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Weak Winners of Globalization: Indian H-1B Workers in the American Information Economy

Paula Chakravartty

Abstract

This article examines the complexity of the debate around the temporary worker visa known as the H-1B program for highly skilled foreign nationals. The debate against the H-1B visa program has been dominated by what feminist economist Naila Kabeer has argued are “coalitions of ‘powerful losers’ in the north seeking to claw back the gains made from international trade by ‘weak winners’ in the south” (Kabeer 2002). I argue that these metaphors are resonant in the debate over the H-1B visa program, where displaced American Information Technology (IT) workers conflate the role of Indian H-1B workers as both vulnerable victims of corporate greed and menacing threats to national prosperity and security, reinforcing both symbolic and institutional racism against this new category of Asian immigrant worker. Based on interviews with over 100 Indian H-1B workers, this paper challenges many of the assumptions about “indentured servitude,” and my findings suggest alternate policy alternatives to pitting the interests of “cheap Indian workers” against the interests of “Americans.”

Introduction¹

In one of the few ethnographic studies about high-skilled temporary migrants from India to the U.S., we are introduced to Appa Rao, a computer programmer from a rural district in Andhra Pradesh, whose training consists of “a few thousand rupees and a little less than two years. . . [of] Visual Basic, Oracle and Y2K compatibility projects” (Mir et al. 2000). Unlike the urban upper caste Indian elite who historically migrated to the U.S. since the late-1960s (Nayyar 1994), migrants like Appa Rao represented a new trend in Indian migration in response to the growing demand for temporary foreign computer programmers during the height of

the Information Technology (IT) boom of the late 1990s. Appa Rao sought entry to the U.S. through an intermediary agency—popularly known as *bodyshops*—as opposed to directly through an employer, and was therefore more vulnerable to employer demands. Once in the U.S., workers like Appa Rao lived in cramped company apartments and were expected to work longer hours for wages well below established standards. Appa Rao's story, and others like it, were frequently cited by South Asian immigrant rights advocates to highlight caste and class privilege within the immigrant community and to point out abusive practices of IT firms based in both India and the U.S. This same narrative, however, can, out of context, serve to condemn immigrant workers for the declining standards and loss of jobs faced by American workers.

This article examines the complexity of the debate around the temporary worker visa known as the H-1B program for highly skilled foreign nationals, controversial in the IT sector since 1992.² The debate against the H-1B visa program has been dominated by what feminist economist Naila Kabeer has argued are “coalitions of ‘powerful losers’ in the north seeking to claw back the gains made from international trade by ‘weak winners’ in the south” (Kabeer 2002). Kabeer uses these terms as metaphors to draw our attention to both Orientalist discourse and geopolitical power in contemporary debates on labor standards, including similar debates about manufacturing jobs moving from the U.S. to “cheap labor” destinations in Asia and Latin America. In this formulation there is also the category of “powerful winners”—transnational firms that have the most to gain from pitting one group of national workers against another. It is also important to consider how displaced American white-collar workers can be considered “powerful” because of a combination of their relative race, class, gender and nationality-based privilege.

In this article I argue that Indian IT workers can be seen as “weak winners” in the debate over the H-1B visa program and by extension, the current backlash against the outsourcing of white-collar work from the U.S. to India. In both cases, displaced, mostly white American computer programmers as well as a much smaller percentage of minority white-collar workers are the “powerful losers” who deploy a discourse of indentured high-tech servants which serves to naturalize and normalize exploitative conditions and blames the victim for worsening the standards of “the best

paying" American jobs. In the case of H-1B workers, I argue that the material impact of the racialized discourse reinforces hierarchies between "native" and "foreign" workers failing to take into account the perspective of temporary foreign workers who raise their own set of concerns about their rights as both workers and "non-migrants." My research shows that the Indian H-1B workers most vulnerable to exploitation—those from less privileged backgrounds in India often employed through bodyshops—actively sought to improve their conditions of work and their overall economic opportunities in an unequal and transnational IT labor market. By taking into account the perspective of "weak winners" of the broader debate about the globalization of white-collar work, I argue that progressive labor organizations can play a crucial role in bridging the divide between immigrants and workers.

Between 1992 and 2003 the Immigration and Naturalization Services (INS) approved over one million H-1B petitions for new employment (Yale-Loehr 2003). Although significant numbers of doctors, educators and other professionals from the U.K., China, and the Philippines, among other nationals, have come to the U.S. on H-1B visas, the program is most closely associated with employers in the IT sector and employees from India. India is the country of origin for the majority of all H-1B workers. In 2001, 49 percent of all H-1B petitions were from India. Moreover, Indian H-1B workers are concentrated in the IT sector, where 92 percent of H-1B petitions from 2001 were "in Computer Related or Engineering occupations" (Hira 2003). Although these are temporary visas, significant numbers of H-1B visa holders applied for and successfully transitioned to permanent or green card status in the late 1990s, helping to double the overall Indian population in the U.S. in the 1990s to approximately two million (Lowell 2005; Khadria 2001).

