

**MEDIA IS YELLING ABOUT INJUSTICE TO H1B visa holders ASPIRING FOR
PERMANENT RESIDENCE**

TABLE OF CONTENTS

Basu: Skilled immigrants in limbo at our peril.....	2
EXPERIMENTS WITH H-1B VISAS By Ravi Sambamurty	4
Gates, Intel lobby for more immigrant workers	5
An American Dream that Depends on an American Visa - Article in Washington Post.....	7
Backlog keeps visas on shelf - Article in Computer world	9
The Venture Capitalist in My Bedroom - Article in NY Times	11
H-1B Workers Lobby for Immigration Reform	12
Support groups back plan to speed green-card process	12
MOST H-1B WORKERS WON'T GET GREEN CARDS - Report by Sloan Foundation & IEEE.....	14
Article in New York Times regarding Coalition of Pro-Immigrant Organizations	15
Foreign Worker Debate Heats Up	17
DECCAN HERALD Tuesday, May 30, 2000.....	19
Rethinking the Economics of Immigration - Article in NY Times	20
Latest News : Unlimited H-1B visas okayed 5/21/00 Analysis of H-1B Bill (12/29/1899).....	22
National Public Radio (NPR)	24
Chronicle Queens	25
ISN campaigns to help holders of H-1B visas.....	25
ISN Efforts noted in Times Of India Article	26
H1-B visas no guarantee for Green Card.....	26
INS Incompetence Incenses Tech Community.....	27
Statement of Congresswoman Zoe Lofgren	29
San Jose Field Hearing, Bay Area Congressional Delegation.....	29
GREEN CARD BLUES Foreign workers claim mistreatment by INS and Silicon Valley employers.....	31

Basu: Skilled immigrants in limbo at our peril

<http://desmoinesregister.com/news/stories/c5917686/11535238.html>

By **REKHA BASU**
Register Columnist
06/11/2000

More

[desmoinesregister.co
m/webx/cgi-
bin/WebX?14@
@ee6b6da
Forum](http://desmoinesregister.com/webx/cgi-bin/WebX?14@@ee6b6da)

Last week, a commission on Iowa's future headed by Republican David Oman reached a conclusion that members of Congress from both parties and Washington think tanks have already circled, arrived at and circled some more: It's going to take immigrants to solve America's labor shortage.

Oman, whose 2010 Council was appointed by Iowa's Democratic governor, proposed an Immigration Enterprise Zone and denounced the English-only bills some Iowa lawmakers have been pushing. Not quite the welcoming message we're going to need to attract foreigners.

Immigrant workers cover the spectrum, from the unskilled, undocumented Mexican meat packer fleeing poverty to the high-tech employees temporarily imported by American companies to do jobs for which trained Americans can't be found. In the alphabet soup of government classifications, those are the H1Bs. Instead of factories, they work in software, semiconductors and the Internet.

But while Congress considers increasing their numbers, some H1Bs say the immigration system that governs them consigns them to a state of limbo. Until it's fixed, they say, America will just keep spinning its wheels.

In the professional hierarchy of immigrant groups, H1B holders are among the creme de la creme: highly educated, earning salaries in the \$45,000 to \$50,000 range and paying an estimated \$2.3 billion in federal income taxes. As a group, they've helped drive America's high-tech revolution that is credited with spurring the nation's economic boom.

"If there were not this many H1B people, wages would have skyrocketed and it would not have been possible to have this kind of growth in high-tech," says Shailesh Gala, a senior software engineer from India working in New Jersey. The Y2K problem would also have been far more challenging, he notes. But just as no good deed goes unpunished, many H1B visa-holders say that while helping build American companies, they themselves are unable to set down roots, buy houses or make long-range plans. One person likened it to being an "indentured servant."

The H1B visa is good for six years. In the meantime, employers are expected to apply for permanent residence visas - so called "green cards" - for those workers. But thanks to a backlog at the Immigration and Naturalization Service and a formula used to allocate green cards, many face the prospect of being forced to leave at the end of the six years.

As one H1B holder, Amar Annathur, wrote me, "They can't change employers during the process, can't get a promotion, not even a wage rise and (that) results in utmost frustration to the employers and employees on H1B."

One reason for this situation is that nationals from each country are limited to 9,800 green cards a year, regardless of the proportion of H1B-holders they contribute. India, with a population of 1 billion, has supplied a third of the 655,000 H1Bs since '92. But when it comes to getting permanent residency, India gets the same 9,800 slots as, say, Sweden.

Gala has done the math. Between the Indian H1B workers and their spouses, they'd need 400,000 green cards: "If you apply today, it will take 40 years."

Iowa, which has 2,000 high-skilled immigrant workers, knows the problem. In February, state legislators heard testimony that INS backlogs were forcing skilled professionals to consider moving to Canada. An immigration official apologized, saying his office was overwhelmed and short of money.

As it is, the number of H1B visas issued annually has shot up from 49,000 in 1992 to 115,000 this year. "Every year they simply increase the H1B cap, but find to no wonder that the shortage continues to exist," Annathur wrote me. Now there's a move in Congress to increase them further, without tackling the problems those already on them face.

Not only has the situation led to personal turmoil - "People established their life and they have to sell everything and go," says Gala - but it's self-defeating for the United States, according to Annathur, who says, "The country loses experienced professionals."

Fortunately, in the last few years, H1B visa-holders have gotten organized. They've started the Immigrants Support Network, which counts 15,000 members. Gala is its president. They are pushing a Senate bill which would help their tenuous status.

Still, because of that status, many are afraid to make waves. Some H1B-holders - who are often dark-skinned and speak with accents - have been wrongfully targeted in INS raids, like one in San Antonio, Texas, where 40 Indian computer programmers were mistakenly seized and later released.

Immigration can be a great boon to America's economic growth, but it's a two-way street. Just as it's not good enough to depend on the labor of the undocumented and then look the other way for employers who exploit them, it's not good enough to rely on the skills of high-tech workers and then turn them over to fate.

EXPERIMENTS WITH H-1B VISAS By Ravi Sambamurty

http://www.siliconindia.com/magazine/displaydetail.asp?article_id=830

Shailesh Gala, president of Immigration Support Network (ISN), whose organization has grown from 30 to 12000 members, says, "It is very important that Congress resolves green card issues along with pending H-1B legislation. He cites the new report by Institute for Study of International Migration that says the current immigration law will allow less than 25 percent of H-1B workers to get a green card in coming years. Gala feels that it will hit Indian H-1B workers the hardest as more than 200,000 visa holders are from India and as per current law, only 9,800 green cards are to be issued to persons from once country, including family members of applicants.

Bombay-born Gala, who works as a software consultant in New Jersey, feels that climate for immigration reform has started looking more positive. He said labor unions like the AFL-CIO, who have traditionally not supported immigration, have revised their position and are now looking positively to immigration. Says Gala, "Longer lasting immigration reforms are possible only if all concerned parties like high-tech business communities, ethnic organizations, labor unions and current H-1B employees can work together in lobbying the Congress."

The ISN chief feels that although Rep. Smith bill allows for an increase of H-1B visas, it does so with a lot of constraints and does nothing to resolve the green card issues of current H-1B workers. Gala warns, "Without majority support from House members, H-1B quota increase is likely to face more trouble, unless the high-tech community works in coalition with other immigrant organizations." According to Gala, most of the lobby efforts for high-tech businesses have been done by organization like the American Business for Legal Immigration (ABLI), the National Association of Manufacturers (NAM) and the Information Technology Association of America (ITAA).

Gates, Intel lobby for more immigrant workers

<http://www.asianage.com/asianage/09062000/detbus01.htm>

By Ashish Kumar Sen
San Francisco, June 8

A severe shortage of skilled workers has prompted the hi-tech industry to put an enormous amount of pressure on legislators in the hope that they will consider increasing the cap on the number of technically qualified immigrant workers allowed to work in the United States. Testifying before a joint economic committee in Washington DC on Tuesday, Microsoft chairman Bill Gates and Intel CEO Andrew Grove drew the attention of the committee to the serious shortage of hi-tech workers in the country and the tremendous impact this was having on its economy.

Sources in Washington DC told The Asian Age that both Mr Gates and Mr Grove pitched for an increase in the number of hi-tech workers entering the United States on H-1B visas to meet the rising demands of the industry.

"They pointed out that the US economy was being threatened by this shortfall in the number of skilled hi-tech workers," a source said.

Both men offered opinions on the importance of more liberal H-1B visa policies to the hi-tech sector.

"If anything can help the tech industry move at full speed in the next couple of years, it's the visa issue," Mr Gates told committee members.

He added that a lack of qualified developers had had a direct impact on the timeliness of Microsoft's products.

"We sit in review meetings (at Microsoft) and people say part of the reason (product) schedules stretch out is because people are outside (the country), waiting to come in. People need to stand by and waste time until their visa gets approved," he said.

Meanwhile, there are three bills floating around in the Congress suggesting various ways to increase the cap on H-1B visas, which at present is at 115,000. Of this quota, Immigration and Naturalisation Service statistics show over 40 per cent of the visas are allotted to Indians. This year the H-1B visa quota was exhausted a few months after it had opened.

