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A visa crisis is hitting the children of Silicon Valley tech workers

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When Deepasha Debnath’s mom opened their Cupertino mailbox on a sunny February afternoon, she found the green cards her family had awaited for 12 years. But Deepasha did not receive one.

The 24-year-old grad student is part of a growing visa crisis hitting the children of Indian immigrants, many of them Silicon Valley’s tech workers, a generation forgotten in immigration reform efforts.

Brought to the U.S. on their parents’ work visas, many have spent their entire childhood here as their families waited to gain legal permanent residence, a process that can take years and even decades for Indians because of visa backlogs. Yet as they turn 21, they lose their family status and face expulsion from the country.

“They did not celebrate when they got their green cards, knowing that I did not receive it with them,” Debnath said of her parents and younger brother.

Debnath’s family arrived from India in 2006 when an American company hired her father. She was 9, and as her father worked for companies in the Bay Area, California became their home. In 2010, the family applied for green cards.

When she turned 21 and lost her dependent child visa, immigration rules also eliminated her from the family’s pending green card application. Debnath was in college at the time and managed to switch to a foreign student visa, extending her stay in the U.S. But she no longer has a path to permanent residency or citizenship. Her visa will end when she graduates.

Debnath is not alone. The Cato Institute estimates that 10,000 minors will turn 21 and age out of legal status in the country this year.

As Debnath has learned, there is no permanent solution for young adults like her. They are left to choose between staying with their family and becoming undocumented, or returning to a country they barely know.

Neglected system

Policymakers are increasingly aware of the plight of young people like Debnath, who have come to be known as “documented Dreamers,” a term some in the movement embrace for its increased political visibility, but others reject because they don’t want to be viewed in competition with undocumented immigrants who came to the U.S. as children and have secured some protections in Washington.

Despite the advocacy of documented Dreamers, they have not succeeded in winning a fix in gridlocked Washington, instead finding themselves caught in the same political battles as many other immigrants seeking reform.

But unlike some policies that intentionally excluded groups from citizenship, the plight of Indian young people aging out is a product of an immigration system that hasn’t been overhauled in three decades.

“This is one of the many problems that crop up not through design but through neglect,” said David Bier, an immigration expert at the libertarian Cato Institute. “This is not an issue of Congress designing a problem into existence; it’s an oversight that’s turned into a crisis.”

At the root of the issue are caps that limit the total number of green cards that can go each year to immigrants from any one country. For Indians, who came to the U.S. in growing numbers on high-skilled job visas after the dot-com boom and to join family already here, the wait times stretch for decades.

There’s hope that the issue could be addressed, at least temporarily, by President Biden and his Cabinet agencies.

The 2012 Deferred Action for Childhood Arrivals program, known as DACA, originally applied to qualifying immigrants brought to the U.S. as children with no restrictions on legal status. But in implementation, the policy granted protections only to undocumented immigrants — excluding those who age out of visas.

The Biden administration is seeking to create a more formal DACA program to protect it from court challenges, with several organizations and lawmakers urging the administration to simply include children of visa holders.

Another possibility, Bier said, is for the administration to let these children keep their place in line for green cards even after they age out. He argues that previous court decisions have given the administration that discretion.

The administration said it is considering its options, and U.S. Citizenship and Immigration Services, a visa-granting agency of the Department of Homeland Security, said in a statement that it is “exploring legal methods” to provide relief. The White House said it is “very aware of the hardships” but laid the blame on Congress’ inaction.

Executive actions, even if they come through, would be only a patch. But the odds of passing any of the bills before Congress are dire.

The 2021 America’s Dream and Promise Act, which alongside undocumented Dreamers would create a pathway to citizenship for aging-out children of visa holders, passed the House by a slim bipartisan margin but stalled in the Senate.

The America’s Children Act, which would specifically tackle the aging-out issue, faces similarly long odds despite bipartisan support.

In the Senate, 60 votes are required to advance legislation, but getting 10 Republicans to join 50 Democrats on any immigration legislation — especially one that increases the number of immigrants who can come to and stay in the U.S. — would probably require significant border security measures and harsh cuts to other aspects of immigration such as asylum protections.

Those moves to mollify the Republican base are anathema to Democrats, leaving compromise at an impasse. Even if a deal could be reached with the right to move a narrow change, Democrats could face defections from progressive advocates who object to protecting some groups of vulnerable immigrants without the others.

California Democratic Sen. Alex Padilla, one of the authors of the America’s Children Act, said he remains hopeful and called the situation for this group “fundamentally unjust and unfair.”

