86,000 odd Indian children will age out owing to the green card backlog, with a risk of family separation

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MUMBAI: Of the 8.15 lakh Indians who are caught in the green-card backlog, which for most will take 84 years to process, 1.57 lakh are children. The most adverse impact of the decades long waiting period is for the children, a majority of whom will age out before a green card can be obtained. This in turn, carries with it a high risk of family separation.

Annually the US sets aside only 1.40 lakh green cards for employment-based applicants and there is a 7% per country cap. Given the heavy influx of Indians in the US – majority of them holding an H-1B visa, this restrictive policy poses challenges.

The employment based green card backlog from India (EB-2 and EB-3 skilled category) has reached 7.41 lakh in April 2020, with an expected wait time of 84 years. These are the findings of a recent study conducted by David J. Bier, an immigration policy analyst with the Cato Institute, a US based think-tank. Over a lakh, or to be more precise – 1.36 lakh children from Indian families fall in the backlog of this particular category and 84,675 of them (or 62%) will age out without getting a green card.

Once children turn 21, they can no longer continue with their H-4 visa, which is meant for dependents and is tied to their parent's H-1B work visa. On ageing out (attaining the age of 21) they have no option but to obtain an F-1 visa meant for international students, which comes with its own challenges such as limited work opportunities while a student and higher fees. Further, F-1 visa applicants need to prove non-immigration intent - for children that have aged out and whose family is in the US, meeting this requirement is yet another hurdle that needs to be crossed. The only other alternative is to self deport to India, many of these children grew up in the US and have little or no connection with India and relatives who reside here.

Bier has tweeted: "Employment-based immigrants from India and China put up with a lot of bad governmental policies... But the worst indignity brought upon these talented future Americans is how the system treats their children."

In total, 2.56 lakh children are in queue for a green card, including those in the skilled category backlog. Of the children in the EB-2 and EB-3 category backlog for green cards, 1.57 lakh (62%) are from India, another 49,835 (20%) from China, and 46,394 (18%) from other countries.

About 1.04 lakh children will age out of eligibility over the next two decades. This is about 40% of the entire green card child backlog. 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%), states the study.

Bier adds, "Again, the fact that Chinese and Indians dominate the backlog is the result of the country caps where green cards are not issued proportionally to the number of pending applicants in each country but rather limited arbitrarily at 7% per nation of birth."

TOI had earlier covered the predicament of many such children – who are referred to as H-4 dreamers. An Ohio based student, currently pursuing his Masters' in technology had told TOI that he moved to US with his parents when he was just seven years old. "When I applied to graduate school, I was considered as an international student. After I complete my studies, I will continue to be treated as an alien and be allowed to work only if I can get an H-1B visa." The problem is exacerbated as owing to significant hike in wage rates, in place since October for H-1B visa holders, obtaining a job at an entry level will be impossible. Three lawsuits against this wage increase are pending in US district courts. He admitted being jealous, at times, of his younger sister who was born in the US and will not face these issues. Citizenship by birth is enshrined in the US constitution, even as President Trump has on occasion announced his plan of ending this.

"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. 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," states Bier in his study.

A bill, viz: S 386, which seeks to lift the per country green card limit was blocked in the US Senate. While Biden's proposed immigration policy includes increasing the number of employment-based green cards and elimination of country caps, which creates unacceptably long backlogs especially for India and China, these will need to be introduced via the House and the Senate. Thus, according to immigration experts, introducing such a change will take time and the problem cannot be resolved in a jiffy.