Indian and other Asian high-skilled migrant workers entered an already unequal and racialized economy, where 40 percent of immigrant workers make less than \$7.50 per hour, and where Latinos and African Americans make up only 3.5 and 7 percent of the IT economy.³ The industry's increasing reliance on migrant temporary workers brought criticism from civil rights groups like Jesse Jackson's Rainbow Push Coalition, which argued that the state should invest in educating minority students in the sciences as opposed to relying on immigration as a solution to fill any kind

of “skills gap.” Tensions between relatively wealthy Asian immigrants with access to high-paying jobs versus low-wage and “low-skilled” workers in the Latino and African American communities was clearly an issue to which Jackson’s Silicon Valley Project was attentive. However, the focus through much of this campaign was to raise awareness about the common problems faced by *all* minority and women workers in the IT industry, including immigrant Asian and Asian American workers who faced discrimination in various ways on the job and a glass ceiling in terms of career mobility (Nishioka 1999; <http://www.siliconvalley.project.net>).

In contrast to these discussions which were premised on the inequalities that structure education policy, the “digital divide” and the position of minority workers in the U.S. IT industry, the dominant debate about the H-1B visa program, as well as the current “outsourcing” backlash, tends to homogenize the interests of American workers against those of foreigners. The visible influx of Indian workers in high-tech centers like Silicon Valley, New Jersey and Boston prompted a volatile decade-long debate over importing “cheap and compliant” foreign migrant workers and the negative impact on American workers, setting the groundwork for the more current debate on outsourcing of white-collar jobs.

I first examine the limits of the current opposition to the H-1B policy debate and then draw from the experiences of Indian H-1B workers themselves for an alternate perspective. In contrast to the common characterization of the H-1B worker as passive “indentured servants,” many of the workers with whom we spoke were conscious of the specific ways in which both intermediary agencies and employers benefited from their dependent labor, and were concerned about their vulnerability in the post-911 recession-bound economy. They also overwhelmingly supported the idea of joining an organization that would represent their interests as temporary immigrant workers—some 80 percent of the 121 workers with whom we spoke said that they would agree to pay dues to belong to such an organization. I emphasize this fact precisely because it opens up the possibility to consider alternate alliances between white-collar migrants and workers, and looking at the current outsourcing debate between white-collar workers based in India and the U.S.

There has been growing interest in studying immigration of highly skilled workers in the U.S. Much of this research has been quantitative, primarily demographic studies of the role of these

workers in the U.S. labor market (Lowell 2002; Espenshade 2001; Kuh 1999). Qualitative studies have examined the role of ethnic entrepreneurial networks in facilitating migration (Saxenian 1998) and the process of in- and out-migration from the sending nations (Khadria 2002; Zhao et. al. 2000). Finally, recent policy-related research has focused on temporary migration and its impact on both U.S. (Hira 2004; Matloff 2003; Rosenblum 2001) and Indian IT sectors (Chanda 2002; Hira 2003; Kapur 2001). I draw from transnational migration scholarship (Favell 1998; Nayyar, 1994, 2001; Smith 2001), Asian American Studies (Espiritu 1997; Lowe 1996; Koshy 2000) and feminist studies of labor and migration (Bonacich and Appelbaum 2000; Kabeer 2000; Mohanty 2003; Sassen 1998) that have offered critical normative insights about immigrant labor flows and global integration. I also draw from the few ethnographic studies that have considered the experiences of H-1B and other “high-skilled” migrants (Favell and Smith 2005; Chekuri and Mupiddi 2003; Mir et al. 2001).

In line with contemporary interpretive studies in the social sciences (cited above), the focus of this study is on uncovering structures of meaning within the context of lived experience, as opposed to offering representative samples based on quantitative data. This was the objective of the open-ended telephone interviews with 121 H-1B workers of Indian origin who spoke to us between May and December of 2002.⁴ The non-random sample of workers we spoke with followed established patterns in findings from demographic studies of H-1B migrants (Lowell 2002). While there are obvious limits to self-selection and the structured interaction of single interviews, interview-based research of this kind is meant to gauge a wide range of perspectives as opposed to offer a representative sample of opinions, and provide insight into respondents’ experiences by taking seriously their assumptions about the world (Lamont 2002). In addition to the qualitative interview-based data with Indian H-1B workers, the next section draws substantially from online materials, media coverage and policy documents relevant to the H-1B policy and outsourcing debates in the U.S. between 1999 and 2005.

The Logistics and Limits of the H-1B Debate

The H-1B is a nonimmigrant visa program, in contrast to permanent employment based immigration, allows employers to hire foreign workers with “specialized knowledge and skills”—in engi-

neering, mathematics, education, medicine, etc.—on a temporary basis in a “specialty occupation.” In order to protect the interest of American workers, U.S. employers are required to submit a labor condition application (LCA) to the Department of Labor (DoL) requesting permission to hire an employee on an H-1B visa, with the following assurances:

- The foreign worker will be paid the actual or prevailing wage in the intended occupation.
- Working conditions of the U.S. employees will not be adversely affected.
- Foreign workers will not replace American workers that are on strike or locked out.
- A notice of intent to hire nonimmigrant workers will be posted in the intended place(s) of employment.

In 1998, organized labor was successful in introducing the “dependent employer clause” whereby if 15 percent of the workforce is on H-1B visas, employers are held to these additional guidelines:

- These firms must attest that they have taken good faith steps to recruit American workers.
- These firms must attest that they have not laid-off U.S. workers ninety days prior to or after hiring any H-1B nonimmigrant.

