Family and Employment Green Card Backlog Exceeds 9 Million

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An unimaginably large backlog has developed in America's legal immigration system. Between agency delays and low green card caps, about 9 million immigrants are awaiting green cards, which denote legal permanent residence status in the United States and eventually would permit naturalization to U.S. citizenship. If Congress does not reform the immigration system, hundreds of thousands of these legal immigrants could die waiting for their chance to become U.S. citizens.

Since 2009, the State Department has annually published a document called, "Annual Report of Immigrant Visa Applicants in the Family‑sponsored and Employment‑based preferences Registered at the National Visa Center." Throughout this time, the number of immigrants "registered at the national visa center" has hovered between 3.5 and 4.6 million, and it has actually decreased in recent years. But this number—which is often cited as the definitive estimate of the green card backlog—is just one slice of the much larger number of immigrants going through the green card process.

The first issue is that the State Department report includes only immigrants being processed at consulates and embassies abroad and so does not include immigrants with applications pending at U.S. Citizenship and Immigration Services (USCIS) to adjust to legal permanent residence from some other status inside the United States. This is an issue that I've noted in prior reports

on the green card backlog. The second issue is that it excludes all immediate relatives of U.S. citizens (spouses, minor children, and parents) who are not subject to numerical limits but who nonetheless have green card applications pending.

But the third issue is much larger and less transparent. The State Department report only includes immigrants whose relatives or employers have had petitions *approved* on the immigrant's behalf. Not counting pending petitions always seemed logical to me since they aren't technically in the line until they're approved. The problem is that the backlog of pending petitions is now into the millions of people because the government is just not processing them. For example, USCIS says that it is currently processing petitions filed for adult children of U.S. citizens from 2010.

As Figure 1 shows, the petition pending backlog was 3.2 million in 2020, while there were 5.3 million with approved petitions who were wait‑listed due to insufficient cap space plus nearly half a million pending adjustment applications for applicants in the United States. Two notes on these estimates' methodology: since multiple immigrants—the primary, spouse, and minor children—can be included on a single petition, the number of total immigrants with petitions pending must be estimated using the ratio of primary applicants to total applicants who actually obtained green cards. Similarly, the share wait‑listed in the United States (which isn't published anywhere) must also be estimated using the share of applicants who adjusted in the United States from another status.

Figure 1
Family- and employment-based green card backlog, 2018-2020
10M

8,743,256   8,789,869   9,044,824

5M

0

2018   2019   2020
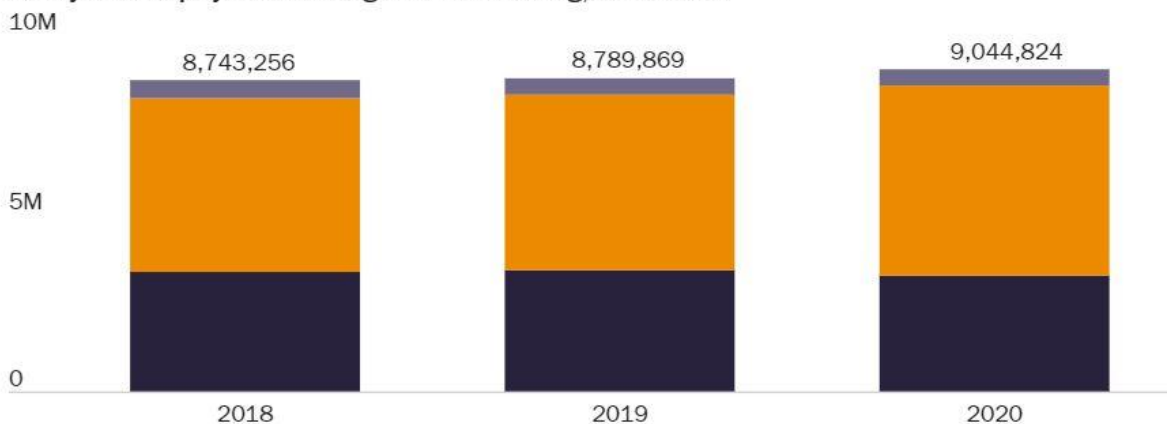
● Sponsor Petition Pending   ● Petition Approved - Wait Listed   ● Pending Adjustment Application

Note: Family-based applicants include both immediate relatives (IR) and family preference pending cases. Wait-listed includes some pending visa applications at consulates abroad, but EB and FB pending visa applications were roughly 50,000 in 2019.
Sources: State Department, "Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center," 2020, 2019, 2018; U.S. Citizenship and Immigration Services (USCIS), "Count of Approved Petitions," April 2018, November 2019, April 2020, April 2021; USCIS, "Number of Service-wide Forms," 2020, 2019, 2018; and for estimation of dependent spouses and children and share of wait listed family adjustment of status cases, see Department of Homeland Security (DHS), *Yearbook of Immigration Statistics* (Washington: DHS, 2019), Table 7, Table 6.

