



International Journal of Economic Research

ISSN : 0972-9380

available at <http://www.serialsjournals.com>

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Volume 14 • Number 15 (Part 4) • 2017

Economics of H-1B Visa and Indian Expatriates

Wiselin Dhas Mathuram¹ and Pon Ramalingam²

¹Part-time Research Scholar, Hindustan Institute of Technology and Science, Chennai, India

²Professor and Registrar, Hindustan Institute of Technology and Science, Chennai, India

ABSTRACT

Visa is a travel document with an endorsement on the passport from authorities of the country which one intended to visit indicating that the document holder is entitled to enter, stay, work, or leave within a specific period of time. The H-1B visa was the outcome of the U.S Immigration and Nationality Act of 1965 which annulled the discriminatory clauses of the Emergency Quota Act of 1921. The US administration sometime back alleged that the provisions of the H-1B visas are abused which led to signing of the Executive Order No: 13769 imposing several restrictions on the immigrants. NASSCOM has criticized the move as an attempt to clog the Indian IT industry.

Keywords: Alien, quota, lottery, dual intent, H-1B.

1. INTRODUCTION

In the immigration status of United States of America, all immigrants are referred to as 'aliens'. The green card holders are also referred to as 'Permanent Resident Aliens'. (USCIS, 1986) An alien is a person who is not a citizen or national of the United States of America. The word 'alien' was first used in the Alien and Sedation Acts of 1798 (Legal Information Institute, 1992). The Oxford Dictionary defines an alien as 'strange and frightening, different from what you are used to, from another country or society, non –citizen' etc. Generally, it is construed to be a word of hostility and disapproval.

A. Emergency Quota Act of 1921

Throughout the history of America, there was widespread antagonism against migrants. As a result of this, the Emergency Quota Act of 1921 was passed which introduced the 'numerical limits', the 'quota system' and the 'National Origins Formula'. The Emergency Quota Act of 1921 was widely criticized for being

discriminatory. It restricted the number of immigrants to 3% on the basis of the number of residents who live in the U.S from a country as per the U.S Census 2010 (US immigration legislation, 1921). It gave preferential treatment to Northern Europeans over other Europeans, Asians and Africans. However, there was heavy pressure from former Second World War allies of U.S and other friendly nations to annul the 'nation-based' Emergency Quota Act of 1921. The issue of discrimination was taken even up to the United Nations. At this juncture, the Civil Rights Movement also got strengthened and gathered momentum against discrimination (Keely, 1979). As a result of overwhelming criticism, President Truman appointed a Commission on Immigration and Naturalization in 1952 to investigate and submit report on the whole issue. The commission submitted the report known as 'Whom We Shall Welcome' which later became the basis for the Immigration and Nationality Act of 1965 (President's Commission on Immigration and Naturalization, 1953). Meanwhile, the demand for annulling the Emergency Quota Act of 1921 became very vociferous during the tenure of President John F. Kennedy. In this overall scenario, the Immigration and Nationality Act of 1965 was proposed by Senator Emanuel Celler of New York which was co-sponsored by Philip Hart of Michigan. Finally, President Lyndon B. Johnson signed the Immigration and Nationality Act of 1965 at the foot of the Statue of Liberty in New York on 3 October 1965.

B. The Immigration and Nationality Act of 1965 and the Birth of H-1B Visa

The Immigration and Nationality Act of 1965 (H.R. 2580; Pub.L. 89-236, 79 Stat. 911, enacted June 30, 1968), otherwise known as the Hart-Celler Act ended national and racial discriminations. The Act fixed a numerical restrictions on visas at 1,70, 000 per year, along with a 'per-country-of-origin quota' with an exemption of immediate relatives of U.S. citizens and 'special immigrants' (Ludden, 2006). However this Act prohibited sexual deviants like homosexuals from entry into U.S which was later removed by the Immigration Act of 1990 (Davis, 1999).

