

Cut Card

We negate, Resolved: the U.S. government should increase its quota of H-1B visas.

International Brain Drain

India's economy is on the rise. Iyengar 18 at CNN reports: with a 7.2% GDP growth rate, India is currently the world's fastest growing economy.

Iyengar 18 Rishi Iyengar, 2-28-2018, "India is growing faster than China again," CNNMoney, <http://money.cnn.com/2018/02/28/news/economy/india-economy-gdp-7-2-growth/index.html> //DF **India is the fastest growing major economy again. Growth accelerated in the quarter ended December to 7.2%** the government said Wednesday. That's faster than China's growth over the same period, and a big jump from the 6.5% India recorded the previous quarter. The latest GDP numbers point to **a clear strengthening of India's recovery** from a sharp slump in the first half of 2017, when growth fell from 7% to a three-year low of 5.7% after two disruptive policy changes by Prime Minister Narendra Modi. The country was stunned in November 2016 when Modi abruptly banned its two largest currency notes, leading to a sharp slump in many sectors of India's cash economy. A landmark overhaul of the tax system in July last year also disrupted business, as many companies struggled to adapt to the new regime. India is expected to further widen the gap over China in 2018, with the International Monetary Fund predicting last month that it will grow by 7.4% this year. So far, so good. "[It's] clearly a strong pickup," said Priyanka Kishore, lead Asia economist at Oxford Economics. "There is still some anecdotal evidence out there of [the tax overhaul] still being a bit of a worry for certain industries, especially the smaller businesses," Kishore added. Recent efforts to simplify the system mean India will soon "be leaving all those worries behind," he said. Modi's administration has set its sights even higher. "This government has really pushed for major structural reforms, and they should start paying rich dividends in about a year," Amitabh Kant, one of the government's top policy advisors, told CNN's John Deferio in an interview earlier this week. Growth of 10% or more, Kant said, is "very doable."

The cap on H-1Bs is good for the Indian economy. IndiaSpecial 9 explains: the low H-1B visa cap is a blessing in disguise for India. With the noose tightened for H1Bs, there is a high possibility of a reverse brain drain happening from America to India, leading to more entrepreneurship in India and growing the economy

Link, and Internal Link-Recent restrictions on H-1Bs and a perception of being tough on immigration is causing many Indian professionals to return to India benefiting the Indian economy

IndiaSpecial, 9 (3-8, "Immigration Issues In America – Blessing In Disguise For India?,"

[http://indiaspecial.net/featured/immigration-issues- in-america- blessing-in- disguise-for- india/ \)](http://indiaspecial.net/featured/immigration-issues- in-america- blessing-in- disguise-for- india/))

Immigration issue in America is getting hotter than ever. At a time when the economy needs boosting from all corners – be it technological advancement or the cost cutting measures, the US Congress will dig its own grave if they announce tougher immigration policies which is only one sided. India is going to get affected the most, in one way. <http://www.flickr.com/photos/takomabibelot/480619508/>In April 2007, U.S. Senators Chuck Grassley (Republican from IOWA) and Dick Durbin (Democrat from Illinois) introduced "The H-1B and L-1 Visa Fraud and Abuse Prevention Act of 2007" to overhaul the H-1B and L-1 visa programs to give priority to American workers and crack down on employers who apparently deprived qualified Americans of high-skill jobs. The Act per se seems to have been formed to unearth the fraud in the system, but it seems to me that this is a ploy towards protectionism. America which once boasted of providing shelter to large scale immigrants who wanted to live the American dream seems to be backtracking. Slowly it is moving away from what it stood for. The repercussions of this could be very detrimental to America and its economy especially with the Indians and Chinese forming the bulk of the H1B and L1 applicants – Perhaps they

are not taking into consideration of the facts that · America's technology is depended on India in many ways – For example, the banking, insurance, core technology etc depend on highly skilled Indian brainpower · Indian & Chinese tech brains are responsible for some of the highly successful technological startups in the US · There are several patents that are filed in America, for which contributions from Indians and Chinese are exemplary · Indians and Chinese are highly competitive and give absolute value for money and thus helps the American companies to survive outside of America If America wants to be a global power in the coming years, it has to loosen its strings on these highly sensitive issues. There is no two ways about it. Consider this – India, as an emerging superpower economy and an already acknowledged super power in the world of science and technology are capable of driving changes at a pace that no one can imagine. Given the socio-political changes that are happening in India, “Protectionism in America” regarding the H1B visa & L1 visa holders can actually prove to be a blessing in disguise for India. I see a ripple effect starting to happen. In the 80s and 90s we discovered that there is a brain drain happening from India and China to the Americas. As a result, the American economy grew by leaps and bounds. With the noose tightened for H1Bs and L1s, there is a high possibility of a reverse brain drain happening from America to India and China Guess what, this will lead to more entrepreneurship in India and China, there by fuelling these economies and taking the country to even higher levels. That simply would mean, America would be in the lurch for want of intellectual capital. Protectionism only leads to inefficiencies in the system – This has been proven time and again. If America doesn't open its eyes to realities, then the growth of China and India is imminent. Immigration issues in America are a blessing in disguise for India – Do you agree?

This is good news, since the return of such a high number of workers could be a boon for India's economy. The Economic Times 18 writes: Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, a large number of Indian tech workers can give a big push to Indian business. Most of these workers are the brightest Indians who have passed out of elite Indian institutions.

Economic Times 18 1-5-2018, "US President Donald Trump's new disruptive H-1B visa move can be a boon for India," Economic Times, <https://economictimes.indiatimes.com/nri/visa-and-immigration/trumps-new-disruptive-h-1b-visa-move-can-be-a-boon-for-india/articleshow/62365964.cms> //DF

More than 500,000 skilled Indian workers might have to come back from the US if a proposal by the Donald Trump administration not to extend H-1B visa of those waiting for permanent residency (Green Card) is implemented. The move would not only disrupt careers but also families. On top of that, India is already passing through a jobs crisis. The grim outlook, however, has a silver lining. While it will be a big loss for individuals, it could be a huge gain for the country. **Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, the return of such a large number of Indian tech workers can give a big push to Indian business. Most of these workers are the brightest Indians who have passed out of elite Indian institutions**. While Indians are proud of Sundar Pichai who heads Google and Satya Nadella who heads Microsoft, they are still American success stories. **For long, India has lost it's best talent to the West** in what has come to be called brain drain. **Trump's decision can trigger a reverse brain drain. This could be an unintended benefit** of an otherwise disruptive move. In the long term, the move can also help Indian information technology (IT) industry evolve beyond its labour-arbitrage model. From being called "body shoppers", Indian IT firms can turn into true innovators, something they can't do without in times when emerging technology.

Indian scientists are returning now. The Hindu 17 reports: Over 1,000 Indian scientists working abroad have returned to India in the last two-three years because they feel that India is changing and they can fulfil their ambitions here.