Last month the Clinton administration sent to Congress a proposal to increase the number of temporary H-1B visas by 363,000 over the next three years. The proposal sought an increase in the cap on H-1B visas for fiscal years 2001, 2002 and 2003 to 200,000 each year.

In spite of bills authored by Democrat congresswoman Zoe Lofgren and Republican congressman David Dreier, congressman Lamar Smith, chairman of the House Immigration Subcommittee, and a separate proposal from the White House, there is no sign of any legislative action on what is being referred to as a "hot issue" in Washington DC.

The Immigrants Support Network, an organisation set up to lobby for foreign workers in the US, has also done its bit to push through a bill regarding provisions for employment-based green card issues through Democrat Senator Bob Graham.

"Unused employment-based immigrant visa numbers will be available for nationals from over-subscribed countries. This will benefit nationals from India and China as demand for green card quota from these countries exceeds the available quota," according to this bill.

Those already here on H-1B visas have one major concern. "For India and a few other countries, social security can't be claimed," Amarnath Annathur, a New Jersey-based senior software consultant and a media volunteer for Immigrants Support Network, told The Asian Age.

"We have contributed literally billions of dollars to social security and are driven home at the end of six years, even if we work for 10 years we are not eligible for this money, as we are 'Indian'," he added.

The Social Security office, in its reply to Mr Annathur's concerns, said: "Resident non-citizens who have worked the necessary length of time in employment covered by the Social Security programme are eligible for Social Security benefits if they are lawfully present in the United States." However, the office points out that one cannot file for Social Security benefits while living in India. "In addition, if you file for them in the United States and return to India, the benefits will stop after you have been outside the US for six full calendar months," the letter adds. There are

exceptions to this rule. "These exceptions are the rich white countries and Japan," said Mr Annathur.

WHAT THE MEDIA IS TELLING ...

<http://www.washingtonpost.com/wp-dyn/articles/A62515-2000Jun4.html>

An American Dream that Depends on an American Visa - Article in Washington Post

By Shannon Henry

Monday, June 5, 2000; Page F05

Start-up entrepreneur Shaurav Sen has raised venture capital, found office space and hired a management team.

But while he's overcome the typical challenges facing a new Internet company chief executive, he has an additional, potentially devastating problem.

He might get kicked out of the country next month.

Sen's visa is about to expire, and he has spent the past few months frantically putting together a package that could get him another special visa--known as O-1--that is reserved for those who have made an "extraordinary" impact on the American economy in the field of science, education, business, athletics or the arts.

The package was delivered to the Immigration and Naturalization Service last week, and an answer--which could be yes, no or a request for more information--is expected in the next 30 days.

If the answer's no, Sen could have to leave immediately.

"It's taking a toll," says Sen on the day his application was completed. "I'm only 31 but I have more white hair than I'd like to have."

The call to increase the number of H-1B visas--otherwise known as high-tech visas--which let immigrants work in the country for up to six years, has become a controversial issue. Executives say more H-1Bs are needed to fill available tech jobs. But Sen's story points out that sometimes even the H-1B doesn't do the trick.

"Six years is not enough in general, and in particular to people from India," says Sen's lawyer, Michael Maggio. He also points out that because visas generally tie someone to a particular employer, they discourage immigrants from starting their own businesses.

Sen has told the 10 employees of his company, AdSavers.com in Arlington, about his visa problem. AdSavers sells advertising on individual screen savers--ranging from simple logos to little movies. Planning for the company's first product launch has been moving along parallel to Sen's visa process: AdSavers is expected to debut at the end of June.

In an emotionally grueling experience, Sen has started interviewing people who might take his place as chief executive of AdSavers. Clearly worried, Sen is also trying to be matter-of-fact about the process, looking for a new CEO who he thinks would fit into the company culture.

"I am mentally prepared to leave the country the first week of July," he says.

And he agreed when he took a \$3.5 million investment from venture firm Draper Atlantic in Reston that he would give back half of his stock in the company if he had to leave the country, so Draper could give all or part of that stake to the new CEO.

Sen could apply for another H-1B visa, but he would have to go back to India for a year first.

"The company does not have a future if I have to leave for a year," says Sen.

Sen discovered the possibility of applying for the special visa when he hired Maggio, a lawyer who focuses on immigration issues. Sen did not know about the option, and was thinking he might be able to move to Canada to run a Canadian office of AdSavers, though he would probably have to give up his CEO post.

Putting together the package was like applying to an Ivy League college. It contains letters from industry experts and other well-known people, including Sen. Charles S. Robb (D), on Sen's behalf; a copy of Sen's AdSavers patent; transcripts from school; proof that he was compensated highly (six figures) by previous employers; and clippings from media coverage of AdSavers. It points out that AdSavers was able to attract \$3.5 million from a respected venture capital firm and employs 10 people, each of whom has a stake in the company.

Maggio says awards--such as an Emmy for an entertainer--are one way of getting the O-1 visa. "For the Internet world, [getting venture capital] is like winning the Emmy," he says.

"If I have to get on a plane, I can look back and say I tried everything in my power to legally stay in the country," says Sen.

Almost everything. Sen says many people have been asking him why he doesn't just marry his girlfriend of two years. He says his visa problem is not a reason to get married.

"It is something I cannot do. Because then I question the fundamentals of getting married."

Sen came to the United States from India in 1991 for graduate school on a full scholarship from Marquette University in Milwaukee. After graduating, he landed in Bethesda as a junior economist at a technology company. He says he never intended his stay in America to outlast his six-year visa, but things changed when he came up with an idea to start a company.

A big reason he couldn't jump full-force into starting a company was that Sen could have lost his visa entirely if he quit his job.

He conceived the idea for AdSavers one day last fall when walking by a co-worker's computer that had a screen saver of the cartoon character Sad Sack. "I noticed it and it didn't bother me," says Sen. "I thought maybe advertisers would like to capitalize on that."

Sen decided that if no one had registered the domain name www.adsavers.com, which he thought would be the logical name for such a company, he'd be in business.

His company let him stay until he'd established AdSavers, and then had the H-1B transferred to his new enterprise.

"I feel like telling the INS that I really stuck to the rules," says Sen. "I know a few people who have not stuck to the rules. And others who have fake marriages. I just wish there was another way out."

His guess on the outcome?

"My gut right now is 50-50."

Shannon Henry writes about regional technology issues every other week in Monday Business.

Backlog keeps visas on shelf - Article in Computer world

At swamped INS, permanent visas delayed; guest workers might have to return home

By Julekha Dash

06/05/2000 As U.S. lawmakers continue to debate whether to raise the visa cap on temporary foreign workers, half of the employment-based permanent visas went unused last year. That's because of a severe backlog in visa processing, which is forcing thousands of technology workers to wait three or more years for green cards.

Though employers exhausted the 115,000 H-1B visas six months into this fiscal year, the U.S. Immigration and Naturalization Service last year issued fewer than 80,000 of the allotted 140,000 employment green cards. INS spokeswoman Eyleen Schmidt said a backlog in visa processing was partly to blame. The INS is now considering more than 1 million green-card applications.

Lisa DeFruscio, a human resources director at security software firm DefendNet Solutions Inc. in Providence, R.I., called the INS backlog "absurd," adding that the agency should consider ways to streamline the green-card application process. "There is such a shortage of technology talent today and when we don't have the (talent), it affects the bottom line. There's an opportunity cost."

Inefficiencies in processing green cards for employment -- rather than for foreign family members -- have led to a growing chorus urging Congress to fix the visa system. For example, technology bigwigs Linus Torvalds, Esther Dyson and Steve Wozniak recently signed a letter to Congress on behalf of the Immigration Reform Coalition to help foreign workers attain permanent status.

Raj Shah, CEO of Capital Technology Information Services, Inc. (CTIS) in Rockville, Md., said the problems in green-card processing impede not only how he runs his business, but also the economy as a whole. Every foreign employee Shah hires to perform development work creates demand for another three U.S. workers, whom he assigns to maintenance, training and testing-related jobs.

DeFruscio said employers have an easier time receiving green-card approvals if a foreign worker has spent time in the U.S. When a company files a green-card application, it must prove that the person possesses "specialized skill or knowledge that doesn't displace" a U.S. worker.

Schmidt said the INS backlog on visa processing dates to almost two years ago, when the agency saw a large increase in the number of visa applications. Right now, it takes an average of 33 months to process a green-card application for a foreign national, but the INS hopes to reduce that to 24 months by the end of this year.

For workers from India or China, the wait can be up to five or six years because the number of applicants from those countries regularly exceeds the 9,800-person limit on immigrants from any single country, said Liz Stern, an immigration attorney at Shaw Pittman in Washington.

Some employers may lose H-1B holders who reach the six-year limit on their visas without obtaining permanent-resident status, said Stern.

John Nahajzer, senior immigration counsel at MicroStrategy Inc. in Vienna, Va., said it would be devastating to lose an H-1B holder who has been with the company for six years.

Tips for handling worker visas

Employers have developed a series of tactics for dealing with the long delays their workers face in applying for permanent residency from the INS.