The section 101(a) (17)(H) of the Immigration and Nationality Act of 1965 enabled the creation of H-1B visa. The Act created a 'seven category' preference system. The Act gave preferential status to relatives of U.S legal residents and professionals. It also created a new category of migrants known as 'special immigrants' which included former U.S government employees and medical graduates. As per the provisions of the Immigration and Nationality Act of 1965, the U.S companies are permitted to employ legal migrants provided the Employment and Training of the U.S. Department of Labor allows the employer to employ foreign workers to fill the gap of skilled workers in certain areas. They should be paid a wage as per the existing wage level. The employer should certify that they are unable to get an American worker willing to work in such a job for the current wage level. The Immigration and Nationality Act of 1965 allowed people from Asia, Africa and Middle East to migrate to U.S in large numbers.

Prior to the passing of Immigration and Nationality Act of 1965, the population of U.S was primarily of the European stock but the Immigration and Nationality Act of 1965 opened the flood gates of immigration that altered the demographic structure of the United States of America. During the 1950s and during the first half of 1960s, most of the migrants came from Europe and Canada but during 1971-1991, 47.9% of the migrants were of Hispanics and Latin Americans. Asian migrants comprised of only 35.2%. If one takes into account population growth, during 1960-70, migrants constituted only 11% of the population growth but during 1970-80, it constituted 33% of the population growth and during 1980-90 it went up to 39%

(Link, 1995). During this period the U.S economy witnessed robust economic growth which necessitated the need for more and more migrant workers (Massey, 2015).

C. Executive Order No: 13769

However, ever since the passing of Immigration and Nationality Act of 1965, the arrival of immigrants increased which led to anti-immigrant activism all over the United States (Chavez, 2013). The recent trends in the U.S. led to the signing of the Executive Order No: 13769 which has tightened the procedure for the issuance of H-1B visas. The US administration has repeatedly blamed the U.S visa system for allowing and being the mute spectator for immigrant workers replacing American workers. The Executive Order No: 13769 ensures that hereafter the H-1B visas will be issued only to the highly skilled and highly paid migrant workers. It is said that the Executive Order No:13769 will streamline visa issues and ultimately 'end the theft of American prosperity'. As a result of the Executive Order, the Indian IT firms are hard hit (Thrush, Wingfield, & Goel, 2017). H-1B is a U.S temporary non-immigrant visa for employment in a wide range of professions. An employer who is preferring an immigrant worker is obliged to offer a job to the immigrant and file a petition with the U.S Immigration Department and obtain their clearance. H-1B visas are issued to immigrants which otherwise not preferred by American workers. The classic examples are Application Software Developers, Computer System Analysts and Computer Programmers. These three fields account for roughly half of all H-1B visas issued. Many U.S companies accuse the Executive Order No:13769 saying that they are unable to find willing American workers who are prepared to take up the jobs. They strongly express their anxiety that preventing them from recruiting migrant workers may choke the American industry.

2. H-1B VISA

A. Body Shopping

Indian IT companies like Tata Consultancy Services, Cognizant Technology Services Corp, Mphasis Corp, Infosys, Tech Mahindra, Wipro are accused for circumventing the U.S visa rules and gaming the visa system. It is alleged that these companies are primarily outsourcing firms and they channel several Indian workers to work in the U.S software industry. Many point out that quite a large number of H-1B visas are issued to various companies having their headquarters in India than companies who have their headquarters in the United States. Furthermore, it is alleged that among computer systems analysts and computer programmers, 74 %of the H-1B visas has gone to Asians (Thibodeau, 2009). The U.S corporate like the Microsoft, Google, Qualcomm, Apple, Disney, the University of California and many of the Silicon Valley startups are also accused for misusing H-1B visa rules. It is found that the service-based IT industries misused the H-1B visas more than product based industries by filing huge number of applications with the intention of defrauding the procedure. These companies are also accused for practicing the 'cheap labor' policy and paying low wages. Some of the top companies which has received H-1B visas are from Indian companies like Infosys, Tata Consultancy Services, Wipro, HCL, Mahindra Satyam, Larsen &Toubro, IGATE, Syntel, and Mphasis. Infosys has bagged the highest number of visas followed by Tata Consultancy Services and Wipro. However, it is has not been proved by either parties that the allegations are true.

