

An Uncertain Future For Documented Dreamers

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On a Thursday morning in early February, Kartik Sivakumar realized that he would have to leave America. He was sitting in his dorm room, at the University of Iowa, where he was a senior majoring in neuroscience. He was also a resident adviser, a leader of the university's hospital student-volunteer corps, and an organizer of the Indian Student Alliance's annual dance competition. Sivakumar had lived in Iowa for half his life. He considered it home.

That morning, he received an e-mail from U.S. Citizenship and Immigration Services (U.S.C.I.S.), saying that action had been taken on his change-of-status application for a student visa. An enclosed link took him to the agency's dashboard, which told him that his application had been denied. He no longer had legal standing to remain in the U.S. "I was, like, Well, shit, I don't know what to do now," Sivakumar recalled. "I just put my face in my bed." In the next few days, he contacted his professors to see which classes he could take online. Then came the goodbyes: to his friends, to his fellow-volunteers, to his dance team. Three weeks later, Sivakumar boarded a plane to Chennai, the coastal city in South India where he was born.

Sivakumar moved to Iowa at the age of ten. His sketches of his adolescence in Cedar Rapids, a city in the eastern part of the state, are filled with reminiscences of days spent swimming in the pool at his family's apartment building, trips to a movie theatre in the area that screened Bollywood films, and birthday parties at his home town's roller-skating rink. But, despite having grown up in the U.S., Sivakumar was not an American citizen; he wasn't even a permanent resident. He had come to America attached to his father's temporary work visa. When his father received an H-1B visa a few years later, Sivakumar received an H-4 dependent visa.

Normally, as H-4 children grow up, their parents wend their way through the line for a green card. When the H-1B visa holder receives a green card, typically their spouses and children do as well. Sivakumar's father, then a project engineer at the technology company H.C.L. America, had applied for a green card in the spring of 2015. The family hoped that their green cards would arrive before Sivakumar turned twenty-one and aged out of his H-4 visa. But that day came and went, and Sivakumar's parents are still waiting. "It might come next month, or next year, or it may take another ten years," his father told me.

It takes an average of nearly six years for a sponsored employee to become eligible to submit a green-card application. For many Indian immigrants, however, the wait can last a lifetime. The U.S. offers roughly a hundred and forty thousand employment-based green cards a year, a quota that covers both the person sponsored by an employer and their family members. But, by law, no more than seven per cent of nationals from a particular country are supposed to receive employment-based green cards each year. The caps were established to support diversity within the immigrant pool. Immigrants from Mexico, China, and the Philippines also far exceed their country limits, and have longer wait times because of the backlog. But because of the sheer number of Indians applying for employment-based green cards—as of September, 2021, eighty-two per cent of the petitions in the employment-based backlog were filed by Indians—their wait times are longer than that of any other immigrant group. The Cato Institute recently found that more than two hundred thousand applications filed by Indians will likely expire as a result of the workers dying of old age.

As a result, the children of employment-based visa holders often have to scramble to find ways to legally remain in the country they call home. And, even with a visa, they are locked out of many of the advantages granted to U.S. citizens and permanent residents. Because of visa strictures, some children are from families in which only one parent is allowed to work. Once in college, they are usually ineligible for either in-state tuition or federal financial aid, and required to pay the fees of an international student. David Bier, an associate director of immigration studies at the Cato Institute, estimates that there are more than a quarter of a million young adults who are caught in the same tangled visa web as Sivakumar. Many of these young adults call themselves Documented Dreamers or Visa Dreamers, and see a clear connection between their situation and that of Dreamers: the term often used to describe undocumented minors seeking legal residency in the U.S.

Some of the Documented Dreamers, like Sivakumar, remember what it felt like to trade one home for another. Shiksha Sneha, a co-founder of the Hidden Dream, a resource for Documented Dreamers, moved to a small Midwestern town at the age of eleven. She remembers landing in America and seeing a white person for the first time. “I had only seen them on dubbed Disney Channel shows in India,” she said. “I thought Zac Efron and Vanessa Hudgens had learned Hindi for ‘High School Musical.’ ” In India, she had lived in a joint-family home in Kolkata; moving to America meant long days with just her and her sister in an empty house, waiting for her parents to come home from the Indian restaurant that they owned. She is currently a master’s student at the University of Michigan studying higher education, a path she chose because it could insure a stable work visa. But Sneha tries not to plan too far in advance. “I think of the future as in tomorrow, and that’s it,” she said. “It hasn’t been productive for me to think about things two to three years from now because it just stresses me out. It’s not in my control.”

