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Our green card system must be reformed, and a new Congress can do it

Kristiana Bolzman

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In a November Gallup poll, 78 percent of voters said that immigration is one of their top priorities. But while it's usually DACA and border disputes that keep immigration issues circulating through headlines, this midterm election also gave hope to an overlooked group: skills-based immigrants.

The technological innovation sweeping through Silicon Valley and across the nation requires a skilled labor force. Because the majority of full-time graduate students in computer science and electrical engineering are international, American companies use H-1B visas to hire international workers to meet their specialized needs. Though these workers make American innovation possible, they face insecurity and limited opportunities in our broken immigration system.

"There is so much uncertainty for us," said Asmi Mehta, a San Francisco Bay Area physical therapist and H-4 visa holder. "We really don't know what's going to happen next." Eleven years ago, Mehta's husband Akshay Shah came to the U.S. from India to earn his master's degree in computer science. When he graduated, Oracle Corporation sponsored his H-1B visa and Asmi joined him on a dependent visa, the H-4.

Asmi spent years obtaining the requisite education, experience, and licensing to practice physical therapy, but her H-4 precluded employment. She only works today because of an unexpected 2015 executive order allowing work permits for certain visa holders. "We don't know what's going to happen next week," Mehta said. "If the [Trump] administration pulls the executive order, I won't be able to work. If something comes with the H-1, Akshay can't work. We would have to leave everything and go back to India, despite going to school and working here for eleven years." Shah, a senior software development manager at Oracle Corporation, does have the education and skills in computer science to qualify him and Asmi for employment-based green cards. But after applying and receiving approval, Shah and Mehta are still waiting—nearly a decade later.

Their situation is not unusual. According to the Cato Institute, over 600,000 skilled immigrants are working and waiting, with wait times up to 150 years for approved green cards. Why the backlog? In 2017, nearly 85 percent of H-1B visas went to workers from India and China. But, of the 140,000 employment-based green cards issued each year, initially only seven percent can go to immigrants from any one country.

"That's where the fairness argument comes in," Shah said. "Why is one country favored over the other? It's a skills-job. When you hire someone you're going to see who performs best in the interview or who has the best experience, not what country they are from."

With new leadership, Congress now has the opportunity to revise the system. H.R. 392, supported by 75 percent of House members, would eliminate the per-country cap on employment-based green cards. The reform has been added as an amendment to Department of Homeland Security appropriations bill H.R. 6776, which will likely be considered in December. Eliminating the per-country cap would give Mehta and Shah security. It would also give the American economy new life.

Immigrants have founded more than half of America's startup companies valued at \$1 billion or more, and provide key leadership at 80 percent of those companies. Tesla, for example, founded by South African immigrant Elon Musk, employs 46,000 workers. Mu Sigma, founded by Indian immigrant Dhiraj Rajaram, employs 3,500 workers, and Uber, founded by Canadian immigrant Garrett Camp, employs 750,000 drivers in the U.S.

While H-1B visa holders may start a business, doing so requires leaving the company currently sponsoring their visa and starting the green card application process all over, with new requirements and new opportunities for rejection. But a first-come-first-serve system or a merit-based system would give people with the skills and desire to start companies the opportunity to do so—regardless of their national origin.

Eliminating the per-country cap also frees jobs lost to the green-card backlog.

"I'm stuck there in this green-card process," said Manoj Dhanapal, a principal member of technical staff at Oracle. "Oracle knows that if I leave my job now, my new company would have to apply for a green card. They know that I don't want to do that especially in my sixth year waiting. So it's in their interest to keep me in this limbo because I'm tied to the company for longer." American employees leave if they are under-compensated. Visa-holders who depend on their company's sponsorship while they wait for their green card do not. Thus, eliminating the per-country cap would eliminate a disincentive to hire American workers.

The reform would also show gratitude to those who make America great: American workers and those who provide the skills American companies need.

"A green card would make my future more secure," Dhanapal said. "I would know where I am at—where I can stay. I would know that the country I'm living and working in values me."