B. Procedure for H-1B Visa

The United States Citizenship and Immigration Services (USCIS) begin accepting H-1B applications on the first working day of April for the Financial Year beginning in October. It means that the USCIS starts accepting H-1B applications six months in advance to the set date (USCIS, 2013). The H-1B visa should be initiated by the employer in the United States of America. An employer should apply for a ‘Labor Condition Application (LCA)’ with the United States Department of Labor with all necessary attestations regarding wages and other conditions for the concerned job. After getting the ‘Labor Condition Application (LCA)’, the employer must file the Form I-129 requesting for classification of the worker of the intended H-1B visa holder along with all relevant documents and the stipulated fee. Once the LCA is approved, the employee outside the United States can use the approved Form I-129 and other documents to apply for the H-1B visa. Once the applicant gets the H-1B visa papers, he should present himself to the port of entry of the United States of America and collect the Form I-94 and enter into the U.S.

C. H-1B Visa Cap

H-1B visa is capped at 85,000 new visas per year. Out of this, 65,000 visas will be issued to foreigners and another 20,000 to immigrants holding advanced degrees. However, ‘Universities, non –profit research facilities associated with Universities, and government research facilities’ are exempted from the cap. Contractors who are not directly employed but working in connection to the Universities are also exempted from the cap. Singapore nationals and Chilean nationals bound by the Free Trade Agreements are exempted to the extent of 5,400 and 1,400 visas respectively per financial year. Even though the cap is actually 85,000, in reality it always exceeded that limit. For example in the FY 2010 the issue of H-1B visas reached 1,17,828; in the FY 2011 it reached 1,29,552 and in the Financial Year 2012 it reached 1,35,991 (American Immigration Lawyers Association, 1996).

D. H-1B Applications Approved by Fiscal Year

The number of H-1B visas issued during 1999-2014 varied year by year. The year 2001 has recorded the highest number of Initial Employment Approvals with 2,01,079 visas and 2014 has recorded the maximum number of Continuing Employment Approval with 1,91,531 visas. Combining both types of H-1B visas, the highest number of 3,31,206 visas was issued in 2001. Though the cap remains at 85,000, the number of H-1B visas issued stood at a staggering number of 3,31,206 visas in 2001. It is found that the cap of 85,000 H-1B visas was not adhered to throughout the period of 1999-2014.

Table 1
H-1B Applications Approved by Fiscal Year

<i>Year</i>	<i>Initial employment approvals</i>	<i>Continuing employment approvals</i>	<i>Total</i>
1999	134,411	N/A	N/A
2000	136,787	120,853	257,640
2001	201,079	130,127	331,206
2002	103,584	93,953	197,537
2003	105,314	112,026	217,340
2004	130,497	156,921	287,418

<i>Year</i>	<i>Initial employment approvals</i>	<i>Continuing employment approvals</i>	<i>Total</i>
2005	116,927	150,204	267,131
2006	109,614	161,367	270,981
2007	120,031	161,413	281,444
2008	109,335	166,917	276,252
2009	86,300	127,971	214,271
2010	76,627	116,363	192,990
2011	106,445	163,208	269,653
2012	136,890	125,679	262,569
2013	128,291	158,482	286,773
2014	124,326	191,531	315,857

Source: Computer World

E. H-1B visa through Consular Offices

The below given table shows the year wise issue of H-1B visas through the Consular Offices. It reveals that the number of visas issued differs from year to year. The lowest number of 794 visas were recorded in 1990 and highest number 1,61,369 visas were recorded in 2014.