Key among them is to start the process early -- as soon as 90 days after the employee gets a temporary visa, according to Los Angeles-based immigration attorney Carl Shusterman. "Employers' biggest mistake is that they don't start the paperwork process soon enough, (and) they have to lose the employee."

John Nahajzer, a senior immigration attorney at MicroStrategy Inc. in Vienna, Va., agreed. "As soon as I get an H-1B, I'm thinking permanent residence," he said. Knowing that green-card applications can take years to process, Nahajzer maintains an application that maps the permanent-resident status of each foreign employee.

MicroStrategy sponsors 100 to 140 foreign workers (5% to 7% of its workforce) for green cards. These workers hold either H-1B visas or an intercompany visa, which allows multinationals to transfer an overseas employee who has worked at the company for at least one year.

If a foreign worker's visa expires before the INS grants a permanent visa, the employee has to file the last stage of the green-card application process at the U.S. embassy in his last country of residence, according to Liz Stern, an immigration attorney at Shaw Pittman in Washington.

Companies can also re-apply for a temporary visa once the employee has been abroad for at least one year, said Stern.

The Venture Capitalist in My Bedroom - Artilece in NY Times

A Silicon Valley native returns to his home to meet the new immigrants who are struggling to join the digital revolution before it's too late. By **JEFF GOODELL**

Photographs by **GAIL ALBERT HALABAN**

Article mentions ISN opinion as follows,

For workers from China and India, the H-1B is a particular problem. Although more than half the H-1B's go to citizens of those countries, the law specifies that only 7 percent of employment-based green cards can go to applicants from any one country. So Indian and Chinese applicants often wait several years for an open slot before they can even apply, and by then it is usually too late to get a green card processed before their visas expire. Many immigrant workers believe that although the high-tech industry claims it wants the green-card application process reformed, in fact the corporations are quite happy with the system the way it is because it gives them a fresh crop of young minds to exploit every six years. "The information revolution is occurring on the backs of these workers," says Pradeep Chaphalkar, a green-card holder from India who is a spokesperson for the Immigrants Support Network, an organization of workers seeking permanent residency.

H-1B Workers Lobby for Immigration Reform **Support groups back plan to speed green-card process**

Carrie Kirby, Chronicle Staff Writer
sections

Friday, June 2, 2000

Sunil Kumar receives tempting offers from headhunters every couple of weeks, but the software engineer always turns them down.

Kumar, 31, won't leave his Santa Clara startup because he has been waiting two years for his permanent-resident-status application to be processed. Changing jobs now would mean abandoning the application. And since his H-1B visa expires next year, he knows he won't have enough time to reapply for permanent resident status -- a process that often takes as long as five years in California.

Kumar is among 200,000 skilled temporary workers in the United States who are trying to get permanent-resident-status cards, more commonly known as green cards.

Because of the long application process and quotas that limit each country to 9,800 employment-based green cards per year, only half of today's applicants will be successful, according to a recent report by Georgetown University's Institute for the Study of International Migration.

And if Congress approves bills to raise the annual number of new H-1B visas to 195,000 per year, the situation would get worse with many more of these visa holders fighting over the same number of green cards. Indeed, the Georgetown study warns only 15 percent of H-1B holders will achieve residency if this legislation passes.

The high-tech industry has lobbied for more H-1B visas to feed its voracious appetite for skilled workers. Vowing to help members like Kumar, the Immigrant Support Network, a nationwide organization of mostly Indian guest workers, is transforming itself from a loose, Web-based club into a political action group.

After doubling its membership to 15,000 in the past two months, the group says it is ready to fight for legislation to eliminate per-country quotas and remove the hold employers have over the green card application process.

Under the group's proposal, any H-1B holder who has worked in the United States for four years would be able to apply for permanent-resident status and change jobs freely during the application process.

Under the current system, employers apply for green cards on behalf of their workers. Many guest workers -- and critics of the H-1B program -- say this dependence on employers makes green card applicants into indentured servants who are overworked and underpaid.

Employers insist that they are merely following the current law requiring them to pay guest workers the prevailing wage for their professions. Some guest workers themselves say they are paid as well as co-workers with U.S. citizenship or green cards.

Immigrant Support Network members realize it will be an uphill fight to introduce and pass legislation to overhaul the green card application process for guest workers.

In the absence of any action on their main legislative proposal, the group at least wants to preserve provisions attached to the H-1B bills, which would eliminate per-country quotas and let H-1B holders get extensions if their visas run out while they await green cards.

H-1B visa holders acknowledge they don't have much political clout. They can't vote and can't afford lobbyists. The Immigrant Support Network's budget is only \$20,000. Many guest workers are reluctant to even speak publicly about their complaints for fear that they'll get fired -- or worse.

"If you're coming from a regime like China, you are not very open to going out and talking about your issues," said Shailesh Gala, a New Jersey software engineer who founded Immigrant Support Network. Some immigrant workers believe that criticizing the Immigration and Naturalization Service might jeopardize their applications or make them subjects of a raid, Gala said.

The Immigrant Support Network is taking a crash course in political activism. On Wednesday, the group hired Rick Swartz, a Washington, D.C., lobbyist and longtime supporter of immigrant rights issues.

In the past six months, Swartz, working pro bono, has advised Immigrant Support Network members to visit members of Congress, tell their stories to the media and even ask their employers for help in changing green card laws.

Yesterday, Immigrant Support Network members joined a group of Chinese guest workers to meet with Rep. Anna Eshoo, D-Atherton, to discuss their situation. The H-1B workers plan to plead their case to each member of the Northern California congressional delegation.

In Washington, Swartz is working to add H-1B holders' issues to the agenda of a coalition that is fighting to help other immigrant groups, such as refugees and visitors who have overstayed their visas.

Congress must be convinced that H-1B workers have helped fuel the high-tech economic boom and that the country should hold onto them, not send them home, Swartz said. H-1B workers pay \$2.3 billion in federal income taxes annually, according to India Abroad Center for Political Awareness in Washington, D.C.

In Silicon Valley, Immigrant Support Network leaders like to point out that H-1B holders have gone on to found such tech companies as Exodus Communications and iLeverage, which was recently sold to E.piphany for \$30 million in stock.

E-mail Carrie Kirby at ckirby@sfgate.com.

<http://www.ieeeusa.org/grassroots/immreform/h1breport.pdf>

MOST H-1B WORKERS WON'T GET GREEN CARDS - Report by Sloan Foundation & IEEE

H-1B Temporary Workers: Estimating the Population

Washington (April 17): More than 420,000 temporary foreign workers currently are employed in the United States under the H-1B program, according to a new report issued by the Institute for the Study of International Migration at Georgetown University. Entitled H-1B Temporary Workers: Estimating the Population, the report is the first attempt to estimate the total population of H-1B workers in the United States. Under annual ceilings set by the American Competitiveness and Workplace Improvement Act (ACWIA), the H-1B population will grow to a high of 460,000 in 2001. If pending legislation passes and the H-1B ceiling is set at 195,000, the population will peak at 710,000 in 2002.

The report forecasts that the permanent immigration system will absorb only 25,000 H-1B workers and their families each year, given historical trends, current caps on employment-based visas, and per-country ceilings on admissions. Less than 25 percent of the H-1B workers admitted under ACWIA are likely to be able to adjust. If the ceiling on H-1B workers is raised to 195,000, less than 15 percent will likely be able to obtain green cards. Given that up to 50 percent sought adjustment in earlier years, a large number of H-1B workers will be left without the green card they seek.

The H-1B visa is intended to fill highly-skilled jobs that employers cannot otherwise fill from the domestic workforce. Although admitted for a maximum stay of six years, the H-1B program permits workers to adjust from temporary to permanent status. In the early 1990s, nearly 50 percent of the H-1B workers made this adjustment and obtained "green cards." According to B. Lindsay Lowell, the author of the report, "a far lower proportion have been able to gain green cards in recent years, largely because of processing delays at the Department of Labor and the Immigration and Naturalization Service. It takes nearly five years for green cards to be issued if labor certification is required, as it is for most employment categories open to H-1Bs."

"Raising the ceiling on H-1B admissions without addressing the impediments to permanent status would be irresponsible," stated Susan Martin, Director of the Institute for the Study of International Migration. "The system will be producing tens of thousands of potential visa overstayers yearly. Allowing them to extend their 'temporary' stay while waiting for a green card is no solution. Lifting the per country ceilings and portability of applications for green cards cannot alter the fact that the system cannot handle this volume." The report was produced with grants from the Alfred P. Sloan Foundation and The Institute of Electrical and Electronic Engineers-USA. The author is Director of Research at the Institute for the Study of International Migration and previously worked for the U.S. Commission on Immigration Reform, and the U.S. Department of Labor.

READ THE COMPLETE REPORT

Article in New York Times regarding Coalition of Pro-Immigrant Organizations

The New York Times

Page A16

May 16, 2000

Coalition Urges Easing of Immigration Laws - By STEVEN GREENHOUSE

Jack Kemp, the former Republican candidate for vice president, and Henry G. Cisneros, the former secretary of Housing and Urban Development, are leading an unusual coalition of conservatives and liberals that is beginning a major campaign to persuade Congress to ease the nation's immigration laws.

