The 100 Year Wait: Nationality-Based Visa Reform

By Jonathan T. Helton

***Resolved:* *The United States federal government should substantially reduce its restrictions on legal immigration to the United States.***

Currently, employment-based (EB) visas are allocated on a per-country basis. This, however, causes problems for immigrants from large nations like India and China. When they immigrate to the U.S. on H-1B visas, they will have to wait for years before getting an EB visa. Countries with smaller populations of immigrants who want to get into the U.S. face much shorter wait times. This is unacceptable. Harms include talent lost to other nations and what amounts to discrimination based on nationality.

Having our immigration system based on nationality is not good policy. Instead, we should switch to a “first come, first serve” system. This will eliminate much of the backlog faced by Indian and Chinese immigrants.

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THE 100 YEAR WAIT: Nationality-Based Visa Reform

Please join us in affirming that: The United States federal government should substantially reduce its restrictions on legal immigration to the United States.

OBSERVATION 1. INHERENCY.

FACT 1. “Per Country” Limits

David Bier 2017 (immigration policy analyst at the Cato Institute’s Center for Global Liberty and Prosperity; expert on visa reform, border security, and interior enforcement.) 2017 January 18 “Why Does the Government Care Where Immigrant Workers Were Born?” <https://www.cato.org/blog/why-does-government-care-where-immigrant-workers-were-born>

Here is how the discrimination works. Rather than waiting in one big line together in the order that their applications were received, immigrants wait in separate lines based on their nationality—a line for Mexicans, a line for Swiss, a line for Canadians, etc. Each line has the same limit on the number of visas issued in any given year: no more than [7 percent of all visas](https://www.law.cornell.edu/uscode/text/8/1152) issued that year. These are called the “per-country limits.” For example, there are [40,000 visas](https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-1083.html) made available to immigrant workers (and their families) with a bachelor’s degree. No country can receive more than 2,800 of them.

FACT 2. Legal immigration restricted by country-of-origin, resulting in massive backlogs

*Samir Kalra 2018 (managing director at the*[*Hindu American Foundation*](https://www.hafsite.org/)*, a nonprofit advocacy organization; leads the foundation’s human rights and policy advocacy efforts;previously served on the Immigration Advisory Committee for Rep.*[Eric Swalwell](https://thehill.com/people/eric-swalwell)*(D-Calif.)) 14 March 2018 “Congress, leave no H-1Bs behind”* <https://thehill.com/opinion/immigration/377886-congress-leave-no-h-1bs-behind>

The backlog issue stems from arbitrary and discriminatory limitations placed on the number of green cards allocated to employment-based immigrants based on their country of origin. These caps have created immense backlogs on H-1B visas for applicants. Immigrants, their spouses and children, from countries such as India, have been disproportionately impacted by these discriminatory rules. For example, [only 7 percent of 140,000 employment-based green cards](https://yoder.house.gov/media-center/press-releases/yoder-and-gabbard-s-bipartisan-push-stops-proposal-to-deport-h-1b-visa) distributed yearly are available to Indian immigrants, despite their accounting for 70 percent of the 85,000 annual H-1B visas.

OBSERVATION 2. The Plan, implemented by Congress and the President

1. Congress passes the Fairness for High-Skilled Immigrants Act of 2019

2. Plan takes effect the day after an Affirmative ballot.

3. All Affirmative speeches may clarify.

Here’s a summary of what the bill does from the text of the “Fairness for High-Skilled Immigrants Act of 2019”

Text of HR 1044, 2019. Official website of Congress <https://www.congress.gov/bill/116th-congress/house-bill/1044/text>

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

OBSERVATION 3. ADVANTAGES

ADVANTAGE 1. Skilled immigrants create new jobs

Link: Long wait times discourage talented scientists and engineers from immigrating to the US

Stuart Anderson 2019 (executive director of the National Foundation for American Policy, a non-partisan public policy research organization focusing on trade, immigration and related ; formerly served as Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service) 2019 February 15 “Bill Aims To End Decades-Long Waits For High-Skilled Immigrants <https://www.forbes.com/sites/stuartanderson/2019/02/15/bill-aims-to-end-decades-long-waits-for-high-skilled-immigrants/#67f925027b85>

Continued long wait times would generate obvious real-world reactions, such as many high-skilled immigrants leaving the country and abandoning dreams of raising a family in America. Continuing negative impressions of a realistic chance to gain permanent residence in the United States would also require U.S. companies to shift more resources abroad, since talented foreign-born scientists and engineers would grow less interested in working in America because of immigration restrictions. Simply put, individuals and companies would react to government immigration restrictions and, in fact, have already been doing so.