Studies by independent researchers and unions representing high-tech workers have demonstrated how these guidelines have failed in practice because of legal loopholes that favor the flexibility of firms. For instance, these critics point out that there are no clear standards for how to establish a prevailing wage and little enforcement for “good faith steps” to either recruit or avoid laying off “U.S.” workers. The evidence seems compelling given that the “dependent employer clause” meant to monitor IT firms only affected some fifty out of 50,000 firms relying on H-1B workers between 2001 and 2003.⁵

When the INS approves the petition cleared by the DoL, the employee files for a H-1B visa for a maximum of three years, renewable up to six years. Employers can sponsor H-1B visa holders for a green card, and since 2001, H-1B visa holders can stay in the country beyond six years if the green card application is pending. However, unlike a green card holder, someone on a H-1B visa may

not change jobs unless permission to work for the new employer has been approved by the DoL. Once unemployed, H-1B visa holders are only allowed to remain in the country legally for ten days without finding another employer willing to sponsor their visa. Companies are not required to provide prior notice before firing H-1B workers, aside from having to buy a return ticket to the home country. Furthermore, the INS imposes strict bans—between three to ten years—on foreign nationals who remain unemployed in the U.S. once their temporary visa has expired. It is these features of the temporary visa whereby employers or intermediate agencies that supply H-1B workers commonly referred to as “bodyshops” ultimately have power over the visa that is seen by its advocates as a source of employer “flexibility” and its critics as the “source of the H-1B’s exploitability” (Matloff 2003).

Documented cases of exploitation of H-1B workers include the practice of paying these workers less than a prevailing wage as well as forcing them to work longer hours with fewer benefits and holidays compared with American workers—practices that have led many critics to compare H-1B workers to “indentured servants” or “techno-slaves.” An often-cited study by the U.S. General Accounting Office (GAO) in 2000 found that H-1B employers have great flexibility in determining the terms of a prevailing wage while the DoL has little authority or enforcement power to monitor violations. Between 1992 and 2003, the DoL found some \$12 million in back wages due to over 2,300 H-1B “nonimmigrants,” a finding that is interpreted as relatively low given the overall number of H-1B visas by advocates of the program (Yale-Loehr 2003) and as the tip of the iceberg given the vulnerability of H-1B visa holders in contrast to the infinite loopholes open to employers in defining wage standards (Matloff 2003).

Coordinated efforts by the influential IT industry lobby to increase the number of H-1B visas in the late 1990s led to two increases from the annual cap of 65,000 visas to 115,000 in 1998, and then 195,000 in 2000. As a larger numbers of Indian H-1B workers began entering the American IT labor force, the debate over the H-1B visa program intensified as unemployed, largely “older” (over forty years old), male, white engineers, computer scientists and other IT professionals launched a series of online organizations as well as off-line campaigns to limit, reform or abolish the program. As the issue of H-1B visa became politically sensitive in

2001, employers began using the L-1 (intracompany transfer) visas, with fewer restrictions in terms of DoL oversight of employers. The controversy over the L-1 visa has been brewing as a result of several publicized cases of “displaced American engineers and IT workers being forced to train their L-1 visa replacements as a condition of their severance package” (Hira 2003).

The decline in the IT industry led to further pressures against the H-1B visa program from 2001 onwards. But I argue that the events of 9/11 played a crucial role in heightening anti-immigration sentiment (Marable 2002; Mamdani 2004), with real implications for South Asian and Arab male migrants in the U.S.⁶ Whereas the discussion about H-1B workers had focused primarily on economic interests of American versus immigrant workers before, the heightened political environment led to more volatile debates over immigration, the movement of jobs and national public interest. Here, I argue that the way in which critics and their supporters conflate the role of H-1B workers as both vulnerable victims of corporate greed and menacing threats to national prosperity and security reinforces both symbolic and institutional racism against this new category of Asian immigrant workers.

The IT industry lobby maintained throughout most of the 1990s that the H-1B visa holders fill specialized positions because of a labor shortage of qualified American candidates, citing the declining figures of American computer science graduates (Gross 2003; U.S. Department of Commerce 1997). Opponents of the program have fervently opposed the shortage of skilled labor argument by pointing to the fact that H-1B workers are a new form of “indentured servants,” working for lower wages because of their vulnerable visa status and lower qualifications compared to American workers. Influential studies by computer science professor Norman Matloff have challenged the premise of a skill shortage and instead point to two cost-saving incentives that explain industry support for the H-1B program: 1) lower wages compared to American workers with similar skills; and 2) the perception by firms that young contingent foreign workers are cheaper and more compliant short-term employees than permanent, older American workers (Matloff 2003, 2002, 1998).

The terminology of H-1B workers as “servants,” “coolies” or “slaves” (See Table I) was initially deployed by H-1B workers themselves and advocates like the Immigrant Support Network (ISN)

to challenge racist and exploitative labor practices against temporary immigrant workers in high-skilled sectors like computer programming. This shows that the H-1B visa program is inherently flawed and allows for the exploitation of the rights of this group of migrant workers. However, for most critics opposing the H-1B program, immigrant workers who are vulnerable to abusive employment practices are first and foremost a direct threat for the welfare of “native” workers through downward wage pressure, ageism and reverse racism in the high-tech labor market, a decline in employment and educational opportunities and since 9/11, a potential threat to national security.

