

## **More than a million could die waiting for green cards as US immigration buckles amid COVID**

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August 8<sup>th</sup>, 2022

WASHINGTON — Milap Kashipara spent 16 years waiting for a green card that he hoped would lead to better opportunities for his three children than in India, as well as a chance to reunite with his siblings in California.

In 2019, his petition finally arrived at the front of the line. He completed the paperwork and had reached the final step — scheduling an interview with the U.S. Consulate in Mumbai. Processing estimates at the time showed his family could be approved by April 2020.

Then came COVID-19. Kashipara was 47 and healthy when he became infected. He died alone in a hospital 15 days later, on May 1, 2021, before the interview took place.

“His family needs support badly now and deserves a chance” to immigrate, his sister Ami Bhanvadia wrote in a letter to the Department of Homeland Security shortly after his death. “Families like my brother’s have faced worst outcome of COVID and are victimized due to no fault of their own and are losing immigration benefit after lawfully waiting many years.”

Immense backlogs are grinding U.S. immigration processes to a crawl. Unprecedented delays processing millions of visas, work permits, green cards and naturalization petitions, as well as cases languishing in immigration courts, are so severe that experts say they can’t be resolved without significant reforms.

It has been more than three decades since Congress approved a major overhaul to the U.S. immigration system, which involves a patchwork of pathways spread across multiple federal agencies depending on factors including a person’s country of origin, family ties and profession. The Trump administration implemented time-consuming changes — longer application forms, requests for additional evidence, more scrutiny for renewals — that extended existing backlogs to unmanageable levels at every step.

The system all but buckled under pandemic closures.

“Wait times are escalating despite the fact that policy is moving in the right direction, because policy is not moving as fast as increases in demand for these services,” said David Bier, associate director of immigration studies at the libertarian Cato Institute. “There’s no way to get control of these backlogs within just normal procedures, tweaks around the edges.”

Though delays are a hallmark of any bureaucratic process, in the context of immigration, the human cost can be profound. One study from the Cato Institute estimates that 1.6 million people who, like Kashipara, have been sponsored by relatives for a green card, will die before they can come to the U.S. legally.

Bhanvadia, who lives in Yorba Linda, applied almost two decades ago for Kashipara to join her and much of their extended family in the U.S. Kashipara built up his truck scale business overseas while waiting for his turn.

U.S. citizens like Bhanvadia can sponsor green cards for their spouses, children, parents and siblings. After consulting with lawyers, Bhanvadia determined that Kashipara’s death had severed his family’s link to U.S. residency. His daughters, who had dreamed of studying in the U.S., could also be disqualified from student visas because applicants must prove that they have no intention of staying permanently.

“It’s some myth that it’s very easy for foreigners to come here,” Bhanvadia said. “My brother’s family would have been here, had the visa delays or immigration hold not occurred, and he would still be alive.”

Applications pending with U.S. Citizenship and Immigration Services increased since the start of the pandemic by a third, reaching nearly 8.6 million in March. Immigration courts have 1.8 million pending cases, up 25% from the beginning of the fiscal year, according to the Transactional Records Access Clearinghouse, a nonpartisan research center at Syracuse University.

The Department of Labor is processing some applications filed seven months ago for a prevailing wage determination, a calculation of the average wage paid to similar workers in any job that sets the minimum pay for sponsored workers receiving green cards. The step, which used to take less than two months to complete, is supposed to ensure that U.S. citizens aren’t passed over in favor of exploited foreign workers. But the delays are keeping employers from hiring employees needed to fill the national shortage of nearly 5 million workers.

Labor Department spokeswoman Monica Vereen said requests for seasonal agriculture workers and other temporary positions have exploded, but congressional appropriations haven’t kept pace with demand.

As U.S. consulates reopened after pandemic closures, wait times for visa appointments skyrocketed. The State Department reported last month that nearly 410,000 immigrant visa

applicants, whose cases are otherwise complete, still don't have an interview scheduled. That's compared with an average of 61,000 applicants who were in the same position in 2019.

Wait times for visa interviews now vary widely among consulates, according to a Cato report last month. Tourists and business travelers wait 247 days on average, up from just 17 days before the pandemic. At the Santiago, Chile, consulate, the wait can take up to 886 days — 2 1/2 years.

The latest annual report by the USCIS Ombudsman noted that delays cause people to look for workarounds by applying for expedited or emergency requests, overwhelming the agency with calls.

“The perfect storm of decreases in resources, increases in filings, and the physical limitations imposed by the pandemic has resulted in longer processing times for virtually every product line handled by the agency,” the report states.