Mr. Kemp and Mr. Cisneros are scheduled to announce an initiative today in conjunction with immigrant groups and the nation's Roman Catholic bishops that calls for admitting more immigrants into the United States and granting amnesty to hundreds of thousands of illegal immigrants.

The coalition brings together conservatives who view immigrants as an important engine for the economy with religious leaders and immigrant organizations who worry that many hard-working illegal immigrants are consigned to exploitative jobs and lives with little stability.

"What we're seeing is the beginning of a new pro-immigrant alliance that is likely to reshape immigration policy," said Frank Sharry, executive director of the National Immigration Forum, a Washington-based group that supports the easing of restrictions on immigrants.

The coalition includes Americans for Tax Reform, the United States Catholic Conference, the Arab-American Institute, the National Asian Pacific American Legal Consortium and the National Coalition for Haitian Rights. Another coalition member is the National Retail Federation, one of many business groups that says that with the unemployment rate so low, business sorely need immigrant workers to fill their jobs.

"I was at a meeting with the Chamber of Commerce, the truckers organization and other businessmen, and they all said the biggest problem we face is, we're running out of workers," said Grover Norquist, president of Americans for Tax Reform.

The coalition's statement comes as the presumptive presidential nominees, Vice President Al Gore and Gov. George W. Bush, have sought to outmaneuver each other in wooing Hispanic-Americans and other immigrant groups.

For Mr. Kemp, the new effort is consistent with his longtime practice of prodding many Republican leaders to jettison their anti-immigrant proposals.

In a statement to be issued today, the coalition will back a proposal, embraced by President Clinton and the business community, to increase the annual ceiling for the number of immigrants with high-tech skills. But the coalition said Congress should not stop there in changing immigration laws.

The coalition called for granting legal status to more than 300,000 immigrants who fled wars and political chaos in Haiti, El Salvador, Honduras and Guatemala and applied unsuccessfully for refugee status. The coalition said these immigrants should be treated the same as those from Cuba and Nicaragua who have been granted refugee status.

The coalition also backed granting legal status to more than 100,000 other longtime residents who have been in the United States since before 1986.

"It is getting irritating that the only immigration crisis that Congress is prepared to address is the high-tech community's crisis, while there is crisis in many other areas in immigration policy," said Cecilia Munoz,

vice president for policy of the National Council of La Raza, the nation's largest Hispanic civil rights group and a signer of the statement.

Last Thursday, President Clinton asked Congress to provide 200,000 visas for high-tech workers in each of the next three years, a major increase from existing law, which limits the number of such visas to 107,500 in 2001.

Mr. Clinton also called for granting legal status to some groups of longtime illegal immigrants, although many lawmakers have balked at that proposal in the past.

K. C. McAlpin, deputy director of the Federation for American Immigration Reform, which pushes for stricter rules on immigration, opposed the proposals to grant amnesty and increase immigration quotas.

"Our reaction is basically the same as the American people -- every time they're polled they say they want less immigration not more," Mr. McAlpin said. "The American people are adamantly opposed to rewarding people who break our laws to come here illegally."

That view clashed sharply with the one adopted by the Roman Catholic bishops. Kevin Applebee, director of migration and refugee policy for the United States Catholic Conference, said, "The bishops strongly believe that the groups involved have lived in this country for several years, established ties and built equities and thus are deserving an opportunity to remain in our country on a permanent basis."

Officials who helped negotiate the statement said several labor unions with many immigrant members were debating whether to sign. The officials said those unions hesitated for fear of clashing with the A.F.L.-C.I.O., which has opposed expanding programs that grant visas to high-tech and other skilled workers.

<http://www.wirednews.com/news/politics/0,1283,36234,00.html>

Foreign Worker Debate Heats Up

by Lakshmi Chaudhry

3:00 a.m. May. 15, 2000 PDT

Some industry players are asking Congress to give foreign workers green cards instead of increasing the number of employment visas, but immigration advocates aren't cheering. In an open letter to Congress, a number of technology bigwigs, along with the Institute of Electronics and Electrical Engineers (USA), said companies should be allowed to hire workers on "conditional green cards" rather than temporary work visas, such as the H-1B.

<http://www.asianage.com/asianage/21052000/detint15.htm>

Many Indians waiting for green cards unhappy at visa cap lifting

By Ashish Kumar Sen

San Francisco, May 20

"It's like pouring water into a leaking bottle in the hope that it will soon fill up," remarked Amarnath Annathur, a New Jersey-based senior software consultant. Mr Annathur was referring to a multitude of bills pending before both the Congress as well as the Senate proposing an increase in the H-1B visa cap to compensate a shortage of skilled labour in the US.

"On one hand they want to increase the H-1B cap, on the other, experienced professionals are forced to leave the US after six years according to conditions laid down under the H-1B visa," Mr Annathur, a media volunteer for Immigrants Support Network, an organisation set up to lobby for foreign workers in the US, told The Asian Age.

Earlier this month the Clinton administration sent to Congress a proposal to increase the number of temporary H-1B visas by 363,000 over the next three years. The proposal sought an increase in the cap on H-1B visas for fiscal years 2001, 2002 and 2003 to 200,000 each year.

The current law caps the number of H-1B visas at 107,500 for 2001 and 65,000 each year for 2002 and 2003. There are at present many bills circulating in both the House of Representatives and the Senate proposing an increase in this cap to 200,000 visas each for the next three years.

"An indefinite increase in H-1B visas does not solve the problem. Our concerns are not being addressed here," said Mr Annathur. He explained that it was essential that green cards be issued promptly. "Skilled foreign workers can only stay in the US for six years. After that we are forced to leave.

What's the point in getting more people in on H-1B visas when equally skilled and experienced people are compelled to leave at a faster rate?" He said that of the approximately 80 per cent H-1B visa holders who were applying for green cards very few actually got them. The US has a similar quota of green cards it issues to each country, regardless of its size.

On the other hand there is no quota for the number of H-1B visas issued per country. As a result a significant percentage, almost 46 per cent, of H-1B visas are given to Indians. "It isn't a wonder then that India's quota for green cards gets filled up fast," Mr Annathur said, adding: "Other countries don't need so many green cards and there is often a lot of wastage.

The Immigration and Naturalisation Service has wasted almost 50,000 green cards over the past five years." Mr Shailesh Gala, president of the ISN, was optimistic that there will soon be some legislative action to resolve the employment-based immigration crisis. "We are confident that our lobbying efforts will pay off and a proposal will be placed before the Senate next week to increase the allotment of green cards," Mr Gala said.

However, Mr Gala emphasised that there was an urgent need to create an awareness about the need to allot green cards to more Indians as, in the next six years, 90 per cent of the Indians on H-1B visas in America would be forced to leave. "We're not against increasing the H-1B cap but at the same time there should be an assurance that green cards will also be given just as promptly," Mr Gala said.

Houston-based immigration attorney Adan Vega felt it was "absolutely necessary" that the cap on H-1B visas be readjusted "The very fact that the INS ran out of H-1B visas in the middle of the fiscal year is enough proof that the quota needs to be increased," Mr Vega said.

Commenting on Germany's decision to offer one lakh green cards to technically skilled labour, Mr Vega said: "America will not lose out. If you were given a choice to go to any European country or the number one country in the world, which one would you pick? The answer is obvious." Meanwhile, Mr Annathur is bitter at being "cheated by this country." "We're contributing millions of dollars towards social security because we have a right to a green card," he said, explaining that he has to dole out \$40,000 a year for social security. "Then you have these people saying immigrants are hogging their jobs and taking away opportunities. We are giving millions of dollars to social security and this money is being spent on Americans."

H-1B visa no guarantee of US green card: report

WASHINGTON, May 29 (PTI)

Computer programmers and others who come to the United States on H-1B visas have been cautioned that the visa is no automatic passport to a green card or permanent residence or chance of American citizenship. According to an article published in the New York Times newspaper yesterday, H-1B has a particular problem. More than half the H-1B's go to citizens of India and China, but US law specifies that only seven per cent of employment-based green cards can go to applicants from any one country.

"Indian and Chinese applicants often wait for several years for an open slot before they can even apply, and by then it is usually too late to get a green card processed before their visas expire," the article said.

"Many immigrant workers believe that although the high-tech industry claims it wants the green card applications process reformed, in fact the corporations are quite happy with the system the way it is because it gives them a fresh crop of young minds to exploit every six years," it said.

According to Pradeep Chaphalkar, a green card holder from India and a spokesperson for Immigrants Support Network, an organisation seeking permanent residency, the information revolution was occurring on the back of these workers.

"The crux of the problem is that since green card applications are sponsored by employers, a company basically has to indicate it needs the specific person permanently. H-1B visa- holders are thus locked permanently into an unbalanced relationship with the corporations that hire them," the article added.

© Copyright, 1999 The Printers (Mysore)Ltd.

[E-mail to Editor] [Main Page..Text Version] [Main Page..Graphic Version]

Rethinking the Economics of Immigration - Article in NY Times

By ALAN B. KRUEGER

The inscription on the Statue of Liberty is quietly being rewritten: "Give me your tired, your poor, your huddled masses yearning to breathe free; I'll also take your skilled employees under the temporary visa program, H-1B."