The Hindu 17 5-23-2017, "India has moved from brain drain to brain gain'," The Hindu, <http://www.thehindu.com/news/national/india-has-moved-from-brain-drain-to-brain-gain-says-harsh-wardhan/article18551391.ece> //DF

Over 1,000 Indian scientists working abroad have returned to India in the last two-three years, said Dr. Harsh Vardhan, Minister for Science & Technology and Earth Sciences on Tuesday. "They feel that India is changing and they can fulfil their ambitions here. They are finding that opportunities in India are better. From brain drain, we now have a scenario of brain gain," he said at a media interaction on the NDA government's three years in power. Dr. Vardhan said that the scientists were being attracted back to India through several scholarships and fellowships, such as the Ramanujan fellowship.

Responding to questions that these fellowship schemes had been introduced long back, he said, "That may be so, but the number of scientists returning to India is significant only now." However, he clarified that not everyone who wishes to come back is accepted. Those interested are put through an evaluation process, he said. "These scientists are non-resident Indians (NRIs) who were looking to come back and decided to take up the available opportunity until they found long-term ones," a ministry official said. Meanwhile, the Department of Science and Technology (DST) is all set to roll out a scheme to attract scientists from abroad on a longer term basis. The program, called Visiting Advanced Joint Research (VAJRA) Faculty Scheme, will offer accomplished NRI scientists the opportunity to undertake research in India for a maximum period of three months every year, while granting them the status of adjunct faculty in an Indian institution round the year. Contribution to Tejas On the subject of developing advanced technologies locally, Dr. Harsh Vardhan said that the Council of Scientific and Industrial Research (CSIR) had played an important role in the development of India's Light Combat Aircraft (LCA) Tejas, which was recently inducted into the Air Force.

However, expanding the H-1B cap would drive Indian workers to the United States, depriving the country of much needed talent. This would happen in two ways.

First, workers.

Mani 09 at the Center for Development Studies writes: high skilled migration from India has a deleterious consequence on the supply of high skilled personnel by encouraging workers to move to America.

Sunil Mani. (Center for Development Studies). HIGH SKILLED MIGRATION FROM INDIA, AN ANALYSIS OF ITS ECONOMIC IMPLICATIONS. September 2009.

<https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/3134/wp416.pdf;jsessionid=08541076357C5804809F64ECA15F2F9B?sequence=1>

The purpose of the paper is first to quantify the extent of high skilled migration from India and then to distil out two of its economic implications to her home economy. First the high skilled migration has resulted in larger amount of remittances: India is now the largest remittance receiving country in the world. Although during the period up to the mid 1990s, the source of this remittances were largely the result of low skilled migration to the middle east, since that period nearly half of the remittances are emanating from the US alone and it is not difficult to argue that this trend in the shift in source is very much tied to high skilled migration. The availability of these remittances has helped the country to reduce its deficits in the current account of its Balance of Payments even if these remittances have not always found expression in productive investments in the home economy. Further the increased consumption smoothening that these remittances have contributed to have had a positive effect in spurring and maintaining the high growth performance of her services sector. The second implication is that it has had a deleterious consequence on the supply of high skilled personnel especially for R&D: in fact India has one of the lowest densities of scientists and engineers engaged in R&D. Although there are quantitative evidences (based

on an analysis of both input and output indicators of innovation) to show that **India has become significantly more innovative in the period since [1990s] 1991, [but] her ability to sustain and improve this performance crucially depend on the availability of highly skilled manpower of certain acceptable quality.** Although a small number of such manpower is turned out by the higher education system, they do not find an expression in the core human resource on science and technology and part of this “lack of expression” may be attributed to the increased high skilled migration.

This causes brain drain and means that India loses much of its technology talent. To make matters worse, while the H-1B visa only last for around 6 years, it is often the path to long-term citizenship.

Samina Gan. (Boston College). Brain circulation A Case Study of High-Skilled Migration from India. Spring 2017. <https://ejournals.bc.edu/ojs/index.php/elements/article/viewFile/9606/8848> //DF

This loss could be compensated with investments or remittances from the emigrating stock, which is not accounted for in the above model. Yet, due to the modest Foreign Direct Investment from Non-Resident Indians (NRIs), investment has resulted in little to no fiscal gain for India.⁴⁴ On the other hand NRI remittances have a powerful impact on stimulating consumption, thus leading to a positive fiscal impact on the Indian government through indirect tax receipts. There was an estimated indirect tax yield due to remittances reaching 0.07 percent of gross national income in 2005⁴⁵ that can offset the net fiscal loss seen in Figure 7, but not by much. So **although there is room for some counteracting factors, there is an overall initial loss felt by India due to the emigration of high skilled workers to the United States.**⁴⁶ Possibly, **the only way to reconcile this in their economy is if these Indian immigrants were to return.** Borjas found in a 1996 empirical study that return migration is positively related to the income per capita in their home country and negatively related to the distance from the U.S. **Since we see a flight of human capital in the first place, high skilled migrants most likely have higher returns in the U.S. Further, India and U.S. are not geographically close to one another, so** Borjas’ study may hold that **there is a reluctance on the part of Indian immigrants to return home.** Although there has been very little effort on the part of the U.S. or India to track returnees, there is evidence that Indians may not in fact return back home. ⁴⁷

Mani furthers: H-1B workers in particular often adjust to permanent legal status through employment based visas. In fact, more than 50 percent of all H-1B workers will adjust to permanent employment. H-1B workers are not required to demonstrate that they intend to return home, and therefore the law implicitly encourages a transition to permanency.

Sunil Mani. (Center for Development Studies). HIGH SKILLED MIGRATION FROM INDIA, AN ANALYSIS OF ITS ECONOMIC IMPLICATIONS. September 2009.

<https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/3134/wp416.pdf;jsessionid=08541076357C5804809F64ECA15F2F9B?sequence=1>

Of late, Indian’s with university degrees (primarily in engineering and business management) have been securing jobs abroad through campus and open recruitments conducted by MNCs and by other foreign entities. An industry where most of these kinds of recruitments have been made is the IT industry where the H-1B visa³ procedure of the US has come in very handy. According to Jachimowicz and Meyers (2002) , the top ten countries of origin for H-1B recipients were: India, China, Canada, the United Kingdom, Philippines, Taiwan, Japan, Korea, Pakistan, and Russia. Almost half of the H-1B petitions approved were granted to individuals born in India, eclipsing the eight percent from China, the second leading country of birth. The largest percentages of all immigrants who adjust to permanent resident status from a temporary worker status come from Asia, specifically China, India, and the Philippines. **H-1B workers in particular often adjust to permanent legal status through employment based visas. By one estimate, more than 50 percent of all H-1B workers will adjust to permanent employment-based status by 2010. H-1B workers are not required to**

demonstrate that they intend to return home, and therefore the law implicitly encourages a transition to permanency. Thus the argument is that most of the high skilled Indians who have migrated to the West are in the US through the H-1B route. Consequently they are, technically speaking, temporary migrants. The implications of this could be seen in the quantity of remittances by these skilled workers- a point that will be elaborated in one of the subsequent sections.