Opponents of the H-1B program like Matloff cite research by Paul Ong that shows corporations pay immigrant engineers substantially less than American-born engineers to establish that “companies took advantage of immigrants” (Matloff 2002, 2003). This is followed by testimonials from both American and Indian workers from email lists, web-based publications and other media, that lay out in detail the unacceptable working and often living conditions of H-1B workers. In contrast to the Rainbow Push Coalition’s efforts at raising questions about gender and racial discrimination in the IT sector, these critics are largely silent about employment-based discrimination against immigrants, women and other minorities in a field traditionally dominated by white males. Specifically, Matloff argues that while he supports the immigration of the “best and brightest,” that the majority of H-1Bs do not have the sufficient academic qualifications to warrant employment over their American counterparts (2002). Jumping from the particularities of the non-immigrant visa holders, Matloff’s reports consistently connect criticism of the H-1B program with arguments that foreign students—specifically Indian and Chinese students in the sciences—are flooding graduate programs, diminishing educational standards, and lowering the remunerative value of a Ph.D. for “native students.”⁷ Educational and employment-based discrimination against Asians *and* Asian Americans is recognized in these discussions only as it negatively impacts “native American” workers.

Critics like Matloff have addressed reforming H-1B and L-1 visas by focusing on how to protect American workers through policy designed to curb “employers’ ability to attain Type I and Type II savings.” This has meant setting up more rigorous mechanisms

Table I. Sample of H-1B Opposition Web Sites listed on H1B.info

<p>ZaZona Directory http://www.zazona.com</p>	<p>Lists companies that hire H-1B workers, features a "Hall of Shame," explicitly anti-immigrant and anti-minority. An example from the site: The promiscuous immigration programs for studies or work in the United States allow foreign terrorists easy passage into the United States. Given the tragic events of September 11, 2001, all nonimmigrant visas should be immediately halted in the interest of national security. (Retrieved September 8, 2004: http://www.zazona.com/ShameH1B/)</p>
<p>http://www.NumbersUSA.com</p>	<p>Provides information and lobbies for lower immigration. Highlights "illegal" immigration and emphasizes population control arguments.</p>
<p>Americans for Better Immigration http://www.betterimmigration.com</p>	<p>Provides information on immigration-related voting records of Senators and Congressional Representatives. Lobbies for immigration reduction.</p>
<p>FAIR (Federation for America Immigration Reforms) http://www.fairus.org</p>	<p>Influential non-profit organization that presses for immigration reduction based on arguments about over-population, illegal immigration and national security.</p>
<p>http://www.h1bvisasucks.com</p>	<p>On-line discussion forum for mostly displaced American IT workers and provides information on eliminating H-1Bs program. Site features conspiratorial and anti-Semitic information.</p>
<p>Hire American Citizens http://www.hireamericancitizens.org</p>	<p>Member based organizations (open to U.S. citizens only) to provide information and lobbying materials against the H-1B program. Highly nationalist.</p>
<p>American Reformation Project http://www.americanreformation.org</p>	<p>A Christian Right Wing 501 (C) (4) organization that provides information on anti-immigration issues including abolishing the H-1B program. Highlights "crisis" in immigration policy and its effects on higher education and high-tech jobs.</p>
<p>Communications Workers of America http://www.cwlocal4250.org/outsourcing/</p>	<p>AFL-CIO affiliated union local based in Chicago that provides information criticizing labor abuse through the H-1B program and outsourcing. Highlights security threat posed by both trends.</p>
<p>Washington Alliance of Technology Workers http://www.washtech.org</p>	<p>Washington-based union, originally representing Microsoft workers—now affiliated with the CWA. Presents information and organizational tools to oppose outsourcing as well as reforming H-1B and L-1 temporary visa programs.</p>

See also <http://www.h1b.info/bookmarks.php>

to scrutinize firms that hire foreign workers instead of American workers and discipline immigrant workers who fail to secure steady employment within a three-year period with forced return to their home countries (2004). As we will see in the following discussion, these reforms do not address concerns raised by temporary migrant workers, like the short window given to workers who lose their H-1B status to leave the country. Although Matloff's proposals technically promise smoother and faster access to a green card for "qualified" migrant workers as well as greater flexibility for migrants to change jobs while on a temporary three-year visa, flexibility and access to permanent status is contingent on the assumption that the job market itself is neutral toward immigrant workers.

Matloff's studies and policy recommendations are frequently cited by a range of organizations against the H-1B visa program, from explicitly anti-immigration groups, nativist organizations and Right-Wing Christian groups on the one hand, to professional organizations like the Institute of Electrical and Electronics Engineers (IEEE) to the American Federation of Labor (AFL) affiliated organizations like the Communications Workers Associations (CWA) and the Washington Alliance for Technical Workers (Washtech). Recognizing the much lower rates of unionization among white-collar workers, the American labor movement has not generally pushed for alliances between migrants and workers rights when it comes to "high-skilled" workers as it has with low-wage workers since the mid-1990s (Ross 2004). In terms of policy reform, groups on the right push for outright rejection of the H-1B visa program along with all immigration, whereas the IEEE and the CWA emphasize strengthening the INS and DoL's power over employers and temporary visa holders while curbing the overall H-1B and L-1 programs (CWA 2003; Hira 2003).

Working as separate entities, these organizations often form explicit as well as implicit alliances in the ways they share information, rally members to support legislation and generally frame the debate on labor and immigration issues. For example, the labor-rights organization H1B.info posts a disclaimer on their website that says while they opposed the H-1B program, they are not engaged in any form of "immigrant bashing." In examining the organizations listed as resources on the very same website, the line between protecting the rights of workers begins to blur with political movements that are openly anti-immigrant (see Table I).

