



## **80,000 Indian children in green card backlog risk aging out**

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Arun Kumar

About 80,000 immigrant children of skilled Indians working in the US on an H-1B visa may age out of eligibility for a green card over the next two decades, according to a Washington think tank.

About 104,000 children, or about 40 percent of the entire green card child backlog will age out of eligibility over the next two decades, says David J. Bier, an immigration policy analyst at the Cato Institute.

More than four in five of the aging out children will come from India—a higher proportion than even their current share of the backlog (62 percent), he notes citing US Citizenship and Immigration Services (USCIS) figures.

Faced with such a prospect employment-based immigrants from India would have to decide whether to keep the family together or leave their children and immigrate, Bier writes.

Highly skilled immigrants from India face wait times of eight decades for green cards for permanent residence as a result of a seven per cent annual country cap for all countries, big or small.

“This means that because nearly all of them are already here working on an H-1B visa, skilled workers from India and China are constantly fearing the prospect of being forced to leave the country if they lose their jobs,” notes Bier.

They are less likely to get promotions and have trouble changing jobs as a result of the stilted immigration rules for temporary workers, he writes.

“They cannot start businesses, and they must pay thousands of dollars to attorneys and the government to obtain repeated renewals of status,” Bier writes. “Each administration changes the rules for them, causing additional uncertainty.”

“But the worst indignity brought upon these talented future Americans is how the system treats their children,” he writes.

Every “minor” child of a temporary H-1B worker is entitled to H-4 temporary status. They are also entitled to a green card if their employer sponsors the worker for one.

But the moment that the child turns 21, the government cancels their H-4 status and boots them from the green card queue, Bier notes. They must choose either leaving the country or finding another temporary status to jump to, such as a student visa.

“These young people must fight to remain in the country that they have grown up in, graduated from high school in, and have built their lives in.”

“Even if they obtain a student visa, they must then try to win an H-1B visa through the lottery system, where staying with their family and their adopted country is up to random chance,” he says.

“Of course, even if they get the H-1B visa, they are thrown to the back of a massive eight-decade long wait for green cards, even though they had already waited in line for a decade or longer with their parents,” Bier notes.

“High- skilled immigrants will suffer many indignities to stay in the United States—including nationality- based discrimination, closed job opportunities, unnecessary fees, and much else,” he says. “But many will not tolerate this forced separation.”

EB-5 investors who are waiting for visas abroad thus face the choice of whether to come to the United States at all without their children, Bier says.

Over a quarter of a million children, including 157,064 from India, another 49,835 from China, and 46,394 from other countries, were waiting for green cards with their parents in April 2020, he notes citing USCIS figures.

Indian children represent 62 percent of the child green card backlog, Chinese 20 percent, and others 18 percent. Almost 87 percent of the child backlog from India is in the EB-2 and EB-3 green card categories for employer- sponsored immigrants with master’s and bachelor’s degrees.

Because nearly all EB-5 investors come from abroad and are not already working in the United States like those in the EB-2 and EB-3 categories, aging out for them would mean never coming to the United States at all.

“These investor families would have to decide whether to keep the family together or leave their children and immigrate,” Bier says.

US Congress, he suggests, should entirely repeal the employment- based green card limits, both the country caps based on birthplace and the category limits overall.

“But even if Congress does nothing else, it should stop the monumental injustice of aging out,” says Bier noting, “the vast majority of these children grew up in America. This is their home.”

“This injustice harms America as well,” he says pointing out that “More and more talented immigrants are going to Canada, Australia, and other countries because they treat their immigrants well.”