USCIS is almost entirely funded by applicant fees, though some petitions such as those for asylum are free. The agency hasn't raised its fees since 2016 and is operating with nearly 20% of positions unfilled. In an effort to address the issue, Congress appropriated \$275 million this year to tackle backlogs and support refugee processing, in part by hiring more employees.

USCIS Director Ur Jaddou rolled back actions by the last administration, such as requiring additional visa interviews and biometrics screenings from applicants who have already completed those steps. The agency also auto-extended some work permits, set backlog reduction goals and hopes to implement completely electronic processing by 2026, including e-filing for all applications, accepting electronic payments at all locations and issuing correspondence digitally. Just 17 of 102 benefits are currently available through e-filing.

During an online presentation in May, Jaddou said nearly two-thirds of pending applications can't be completed within the target timeframe, an amount that peaked in January at 5.3 million cases.

“We are pulling out all the stops wherever we can. And I know it's frustrating, but it is honestly frustrating for us to figure out how to do that,” she said. “We're going to do the best that we can.”

### Green cards

Among those eligible for permanent residency — usually through sponsorship from a family member or employer — backlogs have become extremely lengthy for people from countries including India, China, Mexico and the Philippines. That's because the U.S. allows only up to 7% of the green cards granted each year to go to people from any given country.

Congress authorizes as many as 675,000 green cards each year, most of them reserved for family members of U.S. citizens or residents. The law allows any family-sponsored green cards not

assigned in one year to roll into the employment category the next year before they are declared invalid. Last fiscal year, the federal government failed to issue nearly 67,000 available green cards before they expired Sept. 30.

Both chambers of Congress have introduced legislation that would reduce the green card backlog. Sens. Kevin Cramer, R-N.D., and John Hickenlooper, D-Colo., introduced the Eagle Act on July 20, which would phase out caps for employer-sponsored green cards and raise the per-country limit for family-sponsored green cards. Other proposals include reclaiming unused green cards and exempting immigrants with advanced STEM degrees from country caps.

Ashraf Awad, a 46-year-old mechanical engineer from Egypt, got his green card in 2016 through a program for countries with low rates of immigration to the U.S. Awad has petitioned for his wife and two children to join him in Dallas.

Meanwhile, he has spent thousands of dollars on flights to Egypt to see his 10-year-old daughter, who has been hospitalized several times for chronic stomach pain and vomiting. Doctors haven't been able to pinpoint a cause, and Awad wonders if their separation is a contributing factor.

Awad's family is unlikely to be reunited soon, said his lawyer Curtis Morrison, who noted that since President Trump was in office, processing immigration petitions by green card holders routinely takes several years. Awad is a plaintiff in a lawsuit Morrison's firm brought against the federal government over processing delays. Such lawsuits have increased threefold since 2020, and plaintiffs are expected to file nearly 6,300 cases by the end of this fiscal year, according to a July Transactional Records Access Clearinghouse report.

The State Department proposed raising fees for certain visas and has also waived some consular interviews, though many still require an appointment just to drop off paperwork. Immigrant visa processing is down 23% from its peak in July 2021, agency figures show.

If the government continues to delay his family's petition, Awad said, "I will choose my family and I will return again to Egypt and live there forever, because my family is the most important part of my life."

## Visas

Fleeing poverty and abusive family members in Guatemala, 41-year-old Angi — who asked to be identified by a nickname out of fear for her family's safety — and her then-5-year-old daughter traveled to Tijuana and presented themselves to U.S. border agents in September 2017. Family members offered them a room in their home.

Six months later, Angi's daughter said she had been raped in the home and was told her family would be killed if she told anyone. Angi took her daughter to a local hospital, where medical staff called police. She complied with the investigation, but her daughter's alleged assailant escaped to Guatemala before he could be arrested.

Angi and her daughter qualified for a U visa, which was established in 2000 to encourage immigrant victims to report serious crimes. But there is a yearly limit of 10,000 U visas available, and the backlog has grown to nearly 300,000 pending applications.

“I’ve asked God for patience,” Angi said through tears.

Her lawyer Daniella Prieshoff with the nonprofit Tahirih Justice Center said it could be five more years before Angi receives a visa. Meanwhile, Prieshoff has filed an asylum petition, arguing that if the family were deported, they would be endangered in Guatemala. Angi was granted a work permit in 2020 through the asylum petition and secured her first steady job cleaning hotels.

Facing criticism as delays caused many immigrants to lose their jobs, USCIS in May added a year to the 180-day automatic extension period for pending renewal applications. The change allowed people like Angi to legally work for 540 days beyond the date their permits expire, as hers did a few months ago.

