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High-Skilled Immigrant Workers Benefit American Industry, But U.S. Policies Threaten Them

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The movement of high-skilled workers between countries benefits the countries they immigrate to and the countries they emigrate from. That is what Dr. AnnaLee Saxenian, BIMl-affiliate and former Dean of the UC Berkeley School of Information, demonstrates with her research on high-skilled immigrant labor. This mutually beneficial relationship, however, has been put under stress in the U.S. by a collection of immigration policies, including the 2017 [“Executive Order on Buy American and Hire American.”](#)

The Impact of Skilled Immigrant Workers on Global Trade

The participation of foreign-born workers in the American labor market has a positive effect on American trade with foreign nations. [Dr. Saxenian’s](#) studies of the engineering and technology sector in the U.S., China, Taiwan, and India show that trade relationships between countries are facilitated by high-skilled foreign-born workers in the U.S. who serve as liaisons with business partners in their countries of origin.¹ The language skills, cultural competency, and transnational personal networks of foreign-born high-skilled workers are a boon for businesses operating in fast-moving and competitive industries like technology, as they help American businesses of all sizes expand internationally more quickly. In fact, Dr. Saxenian’s research finds that “for every 1 percent increase in the number of first-generation immigrants [in California] from a given country...California’s exports to that country go up nearly 0.5 percent.”²

¹ Saxenian, AnnaLee. 2002. “Silicon Valley’s New Immigrant High-Growth Entrepreneurs.” *Economic Development Quarterly* 16, no. 1: 20-31.

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Further, the sending countries of these high-skilled workers also benefit, as their expatriates direct the investments of American companies into the sending countries, creating jobs, wealth, and sometimes even a new source of tax revenue there. High-skilled foreign-born workers also facilitate the international flow of knowledge. Dr. Saxenian’s work has found that “U.S.-educated and trained engineers are increasingly transferring up-to-date technology and market information and helping to jump-start local entrepreneurship, allowing their home economies to participate in the information technology revolution.”³

Driving Away Skilled Immigrants

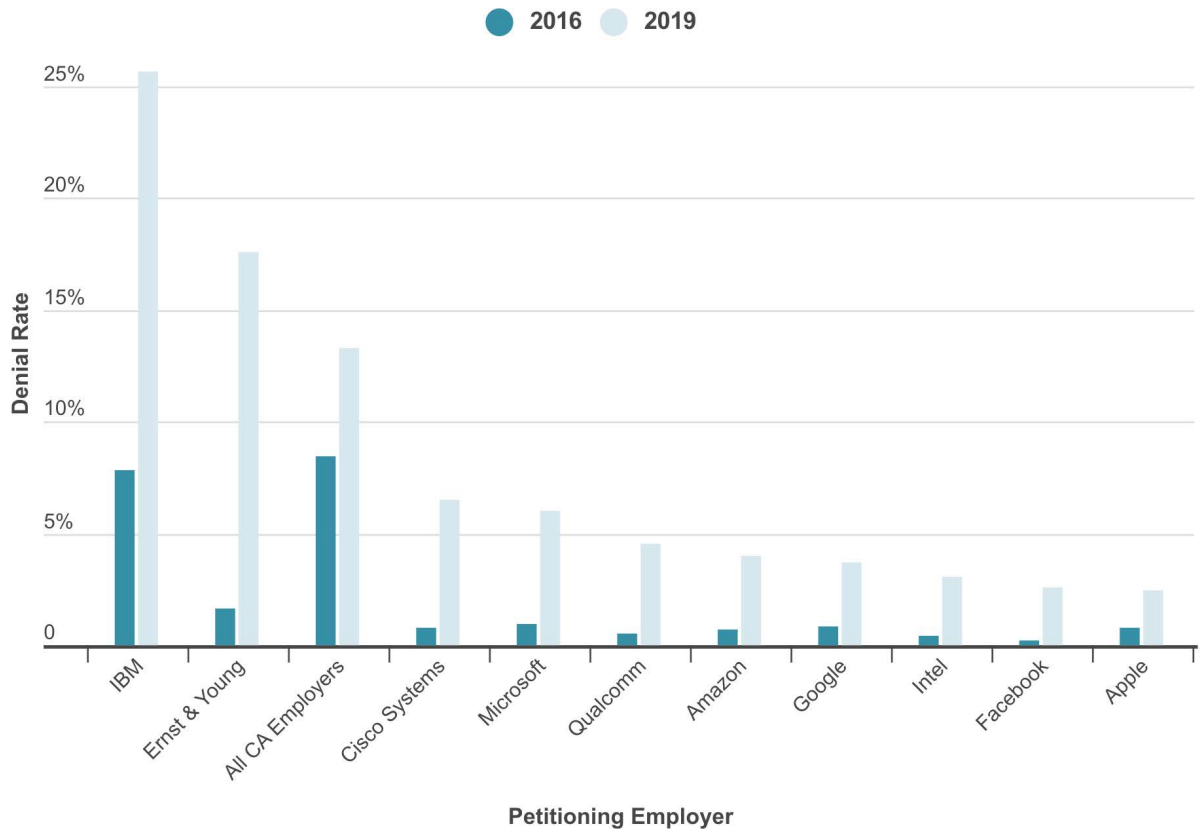
As trade rapidly globalizes and product cycles are increasingly expedited, high-skilled foreign-born workers continue to be a vital resource for any business or nation wishing to remain economically competitive. U.S. immigration law, however, does not reflect these

