H-1B Reform: Fix the Real Problems, Instead of Scapegoating the Indians

Norm Matloff
University of California at Davis

The Changing Face of Immigration
UC Berkeley, November 16, 2011

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• What, then, SHOULD be done?
Journalists Beware!

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- Negative stereotyping of Third World cultures as “cheaters.”
Definitions for This Talk

- H-1B: the H-1B work visa program
- green cards: employer-sponsored permanent residency
- American: U.S. citizen or permanent resident (no race of nativity status implied)
Where I’m Coming From Regarding H-1B

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Where I’m Coming From
Regarding H-1B

• recipient of UCD Distinguished Public Service Award, for:
  • H-1B expose’
  • support of Affirmative Action
  • defense of accused Asian-American scientists
• former statistics prof, current CS prof, former Silicon Valley software developer
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- Zavodny (2003) (pro-H-1B)
- Mithas and Lucas (2010) (pro-H-1B)
- Tambe and Hitt (2009) (critical of H-1B)

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Abuse Is through Loopholes, NOT Violation of the Law

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- GAO 2003 employer survey: “Some employers [paid H-1Bs less than Americans]...[but] these employers said they never paid H-1B workers less than the [legally] required wage.” So, legal wage is below the market wage.

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- No one would be surprised to hear that Intel *et al* use loopholes in the tax code. Immigration code is the same.
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Lofgren would set up Good Guy, Bad Guy categories.
In essence, portrays mainstream U.S. firms as the Good Guys vs. Indian firms, the Cheaters.
PERM data show the U.S. firms are NOT Good Guys; they abuse the program too.
Thus Lofgren bill is wrong in premise, and amounts to scapegoating.
Schumer bill, 2010, employed similar scapegoating.
Indians and Indian-Americans angry, charge discrimination (Wash. Post, 7/27/10).
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  - “The half-life of an engineer, software or hardware, is only a few years,” former Intel CEO Craig Barrett
Key Special Case: Foreign Grad Students (MS, PhD) at U.S. Universities
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- Foreign CS MS/PhD same talent level (awards, patents, R&D) as Americans, NOT greater; Matloff (2011).

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H-1B Reform: Fix the Real Problems, Instead of Scapegoating the Indians

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“Staple Green-Card to Their Diplomas”—the Wrong Solution
Many proposals to grant automatic green cards to foreign STEM students at U.S. universities
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H-1B Reform: Fix the Real Problems, Instead of Scapegoating the Indians

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University of California at Davis

What Should—and Should NOT—Be Done

• Don't scapegoat!
• Major priority: Fix the loopholes in prevailing wage.
• AFL-CIO DPE proposes setting prevailing wage at 75\textsuperscript{th} percentile—reflecting claimed "especially valuable" nature of the H-1Bs. I support this. (Durbin/Grassley bill similar, but not as good.)
• My proposal: Instead of "staple a green card," grant automatic green card to any "best and brightest" foreign worker—one with U.S. job offer at 90\textsuperscript{th} percentile.
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Slides Went by Too Quickly?
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Further topics in backup slides, after this one.
Skill Sets

Is it a matter of older people not having up-to-date skills? NO.

• Training their H-1B replacements. See e.g. "BofA: Train your replacement, or no severance pay for you," SF Chronicle, 6/9/06.

So who has the skills, the Americans or the H-1Bs?

• Easy to learn new skills, informally, on the job.

• Where do those new grads learn those "latest" skills that old workers allegedly don't have?

They learn from old guys like me!

• If the H-1Bs do have the "hot" skills, why aren't they paid above average?
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ITAA (industry trade group) report calling for higher H-1B cap, 1997:
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*Training employees [in new IT skills]...creates other issues. “You take a $45,000 asset, spend some time and money training him, and suddenly he’s turned into an $80,000 asset,” says Mary Kay Cosmetics CIO Trey Bradley.”...[The newly-upgraded workers] become highly marketable individuals and, therefore, are attractive to other employers.*

*So it’s not a skills issue; it’s a money issue.* Ms. Bradley doesn’t want to pay that $80K.
There Is No Tech Labor Shortage

- Wadhwa studies (e.g. asking HR about hiring bonuses)
- Dice.com, 2011: tech wages up only 1% in 2010
- *SJ Merc News*, 2011: Silicon Valley wages up only 3% since 2009
- NACE, 2011: wages for new CS grads up only 3% from last year
- Carnevale, 2011: engineering wages rising the slowest of any group
- House testimony by TI, 2011: there ARE enough students who get Bachelor’s degrees in engineering
“They’ll Go Home to Compete with Us!”

We should keep the top foreign talents, not the mediocre ones. Research by UCB professor Saxenian shows that even if they stay, they still help companies back home compete with us (through consulting, investment, etc.). We should make sure we do NOT have an internal brain drain, which H-1B is causing.
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