Second, students.

Takao Kato at Colgate University explains in 2011: Foreign students often study in the United States hoping that an American undergraduate education will serve as a gateway to longer-term US employment. It follows that a foreign student considering higher education in the US will be affected by any significant change in the probability of securing US employment upon graduation.

Kato 11 Takao Kato [Colgate University], 6-1-2011, "Quotas and Quality: The Effect of H-1B Visa Restrictions on the Pool of Prospective Undergraduate Students from Abroad," Colgate University Libraries: Economics Faculty Working Papers,

[//DF](http://commons.colgate.edu/cgi/viewcontent.cgi?article=1017&context=econ_facschol)

Foreign students often study in the United States hoping that an American undergraduate education will serve as a gateway to longer-term US employment. Rosenzweig (2006) provides strong empirical support for this phenomenon. Borjas (2002) notes that **the probability of ultimately receiving a green card (permanent residency) was 26 times higher for foreign students than for those applying through the random green card lottery.** Bhagwati and Rao (1999) and Chiswick (1999) are among other authors to claim that student visas are often used in hopes of securing permanent employment. **It follows that a foreign student considering higher education in the US will be affected by any significant exogenous change in the probability of securing US employment upon graduation.** Such a change did occur in October 2003 when Congressionally-imposed limits on new H-1B visa issuances per annum dramatically reduced from 195,000 to 65,000 for fiscal year 2004 and beyond. The H-1B visa offers many foreign-nationals with a college degree a legal, though temporary, permit to work in the United States. It is granted for a three-year period, renewable for a total of six years, and is only available to individuals in professional occupations requiring "the theoretical and practical application of a body of highly specialized knowledge requiring completion of a specific course of higher education."¹ As noted, the drastic cut in the H-1B quota beginning in fiscal year 2004 represented a marked exogenous change in US job market prospects for college-educated foreign citizens. The H-1B visa cap was never binding in the years immediately preceding the policy change. Thus, foreign citizens with undergraduate degrees faced no legal impediment to working in the US so long as they had received a job offer from an employer upon graduation. Legal employment became more difficult to secure after the H-1B visa cap became binding. The US government began denying H-1B petitions, which generated an incentive for employers to withdraw (or decide against) job offers to foreign candidates and avoid the uncertainty of the visa process. That visa quotas in general reduce US immigrant flows is an already well-established phenomena in the literature. This paper instead assesses how restrictive H-1B policy has affected the average academic quality (or ability) of prospective international students who face reduced US employment opportunity after graduation.

Because employment is a main goal of foreign students studying in the US, they are highly reactive to changes in the chance of securing a job. In 2003, the US lowered the H-1B visa cap from 195,000 to the current level of 65,000. This decrease, according to Kato, led to a 14% decline in undergraduate enrollment of foreign students, likely because many students felt that they would have worse chances of getting a job. However, raising the visa cap would increase the probability that students got US jobs, likely increasing foreign enrollment.

Kato 11 Takao Kato [Colgate University], 6-1-2011, "Quotas and Quality: The Effect of H-1B Visa Restrictions on the Pool of Prospective Undergraduate Students from Abroad," Colgate University Libraries: Economics Faculty Working Papers,

http://commons.colgate.edu/cgi/viewcontent.cgi?article=1017&context=econ_facschol //DF

To our knowledge, this paper is the first to provide rigorous evidence on the effects of restrictive immigration policy on the quality of international students interested in US tertiary education. The analysis employed two datasets: (i) College Board data on the SAT scores of prospective students; and (ii) SAT and GPA data on a highly-selective university's foreign-applicants. Both cases generate robust evidence that limits on H-1B immigration of educated labor have had an unintended adverse effect on US higher education by reducing the average ability (or quality) of potential foreign applicants. Unfortunately, a lack of available data prevents us from further investigating to what extent the weakened pool of foreign applicants will translate into lower-quality matriculates and graduates. Nonetheless, the key findings from our quintile regressions, combined with summary statistics from the Institute for International Education, shed light on this issue. IIE data notes that

US undergraduate enrollment of students from countries bound by H-1B restrictions declined by 14%

between academic years 2001/02 and 2006/07. US policy-makers are unlikely to be concerned if such losses occur at the left-tail of the ability distribution. Our analysis, however, shows that the share of applications from top-quintile students declined by 1.8-3.7 percentage-points. It is unlikely that US undergraduate institutions maintained a high number of top-quality international enrollees in the face of declining applications from top-quality students. Lower-quality foreign-born students would directly affect the classroom experience for domestic students whose education is often enriched by the presence of well-motivated, well-prepared, and diverse international classmates. Universities and their students therefore suffer an immediate welfare loss due to restrictive immigration policy. Lower-quality graduates would imply even more important macroeconomic consequences, however, since many international students continue to work in the US after graduation. Such individuals have proven to be especially effective in innovative and entrepreneurial activity, boosting aggregate productivity. With lower ability individuals seeking entry into the US, the country may ultimately sacrifice those aggregate gains. Given recent political developments in public opinion regarding highly-educated immigrants, it is increasingly important to design policy to maximize the benefit of skill-based immigration. By providing evidence on a potentially serious adverse effect of current H-1B immigration restrictions, this paper points to a need for policy reassessment.

The exit of more Indian students to foreign colleges presents a huge problem for India, because many of them never come back. Watts 07 at the Guardian writes: seven out of every 10 students who enroll in an overseas university never return to live in their homeland, seeking higher living standards and brighter career opportunities.

Watts 07 Jonathan Watts, 6-1-2007, "China fears brain drain as its overseas students stay put," Guardian,

<https://www.theguardian.com/world/2007/jun/02/internationaleducationnews.highereducation> //DF

China suffers the worst brain drain in the world, according to a new study that found **seven out of every 10 students who enroll in an overseas university never return to live in their homeland.** Despite the booming economy and government incentives to return, an increasing number of the country's brightest minds are relocating to wealthier nations, where **they can usually benefit from higher living standards, brighter career opportunities and the freedom to have as many children as they wish.** The Chinese Academy of Social Sciences revealed 1.06 million Chinese had gone to study overseas since 1978,

but only 275,000 had returned. The rest had taken postgraduate courses, found work, got married or changed citizenship. Unlike illegal migrants from the countryside - many of whom are poorly schooled - the students are usually welcomed with open arms by western institutions, which gain high scholarship fees and academic excellence.