Link: Lost STEM [Science, Technology, Engineering & Math] doctorates

Laurent Belsie 2019 (senior economics writer, Christian Science Monitor) published by National Bureau of Economic Research (NBER), a private, non-profit, non-partisan organization dedicated to conducting economic research) 2019 January “As Visa Lines Lengthen, STEM PhDs Look Homeward” <https://www.nber.org/digest/jan19/w25175.shtml>

The longer the delay of citizenship for temporary residents, the less likely they are to remain in the U.S., when compared to otherwise similar doctoral recipients of foreign origin. For Indian PhDs, the relative stay rate is almost 9 percentage points lower for those facing delays of at least 5.5 years. For Chinese graduates, the relative stay rate declines by 2.4 percentage points for every year of delay. Almost all STEM PhDs who leave the U.S. because of visa delays return home, rather than moving to a third country.

Link: Shortage of American STEM graduates and lack of immigrants means employers can’t expand

New American Economy 2016 (bipartisan research and advocacy organization ) “Innovation & STEM Fields” <https://www.newamericaneconomy.org/issues/innovation-stem-fields/> (ethical note: article is undated but references material from 2016 and none later)

For America to compete in the 21st century, we need a robust innovation economy—which requires a workforce skilled in the science, technology, engineering, and math (or STEM) fields. Yet American students are not entering those industries in sufficient numbers, and the United States is projected to face a shortage of one million STEM workers by 2022.Foreign-born students frequently gravitate towards STEM disciplines, making up roughly one out of every three individuals earning graduate-level STEM degrees each year. Our broken visa system, however, makes it difficult for many of them to stay after graduation—a reality that hurts the ability of our employers to expand and create more opportunity for American workers.

Impact 1: New Jobs. 262 new jobs created for Americans for every 100 foreign STEM graduates

New American Economy 2016 (bipartisan research and advocacy organization ) “Innovation & STEM Fields” <https://www.newamericaneconomy.org/issues/innovation-stem-fields/> (ethical note: article is undated but references material from 2016 and none later)

Rather than reduce the number of jobs available to American workers, foreign-born STEM graduates often create additional jobs for U.S.-born workers. Research shows that when a state gains 100 foreign-born STEM workers with graduate-level training from a U.S. school, an average of 262 jobs are created for U.S.-born workers there in the seven years that follow.

Impact 2: Higher Wages.

Professor Robert Seamans 2017 (Associate Professor at New York University’s Stern School of Business; had one year appointment as a Senior Economist on President Obama's Council of Economic Advisers.) 2017 April 25 “Immigrants Can Help Boost American Innovation And Economic Growth” <https://www.forbes.com/sites/washingtonbytes/2017/04/25/immigrants-can-help-boost-american-innovation-and-economic-growth/#668620c35f5c>

“Boosting economic growth” is a bipartisan goal. In fact, both the 2016 presidential candidates mentioned some version of it on their campaign websites. One way to [boost economic growth](https://www.brookings.edu/research/policies-that-enhance-economic-growth/) is to increase the number of people working, and one way to get more people working is to increase immigration. [Economic evidence](http://www.epi.org/publication/bp255/) shows that, in addition to boosting economic growth, immigration leads to a positive impact on wages of native-born workers.

ADVANTAGE 2: Reduce discrimination & racism

Link: Country of origin immigration quotas are unjust discrimination

David Bier 2017 (immigration policy analyst at the Cato Institute’s Center for Global Liberty and Prosperity. He is an expert on visa reform, border security, and interior enforcement) 2017 January 18 “Why Does the Government Care Where Immigrant Workers Were Born?” <https://www.cato.org/blog/why-does-government-care-where-immigrant-workers-were-born>

If you want to understand how flawed America’s immigration system is, consider this: the government treats immigrants differently based on their place of *birth*. The system considers immigrants’ education, use of welfare, criminal history, employment, family connections, and other personal details, but where you were born can make the difference between receiving legal residency immediately and waiting decades. This discrimination makes as little sense as discriminating based on race, gender, or any other attribute over which the individual has no control, and it should be abolished.