² Saxenian, AnnaLee. 2002. “Brain Circulation: How High-Skill Immigration Makes Everyone Better Off.” *The Brookings Review* 20, no. 1: 28-31.

³ Saxenian, AnnaLee. 2005. “From Brain Drain to Brain Circulation: Transnational Communities and Regional Upgrading in India and China.” *Studies in Comparative International Development* 40: 38. doi:10.1007/BF02686293



Denials Rates of New H1-B Petitions



interests. Since the “Buy American and Hire American” executive order was issued in 2017, applications for high-skilled worker visas (H-1B visas) have been rejected at increasing rates. Businesses apply for H-1B visas so that they can hire high-skilled workers from abroad when there is a domestic shortage of qualified candidates. Data from U.S. Citizenship and Immigration Services (USCIS) shows that “[the] denial rate for first time H-1B applications went up from 10 percent in 2016 to 24 percent in 2019.”⁴ At the same time, “a record number of those denials have been overturned on appeal, suggesting that the administration has been wrongfully rejecting qualified applicants.”⁵

Even for those who do receive H-1B visas, U.S. immigration policy provides them with considerable

obstacles to contributing to the American economy. A 2007 study on immigrant entrepreneurs, co-authored by Dr. Saxenian, argues that the immigration process is so lengthy and difficult that it drives high-skilled immigrants to return to their home countries.⁶ The authors call this phenomenon “reverse brain drain.”

It is easy to see how the immigration process for high-skilled workers can be discouraging. The 1978 amendment of the Immigration and Nationality Act mandates that no more than 140,000 employment-based green cards be granted in a single year,⁷ and that only 7 percent of those green cards “can be awarded to for-

4 Rangarajan, Sinduja. 2019. “The Trump Administration Is Denying H-1B Visas at a Dizzying Rate, But It’s Hit a Snag.” Mother Jones, October 17. <https://www.motherjones.com/politics/2019/10/h1b-tech-visa-denial-appeal-trump/>

5 Ibid.

6 Wadhwa, Vivek, AnnaLee Saxenian, Ben A. Rissing, and Gary Gereffi. 2007. “America’s New Immigrant Entrepreneurs: Part I.” Duke Science, Technology & Innovation Paper No. 23. <http://dx.doi.org/10.2139/ssrn.990152>

7 The exact number of green cards allowed to be granted fluctuates from year to year because the difference between the previous year’s cap number (for example, 140,000) and the amount of green cards actually granted the previous year (for example, 120,000) is added to the current year’s allowance (totaling 160,000). Across years, on average, employment-based green cards granted do not exceed 140,000.

eign nationals from any one country regardless of the size of the country or the demand.”⁸ Since 1978, the U.S. population has grown by 46 percent, but the annual cap on how many people can become permanent residents through employment has not grown at all.

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The number of skilled foreign-born workers in the U.S. on temporary H-1B work visas has swelled over recent decades, increasing roughly 30 percent between 2003 and 2017.⁹ This is driven by a growth in the number of high-skilled Indian and Chinese workers, but the concentration of workers from these countries creates difficulties when they try to transition to legal permanent residence. Over the past 40 years, hundreds of thousands of Indian and Chinese workers have become eligible to apply for legal permanent residence, but the per-country limit on employment-based green cards has remained the same: approximately 9,800.

Nine thousand and eight hundred seems like a big number until you look at the ratio of eligible applicants to available green cards. In the year 2003, 63,940 H-1B visa holders from India alone became eligible to apply for employment-based green cards.¹⁰ The

⁸ Cutler, Tieranny L., Marissa E. Cwik, Andrea C. Davis, Melissa Manna. July 11, 2019. “Congress: Employment-Based Immigrant Visa Cap Removed & H-1B Visa Changes.” National Law Review. Accessed July 25, 2019. <https://www.natlawreview.com/article/congress-considers-removing-country-caps-employment-based-immigrant-visas-and>

⁹ Kirkegaard, Jacob F. 2019. “The US H-1B Visa: A Boon for High-Skilled Immigrants from India.” Peterson Institute for International Economics. Accessed January 20, 2020.