The H-1B visa was established in 1990 to permit foreigners with a college degree or higher to work in the United States for a renewable three-year term for employers who petition on their behalf. In 1998, the program was expanded to allow 115,000 workers, up from 65,000, to enter the United States in fiscal years 1999 and 2000. Demand for H-1B visas by employers is high, particularly among high-technology companies. This year the limit was reached just six months into the year. President Clinton and many members of Congress would like to increase the limit to 200,000 a year the next three years.

The expansion of temporary work visas should be evaluated in the context of overall immigration policy. But immigration reform, replacing Social Security, has become the new third rail of American politics. So instead of tackling the issue head on, Washington has come to rely on temporary work visas as a substitute for addressing the economic and social shortcomings of current policy.

The United States is in the midst of the "Second Great Migration." The first occurred between 1880 and 1924, when 26 million immigrants arrived on our shores. The second began in the late 1970's: more immigrants have come to the United States since 1980 than in the previous 60 years.

Workers admitted under the H-1B program are not immigrants, but experts in the field expect that most of them will end up staying permanently in the United States.

In addition to workers with H-1B visas, hundreds of thousands of other foreigners are admitted to work temporarily in the United States under visa categories covering intracompany transfers, individuals with extraordinary ability, registered nurses and nonprofit religious organizations. A fast-growing category is the Nafta TN visa, which offers an unlimited number of temporary visas for professional workers from Canada and soon Mexico.

In a new book, "Heaven's Door," George Borjas, a Harvard economist, proposes that the United States adopt a Canadian-style point system, in which applicants for visas are assigned points on the basis of characteristics like their ability to speak English, work-force skills, family ties, refugee status and ethnic diversity. Those whose total points exceed a certain threshold would be admitted. Going even further, Professor Borjas favors setting the threshold so that the number of immigrants entering the United States falls from about 900,000 to about 500,000 a year. The total number can be debated. If nothing else, this policy would be transparent.

Who should become an American? The question is profound, involving more than economics alone. But economic considerations obviously play a role.

Theoretically, the economics of immigration is straightforward. If more workers are admitted to the country -- as permanent immigrants or temporary workers -- the earnings of native American workers competing with them for jobs should fall. At the same time, the price of goods and services they produce should decline, and the profits of businesses should rise.

The winners are employers, consumers and the immigrants themselves. The losers are workers in the same job market as immigrants.

Economic research has not been able to estimate with any confidence the wage decline for native workers that results from immigration. Much solid research finds no effect. This suggests to me that any effect is likely to be small.

Professor Borjas's evidence indicates that the skills of legal and illegal immigrants have slipped relative to those of natives since the 1970's. A third of employed male immigrants are high school dropouts. At the same time, the labor market increasingly demands more high-skilled workers, as suggested by the long-term rise in the number of workers with college degrees and their sharply increased pay compared with that of those with high school degrees. Therefore, it would be economically beneficial to admit relatively more highly skilled permanent immigrants -- not to mention that skilled immigrants are less likely to take advantage of the safety net.

If immigration reform is off the table, it makes economic sense to increase the number of skilled immigrants by issuing H-1B visas -- through what might be called heaven's backdoor. Yet economic principles also suggest that the playing field between H-1B workers and the rest of the work force should be leveled.

American workers are protected from exploitation on the job by three defenses: exit, voice and regulation. Exit entails the ability to move to a better job if one is available; voice results from representation by labor unions and other organizations; and regulation is a labyrinth of standards enforced by government agencies.

These protections are deficient for H-1B workers.

They cannot easily switch jobs because they must find another employer willing to petition the Immigration and Naturalization Service on their behalf. Even if they manage to do that, they must wait months for a reply. H-1B workers are also unusually beholden to their employers, the ones who can sponsor them for permanent immigrant status.

They lack voice because no organization effectively represents them.

And they have less regulatory protection than other workers because the Labor Department is precluded from investigating their conditions of employment unless a complaint is filed.

Evidence suggests H-1B visa holders suffer as a consequence. Even though 70 percent of them are in well-paid computer-related and engineering fields, a 1996 report by the Labor Department's inspector general found that 19 percent of H-1B workers are paid less than the salary they were promised.

Legislation to increase the number of H-1B visas should provide protection from exploitation.

This also would help native workers and improve economic efficiency.

What could be done? Permit H-1B workers to change jobs freely after they are admitted to the country. Authorize the Labor Department to conduct random investigations of their employment conditions. Finally, require the immigration service to process applications for permanent, employment-based immigration more quickly, which would reduce the need for H-1B visas in the first place.

Boom Times for Immigration Middlemen

The U.S. immigration process is long and complex. That may be bad news for people who want to enter this country, but it's good news for those who want to make money off of them. The immigration service business is booming. The American Immigration Lawyers Association says its membership has nearly doubled in the last six years. Although many legitimate businesses and people try to assist immigrants, others are clearly taking advantage of a vulnerable population. Listen as Laura Sydell reports for All Things Considered.

<http://www.npr.org/ramfiles/atc/20000405.atc.04.ram><http://www.npr.org/ramfiles/atc/20000405.atc.04.ram>

http://www.siliconindia.com/immigration_forum/category.asp?article_id=680

Latest News : Unlimited H-1B visas okayed 5/21/00
Analysis of H-1B Bill (12/29/1899)

Brain Drain From America (3/31/2000)

By Shailesh Gala American history is replete with the examples of contributions of the extraordinary immigrants that helped build this great nation. For these talented immigrants, the United States has been the shining beacon of light that attracted the hopeful settlers. Most of the time, this relationship between the immigrants and America has been symbiotic in nature. America provided better quality of life for the immigrants and their family, and in turn these immigrants helped build a prosperous nation. The current unprecedented economic boom is yet another glorious example of the contribution of the immigrants to this great nation. This boom started when the US corporations successfully eliminated the excesses of the 1980s by increasing productivity. Development of faster and cheaper computers allowed large and small businesses to use technology to increase their productivity. The rise of the Internet also helped the market economy flourish like never before. This growing prosperity allowed US corporations to take the Y2K bug in their stride without affecting their profitability. All those billions poured by the US corporations and the government went into creating a booming information technology industry that has buoyed the market. This growth was fed continuously by the professionals brought into this country. Every year, starting 1990, 65,000 work permits (H1-B visas) were issued; and from 1999, 115,000 such visas are being issued. These are not cheap labor. The workers are paid handsomely and software consultants earn some of the highest wages in this country. That overseas professionals are taking away jobs from US citizens is a myth. The US schools are graduating many computer science majors, but these are being quickly absorbed by the growing market, which still cannot fill all jobs. The demand for IT professionals is so high that at the urging of the software industries, the US Congress in 1998 increased the H-1B visa quota from 65,000 to 115,000. Even this quota for 2000 ran out in just six months. The main reason is the archaic rules imposed by the US Immigration and Naturalization Service, which oversees the immigration process. While in the past, these hardworking folks were easily assimilated and offered a chance to pursue the "American Dream" by providing them with permanent residency, these immigrants are being sent back at the end of six years, the legal limit for issuance of H-1B visas. Current laws also allow the immigrants to acquire "Permanent Resident" status (commonly referred as Green Card) after they fulfill certain procedures and qualifications, which consist of 3 steps. The first step toward obtaining Green Card is getting certification from the Department of Labor. Till a few years ago, labor certification used to take about six months, but now it takes three years or more. Once the labor certification is approved, a prospective immigrant needs to file an application for permanent residency. Called I-140, this process could take up to one. However, before an immigrant can file the final petition, I-485 (Adjustment of Status), he or she has to wait till the "priority date" for the immigrant's country becomes current. The priority date is the date on which the applicant filed for his/her labor certification. Every month, the State Department publishes a Visa Bulletin, which indicates current priority dates for which INS will accept I-485 applications. This date is of cause for concern to people born in India and China. The priority date for EB3 India category is Jan. 1, 1997 and for EB2 category Jan. 1, 1999. Foreign workers are not hired based on the country of their origin but on for their specialized skills. But, under the current system of immigration, they are allocated permanent residency status based on their country of birth. The US Congress has imposed a maximum limit of 7 percent (9,800 Green Cards) of the total annual quota for any one country. In recent years, more than 50 percent of H1-B visas have been issued to Indian nationals, according to INS statistics. Therefore, there are reportedly more than 150,000 H-1B Indian professionals currently in the US. The number of Green Cards needed would be over 300,000, if one were to include the families of these visa-holders. With current quota of only 9,800 per year, it will take about 30 years for the Indians currently here on H-1b visas to secure Green Cards. Even after an applicant passes is successful in filing the I-485, his or her worries are far from over. The I-485 application, which used to take about six months, now takes more than two years. Recently, the INS Service Center in Texas announced that the current processing time for I-485 application is 1,000 days.