The starting point for critics and opponents of the H-1B program is often the threat posed by foreign temporary workers who are vulnerable to corporate abuse. But the vulnerability of high-skilled immigrant labor is more often than not used to then *blame* immigrant workers for the job loss, insecurity and humiliation faced by American workers. The impact of the opposition to the H-1B visa program has led to a series of pending legislative proposals to reform or in one case repeal the H-1B program all together.^{h8} Republican Congressman Tom Tancredo from Colorado who is the author of Bill H.R. 2688, which would repeal the H-1B program, stated the following about the dangers of H-1B workers:

Currently, there are approximately 17 million illegals living in the United States who are taking jobs that unemployed Americans rightly deserve. For example, H-1B visas were issued to over 1 million people in the high tech industry who have overstayed their visas and the INS is not doing a thing about it. This package we passed today creates 1.2 million jobs; however, we have a pool of 1 million well trained, well paid illegals in the high tech industry alone that are poised to take away these jobs from qualified Americans. (Congressman Tom Tancredo (R-Colorado) on passage of "Jobs and Growth Reconciliation Act," May 12, 2003, <http://db.savicom.net/d0016/cgibin/archive.pl?action=display&list=tancredo&msgid=1052761234.22667>)

Representative Tancredo's position resonates with voters familiar with similar claims about undocumented migrants and their alleged sapping of the diminished welfare state. In addition, the nationalist separation of the rights of American workers/citizens against those of non-Americans is the recurring theme in the current debate on the outsourcing (Henwood 2004). An Asian American organization recently documented that TechsUnite.org (CA), Alliance of Technology Workers (WA) and Rescue American Jobs "have pushed politicians to pass 'Buy American' legislation to limit federal agencies from sending jobs overseas," and that these groups have applauded Dell Computers and others who have shut down call centers in India, due to "bad service" and "strange accents" (Model Minority 2004).

The H-1B Workers' Perspective:
Moving Beyond the Discourse of "Indentured Servant"

Like most modern migrants (Smith 2001), the workers we spoke

with relied extensively on transnational networks of family, friends and employers who differentially facilitated both their arrival to the U.S. and their possible return to India. As Krishnan, a twenty-three-year-old programmer from Delhi working in Indianapolis explained, “. . .everyone has at least one friend here so they know how things work.” It is these friends who made a big difference in the process of transitioning to work and potentially dealing with the dual possibilities of unemployment and loss of legal immigration status. In this section, I focus mostly on the experiences of H-1B workers who were employed through bodyshops, precisely because they were much more likely to experience mistreatment, false information about pay, excessive work hours, constant relocation and cases of agencies holding immigration documents and thereby literally controlling the movement of workers. It is these very practices that categorize these workers as “indentured servants” by opponents of the H-1B program described above.

Asian American Studies scholars (Espiritu 1997; Prashad 2000), as well as feminist researchers (Bonacich and Appelbaum 2000; Ong 2000), have shown how post-1965 Asian migrants have played an intermediary role in the nation’s racial and ethnic hierarchies. The preceding discussion demonstrates how these new groups of Asian (non)migrants—the Indian H-1B worker—fit the discursive tradition where “. . .entry into the United States have placed Asians both within the U.S. nation-state, its workplace and its market, yet as linguistically, racially and culturally marked Asians as ‘foreign’ and ‘outside’ the national polity” in contrast to other immigrant groups like the Irish or Italians (Lowe 1996). Many of the workers we spoke with told us about the shock of realizing that they were visible “outsiders,” especially in their discussions of experiences outside the workplace. Their negotiation of racial hierarchies—for instance, between their position as “skilled immigrants” versus “non-skilled Latino immigrants”—varied depending on their gender, class and caste privilege, among other factors (Chakravarty 2005a).

Exploitation in the IT bodyshops reinforced the *internal* hierarchies within the Indian migrant community. Susan Koshy writes that the expansion of some Asian economies (like China and India in the last decade) coupled with the entry of “Asians in the technical-managerial class has created a situation in which Asian America is a site of both resistance and exploitation” (Koshy 2001). In considering the issue of Asian-operated “sweatshops,” Koshy ar-

gues that “small and large Asian capital often deploy the discourse of family and loyalty to enforce discipline and extract compliance” (Koshy 2001). In the case of Indian-managed IT bodyshops, there are hierarchies between managers and workers, but also between H-1B workers themselves based on the cultural capital and competence that allow some workers more mobility to find jobs between India and the U.S. In our study, those who felt the most marginalized racially and economically were also more likely to be the most dependent on the bodyshops. These workers also generally recognized the shortcomings of the corporate “Indian family values,” and many sought alternate networks of support. This was in contrast to the smaller numbers of workers with either more access to employment networks or a second degree from the U.S. (or often both), who tended to have the greatest access to permanent residency and the least anxiety about their status as both workers and migrants in the U.S.

Our interviews took place between May and December of 2002, after tens of thousands of unemployed H-1Bs had already left the country often on very short notice, therefore our sample was certainly with a group of workers who were secure for the time being. Despite the fact that the “adjustment of status” process was complicated, expensive and since the immigration reforms post-9/11, exceedingly slow, 60 percent of our interviewees had filed for and were hopeful about their green card approvals. In contrast, some 40 percent had real concerns about being forced to leave whether they wanted to or not. Although these workers had at the point we interviewed them survived the unpredictable job and immigration market, their specific experiences raised a different set concerns about workers rights and immigration reform.