F. Lottery System

Since the demand for H-1B visa is huge, the U.S government has constituted a ‘lottery’ system. Lottery system is a general word for ‘computer-generated random selection processes’ by the USCIS under the United States Department of Homeland Security (DHS). It first came into operation in FY 2008. For the financial Year 2018 there were 1,99,000 H-1B applications excluding lottery applicants. A tag number was assigned to every applicant and selection was done by using random algorithm mainly in Masters Quota Category. Those who are not considered by the Masters Quota Category by the lottery system are added to the general quota for consideration. Selected applicants will be assigned a H-1B visa EAC number (Eastern Adjudication Centre). If the applicant is not selected under the lottery, then the visa fee collected will be refunded to the would be employer who has applied for H-1B visa under the lottery system.

The US administration is revamping the procedure for issuing visa procedures. It is trying to replace the lottery system with merit based system. The U.S Secretary of Labor Secretary of Homeland Secretary, and the U.S Attorney General are involved in restructuring the H-1B visa system. Right now the biggest beneficiaries are Indians followed by the Chinese. It is said that 86% of the computer related jobs have gone to Indians. The ongoing visa reforms and ‘The High Skilled Integrity and Fairness Act 2017’ introduced by Congressman Zeo Lofgren of California has increased the minimum wage for H-1B visa holders to \$1,30,000 from the \$60,000 fixed in 1989. This Act is intended to ‘curb outsourcing abuse’ and cheap labor practice.

G. NASSCOM

Opinions defer about US visa reforms. Some people argue that this will end ongoing cheap labor practice and wage exploitation by the U.S ‘client sites’ of the Indian software companies. It is said that skilled Indian

workers will get more chances with higher salaries. But it is cautioned that the hike in wages may force the Indian software companies to shift their U.S client sites to elsewhere and the misuse will continue. Meanwhile, NASSCOM has stoutly denied the acquisition of the U.S administration. NASSCOM has cautioned the U.S visa administration that the restrictions on H-IB will affect only the American economy. It is said that the U.S industry may not be able to get sufficient number of American workers and even if they get, American workers may demand more salaries.

H. Difficulty Days

The decision of the US administration has increased palpitation among Indian H-IB visa holders in the U.S. Hereafter getting extension of the H-IB visa may become more and more difficult. The argument that the new visa rules of the U.S administration may help skilled workers doesn't cut much ice. Already Indians working in U.S are returning back in large numbers. Expatriates who seek jobs in India has gone up by ten times during December 2016 and March 2017. In December 2016 only 600 U.S based Indians were seeking jobs in India which has gone up 7,000 during March 2017. According to the U.S Citizenship and Immigration Services for the first time, the number of H-IB visa seekers have come down in 2018.

I. Grace Period

If the holder of H-IB visa loses the job, he must find another employer and apply to change of status or quit America. In January 2017 rules are modified by the USCIS so that those who lost the job under the H-IB visa can stay in U.S for a grace period of sixty days or as long as their green card application is pending with the U.S authorities (USCIS, 2016).

J. Specialty Occupations

Immigration and Nationality Act of 1965 allows U.S companies to hire foreign workers in 'specialty occupations' like education, law, biotechnology, social sciences, medicine and health, law, accounting, business specialties, theologies, arts, chemistry, architecture, engineering, mathematics, physical sciences. The minimum qualification required is a bachelor's degree in the relevant field (Legal Information Institute). The U.S Citizenship and Immigration Service on 3rd March 2017 said that they would temporarily suspend premium processing of H-IB visa (USCIS, 2017). On 18th April 2017, through an Executive Order the US administration has directed Federal Authorities to suggest measures to revamp the H-IB visa system.