Immigrants Support Network

Immigrants Support Network (ISN) is an organization formed by the people who have experienced and are continuing to experience the havoc regulations have caused in their everyday lives. Its volunteer staff has contacted thousands of affected applicants and has listened closely to their immigration-related concerns. About 11,000 H-1B visa holders have joined ISN and are expressing their common concerns to legislators. The ISN is requesting Congress members to propose legislation that would create an adjustment of status program for H-1B workers. Such a program would allow H-1B holders to apply for green cards, independent of their employers and independent of the country quotas, so long as these applicants can prove that they have worked as H-1B holders for a specific period of time. Spouses and children of these H-1B workers would also be included in such a program. Alternatives to address immediate concerns would have to include: 1. Extension of H-1B visas beyond the current six-year limit for professionals who have filed applications for permanent residence. 2. Provide temporary "Green Cards" that include all privileges of the permanent card to those who have received labor certification and those who have applied for the Green Card. 3. Removal of the country quota limit on employment-based visas. 4. Allow unused visas in the employment-based category to be carried over to the following year. A recent legislation proposing an increase in the H-1B visa quota, and already passed by the Senate Judiciary Committee, includes some provisions that would temporarily resolve some of our concerns. However, these measures would only provide short-term solutions and much more needs to be done to resolve long-standing problems that are likely to pose more difficulties over time. The ISN requests all immigrants to join hands and present a strong case before US legislators. More information on ISN is available at its Web site: <http://www.isn.org>.

National Public Radio (NPR)

April 4, 2000: Part One by Andy Bowers (14.4 | 28.8) -- NPR's Andy Bowers reports the first in a three-part series on the Immigration and Naturalization Service. Today, a history of the agency that has been buffeted by the changing winds of the U.S. economy and politics.

April 5, 2000: Part Two by Laura Sydell (14.4 | 28.8) -- NPR's Laura Sydell reports that the complexity of dealing with the Immigration and Naturalization Service has resulted in a growing industry of middlemen, some who assist people and companies through the INS maze and others who prey on a vulnerable population.

April 6, 2000: Part Three by John Burnett (14.4 | 28.8) -- NPR's John Burnett reports on the problems of the Immigration and Naturalization Service. Despite the tremendous growth of the agency, those applying for various services are facing waits of months and even years for results. Now there is debate about dividing the INS into two agencies...one handling services, the other enforcement.

<http://www.indianinnewyork.com/iny03312000/Chronicle/Isn.html>

March 31, 2000

Chronicle Queens

ISN campaigns to help holders of H-1B visas

From News Dispatches

A fresh drive to speed issuance of green cards for highly-trained immigrants -- holders of H-1B visas -- was announced at a New Jersey meeting of the Immigration Support Network (ISN) March 26.

Attorney Cyrus Mehta, second from left, speaking at a meeting organized by Immigration Support Network (ISN) in Iselin, New Jersey on March 26. Others in the photo were not identified.

A decision to mobilize everyone affected by allegedly sluggish Immigration and Naturalization Service (INS) treatment of the issue was taken at the meeting, ISN vice president Shailesh Gala told India in New York.

The meeting organized by the 11,000-member ISN at the Delhi Durbar Restaurant in Iselin featured New York attorney Cyrus Mehta, who explained provisions of a bill introduced by Republican Sens. Orrin Hatch of Utah and Spencer Abraham of Michigan to press the cause of green card applicants. Lobbying, Mehta said, is needed to help passage of the bill.

More than 150,000 Indians have arrived in the United States on H-1B visa in the past five years, the ISN said in a release. Most of them apply for green cards through their employers. But restrictive laws have led to a backlog of 300,000 applicants -- with only 9,800 cards a year allocated to Indians. Waiting times, that used to be two or three years, have crept up to about six years and are headed for 30 years unless something is done, the release said.

Meanwhile, it said, many H-1B visa workers are forced to leave after their six-year cap on residence is reached. They have to leave their jobs and their property -- and their employers are deprived of their urgently-needed services.

The Iselin meeting drew about 40 computer programmers -- typical holders of H-1B visas -- according to the Star-Ledger. An ISN spokesman said the Hatch-Abraham bill will eliminate the per-country ceiling on green cards. And ISN president Muthu Muthurai said it would also waive the six-year residence limit, under certain conditions.

Other speakers included Andres Bench, a former lobbyist in Washington, and Peter Kothari of the Indian Business Association of New Jersey.

ISN was started in 1998, said Gala, and today its 11,000 nationwide membership includes more than 7,000 Indians.

Lately, he said, the organization collected \$20,000 in three weeks for the lobbying efforts, he said. It has a Web site: www.isn.org.

<http://www.timesofindia.com/300500/30worl14.htm>

ISN Efforts noted in Times Of India Article

H1-B visas no guarantee for Green Card

May 30, 2000

WASHINGTON: Computer programmers and others who come to the United States on H-1B visas have been cautioned that the visa is no automatic passport to Green card or permanent residence or chance of American citizenship.

According to an article published in the New York Times newspaper Sunday, H-1B has a particular problem. More than half the H-1B's go to citizens of India and China but US law specifies that only seven per cent of employment-based Green cards can go to applicants from any one country.

"Indian and Chinese applicants often wait for several years for an open slot before they can even apply, and by then it is usually too late to get a Green card processed before their visas expire," the article said.

"Many immigrant workers believe that although the high-tech industry claims it wants the Green Card applications process reformed, in fact the corporations are quite happy with the system the way it is because it gives them a fresh crop of young minds to exploit every six years," it said.

According to Pradeep Chaphalkar, a Green Card holder from India and a spokesperson for Immigrants Support Network, an organisation seeking permanent residency, the information revolution was occurring on the back of these workers.

"The crux of the problem is that since Green Card applications are sponsored by employers, a company basically has to indicate it needs the specific person permanently. H-1B visa-holders are thus locked permanently into an unbalanced relationship with the corporations that hire them," the article added. (PTI)

INS Incompetence Incenses Tech Community

By Marius Meland

Bureaucratic delays and red tape at the U.S. Immigration and Naturalization Service are threatening the country's ability to continue to tap the crème de la crème of foreign high-tech workers.

The INS, arguably run even worse than the Internal Revenue Service, is so mismanaged and overworked it can't fulfill the government's quota of work-related green cards at a time when technology companies are screaming for talented geeks. Last year, Congress authorized the INS to approve up to 140,000 work-related green cards. But only 40,000 (a mere 29%) were approved, thanks to slow processing.

This bureaucratic morass comes at a time when the U.S. unemployment rate is hovering at its lowest level in three decades and nearly every high-tech executive pinpoints recruitment and retention of technical talent as one of their biggest challenges. Earlier this month, Fed Chairman Alan Greenspan told an audience at Boston College that only immigration could uncap the limit to new hiring, which threatens to cause wage inflation.

But in a move that defies common sense, the U.S. is actually sending skilled foreign high-tech workers back home, despite the severe shortage. These workers--often armed with a U.S. college degree and several years of technology experience--are welcomed with open arms in their home countries.

So why is the INS sending them home? Because temporary H-1B visas, which allow companies to hire foreign workers when there aren't enough qualified U.S. applicants for the jobs, can only be renewed for six years. After that, foreign workers have to get a green card--or get out. And the wait for green cards is so long now that many workers lose their right to stay legally in the country before the government gets around to processing their applications.

The INS is so mismanaged it can't fulfill the government's quota of work-related green cards at a time when technology companies are screaming for talented geeks.

In a related bit of tragicomedy, the INS said last week that it has stopped accepting applications for this year's batch of H-1B visas. Although it's only halfway through the fiscal year, the government has already received enough applications to fill the quota of 115,000 visas. It's the third year in a row that the visas have run out.

How badly does this hurt tech firms? Just ask Extended Systems (nasdaq: XTND), a mobile synchronization company based in Boise, Idaho. In the past few months, the company has had to put two of its senior development engineers on a plane to Europe because their work permits expired before the INS had finished processing their green card applications.

P.J. Durai, an Indian software engineer at Extended Systems, says he had to quit his work in Boise, move to the U.K. and start a new team there because the INS didn't process his application in time.

"The move caused a serious disruption in our scheduling," Durai says. "Not to mention the personal hardships of relocating children in the midst of their education, losing hard-earned stock options and trying to figure out what to do with our belongings."

Because of a bizarre requirement in the byzantine U.S. immigration laws, foreign workers can return to the U.S. and get temporary visas for another six years only if they stay out of the country for 12* months.

"It's a crazy system," says Debbie Kaylor, a spokesperson for Extended Systems. "It's so difficult to find these people, and having to send them out of the country because the government is so slow in processing their applications just seems absurd."

* A previous version of this story incorrectly stated that foreign workers had to stay out of the U.S. for 18 months.

Just how slow is the INS? At the moment, the average processing time for a green card is 33 months, almost three years, according to the INS's own statistics. In some cases, the process can take as long as five or six years.

Just ten years ago, the process took six to eight months.

The INS blames the delays on its limited resources and the dramatic increase in the number of people seeking green cards. In 1993, the INS received roughly 317,000 applications. That number peaked in 1997

at 760,000, and dropped to 465,000 last year. The pop in the late 90s has caused a backlog of about 1.1 million applications to pile up on the INS's desks.

Meanwhile, INS staffing hasn't kept pace with the increase in applications. Since 1993, the number of applications has risen by more than 140% while the agency's work force is up by about 50%.