The loss of a skilled labor force destroys India's economic growth. Haque 07 at the Pakistan Institute of Development Economics writes: human capital flight generates a permanent reduction of per capita growth in the home country and that the magnitude of this reduction is proportional to the fraction of the population that has migrated

Nadeem Ul Haque. (Pakistan Institute of Development Economics). Brain Drain or Human Capital Flight. May 2007.
https://www.researchgate.net/publication/228220834_Brain_Drain_or_Human_Capital_Flight

In a growth model with heterogeneous agents and a Lucas externality of education, human capital flight (i.e. loss of skills from the upper tail of the skill distribution) generates a permanent reduction of per capita growth in the home country and that the magnitude of this reduction is proportional to the fraction of the population that has migrated [see Haque and Kim (1995)]. Because of brain drain there may be no convergence in incomes. Not only are permanent differences in growth likely to result but so in a permanent difference in level of incomes across countries. The more skill poor the country the greater the impact of human capital flight on its growth since growth depends on the cumulative human capital distribution.⁹ The experiment here is maintaining the assumption of openness and comparing the

This effect spills over to investors. Gan 17 at Boston College explains: the flight of some of the country's most high-skilled workers can make India less appealing for direct foreign investment thus hindering the growth and development of "high technology clusters" and institutions, especially universities.

Samina Gan. (Boston College). Brain circulation A Case Study of High-Skilled Migration from India. Spring 2017.
<https://ejournals.bc.edu/ojs/index.php/elements/article/viewFile/9606/8848>

As for India, there are counteracting impacts from this human capital flight. The growth of trade, investments, and shared ideas from Indian immigrants in the U.S., remittances, as well as potential high human capital emigrants that return all serve to benefit India.³⁹ Yet, the flight of some of the country's most high-skilled workers can make the country less appealing for direct foreign investment thus hindering the growth and development of "high technology clusters" and institutions, especially universities.⁴⁰ Further, those still residing in India will feel the negative effect of higher taxes and lower spending on them. This fiscal burden is harmful on a macroeconomic level because of a lost addition to India's potential GDP from innovation and hard work at home,⁴¹ as well as a documented loss in tax revenue for the government at .5 percent of GDP.⁴² A study on the fiscal impact of high-skilled emigration from India to the U.S. by Desai et al. visualizes the impact on the Indians that did not leave, referred to "those left behind" (TLBs). Figure 6 demonstrates that when the number of skilled workers decreases from S_0 to S_1 due to emigration, and national income is lowered because of the net fiscal loss (shaded green) and lost basic surplus (shaded grey). The total loss depends on the current tax rate, t , the skilled wage, w , the benefit level, b , and the number of emigrants, E .⁴³ Although this simple model cannot explain the entire impact that emigration has on India, it is clear that based on this model and the assumptions of Desai, there is a loss to the national income when high-skilled immigrants leave the country.

Overall, this will be really bad for India's economy. Desai at Harvard examined when the cap was increased from 65,000 to 195,000 in 2001. He found that this increase decreased income for Indians by 1.5% of GDP.

Desai 01 Mihir A. Desai [Harvard University and NBER], 12-2001, "The Fiscal Impact of the Brain Drain: Indian Emigration to the U.S. ," No Publication,

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.4540&rep=rep1&type=pdf>
//DF

The levels of participation from the varied methods provided in Table 8 can be coupled with the varied estimates of earnings presented in Table 9. The top panel of Table 9 provides the median annual wages and distribution of annual wages for the participants in the NSS data. The second panel demonstrates the tremendous differences between those wages and the wages generated by the application of the PPP method. Median earnings from the PPP estimates for 1994 are more than fifteen times the median salary from the NSS data and, consequently, the distribution of earnings from the PPP estimates are highly skewed toward high earners. This same pattern is evident, but to a much lesser degree, in the simulated earnings using the Mincer method based on either participation based on the results from the selection equation or from the actual participation rates. The simulated earnings from the Mincer equation are only three times the level of median earnings from the NSS data. These wage levels under the Mincer method hold regardless of the way in which participation is treated. Combining the participation rates from Table 8 and the simulated earnings from Table 9 provides the summary results for aggregate income losses as provided in Figure 4. Figure 4 presents the lost income of Indian-born U.S. residents as a fraction of Indian GDP for three methods – the PPP method, the Mincer method using Mincer participation rates, and the Mincer method using the actual U.S. participation rates. **By 2001, the PPP method yields income losses of nearly 1.5 percent of GDP for the Indian-born residents of the U.S.** In contrast, the Mincer method, regardless of the participation method chosen, yields considerably smaller, yet still sizable, lost income figures of approximately 0.25 percent of GDP. These two methods of estimating the counterfactual earnings distributions have distinct strengths and weaknesses. The primary relative advantage for the PPP method is that actual earnings from the Indian-born residents in the U.S. are employed rather than some simulated level of earnings based on populations that may not be representative of the pool of emigrants. The primary relative disadvantage of the PPP method is the implicit assumption that U.S. resident Indians would be able to enjoy identical living standards if they were in India.

This is bad not only because of some short-term loss of GDP, but because India's economy needs to grow now. It's now or never for growth for two reasons.

1. Automation

Banerjee 18 at the HinduBusinessline reports: 69 percent of existing jobs in India are under threat of automation. The coming transformation is inevitable. But its negative impact can be minimised, and [if the] industry can create competitive opportunities for employment. developing the ability of the working population to absorb new skills investment in high-quality skills related to applied science and technology, engineering, quantitative and social analysis, design and product development.

Pritam Banerjee. "We need Industrial Revolution 4.0." @businessline. 16 Jan. 2018. Web. 25 Apr. 2018.

<https://www.thehindubusinessline.com/opinion/we-need-industrial-revolution-40/article9262553.ece>>// NS

The warning bells sounded early this year when the economic report of the President in the US highlighted the threat from automation to lesser skilled occupations in manufacturing and services. The bugle has now been sounded by the latest World Development Report published by **the World Bank**. The report **warns that up to 69 per cent of existing jobs in India are under threat of automation.** It's not just about displacement of existing occupations. It puts to test the very developmental model that Asian countries used to claw back into the core of the global economy, from the

peripheral position imposed on them through a combination of technological change and colonisation. This model rested on state-supported industrialisation and a focus on export orientation using lower production costs as a competitive edge. Lower production costs were largely on account of lower labour costs in the early stages, and later increases in labour productivity. Variations of this model were successful across East Asia. But with increasing automation, the terms of trade would again shift in favour of owners of intellectual capital and technology, and diminish the returns to labour. This would be a great disadvantage to countries in Asia with large, young working populations, such as India. India obviously needs an updated policy, Industrial Policy 4.0, to deal with this new paradigm of industrialisation. **Business as usual would be a disastrous path to pursue, relegating India to a peripheral position in the global economy with a large segment of its population unemployable or under-employed in the new economic context.** The political and socio-economic implications of this situation are scary to say the least. **The coming transformation is inevitable. But its negative impact can be minimised, and [if the] industry can create competitive opportunities for employment.** But this would require massive resource mobilisation **focused on developing the ability of the working population to absorb new skills.** Capturing a larger share of the 'industrial revolution 4.0' would require investment in high-quality skills related to applied science and technology, engineering, quantitative and social analysis, design and product development. Since shop floor activities that would still be done by humans would require high familiarity with technology and analytical abilities, workers would need to have educational levels currently available to college graduates and advanced industrial training institutes. The next generation industrial policy is intrinsically linked to education policy.