K. H-IB Visa Extension

H-IB visa is very complex with wheels within the wheels. The provision of the H-IB visa says that a H-IB visa holder can stay in the U.S for three years which can be extended up to six years. However the maximum length of stay of six years can be extended in certain exceptional circumstances. As per Act 106a of the Immigration and Nationality Act of 1965, if a H-IB visa holder has already submitted an I-140 immigrant application or a labor certificate prior to the fifth year of having the H-IB visa, they are entitled to renew the visa in one year increments until a final decision is taken on their request for permanent residence. However, according to the section 104a (AC 21 104a) of the American Competitiveness in the 21st Century Act 2000, if a H-IB visa holder has an 'approved' immigrant application, but if the concerned person is not able to initiate the final step for the green card due to the 'priority date' not being current, their H-IB

visa can be extended by three years until their green card status can be finalized (USCIS, 2015). If a person happened to work in the projects connected to United States Department of Defense, he is entitled for ten years of H-1B visa. The H-1B visa 'portability or transfer' provision says that if a H-1B visa holder wishes to continue to work in the U.S but has not received the permanent status must stay outside of U.S for one year before applying for another H-1B visa if he does not qualify for one of the exceptions mentioned in the clauses.

L. Dual Intent

The H-1B visa holder is governed by the 'dual intent'. Dual intent is an American law which permits migrants to be temporarily present in America but permits them to seek a permanent residence in the U.S. H-1B visas are legally considered to be a possible stepping stone to green card. An employer can sponsor and recommend the H-1B visa holder to obtain a green card to the U.S. Department of Labor by filing an Application for Alien Labor Certification. If an H-1B visa holder loses his job or shifts his employer, he will lose his green card seniority and go to the far end of the green card seniority line.

M. Tax Payment

The H-1B visa holders are taxable under the U.S law. For the purpose of taxation H-1B visa holders are divided into two categories viz. 'non-resident aliens' and 'resident aliens'. A non-resident alien is taxed only on the income earned from America. A resident alien is taxed on all incomes earned including income from outside United States. The tax status on the basis of non-resident alien and resident alien is determined by using the evaluation procedure known as 'substantial presence test'. In the case of a non-resident alien, tax Form 1040 NR or Form 1040NR- EZ is to be used. However, if there are tax treaties between United States and the country from where the H-1B visa holder holds citizenship, he can claim for tax exemptions and benefits. If the 'substantial presence test' indicates a person as a resident alien, Form 1040 should be used as in the case of any other American citizen. The spouse of H-1B visa holder should obtain an 'individual Taxpayer Identification Number (ITIN) or 'Social Security Number (SSN)' and submit a joint tax return along with the H-1B visa holder. The H-1B visa holders also have to pay Social Security and Medicare taxes like any other U.S citizen. If an H-1B visa holder has paid the Social Security for a period of ten years, he is eligible for social security benefits even if he leaves United States.

N. H-4 Visa

The H-1B visa holder is entitled to bring his spouse and children under 21 to America under H-4 visa. The H-4 visa holder can stay in the United States as long as the H-1B visa holder who sponsored them retain their H-1B status. The H-4 visa holder is entitled to attend educational institutions, obtain driver's license and operate a bank account. United States Citizenship and Immigration Services allows spouses of H-1B visa holders to work provided they file 'Form I-765, Application for Employment Authorization' and obtain an 'Employment Authorization Document Card' (Department of Homeland Security, DHS 2015).

O. Stamping

If an H-1B visa holder travels outside the United States other than Canada and Mexico he must get his visa stamped in his passport for reentry into the United States. If he has an expired stamp or an unexpired

I-797 application he has to appear in a U.S embassy to get a stamp. In some cases, the H-1B visa holder has to undergo ‘administrative processing’ for background checks. It may take ten days or up to one year, depending on various backgrounds.

P. Indentured Labor

An H-1B visa holder is often described as an indentured labor. An indentured labor is a labor who is bound by a contract with an employer (Grow, 2003). If an H-1B visa holder is laid off, the employer has to meet his travel expenses to go outside United States.

Q. Protection to US Workers

The United States Department of Labor is vested with powers to ensure that the migrant workers does not hurt the interest of American workers and ensure that American workers are not replaced by cheap migrant workers or adversely affect their wages or working conditions. All H-1B applications filed with the USCIS should accompany with a Labor Condition Application (LCA) which should ensure that the wages of the migrant workers should be either at least equal to or exceed that of the American workers to avoid misuse on the ground of ‘cheap labor policy’. The LCA clauses prohibits employers from importing migrant labors to break a strike in U.S.