Link: Racism is at the root of the country-of-origin quotas

David Bier 2018 (immigration policy analyst at the Cato Institute’s Center for Global Liberty and Prosperity. He is an expert on visa reform, border security, and interior enforcement.) 5 December 2018 “Are the Per-Country Limits Necessary to Promote “Diversity”?” <https://www.cato.org/blog/are-country-limits-necessary-promote-diversity>

We know that the country caps, which started in 1924, did grow out of the Chinese Exclusion Act of 1882 and the Asiatic Bar Zone of 1917, which were explicitly efforts at racial engineering. Even when Congress reformed the country limits in 1965 to make them equal across countries, supporters of the legislation [reassured](https://www.govinfo.gov/content/pkg/GPO-CRECB-1965-pt16/pdf/GPO-CRECB-1965-pt16.pdf) skeptics that America would not be flooded “hordes of Africans and Asians.” The reason Congress didn’t simply get rid of the caps was explicitly to keep down Asian and African immigration. The arguments have changed, but the end result is the same, and this type of government intervention is as inappropriate now as it was then.

Impact 1: Reduce discrimination. Moving away from country-of-origin levels solves

National Immigration Forum 2018 (National Immigration Forum advocates for the value of immigrants and immigration to our nation. In service to this mission, the Forum promotes responsible federal immigration policies, addressing today’s economic and national security needs.) 2018 July 10 “Bill Summary: Fairness for High-Skilled Immigrants Act, H.R. 392” <https://immigrationforum.org/article/bill-summary-fairness-for-high-skilled-immigrants-act-h-r-392/>

Remove per-country caps for employment-based visas, instead issuing them on a first-come, first-serve basis. Moving to a first-come, first-served process would give every immigrant an equal chance at obtaining permanent residency by issuing green cards by application date rather than country of origin.

Impact 2: Economic benefit. Tolerance leads to talent, and talent leads to economic gain

Margareta Hanouz 2015 (Director and Lead Economist, Global Competitiveness and Benchmarking Network, World Economic Forum.) 2015 March 6 “Why discrimination is bad for business” <https://www.weforum.org/agenda/2015/03/why-discrimination-hurts-competitiveness/>

Examples include diverse, tolerant cities such as London, Berlin or New York, which are at the forefront of global innovation and major hubs of the creative economy. Tolerant cities and countries not only use available talent efficiently, their diversity and tolerant environment makes them an attractive place to live for global talent. Tolerance and openness gives countries a major competitive advantage. Companies that put in place anti-discrimination policies have better access to talent and lower turnover rates.

ADVANTAGE 3. Medical Care

Link: Country-based caps block doctors from immigrating to the US and aggravate health care shortages

Nasim Afsar, MD, 2018 (Nasim Afsar, MD, MBA, SFHM President, Society of Hospital Medicine. Everything SHM does for its members and the hospital medicine movement rests on its mission and objectives, developed by its Board of Directors, and rooted in the rich history of hospital medicine.) 2018 June 6 “SHM Supports Fairness for High Skilled Immigrants Act” <https://www.hospitalmedicine.org/policy--advocacy/letters/shm-supports-fairness-for-high-skilled-immigrants-act/>

The most recent study by the Association of American Medical Colleges indicates the shortage of physicians in the United States will be upwards of 120,000 by 2030.Many hospitalists come from China and India, two countries that are at or near the per-country caps. Not only would many hospitals and hospitalist group practices be unable to meet patient demand without these physicians, but many physicians, including hospitalists, who come to the United States on an employment-based visa serve patients in rural America, where the shortage of physicians is most acute.

Impact: Health risk. Doctor shortages create a real risk to patient care

Medical Association of the State of Alabama 2017. " [Research: Physician Shortage Likely to Have Severe Impact on Patient Care](http://alabamamedicine.org/research-physician-shortage-likely-to-have-severe-impact-on-patient-care/)" 21 Apr 2017 <http://alabamamedicine.org/research-physician-shortage-likely-to-have-severe-impact-on-patient-care/>

The United States continues to face a projected physician shortage over the next decade, creating a real risk to patient care, according to [new data](https://aamc-black.global.ssl.fastly.net/production/media/filer_public/a5/c3/a5c3d565-14ec-48fb-974b-99fafaeecb00/aamc_projections_update_2017.pdf) released by the Association of American Medical Colleges. The latest projections continue to align with previous estimates, showing a projected shortage of between 40,800 and 104,900 doctors.