Mani

Sunil Mani. (Center for Development Studies). HIGH SKILLED MIGRATION FROM INDIA, AN ANALYSIS OF ITS ECONOMIC IMPLICATIONS. September 2009.

<https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/3134/wp416.pdf;jsessionid=08541076357C5804809F64ECA15F2F9B?sequence=1>

The purpose of the paper is first to quantify the extent of high skilled migration from India and then to distil out two of its economic implications to her home economy. First the high skilled migration has resulted in larger amount of remittances: India is now the largest remittance receiving country in the world. Although during the period up to the mid 1990s, the source of this remittances were largely the result of low skilled migration to the middle east, since that period nearly half of the remittances are emanating from the US alone and it is not difficult to argue that this trend in the shift in source is very much tied to high skilled migration. The availability of these remittances has helped the country to reduce its deficits in the current account of its Balance of Payments even if these remittances have not always found expression in productive investments in the home economy. Further the increased consumption smoothening that these remittances have contributed to have had a positive effect in spurring and maintaining the high growth performance of her services sector. The second implication is that it **has had a deleterious consequence on the supply of high skilled personnel** especially for R&D: in fact India has one of the lowest densities of scientists and engineers engaged in R&D. Although there are quantitative evidences (based on an analysis of both input and output indicators of innovation) to show that **India has become significantly more innovative in the period since [1990s]** 1991, **[but] her ability to sustain and improve this performance crucially depend on the availability of highly skilled manpower of certain acceptable quality.** Although a small number of such manpower is turned out by the higher education system, they do not find an expression in the core human resource on science and technology and part of this "lack of expression" may be attributed to the increased high skilled migration.

first time in India's history that a national election featured a campaign about economic **growth**, which also means that if Modi cannot deliver on **growth** and jobs, public disillusionment may result in Indian politics reverting to its usual ways. The **window** for making the reforms needed to unleash high rates of **growth** may not be open forever, which makes this moment all the more decisive.

Internal Brain Drain

Petroleum engineering offers an important case of observed labor market shortages and the market response of firms and students. It is instructive to consider in light of current claims about market failure in the IT sector and industry's assertion that they are unable to obtain the needed supply of graduates from

U.S. colleges and universities. This case is of further interest because, as noted above, engineering is the most demanding college major in terms of credit hours, technical content, and time to completion whereas

computer science and math degrees have the lowest course hour distribution of the STEM fields, suggesting increases in engineering supply should be more difficult to achieve than in other fields.

In the 1970s, the building of the Trans-Alaska Pipeline and increased oil exploration in other regions led to rapidly increasing demand for petroleum engineers. By 2002, however, Occupational Outlook forecast an employment decline "because most of the petroleum-producing areas in the United States already have

been explored" (BLS, 2004), and this continued to be the forecast through the 2008 edition of Occupational Outlook. In the most recent edition, 2014-2015 however, the BLS forecast changed to a projected employment increase of 26 percent over the coming decade because "petroleum engineers increasingly will be needed to develop new resources, as well as new methods of extracting more from

Raising the H-1B cap will discourage Americans from working in the computer science field. This is for two reasons.

First, wages.

Kellogg Insight 16 writes: increasing the supply of H-1B workers might drive down everyone's pay over time because employers have more potential employees to choose from and thus do not have to offer high salaries to attract and retain staff.

Kellogg Insight. Does the H-1B Visa Program Hurt American Workers? 9/7/16

<https://insight.kellogg.northwestern.edu/article/does-the-h1-b-visa-program-hurt-american-workers>

In theory, the visa program rules should prevent companies from paying H-1B workers less than their American counterparts. Employers are not allowed to offer an H-1B applicant a salary that is lower than similar employees' pay or the "prevailing wage" for that job in that location. But the standards for determining prevailing wages are shaky, and companies can take advantage of loopholes, such as hiring the person through a third-party service. In addition, increasing the supply of workers might drive down everyone's pay over time because employers have more potential employees to choose from and thus do not have to offer high salaries or raises to attract and retain staff. Aobdia, who teamed up with [Anup Srivastava](#) of Dartmouth College and

independent researcher Erqiu Wang, wanted to understand the true effect of highly skilled immigrant workers. They turned to the auditing

industry, which allowed them to combine three sets of publicly available data—audit documents, which include information regarding the auditing office that performed the work and its fee; the characteristics of that audit office’s clients; and the details of the H-1B applications that office submitted. They examined 16,997 H-1B applications from dozens of offices belonging to the six biggest public accounting companies in the U.S. from 2001 to 2012. To find out which types of offices hired H-1B workers, the researchers looked for links between “immigration intensity” within an office—the number of applications submitted or in progress, adjusted for the estimated size of the office—and other characteristics of individual offices, such as the types of clients they served, the quality of life in their city, and the office’s reputation. To find out whether hiring more immigrants drove down the entire office’s wages, the team analyzed the starting salaries offered to the H-1B workers, as reported in the visa applications. The researchers investigated whether offices that hired more H-1B immigrants offer lower salaries, while controlling for other factors affecting wages. Filling Gaps in the Workforce The team found that H-1B workers tended to play two roles. First, they were more likely to be hired by offices that might have difficulty attracting U.S. workers—for example, offices that were smaller, served fewer prestigious clients, or were in less desirable locations. Along the same lines, H-1B applications were more common among offices that had recently made mistakes on an audit, which likely damaged their reputation. “Those offices start hiring more immigrants,” he says. Secondly, the companies hired H-1B applicants for specialized work. Offices whose clients required complicated accounting or had higher foreign income tended to apply for more visas, perhaps because these employees offered skills such as speaking another language. And more H-1B workers were hired in areas of the country with a relatively high proportion of immigrants. This pattern might have arisen because companies in those areas are more welcoming of immigrants or local foreign-born clients want to interact with other immigrants.

This is empirically true. The Independent Computer Consultants Association reports that the use of cheaper foreign labor has forced down the hourly rates of U.S. consultants by between 10 to 40 percent.