¹⁰ H-1B holders may apply for legal permanent residence in the U.S. 3 years after the approval of their H-1B visa for continuing employment. According to USCIS reports, 63,940 Indians were granted extensions of their H-1B visas in 2000, meaning that they would have become eligible to apply for permanent residence 3 years later, in 2003.

New Immigrant Survey collected responses from people who applied for their green cards in 2003 and found that the average person applying for an employment-based green card had to wait 4.2 years. 17.4 percent of survey respondents reported that they “became depressed as a result of the [green card] process”¹¹ and 21.7 percent of them reported that they planned to leave the U.S. or were uncertain about staying in the U.S., even though they had been granted permanent residence.

In 2019, 185,489 Indian H-1B visa holders became eligible to apply for permanent residence.¹² Indian applicants who apply in 2019 are likely to wait 10 years before receiving permanent residence. The result is that high-skilled nationals of the two largest sending countries, India and China, face uncertainty as they try to establish their careers in the United States. Foreign-born high-skilled workers cannot plan their futures beyond the 3 years that their H-1B visa is valid.

Difficulties in securing permanent residence in the United States not only hurts immigrants on a personal level, but it also hurts the American economy on a global level. As BIMl-affiliate Dr. Saxenian argues, high-skilled foreign-born workers in American companies can assist and accelerate a company’s international expansion. The instability of immigrant workers’ legal status, however, prevents them from fully participating in the labor market and promoting economic growth.

Policy Steps in the Right Direction

An executive order delivered during the final weeks of the Obama administration sought to address one aspect of this issue. The International Entrepreneur Rule allowed foreign-born people to remain in the U.S. for 5 years if they needed time to develop their start-up company. The International Entrepreneur Rule went into effect in December 2017—but, only 5 months later, the Department of Homeland Security announced their intention to rescind this policy, saying that such a program should be established by congressional legislation and not by executive action. This rule had the potential to impact thousands of high-skilled workers because, as Dr. Saxenian and

¹¹ Wadhwa, Vivek, AnnaLee Saxenian, Ben A. Rissing, and Gary Gereffi. 2007. “America’s New Immigrant Entrepreneurs: Part I.” Duke Science, Technology & Innovation Paper No. 23. <http://dx.doi.org/10.2139/ssrn.990152>

¹² 185,489 Indians were granted an extension of their H-1B visas in 2016, meaning that they would have become eligible to apply for permanent residence 3 years later, in 2019.



other scholars have found that since 1995, between 43 and 53 percent of new Silicon Valley start-ups were founded or co-founded by a foreign-born person, and that foreign-born people are twice as likely as native-born people to start a business. In light of these facts, the International Entrepreneur Rule, if reinstated, could have a tremendous impact on not just immigrant workers but the national economy.

In July 2019, the House of Representatives passed [H.R. 1044, the Fairness for High-Skilled Immigrants Act of 2019](#). “The bill is intended to reduce lengthy immigrant visa (green card) wait times by eliminating per-country caps for employment-based green cards” (Cutler et al 2019). This would significantly reduce the

wait times for Indian and Chinese applicants, though it will likely increase the wait times for applicants from other countries. As of February 5th, 2020, H.R. 1044 has not been passed by the Senate.

The immigration of workers to the U.S. is often debated in terms of how it will affect the labor supply and local wages. Dr. Saxenian’s research has shown that foreign-born workers connect the U.S. to the rest of the world and that they create jobs in the U.S. and abroad. Policymakers should use these findings to reformulate employment-based immigration policies so that they are congruent with modern global economic conditions and America’s economic interest.



AnnaLee (Anno) Saxenian is a professor in the School of Information at the University of California, Berkeley. Her scholarship focuses on regional economies and the conditions under which people, ideas, and geographies combine and connect into hubs of economic activity. She is a member of the Apple Academic Advisory Board, and has served as Chair of the Advisory Committee for the National Science Foundation Division of Social, Behavioral, and Economic Sciences. She has published widely in journals of economic geography, regional economic development, and industrial change. She holds a Ph.D. from MIT, a master’s from UC Berkeley, and a B.A. from Williams College.

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Nadia Almasalkhi is a Ph.D. student in Sociology at the University of California, Berkeley and a Policy & Communications Fellow at BIMl. Before beginning graduate school, she worked as a casework intern in a refugee resettlement agency, as a legal assistant to immigration attorneys, and as a research assistant investigating the effects of trauma on refugees in the U.S. She holds a B.A. in International Studies and a B.A. in Arabic and Islamic Studies, both from the University of Kentucky. Her research interests include the experiences of Middle Eastern emigrants, social movements, and the politics of immigration law. Her current project studies the Syrian American diaspora.