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Why the Wait for a Green Card is Endless

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Only about 3% of the people who have submitted green card applications will receive permanent status in the US in fiscal year 2024 according to a recent Cato Institute Report. Of the approximately 35 million applications are pending, only 1.1 million people will receive green cards in 2024. While it is true that the number of applicants has increased over time, the backlog problem is also due to the US government's rejection of applicants. As a result of rejections, 6.3 million green cards have gone unissued since 1921 even when the government had authority to issue them.

It has become harder today to obtain green cards through almost all categories. First, despite the increasing demand, the lottery cap remains about 55,000 for the green card lottery, which has 23 million applicants. Applicants have a staggering low 0.25% chance of receiving a green card through the lottery.

Second, there are increasing delays in receiving family-sponsored green cards. Green cards for spouses and minor children of green card holders, adult children, and siblings of US citizens have a cap of 226,000. Meanwhile, people who are immediate relatives of US citizens are not faced with a cap, nevertheless, family-sponsored applicants are now at 8.3 million. Some new applicants for family-sponsored green cards will face a lifetime of waiting from certain countries.

Third, employment-based visa backlog has grown to 1.8 million as of March 2023. In that backlog are 1.1 million Indians. In 2024, only 8% of pending employment-based applications will be approved for a green card. The US issues only 140,000 green cards based on employment each year. However, green cards in this category are not allocated on a first-come, first-served basis.

People from no single country can receive more than 7% of the annual employment-based green card allotment. Country-based caps disadvantage Indians. India has the largest population in the world. That, plus the focus on science, technology, engineering and math education in India, has led to a disproportionate number of people from India (as opposed to people from other countries) emigrating to India on employment-based visas (EB-2 and EB-3). While H-1b visas do not provide a pathway to a green card, EB-2 and EB-3 employment-based visas for highly skilled workers do provide a pathway for a green card.

However, given the country-based caps, Indians starting the employment-based green card process now may face a wait of over 130 years. On the other hand, for some countries in the world (like Canada), the wait is relatively short because few people emigrate to the US from

those countries on employment-based visas.

The Cato Institute estimates that more than 400,000 people from India who have helped the US economy grow and have lived most of their lives in the US on employment-based visas will die before they get permanent residency.

Over 100,000 children of Indians will become undocumented if they remain in the US when they turn 21 because they can no longer get a green card through their parents who are waiting for their green cards. To avoid becoming a “documented dreamer,” these children who have been raised in the US have to return to India while their parents remain here to keep their place in the green card line. This unfairly separates families.

Finally, many Indian employees at US companies are trapped in jobs that may not pay well or treat them fairly. An employer typically sponsors an employee for a green card. If the worker switches employers, they must start the green card process all over again, which puts them at the back of the long queue. This is problematic for employees waiting for a green card, as it restrains their freedom of employment and movement.

Placing green card limits on a per-country basis rather than treating everyone equally dates back to 1924, when eugenics had currency and the vision of America as a Caucasian nation prevailed. This prevented many non-white people from entering the US. This changed in 1965, when Congress ended an immigration admissions policy based on race and ethnicity. However, per-country limits remained for employment-based green cards.

Employers have lobbied to change the per-country limits, as it harms them when they are not able to bring skilled workers into the US when there is a domestic shortage. It deters highly skilled people from India from seeking entrance into the US, given the long backlog they face. The most devastating impact is on the Indian employees themselves and their children.

The entire immigration system in the US must be overhauled and several bills have been proposed over the years in the US Congress to make the system more fair, but there is yet to be agreement across the parties on these issues.