FAIR 08 4-2008 “H-1B Visas: Harming American Workers,” Federation for American Immigration Reform, <https://fairus.org/issue/workforce-economy/h-1b-visas-harming-american-workers> //DF

The advocates for increasing the admission of H-1B workers suggest that our ability to compete internationally depends on being able to employ the ‘best and the brightest’ professional workers from around the world. This claim is belied by the fact that nearly half of all of the approved petitions are for persons with undergraduate degrees rather than advanced degrees (see chart below). In addition, the rate of conversion of H-1B workers to green card holders indicates that most employers are not keeping their temporary workers after their temporary visa expires. Workers—Or Cheap Workers? Simply having a large influx of workers into the industry floods the labor market and drives down wages.² Study after study shows that H-1B workers are paid lower wages than their American counterparts, driving down the prevailing wage: A UCLA study found that H-1B engineers were paid 33 percent less than comparable U.S. citizens. ³ A Cornell University study found that H-1B programmers and engineers were underpaid by 20 to 30 percent.⁴ An INS report found that the computer-related H-1B employees were paid a median salary 25 percent less than the national median for their field.⁵ A National Research Council report found that “H-1B workers requiring lower levels of high tech skill received lower wages, less senior job titles, smaller signing bonuses, and smaller pay and compensation increases than would be typical for the work they did.”⁶ It also found that H-1Bs have an adverse impact on overall wage levels.⁷ **The Independent Computer Consultants Association reports that the use of cheaper foreign labor has forced down the hourly rates of U.S. consultants by as much as ten to 40 percent.** ⁸ The effect of depressing wages by increasing the available pool of qualified workers is not an innocent by-product of the H-1B visa program. Statements by Alan Greenspan, former Chair of the Federal Reserve Board make the point that this wage lowering effect is intended.

Second, job loss.

Hira 16 at Howard University explains: Every firm that aims to maximize profits, and that's every firm, will seek out H-1Bs if they are available, because they are cheaper than American workers. Increasing the supply of H-1B visas, by raising the visa cap, will incentivize companies to cut costs by laying off US workers and replacing them with H-1B workers.

Hira 16 Ronil Hira [Ph. D, Associate Professor of Public Policy, Howard University], 2-25-2016, "The Impact of High-Skilled Immigration on U.S. Workers," Hearing Before The Subcommittee On Immigration And The National Interest Of The Judiciary Committee Hearing Before The Subcommittee On Immigration And The National Interest Of The Judiciary Committee, <https://www.judiciary.senate.gov/imo/media/doc/02-25-16%20Hira%20Testimony.pdf> //DF

As Table 1 shows, 11 of the top 20 H-1B firms are so-called H-1B Dependent. These are firms where more than 15% of their workforce in the U.S. are H-1Bs. Congress created the H-1B Dependent category of employers because it was concerned that those firms are most likely to abuse the H-1B program. Congress wanted tighter recruiting and non-displacement standards for H-1B Dependent firms to ensure that those firms only used the H-1B program sparingly, as a last resort, after they had sought for American workers. Yet, the H-1B Dependent firms in Table 1 demonstrate that it is extraordinarily easy to get H-1Bs while avoiding hiring American workers. Many, if not all, of those firms have been reported in the press of being engaged in directly replacing American workers with cheaper H-1Bs. All of them use similar business models of preferring H-1B workers over Americans because they are cheaper. But it would be folly to assume that H-1B Dependent firms are the only ones using the program for cheaper labor and to substitute for Americans. IBM is most likely doing the same thing with its contract with Hertz right now. **Every firm that aims to maximize profits, and that's every firm, will avail itself of cheaper H-1Bs.** Accenture, Deloitte, IBM, and Computer Sciences Corporation, all top H-1B employers but not H-1B Dependent, employ the same business models as Tata and Infosys. And it's important to keep in mind that the technology industry is very focused on keeping labor costs down. The wage-fixing scandal reached the highest levels of Silicon Valley. The nonpoaching emails between Apple's CEO Steve Jobs with Google's Eric Schmidt demonstrates the alarming lengths that the two most profitable technology firms will go to keep workers' wages low. III. **Hiring H-1B workers because they are cheaper than Americans is a routine and mainstream practice.** Well-known firms throughout the country are exploiting the H-1B and L-1 programs to bring in cheaper workers. Southern California Edison and Northeast Utilities are well-known, regulated utilities, and Disney and Toys R Us are household names. The contractors which hired the H-1Bs are Tata, Infosys, HCL, and Cognizant. While they may not be known to the average American, they are the leading H-1B employers. Over the past ten years those four firms alone brought in nearly 95,000 new H-1B workers. IV. **Leading H-1B employers like Cognizant and HCL specialize in offshore outsourcing. When they get work from customers like Disney, the goal is to ship as much of the work offshore to India and other locations as possible. Those jobs that are shipped offshore are lost forever.** The government is speeding up the offshoring of high-wage jobs by allowing the H-1B and L-1 programs to be exploited for cheaper labor. The top H-1B employers in 2014 are shown in table below. **All of the top 10, and 15 of the top 20, H-1B employers in 2014 used the H-1B program principally to facilitate offshoring. Those fifteen employers brought in more than 190,000 new H-1B workers over the ten-year period FY05-14. That means that hundreds of thousands of American jobs were lost and many were offshored.** Many more had their wages depressed, all because of abuse of the H-1B loopholes.

That kind of mistreatment creates bad vibes. Hira explains: workers serve as the most important ambassadors for their profession to the next generation. Their views of their labor market and future opportunities in their profession have a major impact on whether they recommend the profession to young people. When employers force out US workers, that makes US workers worry that if they enter the field, they'll be laid off too.

Ron Hira (Economic Policy Institute). "THE H-1B AND L-1 VISA PROGRAMS Out of Control." October 14, 2010. <https://secure.epi.org/files/page/-/pdf/bp280.pdf>

In the same timeframe its employment of H-1B and L-1 visa holders increased more than tenfold from 963 to 10,700. Those H-1B & L-1 visa holders are leveraged to increase its offshore workforce. Easy access to the H-1B and L-1 visa programs is a key to its business model and provides it a competitive advantage (Hira 2004). Infosys is the second largest of the Indian-based IT offshore outsourcing companies, and its business model is replicated throughout the IT offshore outsourcing sector. According to NASSCOM, the Indian IT trade association, white-collar services exports rose from \$4 billion in 2000 to \$47 billion in 2009. The United States accounted for 60% of those exports. And the number of professionals working in India in the export sector grew from 276,000 in 2002 to 1.74 million in 2009 (NASSCOM 2009). These guest worker programs have badly damaged one of the most dynamic sectors of the American economy, information technology (IT). All of the top 10 H-1B employers and nine of the top 10 L-1 employers are IT firms (see Table 1 and Table 2). Large shares of American IT workers rightly believe that these programs undermine their economic interests and working conditions. But the programs have other far reaching and long-term effects, as well. Incumbent workers in any profession serve as the most important ambassadors for their profession to the next generation. Their views of their labor market and future opportunities in their profession have a major impact on whether they recommend the profession to young people. One outrageous employer practice is particularly demoralizing and demeaning: employers like Pfizer, Siemens, Nielsen, Wachovia, and Bank of America have reportedly forced their U.S. workers to train foreign replacements on H-1B or L-1 visas (Howard 2008; Grow 2003; Kruse and Blackwell 2008; Bradley 2009; Armour 2004). The training of foreign replacements has become such a standard practice that it even has its own euphemistic term of art known as "knowledge transfer." This practice, unfortunately enough, appears to be perfectly legal under the current sets of regulations and laws. We do not know how widespread it is because employers have threatened workers with lawsuits and conditioned their unemployment insurance and severance packages to guaranteed silence. Each new report, however, further reduces the attractiveness of IT to students of American universities. While many policy makers, including the president, have declared it an urgent national priority to increase the number of young Americans entering science, technology, engineering, and mathematics fields, these efforts are likely to fail because incumbent American IT workers and engineers view the H-1B and L-1 visa program