The United States Department of Labor, Employment and Training Administration (ETA) has constituted two programs to train American workers viz. High Growth Training Initiative and Workforce Innovation Regional Economic Development (WIRED) funded by the money received from the fee collected from the H-1B applicants. In 2001 alone, the Department of Labor has s received over \$1 billion to train the U.S workforce (Bhatt, 2012).

R. Violation of Skilled Labor Clause

According to the provisions of the Immigration and Nationality Act of 1965 and USCIS, U.S companies are supposed to appoint only highly skilled foreign labors who are not available in United States but a look into the table given below shows that sizable number of less quailed people were also given H-1B visas which has irked the US administration. A review of the data available for the period 2000-2014 reveals that throughout the above mentioned period several H-1B visas were issued to foreign workers who have qualifications which is less than U.S Bachelor’s Degree. During the period 2000-2014, number of H1Bvisas to less qualified foreign workers stood at 22,115. (United States Department of Labor)

Table 2
H-1B Applications Approved by USCIS for those with less than the equivalent of a U.S. bachelor’s degree

<i>Year</i>	<i>No HS Dipl</i>	<i>Only H.S Dipl</i>	<i>Less than 1 year of College</i>	<i>1+ years of College</i>	<i>Equiv of Assoc</i>	<i>Total less than equivalent of U.S. Bachelor’s</i>
2000	554	228	158	1,290	696	2,986
2001	247	895	284	1,376	1,181	3,983
2002	169	806	189	849	642	2,655

<i>Year</i>	<i>No HS Dipl</i>	<i>Only H.S Dipl</i>	<i>Less than 1 year of College</i>	<i>1+ years of College</i>	<i>Equiv of Assoc</i>	<i>Total less than equivalent of U.S. Bachelor's</i>
2003	148	822	122	623	534	2,249
2004	123	690	137	421	432	1,803
2005	107	440	77	358	363	1,345
2006	96	392	54	195	177	914
2007	72	374	42	210	215	913
2008	80	174	19	175	195	643
2009	108	190	33	236	262	829
2010	140	201	24	213	161	739
2011	373	500	44	255	170	1,342
2012	108	220	35	259	174	796
2013	68	148	15	162	121	514
2014	32	133	18	133	88	404

Source: US Dept of Labor.

3. CRITICISM OF THE H-1B VISA

The H-1B program was originally designed to help the US employers to onboard rare skilled resources, but over time it has become an government assisted workaround to bring in low cost foreign labor. (Grassley, 2015)

A. H-1B Visa Loose Ends

H-1B visa program has been widely criticized. It is alleged that H-1B visa program has exploited both the visa holders and American workers (“Workers Betrayed by Visa Loopholes”, 2015). The visa program is misused as a platform for outsourcing. To check the abuse, Senators Dick Durbin and Charles Grassley introduced ‘The H-1B and L-1 Visa Fraud & Prevention Act’ in 2007. When introducing the bill, Senator Dick Durbin said ‘The H-1B visa program should complement the U.S workforce, not replace it’ He alleged that ‘H-1B visa program is plagued with fraud and abuse and is now a vehicle for outsourcing that deprives qualified American workers of their jobs’ (Jones, 2013).

The H-1B visa program has several loose ends. The cap of 85,000 H-1B visas per year was never followed (General Accounting Office, 2011). It is said that tech Disney ties-up with outsourcing agencies in India and after laying off its staffs, it recruits foreign workers through these outsourcing agencies. Likewise , Southern California Edison is also accused of entering into outsourcing tie-ups with Tata Consultancy Services and Infosys and laid off 500 of its workers (Preston, 2015). However, Compete America, a lobbying group for tech industries, stoutly denies the misuse of H-1B visa by the tech industries (Herbst, 2009). Bill Gates of the Microsoft strongly supported the H-1B visa program and he said that any attempt to curb it will adversely affect the American economy (Wall Street Journal, 2007). Another major abuser of the H-1B program is the Sun Microsystems. There were widespread allegations that it discriminated against American citizens. However, Sun Microsystems escaped all legal proceedings initiated against it (Administrative Review Board, 2005).