Pareen Mhatre, the communications manager for Improve the Dream, an advocacy and resource organization for Documented Dreamers, moved to the U.S. when she was four months old. Her earliest memory is of trying to ride her bike down a sidewalk in Iowa City. She also recalls her mother explaining that she was not an American citizen. “I couldn’t understand, because I had spent all my life in this one city,” Mhatre said. “It was, like, You’re telling me this isn’t my home?” ” Mhatre has visited India a handful of times over the years. But each trip underscored how American she felt: “I remember thinking, If I have to move back here, would I be able to

survive? And I knew the answer was no. I couldn't read, I couldn't write. I land in Mumbai, and you can tell that I'm a foreigner."

The H-1B visa—a “nonimmigrant visa” for high-skilled work—was created in 1990, to address labor shortages in specialized fields. In the following decades, as Silicon Valley became the global center of the tech industry, the H-1B visa became the primary feeder for employment-based immigration. A Goldman Sachs report found that H-1B visa holders account for roughly thirteen per cent of tech jobs, compared with less than one per cent of all U.S. jobs. “The Valley realized it could benefit hugely from getting Indian programmers who were relatively inexpensive,” Muzaffar Chishti, a senior fellow at the Migration Policy Institute, said. Fears that the world's computer systems would go haywire when the clock struck midnight on January 1, 2000—a.k.a. the Y2K problem—ignited an arms race among companies competing for computer programmers. Once the scare was over, Chishti explained, “People were, like, ‘These are really well-trained people. We could use them for other things.’ ”

That same year, Congress passed a law allowing H-1B visa holders in the backlog to renew their visas in perpetuity. While this might sound like a good thing, Chishti described the reality as a “bonded labor situation.” Sixty-five per cent of the more than 1.7 million H-1B visas the U.S. has issued since 2009 have gone to Indians. The H-1B system “has gotten hugely dominated by one occupation,” Chishti said. “And, in that occupation, Indians dominate.” At the same time, Indians make up more than eighty per cent of H-1B petitions approved for continuing employment, and, since 2000, the number of Indian nationals approved for continuing employment has increased by nearly two hundred per cent.

The closest Congress has come to addressing the green-card backlog was the Fairness for High-Skilled Immigrants Act, which passed the Senate in 2020. Its aim was to phase out country caps over eleven years. The bill had support from Indian advocacy groups but drew widespread condemnation from other immigrant groups who argued that it would result in Indians claiming the vast majority of employment-based green cards for years. Ultimately, the House and Senate failed to agree on a final framework for the bill.

More recently, Documented Dreamers have pinned their hopes on America's CHILDREN Act, which would provide permanent residency to college graduates who came to the U.S. as the dependent child of an immigrant on a temporary work visa, lived in the U.S. on that status for at least four years, and have been “lawfully present” in the U.S. for at least ten years. At a press conference in mid-May, Dick Durbin, a Democratic senator from Illinois and one of the bill's supporters, told the assembled crowd, “These are young people educated in the United States, grew up in this country, and are looking forward to a future in this country. But our immigration system is built on a premise that they are undocumented and undeserving of citizenship status. . . . We want to say to them and so many more like them: we want you to be a part of America's future.”

And yet some immigration experts are skeptical that it will pass. “This is where all of immigration legislation is caught up with politics,” Chishti said. “Republicans see no reason to give the President or the Democratic Party a victory, even for a population like this.” Both parties have become so caught up in the optics of the border that even past supporters of

immigration reform, such as Lindsey Graham, who has introduced legislation for undocumented Dreamers, are now reluctant to offer any backing. “The Dream narrative,” Chishti said, “is being held hostage to the larger immigration debate.”

Bier, at the Cato Institute, said that the solution “with the fewest political hurdles” for H-4 Dreamers is some type of executive action that would grant them legal status and work authorization. “Some kind of parole program,” he said, “where people who fit into this category can be admitted into the country.” Bier likened this to the parole status granted to Afghan refugees last year after the fall of the Ghani government. Parole would not be permanent residence, and it would not result in a green card. But it would be a way for the Documented Dreamers to work and live in the U.S. without having to win the H-1B lottery. “When it all comes down to winning a lottery and your whole life is on the line . . .” Bier said, before trailing off. “It’s just unimaginable what these kids have to go through.”