The agency's funding has increased sharply in the past few years, up to a proposed \$4.8 billion for next year from around \$1.5 billion in 1993 (unadjusted for inflation). But most of the increase has been devoted to enforcement--border patrols and detention of immigrants--rather than to the processing of applications. Less than one-fifth of the budget goes to visa and green card processing.

The INS blames the delays on its limited resources and the dramatic increase in the number of people seeking green cards, but others say the agency is just incompetent.

But scarce resources aren't the only problem, according to immigration attorneys and industry associations. "The INS has some serious management problems," says Sandy Boyd, a lobbyist for the National Association of Manufacturers. "Many of the problems stem from sheer incompetence."

Silicon Valley companies are frustrated with the loss of workers who have gained years of valuable experience, only to be sent out of the country. No one was willing to speak on record, fearing bad blood with the INS. An insider with one top tech company told Forbes.com "it's well known here that the INS is out of control."

"We need to maintain access to the best and the brightest in the world to maintain our status as the global information technology leader," says Grant Mydland, the manager of the Technology Work Force Coalition, which comprises over a dozen IT associations and more than 100 high-tech firms.

For years, the U.S. has been a haven for foreign high-tech workers because of the relative ease in obtaining a work permit after the completion of a degree at a U.S. college. Increasingly, however, other regions are opening up to high-tech workers. Last week, European Commission President Romano Prodi said that Europe needs an international Silicon Valley rivaling the U.S. to attract talented people from all over the world. And to do that, Europe would have to attract more skilled workers from India, Russia, Taiwan and elsewhere, he suggested.

If the INS doesn't clean up its mess, Europe could be the next stop for many of the talents fueling the New Economy in the U.S.

**Statement of Congresswoman Zoe Lofgren
San Jose Field Hearing, Bay Area Congressional Delegation**

Isaac Newton Senter Auditorium, Santa Clara Building
70 West Hedding St, San Jose, CA 95110
February 25, 2000

This is a hearing about delay at INS and its human cost. We truly wish we could accommodate all the concerns about INS raised with us in recent days. We have heard from people with other sorts of complaints about the INS including dozens of people who had compelling stories to tell about delay, lost files and the like. We have only the hours from 10AM to 2pm today to enlighten ourselves about the human impact of delays in the INS processing system. I know that there are people from Congressman Farr's district who have concerns about a situation where, in their opinion, the INS was not too slow, but too fast in deporting a convicted felon. I know that there is at least one family of farm workers too fearful to appear in public to expose themselves to media attention and possible INS retaliation. I am aware that an Executive from a local high tech firm, someone so successful that he paid 40 millions dollars in taxes last year to our American government, was also fearful of INS retaliation and so is not present to testify. We don't have sufficient time to invite everyone in this room to speak today. But we do have a way to make sure everybody is heard. To all of these people, and the many people in this room today who have stories to tell, we have devised a system where your written testimony can be received and reviewed. If you have prepared it, please leave it with us here at the noon break. We have forms in the back of the room for those who wish to write a statement now.

I want to thank my congressional colleagues from the Bay Area for making this hearing possible and especially my Co-Chair Congressman Sam Farr who had the inspiration to hold this hearing in the first place.

The inefficiency of the Immigration Service, particularly when it comes to naturalization and adjusting the status of immigrants, has greatly concerned me and my colleagues in the California delegation. We have met on a regular basis with Commissioner Doris Meissner to air our frustrations and to find some fair and expeditious way to end this human tragedy. Each of us, individually and jointly, has received reassurances and promises from INS that things were getting better and soon. But they haven't. Instead, they've gotten progressively worse in the five years I've been working on this problem. I am working hard at being patient but my patience has gone unrewarded and now my patience is exhausted. I'm irate about INS's seeming indifference toward our constituents, our staffs, and even ourselves, the Representatives of the Bay Area. Congressional offices have been allocating between 50% and 85% of their district staffs' time to help constituents deal with this agency.

This hearing is about the poor and the powerless. Four years ago, at a town hall meeting at the John XXIII Senior Center in downtown San Jose, dozens of seniors were totally at their wits' end over INS. From stories about naturalization to family immigration, they told me about their living nightmare. They explained they had to have their fingerprints taken over and over again for the naturalization application, about INS delays, that files were lost, that phones went unanswered, and more. I asked INS Commissioner Meissner why dozens of elderly immigrants had to show up before dawn at the INS office to have the same processes repeated over and over again because of INS's inability to process the paperwork INS had already received but lost. I asked why should immigrants have to wait ten years to get their citizenship. Why should family and business visas that could be processed in a few days take a year or more? Some weeks ago I held another town hall meeting at the same Senior Center. This time, instead of the dozens I'd met the last time, we had hundreds of seniors. The stories were worse than before. These are the poor and powerless, and they're asking us to help them.

Next, I want you to consider those who are not poor and powerless. Linus Torvalds, considered a hi-tech hero by so many, is the inventor of Linux and he helped develop the new chip rumored to be the "new, new thing". Linus is an H-1B visa recipient. There are some who believe we have admitted enough persons under H-1B. Well this is the kind of person we might exclude if we stop H-1B visas. This astoundingly accomplished person has filed for permanent residence under the "outstanding scientist category." I find it incredible that the INS still hasn't gotten back to him on his application. He called my office because no one in the INS would tell him what was going on. He needed papers to get his driver's licence. He wanted

to visit his parents in Finland, but he couldn't. The INS finally told my office that, if all goes well, they may actually open up his file and look at it in the last quarter of this calendar year 2000. That's three years to open a file. If there are errors in the application, he will have to start over from scratch. That's the current practice.

In an era when FedEx can tell you on-line precisely where your package is, why can't the INS office tell you anything about the status of an application pending with INS for years?

In an era when you can secure a home loan and obligate yourself on the World Wide Web for hundreds of thousands of dollars without standing in line, why is it that the best you can do at an INS website is to download some form so you can fill it out by hand, stand in line in the rain, and wait half a decade for an answer?

When 50 scribes with quill pens can't get the job done, the answer, in the year 2000, is not to bring in 50 more quill pens.

People from across the world who choose to come to this great country have a contribution to make. They want to make it here. INS compromises the promise of this great nation and the hopes of these petitioners when it fails to respond promptly and clearly.

We hope, today, to learn more about the human impact of this situation. We hope, also, to hear from the collective voice of Silicon Valley about potential approaches that could yield remedies and allow this agency to work smarter, better and more efficiently.

I know that the thousands of employees who work for the INS are frustrated and upset, just as are the people here today. If we can create a system where the work can get done efficiently, everyone will be better off. Our community, our economy, our families and those who are employed in this troubled agency.

We can not allow INS to make a nightmare out of the American dream. Now, some housekeeping items. When we have hearings in the Immigration Subcommittee in Washington, we ask witnesses to limit their oral testimony to no more than 5 minutes. We ask that Members of Congress limit their opening statements to five minutes and we ask that, after testimony has been received, that each Member of Congress limit their questions to a five minute period. We'll try to adhere to those same rules here in San Jose today so that we will succeed in hearing from all of those who have been willing to come forward to speak with us today. Finally, we owe thanks to the county of Santa Clara for their courtesy in arranging for this hearing room and for providing the coffee you will find in the entry way. Bay Area Congressional

Delegation Studies Chronic Delays at Immigration Agency

Statement of Congresswoman Zoe Lofgren

Statement of Rep. Anna Eshoo

Statement of Jennifer Dineen-Ocon

Statement of Linus Torvalds

Statement of Jim Beall

Statement of Warren Leiden

Statement of Sunil Vatave

Statement of Deborah Kessler

Statement of Sister Marilyn Lacey

Statement of Heidi Wilson

Statement of John Barey

Statement of Jacob and Yetta Bromley

Statement of Debra Jaramillo-Coker

Statement of George Windsor Jones

Statement of Le Kim Ngo

###

<http://www.techweek.com/articles/1-10-2000/greencard.htm>

GREEN CARD BLUES

Foreign workers claim mistreatment by INS and Silicon Valley employers

By Ed Frauenheim

Rajeev calls himself a high-tech indentured servant.

An H-1B visa holder from India, he arrived here nearly five years ago to design chips for a semiconductor firm. Rajeev (not his real name) expected to get a green card within a few years and pursue his dream of doing challenging tech work in Silicon Valley. Instead, immigration rules and bureaucratic delays have kept him at the same firm, which is now failing. All the talented engineers have fled to greener pastures, he says, while he and other H-1B visa holders are stuck, mopping up the mess and praying to get their green cards in the mail.

"It's total exploitation," he says. "It's just Indians and Chinese who are doing all the work—because they have to."

What's more, the 29-year-old fears he may not get the proper papers before his six-year H-1B visa expires, forcing Rajeev to leave the country and jeopardizing the prospect of his ever attaining permanent residency. Rajeev's dilemma puts him at the center of a brewing debate over foreign workers in high-tech fields. H-1B visa holders like him are calling for government reforms and asking the powerful technology industry to focus more on supporting their green card applications than bringing in new platoons of H-1B workers. Industry leaders say they'd love to see the Immigration and Naturalization Service move faster. But at the same time, tech companies claim a labor shortage that requires guest workers, and industry allies in Congress are listening.