B. Shortage of Skilled Resource - A Myth

Milton Friedman, Norman Matloff and Paul Donnelly are of the opinion that the claim made by the corporate of America about shortage of skilled labor is farce. According to Ron Hira, pprofessor of Public Policy of Howard University, the claim of shortage of skilled workforce in U.S is purely 'imaginary' (Hira & Stephan, 2014).

C. H1-B Visa Lowering the US Wage Structure

Critics of the H-1B visa say that it has lowered the wage structure of America substantially. Reports of the Department of Homeland Security states that the annual mean wage of workers in the computer field of H-1B visa holders is \$75,000 in 2014 which is \$25,000 below the average income of U.S software developers (Lowell, 2007). It is alleged that by using cheap labor from abroad, the corporate of America is reaping abnormal profit (Borjas, 2009).

An American employer is not obliged to advertise the vacancies available before employing a foreign worker but he is expected to notify the employee representative or if there is no such representation, the employer must notify the vacancy at the employer's office. However, these procedures are only for the sake of record and the employer in question is supposed to make the records available to anyone who likes to verify them. It appears that in appointing foreign workers, these procedures are not followed strictly. Employers often circumvent and misuse the LCA rules.

D. Age Discrimination

It alleged that there is a lot of age discrimination in the issue of H-1 visas. According to the United States Citizenship and Immigration Services (USCIS), 72 percent of the H-1B visa holders are between twenty five and thirty four years of age in 2014 and only a handful of H-1B visa holders are above the age of fifty (Thibodeau, "Older IT pros pushed aside by younger H-1B workers", 2015).

E. Visa Fraud

According to the USCIS 21 percent of the H-1B visas issued in 2008 were fraudulent (USCIS, 2012). The nature of fraud includes creating phantom jobs, bench sitting without salary, lying to authorities, taking commission for hiring, submitting fake university degrees, taking a cut from the salary etc. (Herbst & Hamm, "America's High-Tech Sweatshops", 2009). The harms that labor brokers inflict on the hapless H-1B visa holders is legendry, However, it is heartening to note that The United States Trafficking Victims Protection Reauthorization Act of 2013 was passed to look into and help the migrant victims who have suffered in the hands of the job brokers (Smith, et. al., 2014).

4. CONCLUSION

The US administration has ordered a full review of the entire H-1B program with the objective of ending visa abuse. It has ordered the Department Homeland security to suggest measures to ensure that American workers are not replaced by cheap migrant workers. However, it is assured that the US decision will not affect the day-to-day functioning of the H-1B visa program. The authorities have already started inspection visits to ascertain whether employers are misusing the H-1B visa program. However, NASSCOM has

criticized the move as an attempt to crack down the Indian outsourcing companies. To sum up care has to be taken to handle the H-1B tool properly by both US and Indian governments, if not it have great socio-economic impacts.

