A New U.S. Immigration Law Would Hurt Iranians the Most

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A new amendment to U.S. immigration legislation may soon become law and significantly change the employment-based immigration landscape of the United States for good. If that happens, in addition to hurting America in several ways, it will have major repercussions for immigrants from all countries. But with the combined effect of U.S. President Donald Trump's travel ban, Iranian immigrants are likely to have it worst.

The legislation in question is the now-infamous H.R. 392, or the Fairness for High-Skilled Immigrants Act of 2017, which has become a hot topic of discussion among skilled immigrants, many of whom have been calling on politicians to oppose it. The legislation aims to eliminate the per-country numerical limitation for employment-based immigration. At the moment, each country has a numerical limit of 7 percent or 9,800 of the 140,000 green cards issued per year, regardless of its population. The bill intends to amend the Immigration and Nationality Act to eliminate limitations relating to place of birth.

The bill will therefore prove a boon almost exclusively to employment-based immigrants from India and China; smaller countries will suffer. According to data published by U.S. Citizenship and Immigration Services (USCIS), 309,986 or 73.9 percent of the total of 419,637 H-1B visa (which allows U.S. employers to temporarily employ foreign workers in specialty occupations) petitions registered in the fiscal year 2018 belonged to citizens of India. Together with China, whose employment-based immigrants to the United States constituted 47,172 or 11.2 percent of total petitions in the same period, the two countries accounted for an overwhelming majority.

H.R. 392 has been bankrolled mainly by the Indian-American community, especially the nonprofit Immigration Voice. The support is spearheaded by tech companies like Amazon, Alphabet, Hewlett Packard, and Microsoft, among others. It did not come as a surprise that Cognizant Technology Solutions was also a main backer of the initiative, since it grabbed the highest number of approved H-1B petitions among all companies in the fiscal year 2017, according to USCIS. The H1-B is a temporary fix for skilled foreign workers in the United States; the green card is a permanent one.

Proponents mainly argue that removing the per-country numerical cap can solve a major backlog problem that is exacerbated by the country caps and adversely affects Indian employment-based

immigrants the most because so many of them are seeking permanent residency. More than 306,000 Indians and 67,000 Chinese immigrants were waiting in the employment-based green-card queue, according to USCIS figures reported in May. If it becomes law, the bill will most probably mean that the majority of employment-based green cards issued in the next decade will go to people from India.

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On one level, this could result in added wage suppression and potential job loss for Americans working in the tech sector. This possibility is strengthened by the fact that the Indian backlog problem is self-sustaining: immigrants with H-1B status are usually unable to switch jobs for fear of losing their place in line, allowing opportunistic employers to take advantage of the situation and enjoy cheap labor for years, even as their immigrant workforce may have become deserving of several pay raises.

But more importantly, H.R. 392 means systemic bias toward employment-based immigrants from every other country. Yes, there is no denying that the current system is very hard on legal working immigrants from India, and to a lesser degree China, who are forced to wait for long periods; no one exactly knows how long they have to wait to receive permanent U.S. residency, but the Cato Institute used USCIS data to project a 150-year waiting period for Indian EB-2 visa holders (those with advanced degrees or exceptional abilities) because the number of people applying for those visas is much larger than other categories.

However, if the majority of employment-based green cards issued in the next decade go to people from India and China, it will mean easing the burden on one or two countries by transferring it onto the shoulders of thousands of immigrants from dozens of other countries, which hardly seems like a fair and logical solution. U.S. lawmakers would be better advised to pursue wider immigration reform that does not brazenly punish one or several groups to the benefit of others.

That was also the advice given by the Canadian American Bar Association (CABA), which on Dec. 12 submitted a letter to the U.S. Congress opposing H.R. 392. CABA said the legislation "threatens to impede the free movement of highly skilled Canadian workers" and "cause harm to American businesses operating in cross-border industries." If significantly more visas and green cards are prioritized for employment-based immigrants from one nation, those in other countries and their related industries will suffer.

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What is more, eliminating the per-country numerical cap may further alienate international students, some of whom have already started looking at alternatives to U.S. universities due to Trump's anti-immigration rhetoric. The flow of foreign college students coming to the United States slowed for the second year in a row in 2017 and dropped by nearly 7 percent compared to the previous year, according to the 2018 Open Doors Report on International Educational Exchange, an annual survey taken by the Institute of International Education.