House of Representatives
Washington, DC 20515

Subject: Statement for Record for the bill to remove per-country limits on Employment-Based Green Cards

Dear Chairwoman Lofgren and Ranking Member McClintock:

We respectfully write this letter on behalf of Immigration Voice to thank you for your leadership in holding this hearing today on “Why Dont They Just Get in Line? Barriers to Legal Immigration?”

Immigration Voice is a national grassroots non-profit organization representing the rights and interests of over 130,000 legal, highly skilled immigrant members living in the United States who are part of the 915,497 people that the Congressional Research Service estimates are part of a discriminatory green card backlog that effectively bans Indian nationals from receiving employment-based green cards in the United States solely on the basis of their national origin. For nearly two decades, Immigration Voice has advocated for long overdue changes to the Immigration and Nationality Act (INA) that will help enhance American economic competitiveness while also creating a fair and equitable employment and family-based immigration system that distributes green cards based upon when an individual applied, not the applicant’s country of birth. Such legislation would end the current discriminatory allocations of green cards by creating a “first come, first serve” system for immigrants to America that does not make immigrants from countries such as Mexico, Philippines, India, Vietnam, El Salvador, Guatemala, Honduras, and China wait longer for green cards than immigration from other countries.

Each year, the United States conducts a lottery to admit approximately 85,000 new H-1B Visa workers on what are known as “dual-intent work visas.” These H-1B visas allow workers to enter the United States to work in high-skilled occupations with the intention of ultimately receiving lawful permanent residency (Green Cards) if they perform well on the job. Each year, approximately 70% of those new visas (or nearly 60,000 visas) are issued to workers from India, many of whom enter the United States with their spouses and minor children, with dreams of pursuing a better life for their family and fulfilling their American Dream by working hard and playing by the rules. At the same time, discriminatory per-country limits established during the time of segregation restrict Indian nationals to receiving only 8,400 of the 120,000 Employment-Based Green Cards available each year.

Page 1 of 4

As per the non-partisan Congressional Research Service, this discriminatory and arbitrary cap on the number of Indian nationals who can receive lawful permanent residency each year has created a backlog of over one million people waiting for Green Cards, with a wait time of over 195 years. In fiscal year 2030, the line is expected to grow to 436 years. A majority of the Green Card backlog consists of women and children, who will eventually die in these backlogs. This demonstrates that the per-country limits on the Employment-Based green card system are in effect, an “**Indian Exclusion Act.**” This system implies a de facto ban on Employment-Based Green Cards for any new Indian national entering the United States on an H-1B visa.

This de facto ban creates terrible and traumatic real-world consequences.

- *Almost every day*, we hear reports from our members almost that one of our members has died while in the backlog, leaving their spouse and children without a valid immigration status where their only options are to either immediately self-deport to India or face actual deportation or a life in illegal status.
- *Every day*, we hear the cries of children who legally came to US with their parents as infants and toddlers many years ago. Having lived their entire lives in this country, US is the only home they know. But when these children turn 21 years old, they lose their immigration status which is connected to the pending green card petition of their parents. The root cause of this issue is discriminatory per-country limits that have created the first ever multi-generational ban on people receiving green cards based on their national origin. And thus, these children are either forced to self-deport, or, they have to apply for student visa to restart the same process all over again, just as their parents did many years ago, and then wait in the same long backlogs spanning hundreds of years, just like their parents.
- *Every day*, we hear from members with homes and families in the United States who are stuck in India because they traveled to perform the last rites for their deceased parent and now cannot get a visa appointment, or their visa stamp has been arbitrarily denied by a United States consulate in India.
- *Every day*, we hear from members who have held the same job for over a decade and USCIS has suddenly declared they do not have the right education to do the same job they have been successfully doing for more than a decade. Therefore, they are forced to uproot their family and immediately leave the United States with their spouse and kids, or they will all be in illegal status.
- *Every day*, we hear from members who—even though they had two more years of H-1B status left when travelling outside of the United States, since their passport only had 6 months of validity, their stay was cut short by CBP while at the airport. Now they are subject to illegal status and are facing a 10-year ban from re-entering the United States.