The bulk (83 percent) of the green card backlog—some 7.5 million applicants—benefited from petitions by their U.S. relatives. This is up from 3.3 million in 1992 and 6.2 million in 2009 (Figure 2). After making considerable progress in reducing the family petition backlog around 2010, the petition processing backlog grew from 23 percent of the total family‑based backlog in 2015 to 40 percent of the backlog in 2020, or more than 3 million immigrants. There has also been a considerable increase in the number of pending applications to adjust status in recent years, which increased from about 116,000 in 2012 to 358,000 in 2020. These applications are for immigrants who are inside the United States and who are eligible to immediately become legal permanent residents. Of course, the largest group are the 3.8 million immigrants with approved petitions but who were wait‑listed due to low immigration caps. The State Department's annual report on its backlog only includes this group of immigrants (shown in the middle in orange in Figure 2).
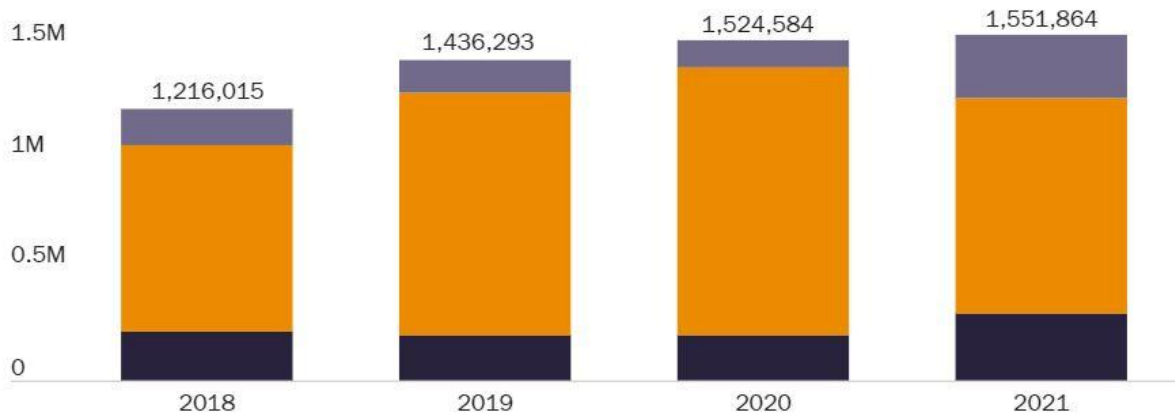
Figure 2

Family-based green card backlog, 1992-97, 2009-20

Sponsor Petition Pending • Petition Approved - Wait Listed (Abroad)

Petition Approved - Wait Listed (US) • Pending Adjustment Application (US)

Note: Family-based applicants include both immediate relatives (IR) and family preference pending cases. Sponsor petition pending figure for 2009 is from 2007, which was the closest available year. 2010-2012 us the 2013 number.

Sources: State Department, "Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center," 2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011, 2010, 2009, 1997, 1996, 1994-95, 1992-93; U.S. Citizenship and Immigration Services (USCIS), "Number of Service-wide Forms," 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020; USCIS, "Number of Form I-130," 2010-12, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020. USCIS Ombudsman, "Annual Report," June 11, 2007; for estimation of dependent spouses and children and estimation of pending family-based wait listed adjustment cases, see Department of Homeland Security (DHS), *Yearbook of Immigration Statistics* (Washington: DHS, 2019), Table 7, Table 6

Unfortunately, we have far less historical context for the employment‑based backlog because such a high percentage of employment‑based cases adjust status in the United States, so the State Department's reports from earlier are almost wholly useless. Instead, we must rely on USCIS numbers, which the agency began publishing in 2018. During this brief period, the total employment‑based backlog increased from 1.2 million to 1.6 million, and backlogs grew at all three stages of the green card process (Figure 3). In 2021, nearly 1 million immigrants were wait‑listed due to the caps on employment‑based green cards.

Employment-based green card backlog, 2018-2021-3rd quarter

Note: Wait-listed includes some pending visa applications at consulates abroad, but EB and FB pending visa applications were roughly 50,000 in 2019. 2021 is as of Quarter 3. All others are as of Quarter 4.
Sources: U.S. Citizenship and Immigration Services (USCIS), "Count of Approved Petitions," April 2018, November 2019, April 2020, April 2021; USCIS, "Number of Service-wide Forms," 2020, 2019, 2018; and for estimation of dependent spouses and children, see Department of Homeland Security (DHS), *Yearbook of Immigration Statistics* (Washington: DHS, 2019), Table 7.

The main caution with these estimates is that immigrants can sometimes benefit from multiple petitions at the same time, such as from an employer and a family member at the same time or from two employers simultaneously. We just have no way to know how common this is because the government fails to track duplicate petitions. It appears much more common in the employer‑sponsored immigration system, but while accounting for these would be helpful, it is not likely to change the overall picture of an overwhelmed, outdated system.

The government does not report the country of origin for each type of application, but it appears that Mexico leads the family‑based system with about one third of the approved petitions wait‑listed by the State Department. India dominates the employment‑based backlog with about 80 percent of the approved but wait‑listed employment‑based petitions (factoring in their spouses and minor children). These large backlogs for India and Mexico have developed as a result of the country limits system under which immigrants from no single birthplace can receive more than 7 percent of the green cards under the caps unless they would otherwise go unused.

Congress has not updated the green card system in more than 3 decades, and these figures show just how out‑of‑touch the system is with the needs of our society and economy. Congress should start by abolishing the unfair country caps system and then remove or relax the worldwide limits on legal immigration. This would benefit America's economy and society, while helping to provide an alternative to illegal immigration for some relatives of U.S. citizens. Congress has never picked the right number to get the system in balance, so ending all arbitrary caps would be the best solution.

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