

A28



BUSINESS

India Abroad  
September 12, 2014

# Focus on Green Card, finally

Report by National Foundation for American Policy outlines the need to address reforms for those who remain in legal immigration backlogs.

**Suman Guha Mozumder** reports

**I**n the intense debate on immigration reform in the last two years and frequent grandstanding by politicians before elections, one issue that has often got pushed to the backburner of public discourse is the fate of those who immigrated to the United States legally, but have been forced to wait perennially for permanent residence due to lack of administrative reforms.

Now, for the first time, a research organization focused on immigration, the Virginia-based National Foundation for American Policy, has brought the issue to the limelight, urging President Barack Obama to consider aiding those who have waited to immigrate to the US through appropriate legal channels.

In a report released September 4, NFAP has acknowledged that Congress making legislative changes to the legal immigration system is the best way to address problems in the immigration system.

In recent months, immigration advocates have been urging the President to bypass Congress and take executive action to overhaul the broken immigration system and expedite reform.

"If the President is going to take executive action on the issue," says Stuart Anderson, the author of the study, NFAP executive director, and former head of policy and counselor to the Commissioner of the Immigration and Naturalization Service, "he should include administrative reforms that help those who have applied through the legal immigration system."

"Such reforms include reinterpreting who counts against the employment-based and family-based Green Card quotas and ways to improve labor mobility for skilled foreign nationals."

**T**he reason for the backlog is two-fold — the annual limit of 140,000 employment-based Green Cards is too low relative to the demand and per country limits in the employment-based category causes nationals from countries with larger populations, like India, China and the Philippines, to wait longer than people from other nations.

Anderson tells *India Abroad*, "Eliminating per country limit does not seem possible without legislation but, as we noted in the paper, other things can be done administratively towards a speedy solution."

The two most talked about non-legislative reforms during the press conference were — not counting dependents toward the 140,000 employment-based Green Card limit, or the family-based preference limit, and providing employment authorization documents and advance parole to individuals with an approved I-140 petition, which would help people waiting years in the backlog.

More than half of the annual limit on employment-based Green Cards is used up by dependents rather than the principal individual sponsored by an employer. The study notes that an important reform the President could make administratively would be to reinterpret the current statute



A woman holds a replica Green Card sign during a protest march to demand immigration reform in California.

LUCY NICHOLSON/REUTERS

so that dependents are not counted against the 140,000 annual limits for employment-based immigrants. A number of attorneys have pointed out there is enough ambiguity in the statute to make this a reasonable and legal interpretation of the law.

Among the other important administrative reforms that the study suggests are streamlining the H-2A and H-2B categories for low-skill workers, expanding the additional years of Optional Practical Training for international students to fields like economics and accounting, and improved guidance for professionals transferred to work in America with 'specialized knowledge.'

"But perhaps the most important reform would be to increase the labor mobility of individuals mired for years waiting in the employment-based immigrant backlogs. Such individuals often wonder about staying in the US because they may feel unable to change positions in a company or change jobs if they would need to re-start their Green Card applications," Anderson notes in the paper.

He says that while the best solution is for Congress to pass legislation to increase the employment-based immigrant quotas and eliminate per country limits, the Obama Administration can increase labor mobility on its own by simply issuing employment authorization documents and advance parole after an individual has an approved I-140 employment-based petition.

Greg Siskind, a founding partner of the immigration law firm Siskind Susser who was at the press conference, has commended Stuart for another recommendation in the report — get employment cards into the hands of individuals already in the US on work visas like H-1B and those waiting in backlogged green card lines.

"This would increase worker mobility and provide a number of economic benefits to the US. It would also at least reduce the suffering of waiting years and years for Green Cards and being stuck working in the same job,"

Siskind says.

He says he is particularly intrigued by the idea of periodically making the State Department Visa Bulletin 'current' for a brief period, which will allow people to file adjustment applications and get work/travel documents and then the ability to accept promotions and move employers: 'People wouldn't get green cards faster, but they would get the benefits that come with having a pending adjustment application such as a work card, a travel document and the ability to move employers without having to start the green card process over again.'

**T**he NFAP report comes on the heels of a Center for American Progress report, released last month, which found that a deferred action program that allows undocumented immigrants who have lived in the US for at least five years to apply for a temporary work permit will increase payroll tax revenues by \$6.08 billion in the first year and by \$44.96 billion over five years.

The report, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits*, analyzes one of the administrative actions Obama could announce in the coming months: Expanding the ability to request deferred action to undocumented immigrants who are deemed to be low enforcement priorities.

Anderson says if the President does issue an executive action, many immigration attorneys expect the measures will withstand legal scrutiny. That means, the changes can be part of the immigration system for a long time.

"That's a good reason to include in any executive action changes that would help those who have applied to enter and stay in the United States through legal immigration," he says, adding, "Changes that primarily help those who entered the United States unlawfully could be interpreted as unfair to those who remain in legal immigration backlogs."