One of the main points of frustration for the Documented Dreamers is their seeming invisibility in the national narrative around immigration. “I feel like the American government recognizes every group of immigrants but us,” Athulya Rajakumar, an aspiring journalist who, because of the precarity of her visa status, took a job in the tech industry, said. “Even kids who were brought here without documentation have a movement fighting for them, have a whole part of the Democratic Party fighting for them.” Rajakumar, who is twenty-three, moved to the U.S. with her mother and brother when she was five years old. Though she can recount many things she loved about growing up in America—big-box bookstores, baseball games—she is all too aware of the toll that immigration-status uncertainty has had on her family. In a recent appearance before Congress, she spoke about how her brother, who struggled with mental illness, should have perhaps been institutionalized. But as an H-4 dependent he had to be enrolled in school full time; her mother wanted to stay home with him but could not, because it would have risked her own H-1B visa and her family’s life in America. Rajakumar’s brother took his own life shortly before he was to begin law school. “Our parents went through every hoop,” Rajakumar told me, “and still, their families are being punished.”

Rajakumar recently had a job offer rescinded after the company realized that it would have to sponsor her visa to hire her. “I sometimes wonder if staying in this country is better than leaving,” she admitted. “But that would mean leaving everything I own and everything I know.”

Compared with their undocumented counterparts, Documented Dreamers are often regarded as privileged. Many of their immediate frustrations are framed in terms of higher education: having to pay the college tuition of an international student; not being able to accept prestigious internships; not being viable candidates for American medical schools. In the past, Indian immigrant activists have emphasized these white-collar issues. “The narrative the older generation has been bringing is that we are ‘élite,’ ‘model minority,’ ‘high skilled’—I think that’s a super-harmful narrative,” Sumana Kaluvai, who co-founded the Hidden Dream, said. “In the past, when you Googled ‘Visa Dreamers,’ you saw a lot of parents who gave scripts to their kids complaining about how they can’t be a neurosurgeon. That leaves a bad taste in any viewer’s mouth.” She added, “Now the movement is answering the question, Why is America home? The answer is that we’re talking about kids who have grown up here; their families are here. They belong here regardless of their dreams.”

For now, the only solution for most of these young adults is to get an H-1B of their own and join the wait for a green card. This process starts by obtaining an F-1 student visa around the time they turn twenty-one. This is what Kartik Sivakumar had attempted to do, but he missed the biometrics appointment necessary to advance his application. He had expected that a notice of the appointment date would come in the mail, as it always had for his parents, and failed to check the U.S.C.I.S. Web portal. As a result, Sivakumar's change-of-status application, from the H-4 to the F-1, was denied. Without any legal standing to remain in the U.S., his only option was to return to India and hope that he could get an appointment to obtain a student visa. When he initially looked at the U.S.C.I.S. Web site to see when the next available appointment would be, he was unable to find anything before January, 2023. Driving out of Iowa City, Sivakumar had no idea when he would return.

Ultimately, he had to leave America for only three weeks. He was able to get an expedited appointment and obtained an F-1 visa. But the relief was only temporary. For most graduates, a job search is predicated on securing Optional Practical Training, a temporary work authorization that typically lasts for twelve months. (Those who major in STEM fields are granted three years.) Sivakumar hopes to attend medical school, so he will need to get another F-1 visa in a few years. When it comes time to do his residency, his path will converge with his peers: he will have to get his own H-1B visa, which means finding a company willing to sponsor him, and then winning the H-1B lottery. Even if he manages to do so, Sivakumar will then be deposited at the back of the green-card line. As an Indian, that would likely spell a decades-long wait. Every three years, he will have to renew his H-1B visa, knowing that, if he gets laid off or the extension is denied, he will once again have to leave the country.

For now, Sivakumar is forging ahead with his life. He's back in Iowa, planning to graduate in December and busy working on applications for medical school. When he was in India, he didn't allow himself to think about what would happen if his application for a student visa was denied. There was no contingency plan. There was a focus only on finding a way back to the U.S. But Sivakumar doesn't think that he will ever get an employment-based green card. "I'll never truly be a citizen, but I've made my peace with that," he said. "As long as I can stay here, with my friends and family, that's what matters to me."