- *Every day*, we hear from members saying that their employer is sexually harassing them, and they cannot do anything out of fear that they will lose their employer-sponsored visa, and their children will be forced to leave this country, uprooting their lives here.
- *Finally*, and most commonly, every day, we hear from people who cannot resign from jobs where they are exploited by their employers, who cannot get promotions in jobs despite their qualifications, cannot start companies based on their innovative ideas, and cannot develop their own world-changing patents.

Due to the arbitrary and discriminatory per-country limits on Employment-Based Green Cards, the United States is disenfranchising specific immigrants many of whom first came here nearly two decades ago. Additionally, the current system is a legalized form of indentured servitude that promotes the interest of a handful of employers and perpetrates an industrialized process of mass exploitation of skilled Indian immigrants. Such a glorified system of indentured servitude cannot be called a just immigration system.

If the current law is not changed, we will soon have the situation where hundreds of thousands of senior citizens will be seen working in Silicon Valley, not by choice but by compulsion. It would be up to the employers' discretion whether to retain these employees for the rest of their lives to prevent their deportation or to terminate their employment and cause their deportation when they are no longer able to perform their jobs due to declining health. Only high-skilled workers who are born in India face such discrimination as workers from virtually every other country can obtain lawful permanent residency within one year of entering the United States. Clearly, the current system has deeply racist outcomes targeting immigrants from India. This is an unconscionable scenario that has been allowed to exist for far too long by lawmakers.

Under this system, over 60,000 additional Indian nationals will be unwittingly lured to enter the United States this year (and every year) to engage in a life of indentured servitude where their very existence and the lives of their families will be entirely subject to the whims of their employer, new administrations, or even individual immigration adjudicators simply having a bad day.

The membership of Immigration Voice can no longer stand idly by and watch new Indian immigrants unknowingly enter a life of such trauma, despair, and suffering while thinking that they are on a path to achieving the American Dream.

In the current system, the only people who benefit are-

- Unscrupulous employers who benefit from employing workers without rights
- Staffing companies across various industries who profit enormously from maintaining the status quo, and
- Immigration lawyers who profit from being able to process the maximum number of immigration applications possible by keeping Indian immigrants tied to an endless line of

renewals of H-1B visa applications, while also double-dipping to keep the Green Card pool open for people from other countries. Equal rights for all would mean a reduction in work by 50% for most immigration lawyers, therefore they vigorously act to oppose a bill they should support under any normal humanitarian circumstance.

Until the United States law treats all human beings equally (as promised by the Declaration of Independence, the U.S. Constitution, and the Title VII of the Civil Rights Act of 1964), the United States should stop accepting people to come here to live as third-class visitors with no rights other than fulfilling every unreasonable demand of their employer or suffer the consequences of deportation. This inequity and inequality in the system can be fixed with the bill that passed both the House and the Senate in 2020 (the Fairness for High Skilled Immigrants Act).

We will see you as our allies in the quest to reduce the human suffering of those in the discriminatory green card backlog, if you act to end per-country limits or at least end the human suffering of new people entering this horrific racially biased system by no longer issuing new H-1B visas to Indian nationals currently outside the United States. Immigration Voice is optimistic that you will act swiftly upon the ideals of equality and justice propounded by the likes of Martin Luther King Jr., Rosa Parks, and President Abraham Lincoln, who are often quoted in your speeches, and change the discriminatory status quo of the skilled immigration system.

If Congress is truly serious about working to stop Asian hate, it should put an end to the monthly issuance of visa bulletins that explicitly discriminate against would-be Asian-Americans and give better treatment to immigrants from other countries. This change is not about immigration law, it is about civil rights, the dignity of each human being, and the concept of human decency and equality. Any person asking for preconditions on achieving this equality is in effect saying that they are fine with maintaining the current green card ban and indentured servitude of Indian Immigrants in the United States. Any person asking for more immigration provisions to be added in order to support equality is also in our view saying that they support the current discriminatory system. Overt discrimination based on immutable factors would not be permitted in any other aspect of immigration law, and it is far past time to end this ugly stain upon America's immigration code and history once and for all. Those who oppose or delay in enacting this reform will be viewed no differently by posterity than those who delayed and opposed other monumental civil rights legislations that were also designed to protect and preserve equality and equal treatment under the law.

Thank you for your consideration for adding this statement to the record for a very important matter in front of the Subcommittee on Immigration and Citizenship.

Sincerely,

Aman Kapoor

Aman Kapoor
President
Immigration Voice