

## **Biden reforms on Day 1 set to cheer Indian diaspora**

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President Joe Biden is sending a bill to Congress on day one to restore humanity and American values to our immigration system. The bill provides hardworking people who enrich our communities every day and who have lived here for years, in some cases for decades, an opportunity to earn citizenship,” — these are the first few sentences of a release rolled out by the Biden-Harris transition team.

While the bill is not yet public, the release captures its provisions — which would gladden the heart of the Indian diaspora — be it H-1B employees, the 7.41 lakh Indians (including spouses and children) stuck in the employment-based green card backlog, nearly a lakh spouses of H-1B workers who were fearful that the employment authorisation program would be rescinded and even the nearly 2 lakh students from India.

The bill seeks to clear employment-based visa (green card) backlogs, recapture unused green cards, reduce lengthy wait times and eliminate per country-visa caps. “The bill provides dependents of H-1B visa holders work authorization, and children are prevented from ‘aging out’ of the system,” states the release. Currently once they turn 21, children of H-1B workers can no longer continue with their H-4 dependant visas and have to self deport to India or transition to an international student visa, which had its own inherent challenges such as higher tuition fees and restricted work opportunities.

“It is most most gratifying to see an acknowledgment from the Biden-Harris administration of the plight of immigration stakeholders” Arlington-based, Rajiv S Khanna, managing attorney at Immigration.com told TOI.

“The new administration is moving forward to present a comprehensive immigration reform legislative package to the Congress. Although Democrats have a slim majority in both chambers, it is far from certain that immigration reforms will go through without struggle. I anticipate the process of passage to last at least a few months. This time could also include hearings that Congress needs to schedule for their fact-finding. We must take much comfort that even if the reform takes a long time, we have a consistent rulemaking administration. No longer will we awake every morning to find a new set of policies we have to deal with. That in itself is a big relief,” he added.

Senator Bob Menendez, who will introduce the bill has stated, “The past four years have been

traumatic for immigrant communities who have endured relentless attacks from the Trump Administration. Today, we turn the page on this dark chapter of our history.” He has admitted that passing immigration reform through the US Congress will be a challenging task.

Menendez added “However, there is a moral and economic imperative to get this done,” he added in his statement”.

In the run up to the elections, the Biden-Harris team had in their proposed immigration plan outlined that steps will be taken for exempting foreign graduates of a US doctoral program from the green card cap, which would help those students who wish to stay on and work in the US.

The release indicates that, “The bill makes it easier for graduates of US universities with advanced STEM degrees to stay in the US.” Similarly, the immigration proposal had indicated that a new visa category would be created to allow cities and counties to petition for higher levels of immigrants to support economic growth.

The release states that the bill creates a pilot programme to stimulate regional economic development, gives the department of homeland security the authority to adjust green cards based on macroeconomic conditions and incentivise higher wages for non-immigrant high skilled visas (read H-1B and L1 visas), to prevent unfair competition with American workers.

The biggest beneficiaries of the Bill are likely to be those caught up in the huge employment based green card backlog. TOI had earlier reported on a study conducted by David J. Bier, an immigration policy analyst with the Cato Institute, a US based think-tank. As per this study, the employment based green card backlog from India (EB-2 and EB-3 skilled category) had reached 7.41 lakh in April 2020, with an expected wait time of 84 years.

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 and creates a huge backlog. While the nitty-gritty of the bill is not yet known, elimination of the per county-visa caps will go a long way in helping Indians caught in the backlog.

In December, the Bill S. 386 which sought to eliminate the green card, was unanimously passed by the Senate. However, the earlier bill passed by the House and this could not be reconciled in time. This bill had a transition period of nine years, to prevent Indians and Chinese from dominating the issuance of green cards. It had also barred 50:50 companies (those with 50 employees and more in the US or with 50 per cent of staff on H-1B work visas) from bringing in more employees on H-1B into the US.

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