Indian immigrants hit hardest by green card waste: Cato Institute

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Indian immigrants were hit the hardest by the US government's failure to issue a quarter of the available employment- based green cards for legal immigrants in fiscal year 2021, according to a Washington think tank.

Despite about 1.4 million immigrants waiting for an employment- based green card in 2021, the government only used 195,507 of the 262,288 available green card numbers, wasting 66,781 green cards, according to a research fellow at Cato Institute.

As of January 2022, the agency the USCIS was on pace to waste more than 100,000 employment- based green cards in FY 2022, David J. Bier, associate director of immigration studies at the institute noted in a blog post.

Bier also called upon the Biden administration to show its commitment to legal immigration by making sure that every available green card is used this year.

"Green card waste affects Indian immigrants far more than any other group of immigrants because they make up 82 percent of the immigrants waiting as a result of the caps," he wrote.

"This is because the law limits immigrants from any single birthplace to no more than 7 percent of the green cards available in a year, and for many years, Indians have made up about half of all the new applicants," Bier noted.

"New Indian applicants enter the backlog, while immigrants from other countries get to pass them in line and receive a green card as soon as their applications are adjudicated," he wrote.

"But there's a very important exception to this 'per- country cap': if the rest of the world will not use all the green cards, Indians can receive more than 7 percent of the total," Bier suggested.

In 2021, the employment- based cap was increased by more than 120,000 because the law dictates that any unused family- based green card numbers should be reassigned to the employment- based categories in the following year.

"The influx meant that Indians could finally bypass the country caps and get green cards far in excess of the 7 percent limit, and they did," Bier noted.

For the EB 2 and EB 3 categories in which most Indian applicants are waiting, issuances went from 5,793 in FY 2020 to 43,200 in FY 2021.

"The additional employment- based green cards in FY 2021 effectively provided Indians with six and a half years' worth of issuances in a single fiscal year," Bier wrote. But that's exactly what makes the waste of nearly 67,000 green cards so frustrating for anyone in the backlog.

"The failure to process these green cards basically means that the administration has (illegally) added 11.5 additional years of waiting for Indian immigrants," Bier suggested.

"I say 'illegally' because the government is required to implement the laws that Congress enacts, and it has violated the law," he wrote. "Unfortunately, courts failed to hold them accountable, so Congress must step in and force the agencies to follow the law."

The employment- based cap is even higher in FY 2022 than it was in FY 2021: 281,430. "Based on numbers from the first quarter of FY 2022 as well as statements from agency officials and attorneys, it seems clear that the agencies will duplicate their poor performance in FY 2021," Bier wrote.

With 84 percent unused, the EB 5 investor category had the most green card waste in FY 2021 as a percentage of available green cards.

In absolute terms, the greatest waste came from the EB 3 category for (mostly) bachelor's degree holders, which wasted 19,774 green cards last fiscal year.

The cap system that flows unused numbers from one category to the next is supposed to guarantee that all the numbers are used every year, but last fiscal year, the system broke down.

The US government simply failed to make the necessary changes fast enough to ensure that every green card was issued, so those green cards were wasted, Bier wrote.