Still, in the decades-long cycle of disappointments for immigration reform advocates, what the documented Dreamers have accomplished is significant, said Rep. Zoe Lofgren of San Jose, who said she persuaded her fellow Democrats to include the group in their latest version of the Dream Act, first introduced more than 20 years ago.

“It wasn’t a hard lift to get it in, but I do give them credit for their advocacy in raising the issue,” Lofgren said.

Dip Patel, who created the grassroots group Improve the Dream, said he and others were inspired by the undocumented Dreamer movement to begin their own efforts to educate lawmakers about the situation facing children of foreign workers.

“Seeing that change can happen with how Dreamers had organized and how they were able to build a movement is also part of what … inspired me to know that it is possible,” Patel said. “Our system shouldn’t allow for us to grow up here, be raised here and be educated here and even after 20 years of living here not have a path to citizenship and possibly have to self-deport.”

His organization is also working with California senators to amend the state’s Dream Act, which allows undocumented students to attend college and pay in-state tuition, but does not include students on visas.

Bier, who has been tracking the issue and other problems with the immigration system for years, said even in 2012, policymakers should have foreseen the crisis.

“Every year it’s another 10,000 or so Dreamers losing status,” Bier said. “No one has done anything about it, and so it’s really building up; there’s more and more people being impacted, the population who’s affected is growing, and that’s having political consequence.”

Barred from opportunities

On a recent Saturday night, a group of friends ate pizza and played the card game We’re Not Really Strangers on the floor of Sumana Kaluvai’s San Francisco apartment. These children of Indian immigrants grew up in the U.S. and managed to transfer to student visas to finish their degrees, yet face the same unknown fate when they graduate.

Kaluvai drew a card, blushed, and read, “What’s the first thing you noticed about me?” One friend said it was her smile. “It’s bright and it hides a lot of the pain you’ve been through.”

Kaluvai, 24, arrived in the U.S when she was 2. She turned 21 midway through her undergraduate studies at UCLA and now has five months left on her foreign student visa. Kaluvai has been accepted to various law schools for the fall, but worries that a new student visa might be denied. “If that happens, then I will be undocumented,” she said.

Kaluvai first felt her visa limitations when she was 17 and landed a job scooping ice cream, only to be told that her immigration status did not permit her to work.

“I was like, ‘Wow, I guess you can work hard and do everything quote-unquote right, but you’re still going to be barred from some opportunities because of your immigration status.’”

One morning on the drive to school, her mother told her college might also be inaccessible unless she could get a foreign student visa and afford the high fees charged to international students.

“That whole day I spent switching between bathroom stalls in my high school. … I was just crying the whole day.”

Kaluvai also decided to “self-deport” to India right before she aged off her H-4 dependent visa, advising that a visit to the U.S. Embassy in Chennai would speed up the process of getting a student visa. She almost got stuck in India when the consular official informed her it could take a lot longer than she had anticipated.

All these experiences turned the student into an activist. She began an organization, the Hidden Dream, to help young adults in her situation. The nonprofit runs courses in college prep, premed workshops and navigating the immigration system.

Kaluvai feels a kinship with Dreamers, also shut out of work and study opportunities because of their immigration status. As her organization grew — now reaching 700 youths — they began to push back on the think-tank-imposed label of “documented Dreamer,” which made her uncomfortable.

“That just leads to a sentiment that one set of kids is better than the other set of kids; it just allows us to pit communities against one another,” Kaluvai said. “I think it’s much more powerful if we realize the commonalities between kids on visas and kids not on visas and use that to leverage our power and unite our voices and ask for change for all kids who grew up here.”

This message of solidarity has been a hard sell inside her own community.

She confronted the rule-following nature of her “green card backlog community” when she was unable to get much participation in a national day of protest on Feb. 14, when immigrants were asked to walk off their jobs to demonstrate the country’s reliance on immigrant labor.

“This is why our community isn’t winning,” Kaluvai said, “because we’re not willing to take a unified stance and show people that we’re not going to show up to work.”

Kaluvai gave up her dream of studying philosophy and chose bioengineering simply because immigration rules allow STEM students — those in science, technology, engineering and math — an extra two years to gain work experience before their visas expire. If she can get another student visa, she will accept one of her law school offers and plans to practice immigration and human rights law.

“I (need) the skills to work in a field that I’m actually passionate about.”

Debnath is completing a master’s degree at the University of San Francisco. With just months left before that course finishes, and then a 90-day grace period to find work in a highly competitive field, Debnath is frantically applying for jobs. She knows her chances are slim. As a foreign student, she will have to find an employer willing to do immigration paperwork to hire her, which includes showing there is a shortage of qualified American applicants.

“I haven’t received a single call for an interview,” Debnath said. “It’s devastating.”