Of the 121 Indian H-1B workers we spoke with, 84 percent were men, although we made extra efforts to speak with all the women workers who volunteered for interviews. In terms of age, these workers were overwhelmingly young with 73 percent under thirty-five, and less than 2 percent over forty-five. In terms of education, the highest degree for 60 percent of workers we spoke with was an undergraduate degree from India. Seventy percent of those we spoke with had worked for at least one intermediary agency or bodyshop. These workers, more than the workers hired directly through companies, complained about instability and having to work longer hours with salaries approximately \$20,000 less than their

American counterparts. In our conversations, it became clear that how these new migrants accessed their H-1B visas shaped their experiences in the American workforce and set the groundwork for their employment and immigration options once their visas expired.

Piyush, a twenty-seven-year-old man from an “upper middle class family” in Madhya Pradesh, with a software diploma from India as well as an MBA from the U.S., had found his job through headhunters who had contacted him on-line in India. He chose to work for an “American consulting company” that had treated him fairly. He acknowledged that when he “landed back in America” he had an advantage over other H-1B workers because he “understood how the system worked.” Having finished post-graduate education in the U.S., Piyush had friends and family who were “established” and while his company had applied for a green card for him, he felt that he could just as easily relocate to India. Speaking of successful friends who had been fired in the U.S. but were prospering in high-paying jobs in India, Piyush stated plainly that you could “live like a king with the money you make in India.” Like Piyush, Sangeeta, a twenty-nine-year-old woman with an IT diploma and a Masters in Human Resources from India, felt optimistic about her prospects while she worked in the IT division of an insurance firm in New Jersey. Sangeeta, like all the Indian women H-1B workers we spoke with, was married, in her case to another H-1B worker in IT, and had family in the U.S. and was “well connected” to friends and contacts in the “booming” IT industry in India. Sangeeta’s sister, who had immigrated earlier, “taught [her] all the steps” in terms of adjusting to the U.S. Sangeeta had experienced significant mobility despite her initial job through an Indian-owned bodyshop: “I started at \$48K and now I’m making \$110K.”

In contrast to the privileged experiences of Piyush and Sangeeta, there were workers like Rama, a twenty-nine-year-old man from a small town in Andhra Pradesh with a Masters from India, working in Kalamazoo. Rama had worked for a bodyshop for three and a half years, and his initial transition to work and life in the U.S. had been difficult. Rama had friends and contacts from home who were also H-1B workers in the area who helped him find housing, but access to transportation and credit, for establishing himself for buying a home and car, were not easy to obtain. Since 9/11, Rama had experienced what he called “minor incidents”

of discrimination, suspicious glances from co-workers, discomfort in public places: “[I] always feel like a second rate citizen (laugh), that’s obvious. Insecurity, that’s the greatest drawback. I never feel free.” Rama, like the majority of those with whom we spoke, was expected to work longer hours for a salary that was much lower than what he knew the bodyshop made “off of me.” The constant insecurity of losing both his job and immigration status made him feel “like a second rate citizen.” While he knew that there were job possibilities in India, if he had to leave, Rama argued that competition for jobs at home was “fierce,” and his future seemed very uncertain.

Similarly, Vasu, a thirty-six-year-old man from Bangalore, with a technical diploma to supplement his Bachelors degree in Engineering from India working in the software industry in Los Angeles, said he “hated working for agencies” because he felt “bound” by the green card process and therefore had to work much longer hours than “normal” workers. Vasu had been in the U.S. for three years and was recruited in India by a bodyshop with Indian-American management. Vasu had worked for two agencies, with the first threatening an exit fee of \$10,000 when he found another agency offering higher wages. He felt neither agency had properly explained the visa process and was worried about the “constant insecurity” of his work and visa situation since 9/11. Vasu was preparing to return to India once his visa expired, but like Rama, had mixed feelings about his opportunities when he returned precisely because he lacked as many “contacts” as others in a “very competitive market.”

Like Rama and Vasu, H-1B workers who came through bodyshops with degrees from India, sometimes from smaller towns and often as the first in their families to migrate to the West, had a more difficult transition to life in the U.S. and were much more likely to face the exploitative conditions in bodyshops managed by Indian or Indian Americans. Nainesh, a twenty-six-year-old man from Bombay with a Bachelor’s degree in Engineering from India who had been in the U.S. for two years, recounted his experience with Indian-managed bodyshop that brought him to work for a software firm in San Francisco:

It was a brutal experience. The agents placed me in San Francisco but they couldn’t place me on a project so I found my

own project and transferred to Boston. I didn't receive my first month's paycheck. The check bounced so \$2,500 was taken from me. We had an agreement when I was in Bombay that I'd work for two years for them or their clients but the agreement didn't hold true. . .they changed resumes according to the market and I was on the bench for two months. The company paid me but others were only getting \$10 per day.

Nainesh describes his initial entry to the U.S.:

It is difficult but I made my own way. I was given shared accommodations by the agency—six people in a two-bedroom apartment. I had no car so I used the bus, which only ran Monday through Friday. The first two months were a struggle. Now a group of co-workers and I try to help new people coming in. I didn't have that kind of help and I know how hard it is, so I try and look out for new H-1B guys. I was lucky to even be getting full salary. The other five I was living with were not. Depression is a problem. People have expectations coming here and then they get back with no job, no car, crowded living, pressure to find a job. Some have to go back. Four of those five have gone back because they couldn't be placed.