Immigrant advocates say some employers still don’t understand the extensions. Though Angi hasn’t lost her job, she did lose her driver’s license for several months when her permit card expired.

Prieshoff said it has also been difficult for Angi and her daughter to receive therapy, noting that if their U visas had been processed, they could have applied for green cards, which would expand their options.

“They did all the right things — they followed the law, they reported to the police despite their own trauma and fear,” Prieshoff said. “The U visa was created to encourage immigrants to come out of the dark and cooperate with law enforcement in the interest of public safety. So how is this backlog achieving that?”

Delays are also discouraging workers. For some people with work visas, problems arise if their employer doesn’t start green card sponsorship early enough to account for delays, said Dagmar Butte, an immigration lawyer in Portland, Ore.

That’s because the Department of Labor has set strict timelines for the employment authorization process, including a requirement that employers recruit workers within a period of six months. But with prevailing wage determinations taking six months or longer, employers sometimes have to use guesswork in setting pay, leaving them vulnerable to audits. Further complicating matters, workers with certain visas operate under deadlines that require them to switch to a different visa or a green card to remain in the U.S.

“When you make it so difficult to comply, and the timelines are so long, and you have a worker shortage in the country, you hit a critical mass point real fast,” Butte said. “For many people there just aren’t very many alternatives, and then, yes, they do end up having to go home.”

## Temporary statuses

After pandemic restrictions eased, the Biden administration expanded humanitarian programs for immigrants displaced by war and political upheaval.

USCIS processed work authorizations for more than 70,000 Afghans evacuated last year as the Taliban took control of the country. Nearly 50,000 others who are stuck overseas applied for lawful entry under humanitarian parole. The agency, which typically receives 2,000 humanitarian parole requests yearly, has yet to process most of those applications.

Then President Biden agreed to help Ukrainians displaced by the war with Russia. USCIS established a special parole program for Ukrainians in April and within three months had approved nearly 70,000 requests. Unlike Afghans, Ukrainians don't have to pay a fee and are not interviewed before their arrival. More than 70,000 others have arrived on visas or were admitted through the U.S.-Mexico border.

In March 2021, Venezuela was designated for Temporary Protected Status, known as TPS, a program that offers 18 months of protection from deportation and work permits to applicants from 15 countries who are already in the U.S. and cannot safely return home. Homeland Security recently extended Venezuela's TPS to March 2024.

Rafael Paredes, 66, paid almost \$600 to apply a few weeks after the program was announced. USCIS finally approved his application July 5, giving him just two months before he'll have to renew.

"Maybe there are good intentions, but the system isn't developed from a practical or efficient standpoint to be able to process what should be a benefit," said Paredes, who fled Venezuela in 2018 and lives near Tampa, Fla.

## Immigration courts

Under control of the Department of Justice, immigration courts are often affected by the federal government's shifting priorities and politics, said retired immigration Judge Dana Marks, who sat on the bench for more than 30 years in San Francisco. When she started her career, most judges carried around 800 pending cases. Many now juggle up to 4,000 cases, she said.

When she was president of the National Assn. of Immigration Judges, Marks pushed for increased funding and more discretion for judges to prioritize and manage their cases. A House bill introduced this year by Rep. Zoe Lofgren, D-Calif., would make the immigration court system an independent judiciary.

"It's problematic of the immigration court to be part of a law enforcement agency and to be used as a political football," Marks said.

Experts say the backlog encourages applicants who don't qualify for asylum to apply anyway knowing the resolution of their case is years away. Wait times for a hearing on an immigrant's claims now average just under five years, according to Transactional Records Access Clearinghouse.

In May, the Biden administration implemented an overhaul of asylum processing at the border aimed at alleviating court backlogs. Under the new system, which is being challenged in federal court, asylum seekers initially have their claims heard by USCIS officers in a speedier process.

The new rule is being rolled out slowly while a pandemic-era order that limits the entry of migrants at the border remains in place under a court order. When that's lifted, thousands more cases will be given to the overburdened agency to process.

John Martin, spokesperson for the Department of Justice's Executive Office of Immigration Review, acknowledged the court backlog is due in part to staffing. The Justice Department's discretionary funding request for 2023 includes money to hire 100 more immigration judges. The agency has also reduced the number of required hearings in the process and set quicker response deadlines.

For Marks, though, nothing short of a congressional overhaul of immigration law is enough.

"Everything we do until then will be a temporary Band-Aid fix that may or may not hold."