Yet some advocates for older tech workers are skeptical about the need to import any employees; they claim the high-tech labor shortage could be solved if more companies were willing to re-train available domestic workers.

Cutting red tape

Meanwhile a new coalition has emerged that defends bringing in foreign workers but aims to end "indentured servitude" in high tech. The Immigration Reform Coalition, which includes the Institute of Electrical and Electronics Engineers-USA, wants Congress to stop expanding the H-1B program and instead make it easier for foreign workers to get green cards. Tens of thousands of available work-related green cards went unused last year, a problem the coalition blames largely on a heap of red tape.

Paul Donnelly, an organizer with the coalition, says its plan forces tech companies to come clean about their intentions with foreign workers: Are they looking for top talent or exploitable engineers?

"It takes them at their word that they want access to a global labor market," he says. "It's fish or cut bait: If they want guest workers, let them argue for guest workers."

It's a weighty debate and one likely to heat up in the next few years. That's partly because the need for techies is expected to soar—the Department of Labor estimates the computer and data processing services industry will expand by 2 million jobs between 1998 and 2008. What's more, increasing numbers of H-1B visa holders already working in Silicon Valley face a serious squeeze when it comes to staying here.

Good intentions

Created in 1990 as a way to temporarily import skilled workers, the H-1B program has attracted roughly 560,000 foreigners. (The exact number isn't clear because the INS estimates it gave out 40,000 visas more than the 115,000 it was supposed to this year; the agency is checking its numbers.) INS officials say most H-1Bs go to high-tech workers.

The H-1B visa holder is limited to six years in the United States. But many temporary techies want to stay and find an employer willing to sponsor them for a permanent immigrant visa, or green card. Applying for permanent residency is a Byzantine, slow process—and it's getting slower. What used to take about three years now can drag on five or more, critics charge.

To be able to remain in the country beyond six years, H-1B visa holders must either get their green card or begin the third and final stage of the process, called the "adjustment of status." But the first two stages, which include a Labor Department investigation and INS processing, can take up to three years, say guest workers in the midst of the application process.

Then another hitch can cost foreign workers time. Before allowing the applicant to reach the final "adjustment of status" stage, the INS has to make sure visas are available from the State Department. But

only 7 percent of the roughly 140,000 work-related green cards given annually—about 9,800—can go to citizens of any one nation. This cap especially affects Indians, who make up 40 percent of H-1B visa holders, and Chinese, who make up 10 percent.

Charles Oppenheim, chief of the State Department's Immigrant Control and Reporting Division, projects that early this year, his office may have to limit the availability of certain visas to Indian nationals who began the green card process back in Sept. 1996 or earlier. Chinese nationals may face a cut-off date of July 1995 or earlier.

Thus in the next few years, the per-country cap and earlier delays could force many Indian and Chinese H-1B holders to leave the country before their green card is processed.

That's sheer madness, says Muthu Muthuraj, acting president of the Immigrant Support Network, a non-profit organization of nearly 10,000 H-1B workers seeking green cards. Also galling to Muthuraj are what he calls wasted green cards. Only 77,000 work-related green cards were granted last year, and the limit for India wasn't even reached. Muthuraj blames molasses-like processing by the INS.

Muthuraj's group wants the INS to waive the six-year H-1B visa limit if an applicant has completed the first phases of the process. It also wants an end to the per-country cap and a new system whereby guest workers not receiving an answer to their application within a set time get a provisional green card.

The INS concedes that the time needed to process just the "adjustment of status" application has grown from 12 months in 1997 to 33 months. The agency aims to chop the delay down to 24 months this year. While applying for a green card, a guest worker can't change employers, get a raise above the inflation rate or accept a significant promotion. The system leaves time-sensitive companies in the lurch and H-1B holders stuck watching colleagues advance, says Muthuraj, a computer systems leader for a medical company.

"It can do a lot of psychological damage when you're in that situation," Muthuraj says.

Abusing the system

The situation isn't only frustrating for H-1B holders but ripe for abuse. A 1996 Department of Labor study found that 19 percent of the guest workers were paid less than the company promised. What's more, between 1992 and 1998, the Labor Department found employers violated H-1B regulations 109 times, leading firms to pay \$2.5 million in back wages and other penalties.

Mistreatment of H-1B workers is not surprising to guest workers in Silicon Valley. Recently, a group of five Indian H-1B technology professionals met with TechWeek to discuss problems with the system. All asked to remain anonymous for fear of reprisal from their firms, and several felt betrayed by bosses who shunted them into grunt-work duties. Much of the guest workers' frustration with the high-tech industry, however, stemmed from their perception that firms were purposefully ignoring the immigration dilemma. To them, it seems Silicon Valley firms favor a revolving door system of H-1B workers who are easy to exploit.

"The tech industry could help us by lobbying the INS," Rajeev says. "But they choose not to, because they're getting H-1Bs."

Another Indian H-1B worker argues that losing the current generation of H-1B employees would hurt the tech industry as a whole, because these now-experienced workers will not use their talents or begin innovative firms here.

"There's an opportunity cost to the Valley," he says.

Industry solutions

Industry leaders say they're starting to work on the problem. For example, the American Electronics Association, whose members include Hewlett-Packard, Intel and Cisco Systems, is looking into sitting down with INS officials to discuss ways to speed the processing of green cards. John Palafoutas, the AEA's vice president for domestic policy, says one possibility is to create a streamlined procedure for firms with a proven track record.

"We'd love to reform the system," says Mary Dee Beall, government affairs manager for Hewlett-Packard.

"We'd do it in a New York minute."

But Beall and other industry leaders still defend the need for H-1B visas. They say the program has helped solve an acute labor shortage. Industry leaders bemoaned the fact that the 65,000 cap on H-1Bs was reached in both 1997 and 1998, leading Congress to raise it to 115,000 this year. And the politicians seem eager to keep going. Sen. Phil Gramm (R-Texas) and California Rep. David Dreier (R-Covina) have proposed raising the cap to 200,000, while Republican presidential candidate John McCain has suggested eliminating the ceiling altogether.

Silicon Valley's representative in Congress, Rep. Zoe Lofgren (D-San Jose), has sponsored a bill to create five-year "T" visas for foreign students earning science or engineering degrees in the United States and who are hired by tech firms at a salary level of at least \$60,000.

A real shortage?

But there are questions about the tech labor shortage and the effectiveness of the H-1B program in providing truly skilled workers. In the course of an H-1B fraud probe in India, INS and State Department officials could not verify nearly 45 percent of the education and work experience claims made in 3,247 H-1B petitions referred to the investigation unit. Twenty-one percent of the work experience claims were confirmed bogus.

Last year, the Computing Research Association, a group composed of academic departments, government and industry centers and professional societies, studied the tech labor situation. It concluded that while most evidence suggested a shortage, "it is impossible to distinguish an actual shortage from a mere tightness in the labor market."

What's more, high-tech firms are putting out job advertisements with extensive requirements that by definition narrow the pool of qualified workers. Companies say an ever-faster business pace requires employees to "hit the ground running." But that's either short-sighted or, in many cases, a smokescreen to get cheap labor, says UC-Davis computer science professor Norm Matloff. He claims good programmers can learn new coding languages on the job in a month or so. Arguing that foreign workers are being used to replace older, more expensive programmers, Matloff opposes H-1B visas and any replacement program that would make it easy to import techies.

"There is no shortage," Matloff says. "I consider this to be an age-discrimination issue."

Paul Donnelly knows the H-1B program has defects, partly because he saw how it was created. A former congressional aide, Donnelly now hopes to use his Beltway knowledge to help the Immigration Reform Coalition succeed in changing the guest worker/green card system. In particular, the coalition would like to see a fast-track green card program in which companies sponsoring a foreign worker would have to make an investment in private-sector U.S. training programs.

Rather than go through a lengthy Labor Department investigation, employers sponsoring a green card applicant would attest to such things as their need for the worker and the competitive salary to be paid. This legally binding promise would mean more than H-1B employer pledge, Donnelly says, partly because any underpaid green card holder could simply move on to another job.

The plan would allow companies to spend money on education rather than lawyers' fees and create free agents who aren't chained to a company, Donnelly says. He adds that the proposal would aid domestic techies partly because the current labor certification system makes it hard to detect when firms are sponsoring foreign workers for green cards to avoid older workers.

"[It] gets rid of rules that hide age discrimination behind paperwork," he says.

Donnelly claims labor certification applications are hardly ever rejected. Labor Department officials didn't respond to a request for information on approval rates.

Besides focusing on skilled worker visas, the coalition wants to make it easier to unite the spouses and children of legal immigrants. It hopes to build broad support behind this family-friendly reform.

The situation facing H-1B workers also has a moral dimension, says another Indian guest worker who asked to remain anonymous. He moved to Silicon Valley expecting to be able to get a green card. Now he's not sure his paperwork will be done before he has to leave, and the uncertainty is causing him anguish. To this guest worker, the U.S. government and its high-tech firms have been rude and dishonest hosts.

"Don't give a carrot that's a false carrot," he says. "I wouldn't have come in the first place if I'd known what I would face."

You can reach Ed Frauenheim at edf@techweek.com.