Nainesh's story shows how the lack of other kinds of networks—both family and professional—left workers like him more dependent on the bodyshops. But what separates this narrative from those repeated by opponents of the H-1B program is that although Nainesh experienced exploitative conditions on the job-site, he actively sought strategic opportunities to improve his own position as well as the opportunity for others in his situation, to gain access to what is seen by these workers as an inherently transnational labor market.

Like Nainesh, many workers told us of informally helping other co-workers, particularly newer H-1B workers as they arrived in the U.S. Their reasons for “putting up” with conditions that most recognized were unfair included income in dollars and the possibilities for permanent residence and/or opportunities to work abroad elsewhere. Nevertheless, these incentives did not necessarily guarantee compliance to the rules set by the bodyshops. For instance, Tony John, a thirty-two-year-old man from Bombay with a technical diploma to supplement an undergraduate degree in management from India, was recruited by a bodyshop for a salary of \$40,000. Tony John recounted that he had found this figure “lu-

crative when I was in India” but realized quickly once he was in the U.S. that the salary was well below the “market rate.” The agency’s contract stipulated that should he quit in the first two years of employment he would have to pay a \$10,000 exit fee. He told us that his “American” colleagues had joked about how H-1B workers “were kept on a leash,” but that when he “read up on it” and found that what the agency was doing was illegal, “No one could bind me to a job, that’s bonded labor, similar to slavery.” Tony John left his agency, finding other employment, including a current employer who had sponsored his green card application.

In addition to Tony John, we spoke with a handful of workers who had actually filed complaints about their agencies with the DoL, with few results in each case. Others made strategic compromises because of income and immigration status, but also because of “exposure” to the newest technologies, international work experience and access to networks of colleagues and employers who might help them find employment should they return to India. In addition to the longer hours and lower pay, the workers who were most vulnerable to exploitation also raised questions about how they did not receive any benefits from their contribution to income tax or social security and were alarmed about the impact of the increasingly restrictive immigration policies affecting them as well as their families.

Not only did 80 percent of the workers say that they would be willing to be dues-paying members of an organization that represented their interests, many were also members of the Immigrant Support Network (ISN). The ISN is a non-profit organization that had actively lobbied Congress on behalf of H-1B workers from 1998-2002. In 2001, the ISN was successful in its efforts to remove country-quotas for employment based immigrant visas, as well as in its efforts to ease the process through which H-1B workers change jobs. As the lag-time for green cards has increased, the ISN has focused its more limited efforts on providing information on threats to civil rights and immigration reform.

For most workers, any organization representing their interests would ensure that their visas were “tied to us and not the employers.” Such an organization would also “protect employees” while they were H-1Bs and attempt to facilitate permanent resident status. In addition to representing their rights as employees, most people also wanted information and support on issues hav-

ing to do with immigration—whether clarifying the rules as they stood, challenging rules that restricted their mobility or providing assistance for those in transition between jobs and visa status.

This overview shows that high-skilled temporary migrant workers from India have distinct trajectories in how and why they seek work and migration in the US. For the minority of workers we spoke with who had the cultural capital to move more easily between India and the U.S., the H-1B visa program restrictions and the bodyshops that operate as middle men were small obstacles toward either permanent residence in the U.S. or a relatively comfortable return to India. For the majority of workers who were employed through bodyshops, the opportunity to work in the U.S. on a short-term visa program provided invaluable access to transnational networks, both social and professional, important in terms of access to jobs, work experiences and contacts at “home” if and when the worker returns. In this way, these workers are not simply passive victims of corporate abuse, as caricatured by many opponents of the H-1B debate.

More importantly, as new migrants and temporary workers in the U.S., many sought alternative networks and alliances to challenge the restrictions imposed by the INS as well as the exploitative conditions enforced by the bodyshops and firms that employed them. In practice this meant that Indian H-1B migrants sought legal help, relied on informal networks of friends, family and colleagues, often within the Indian community, or turned to immigrant rights groups like the ISN. Missing from this picture was the possible alliance between these migrant workers and organized labor.

Conclusion

The H-1B program is flawed precisely because it is designed to subsidize corporate flexibility at the expense of both labor *and* immigrant rights. Both the H-1B visa and the increasingly used L-1 visa (intra-company transfers) allow firms to, as one expert puts it, “utilize immigration regulations as a competitive advantage” (Hira 2003). In the years to come, firms in IT will no doubt continue to pursue “flexibility” strategies relying on a combination of temporary “on-site” and “offshore” employment. In the process, progressive advocates of fair labor policy representing U.S. workers must face the limits of their political opposition to “low-wage, high-skilled labor,” whether those workers are non-permanent im-

migrants or offshore workers.

Legitimate concerns about the violation of immigrant worker rights are repeatedly conflated with anti-immigrant sentiment; the discourse of the indentured high-tech servant naturalizes and normalizes the exploitation and blames the victim for worsening the standards of “the best paying” American jobs. Although unions and other more progressive organizations may have abhorred the larger political projects of nativist and right-wing groups, they did not offer a meaningful alternative that took into account the rights of migrants when it came to the H-1B visa program. This is in line with the criticism offered by Naila Kabeer (2000), Deepak Nayyar (2002), among others, who have argued that Northern activists have often failed to link their concerns about workers rights and labor standards with the rights of migrants.