References

- “Workers Betrayed by Visa Loopholes”. (2015, June 16). The New York Times.
- Administrative Review Board. (2005, July 29). *Santiglia v. Sun Microsystems, Inc.* ARB No. 03-076, ALJ No. 2003-LCA-2.
- American Immigration Lawyers Association. (1996, Sep 16). “INS Statement on H-1B Visa Cap”.
- Bhatt, S. (2012, July 18). “Seattle ranks high in skilled foreign workers on H-1B visas”. The Seattle Times.
- Borjas, G. (2009). “Immigration in High-Skill Labor Markets: The Impact of Foreign Students on the Earnings of Doctorates”. “Science and Engineering Careers in the United States: An Analysis of Markets and Employment”, pp. 131-161.
- Chavez, L. (2013). “The Latino threat: constructing immigrants, citizens, and the nation”. Stanford University Press.
- Davis, T. J. (1999). “Opening the Doors of Immigration: Sexual Orientation and Asylum in the United States”. Human Rights Brief.6(3).
- General Accounting Office. (2011). “H1-B Foreign Workers: Better Controls Needed to Help Employers and Protect Workers”. GAO2011.
- Grassley, C. (2015, March 17). “Immigration Reforms Needed to Protect Skilled American Workers”. Judiciary.senate.gov. Senate Judiciary Committee.
- Grow, B. (2003, June 6). “Skilled Workers – or Indentured Servants”. Business Week.
- Herbst, M. (2009, April 24). “H1-B Visa Law: Trying Again”. Business week.
- Herbst, M., & Hamm, S. (2009, Oct 1). “America’s High-Tech Sweatshops”. Business Week.
- Hira, R., & Stephan, p. (2014, July 7). “Bill Gates‘tech worker fantasy”.
- Jones, M. (2013, Feb 22). “How H-1B Visas Are Screwing Tech Workers”.
- Keely, C. (1979). “The Development of U.S. Immigration Policy Since 1965”. *Journal of International Affairs*, 33, no. 2.
- Legal Information Institute. (1992). Retrieved from law.comell.edu.
- Legal Information Institute. (n.d). “8 U.S. Code No: 1184- Admission of non-immigrants”. LII/Legal Information Institute.
- Link, M. (1995). “The Next American Nation: The New Nationalism and the Fourth American Revolution”. The Free Press. ISBN 978-0-684-82503-8, 133.
- Lowell, B. (2007, Oct). “Into the Eye of the Storm: Assessing the Evidence on Science and Engineering, Education, Quality; and Workforce Demand”. Georgetown University, The Urban Institute.
- Ludden, J. (2006). “1965 immigration law changed face of America”. NPR.
- Massey, D. S. (2015). “How a 1965 immigration reform created illegal immigration”. The Washington Post. ISSN 0190-8286.
- President’s Commission on Immigration and Naturalization. (1953). “Whom we shall Welcome”. Washington : U.S. Govt. Print Off.

- Preston, J. (2015, June 12). "Outsourcing Companies Under Scrutiny Over Visas for Technology Workers". The New York Times.
- Smith, M., Golan, J., Sambamurthy, A., Stock, S., Putnam, J., & Pyle, A. (2014). "Job brokers steal wages, entrap Indian tech workers in US". The Center for Investigative Reporting, together with NBC Bay Area.
- Thibodeau, p. (2009, Dec 14). "List of H-1B Visa employers for 2009". Computer World.
- Thibodeau, p. (2015, Sep 4). "Older IT pros pushed aside by younger H-1B workers". Computerworld.
- Thrush, G., Wingfield, N., & Goel, V. (2017, April 18). "Trump Signs Order That Could Lead to Curbs on Foreign Workers".
- United States Department of Labor. (n.d.). "Labor Condition Application for Nonimmigrant Workers ETA Form 9035 & 9035E".
- US immigration legislation. (1921). Retrieved from Emergency Quota Law (An act to limit the immigration of aliens into the United States).
- USCIS. (1986). Immigration and Nationality Act, section 101(a)(15).
- UScis. (2012, June 19). "H-1B Benefit Fraud & Compliance Assessment".
- USCIS. (2013). United States Citizenship and Immigration Services.
- USCIS. (2015, Feb). "7th Year H-1B Extensions Under AC21 104(c) and 106 (a) – Statutes and USCIS Guidance". The Visa Bulletin.
- USCIS. (2016, Nov 18). "USCIS Publishes Final Rule For Certain Employment-Based Immigrant and Nonimmigrant Visa Programs".
- USCIS. (2017, 7 24). "USCIS Will Temporarily Suspend Premium Processing for All H-1B Petitions".
- Wall Street Journal. (2007). "Visa Window Opens; Scramble Is About to Begin".