These poor conditions will push students out of . Matloff 13 at the Economic Policy Institute writes: the stagnant salaries caused by the foreign influx discourage young people from pursuing a career in STEM. Young people see these market signals and respond accordingly. Fewer American-born workers pursue science and engineering not only because they have more career choices than foreign workers, but also because some choices offer better wages

Norman Matloff (Economic Policy Institute). "Are Foreign Students the 'Best and Brightest'? Data and implications for immigration policy." February 28, 2013. <http://www.epi.org/files/2013/outstanding-talent-high-skilled-immigration.pdf>

Note that diversion cannot be viewed as a failure of the American K-12 educational system, as is often claimed. True, some students are weak in STEM or are disinterested in it, but the points made above apply to students who are skilled at STEM, and who do specialize in STEM in college. As remarked above, the issue of diversion concerns workers who have bachelor's degrees in STEM but who, either immediately after attaining their degrees or later on, are working outside of STEM. Indeed, in the NIH study discussed above, the workers have doctorates in STEM, plus years of postdoctoral work. As noted, the NIH fretted that the H-1B visa is resulting in loss of career to many Americans in lab science. In addition, the stagnant salaries caused by the foreign influx discourage young people from pursuing a career in STEM. Young people see these market signals and respond accordingly. Even many Indian immigrant engineers' children see the tech field as unstable, subject to outsourcing to India (Grimes 2005). The talents STEM students have been applying—keen quantitative insight, good problem-solving and analytical skills, and so on—are much more highly rewarded outside STEM, as exemplified by the Microsoft salary analysis above. Georgetown University researcher Anthony Carnevale has remarked, "If you're a high math student in America, from a purely economic point of view, it's crazy to go into STEM" (Light and Silverman 2011). A Forbes Magazine article cites the troubling effects of

stagnant salaries and offshoring: **Between 2003 and 2006 the percentage of graduates from MIT going into financial services rose from 13 percent to almost 25 percent. ...One can hardly blame these young hires. Financial firms offer considerably higher pay, better career prospects and insulation against offshoring, than traditional science and engineering companies**. ... (Schramm 2011) Gavin (2005) summarized the connection made by Richard Freeman of Harvard: In his paper, Freeman argues that **fewer American-born workers pursue science and engineering not only because they have more career choices than foreign workers, but also because some choices offer better wages**. Average annual salaries for lawyers, for example, amounted to more than \$20,000 above those for doctoral-level engineers and \$50,000 more than those for life scientists with doctorates, according to Census data that Freeman cites in the paper.... **U.S. companies**, he added in an interview, **have been quite willing to encourage a foreign supply of technical workers. This has allowed them to pay lower wages, but it has also created conditions that make science and engineering less attractive to Americans**. "You can't say, 'I want more visas' and 'I expect more Americans to enter the field,'" Freeman said. "The thing that always strikes me about these business guys is they never say, 'We should be paying higher salaries.'"20 **This internal brain drain might have been justified if the foreign workers were of higher caliber than the Americans, but, as shown earlier, this is not the case. The consistent theme in the results here has been that the immigrant engineers and programmers who first come to the United States on student visas—the group the industry lobbyists claim are most talented—are quite similar to the Americans in talent, or are of lesser talent than the Americans**, contrary to the "genius" image projected by the industry.

This has empirical backing. Pfeifer 18 at the Institute of Labor Economics finds: an increase in expected wages for graduates from STEM fields by ten percent raises the probability to choose a STEM major by four percent.

Aderonke Osikominu and Gregor Pfeife. (Institute of Labor Economics). Perceived Wages and the Gender Gap in STEM Fields. February 2018. <http://ftp.iza.org/dp11321.pdf>

We estimated a binary college major choice model using the wage expectations for an average graduate across different fields and additional student characteristics as controls. Corresponding probit estimates suggest that women are ceteris paribus 50% less likely to choose STEM than men. Moreover, **an increase in expected wages for average graduates from STEM fields by ten percent raises the probability to choose a STEM major by about four percent**. Higher expected wages for average graduates from non-STEM fields either 15 decrease the probability of choosing STEM or do not influence the decision at all. In a second step, we regressed the own expected salary on the expected wages for an average graduate from the relevant fields, a correction term for self-selection into field of study, and additional student characteristics.

Bound 17 found that the higher H-1B quota in the late 90s lowered the number of US computer scientists by between 6-10%.

John Bound. (NBER). UNDERSTANDING THE ECONOMIC IMPACT OF THE H-1B PROGRAM ON THE U.S. February 2017.
file:///C:/Users/domin/Desktop/10.0000@www.nber.org@generic-F1DDF2928FC5.pdf

Figure 4a describes the restriction under the counterfactual exercise. It shows how, under the real scenario where the economy is open to H-1B immigration, there is an increase in the stock of foreign computer scientists, whereas under the counterfactual scenario where the economy is 'closed,' the stock of foreign computer scientists is restricted to the 1994 level. How this restriction affects the stock of US computer scientists in our model can be seen in Figures 4b-4c. Over this period there is an increase in the total number of computer scientists when we allow for immigration, but the number of US computer scientists actually decreases with respect to the closed economy every year as the number of immigrants increases. **In 2001, the number of US computer scientists was between 6.1%-10.8% lower**

under the open than in the closed economy (Table 5). These numbers imply that for every 100 foreign CS workers that enter the US, between 33 to 61 native CS workers are crowded out from computer science to other college graduate occupations. When the economy is open to immigration under the H-1B program, some US computer sci- entists switch over to non-CS occupations, shifting out the supply of these workers. This can be seen in Figure 4d. While over time there has been a rapid increase in the number of non- CS college educated workers, this increase would have been lower if the number of foreign CS workers were restricted. In fact, the growth rate between the open and closed economies plot- ted in Figure 4d mirrors the decrease in Figure 4c as US workers switch from CS to non-CS occupations.

Overall, pushing out the skilled US computer science workforce creates what the EPI calls an “internal brain drain.” Since the foreign workers displacing U.S. workers are not more talented, this internal brain drain endangers the country’s ability to retain its worldwide lead in technological innovation.