I have argued that racialized discourse about Asian workers reinforces racial and class hierarchies between “native” and “foreign” workers. It also serves to reinforce class and caste hierarchies within the Indian IT workforce. The interviews provide evidence that Indian H-1B workers were concerned about how Indian-managed bodyshops used their temporary status to violate their rights as workers. However, many of the workers we interviewed actively sought to improve their conditions of work and their opportunities as immigrants in what most understood as an unequal and transnational IT labor market. This was particularly the case for the less privileged H-1B workers who often chose to access informal and less often, formal, ethnic networks because other kinds of alliances and support structures simply did not exist.

I argue that alternate alliances are possible between temporary high-skilled migrant workers and unions based on similar efforts by labor-based organizations that have reached out to low-wage immigrant workers through community workers centers or interfaith organizations (Ching Yoon Louie 2001; Ross 2004). Many of the H-1B workers we interviewed argued that bodyshops should be regulated, so that employees as opposed to employers have direct control over immigration status and so that the terms of employment and immigration are clarified at the onset of the contract. Building bridges between workers and immigrants in the high-skilled sector could be modeled on similar experiences with low-wage workers, where collective interests between workers would have to be negotiated while recognizing differences based on race,

gender and nationality (Bonacich and Appelbaum 2000). These efforts could lead to union-funded help-lines for temporary migrant workers or coordinated efforts between unions and South Asian and Asian community groups, which could jointly provide cultural, as well as legal, resources for workers facing either exploitation by employers or harassment or insecurity over their civil and human rights as “non-immigrants.” These help-lines or centers could be established in the Bay Area, New Jersey and other areas where H-1B and L-1 workers are concentrated.

Since 2004, opponents of the H-1B visa program have increasingly focused their energies in tackling the broader issue of the outsourcing of white-collar work. I argue that the nationalist discourse of the “indentured servant” continues to dominate the terms of the debate in the U.S.⁹ Nevertheless, recent efforts by labor and community based organizations like the Communications Workers Association (CWA) and Jobs With Justice have tried to build alliances between Indian and American union movements. Based on similar strategies of cross-border organizing in Mexico, Canada, the U.K. and elsewhere, these initial efforts have included worker exchanges with Indian union leaders recently speaking with American workers facing job loss in white-collar sectors and encouraging American workers to meet with call-center and other workers in India (Swanson 2005). Cross-border organizing between India and the U.S. is obviously costly and difficult for a sector that lacks an organized base in either country and faces politically powerful opposition from both firms and conservative nationalist groups. Nonetheless, progressive organizations based in the North need to take into account the perspective of the “weak winners” based in both the North and the South. This is especially true of unions with interests in mobilizing around the issue of white-collar work. As feminist scholars of globalization have already argued (Kabeer 2000; Mohanty 2003), internationalist strategies offer the most effective possibilities for social justice in industries that are surely likely to become more not less globally integrated in the decades to come.

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Notes

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2. The original H1 category of visa was created in the 1950s where the foreign worker was meant to fill a temporary position and the foreigner had to establish intent to return home. Employers were able to hire for permanent positions since the 1970. The number of applicants grew dramatically in the 1980s, and the creation of the H-1B category was an attempt by the U.S. Congress to implement a cap in response to pressures from organized labor. For more, see Rosenblum 2001.
3. The immigrant wage figure is from: <<http://laborcenter.berkeley.edu/immigrantworkers/index.shtml>>. Minority representation in

- the IT industry is based on figures from 1999. See <<http://www.siliconvalleyproject.net/News.html>>.
4. This study is partially based a collaborative research project with economist Sundari Baru, for the San Diego based Center on Policy Initiatives. This paper is based on an on-line survey of H-1B workers that was completed in May of 2002. For more on that study, see Chakravartty 2005a.
 5. According to critics, the 15 percent minimum is seen as too high because "it does not exclude a firm's non-technical workers," such as secretaries, cleaning staff, and so forth. See Matloff 2004.
 6. The immediate backlash following the attacks included two cases of Americans of South Asian origin being murdered and countless cases of harassment of South Asian and Arab immigrant communities in the U.S. (Chakravartty 2002). Civil rights violations, racial profiling based on nationality, race and religion, difficulty crossing borders and surveillance in airports continue to be problems, especially for South Asian and Arab males in the U.S. For more see Amnesty International's (2004) Report on Racial Profiling in the U.S.: <http://www.amnestyusa.org/racial_profiling/report/index.html>.
 7. Matloff writes: "Note by the way that the influx of foreign students also holds down graduate assistantship pay, in the same manner as described for industrial pay above. This further dissuades American students from pursuing a Ph.D. To be sure, some of the foreign doctoral students are indeed of truly outstanding talent. As discussed in Part IV.E, their immigration should be strongly supported. But they compromise only a small proportion of the foreign student population in Ph.D. programs and that population is used, in effect, in the U.S. as a source of cheap labor (Matloff 2003).
 8. For a summary of all the relevant Bills see <http://www.techunite.org/news/techind/030930_itvisas.cfm>.
 9. Nationalist discourse that racializes Indian white-collar workers as submissive, incompetent, threatening frames the current outsourcing

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