EPI 13 2-28-2013, "H-1B visa program is not attracting the best and brightest workers, new EPI paper finds," Economic Policy Institute

<https://www.epi.org/press/1b-visa-program-attracting-brightest-workers/> //DF

“Ironically, the biggest victims of the industry obsession with H-1B visas are the technology companies themselves,” said Matloff. “Their ‘penny wise, pound foolish’ policy means they are often not hiring the best talent.” Proponents of H-1B visas argue that tech firms are unable to find qualified U.S. applicants for STEM positions, but stagnant wages in these fields refute claims of a labor shortage. Indeed, flat wages are discouraging talented U.S. workers with STEM degrees from pursuing graduate study or even careers in the field—causing an internal “brain drain.” Since the foreign workers displacing U.S. workers are not more talented, this internal brain drain endangers the country’s ability to retain its worldwide lead in technological innovation. Current reform proposals to grant special visas and green cards to all foreign STEM graduate students at U.S. schools would exacerbate this internal brain drain. Instead, the federal government must ensure that programs like the H-1B visa are truly attracting the best and brightest or remedying genuine labor shortages. Reform must change the way prevailing wages are calculated so that H-1B visa holders are paid a genuine market wage for their education and skill sets. At the same time, policymakers could expand the EB-1 and O-1 visa programs (for workers of “extraordinary ability”) as a means of more reliably attracting the best and brightest workers without crowding out U.S. graduates.

In fact, foreign workers are much less likely to be innovating. Matloff finds: Americans are 10 percent more likely to be working in R&D, the course source of innovative work, than high-skilled foreign workers.

Norman Matloff (Economic Policy Institute). “Are Foreign Students the ‘Best and Brightest’? Data and implications for immigration policy.” February 28, 2013. <http://www.epi.org/files/2013/outstanding-talent-high-skilled-immigration.pdf>

The results of the logit model for both computer science and electrical engineering, looking at the probability of working in R&D while controlling for age (and the square of age18) and education level, are presented in Table 6. The estimated coefficients from a logit regression are interpreted as the rate of change in the “log odds” of (in our case) working in R&D, as the independent variables change. As is common practice in discussions of logit regression results, here we discuss the more intuitive “marginal effect” of being a foreign former student for

specific values of the other independent variables. The data indicate that in both computer science and electrical engineering, the foreign former students are significantly less likely to work in R&D, compared to Americans of the same age and educational background.

For example, consider 30-year-old workers with master's degrees. **In computer science, substitution into the logit formula shows that the Americans are about 10 percent more likely to be working in R&D than are comparable foreign former students** (a 0.89 probability versus 0.81) **In electrical engineering, the difference is dramatic—the Americans are 68 percent more likely to be in R&D than the foreign former students,** with the probability of R&D work being 0.76 for the Americans but only 0.46 for the foreign former students. These are interesting results. One might take the view that considering patents or dissertation awards is setting the bar too high: A worker might be quite innovative without necessarily having the work patented, and the bar for the dissertation awards is extremely high. **These latter findings,** however, **address the industry's core source of innovative work, its R&D units, and the data show that these units are staffed disproportionately by Americans rather than by foreign former students.**

IL: Innovation

- 1. Medical tech**
- 2. Emissions**
- 3. Agriculture**
- 4. Cybersecurity**
- 5. Lowering prices, increasing affordability of tech**

IL: Competitiveness

- 1.**

Exploitation

Employer Control

Banerjee 14 at Smith College writes that the defining feature of the H-1B is that it is an employer dependent visa. An employer seeking to hire a skilled worker has to petition to the government to approve an H-1B visa on the company's behalf to enable this employee to work in the U.S. Therefore, these employees' eligibility to work and stay in the U.S. depends entirely on being employed by the company. Without their visa-holding employer, these immigrants have no independent legitimacy to either work or live in the U.S.

Banerjee 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," Man In India, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

The shift in the method of inducting immigrants — from a more permanent basis to their incorporation into the economy in previous decades followed by an emphasis on temporary work-visa based short-term entry into the country starting in the 1990s — is paralleled by another significant contemporaneous trend: flexible hiring. Employment patterns in the so-called high-skilled and high-wage services sector, including IT, have been rapidly changing in response to companies' desire for flexible and temporary hiring (Barley and Kunda 2004; Benner 2002; Smith 2001). To minimize operations costs and respond without delay to the rapid demands of the market without sustaining the cost of maintaining permanent employees, companies started to externalize their labour needs to a wide array of intermediaries: e.g., staffing agencies, subcontractors, in-house service providers, consulting companies, web-based labour brokerage firms, as well non-employee consultants and independent contractors. Subsequently, flexible, contingent, and short-term contractual work arrangements in the high-skill services sector increased accompanied by cycles of joblessness and underemployment, insecurity, deskilling, lack of career mobility, and reductions in income and benefits (Barley and Kunda 2004; Benner 2002; Carnoy, Castells, and Benner 1997; Smith 2001). The move toward recruiting IT workers on the H-1B on a temporary basis complements the mandate of flexible hiring under neoliberal labour regimes in general. **The defining feature of the H-1B is that it is an employment and employer dependent visa. An employer seeking to hire a skilled worker who is not a permanent resident or citizen has to petition to the government to approve an H-1B visa on the company's behalf to enable this employee to work in the U.S. for that specific employer only. Therefore, these employees' eligibility to work and stay in the U.S. depends entirely on being employed by the company authorized by the state to hold their visas. Without their visa-holding employer, these immigrants have no independent legitimacy to either work or live in the U.S.** Consequently, if fired, these workers lose their status and become liable to deportation unless they find employment with another company willing to transfer their work visa. The H-12B is issued for three years initially and may be renewed for three more following a petition for extension. An immigrant on the H-1B, however, may lose work and immigration status at any given point during this time if faced with a lay-off.

This creates an incredible amount of worker dependency and inequality. Banerjee furthers: given the fact that the terms of the H-1B have equated employment, work authorization, and legal status, the visa has created a unique equation of employer-dependence for immigrants. This creates a sharp difference between H-1B workers and citizens, who do not need to rely on a company for their legal status in the U.S. H-1Bs do. Without the H-1B, they have no status.

Banerjee 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," Man In India, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

These visa stipulations have impacted immigrant IT workers on the H-1B in critical ways. The H-1B visa's requirement that non-U.S. workers be hired directly by U.S. employers has partly contributed to their disproportionate concentration as contract workers employed by labour vendors in the lower tiers of subcontractual work (Banerjee 2006). Increasingly, U.S. companies are accessing IT labour through consulting companies and labour vendors who manage projects and also supervise contract workers. Consulting firms, like their clients, have minimized direct hiring given the appeal of flexible hiring. This lack of interest in direct hiring creates a dilemma for those individuals who are required by law to have an employer to process and hold their H-1B visas. The corporate sector in the U.S. has resolved this impasse: the time-consuming and expensive process of large-scale recruitment and subsequent employment of non-U.S. workers is delegated to a subset of companies or labour-vendors (sometimes referred to as Bodyshops). It becomes the responsibility of these subcontractors to aid entry and hiring of skilled workers from India in need of an employer and employment-based work authorization in the U.S. such that the entire range of businesses can benefit from their labour without assuming any responsibilities. Moreover, **given the fact that the terms of the H-1B have equated employment, work authorization, and legal status, the visa has created a unique equation of employer-dependence for immigrants** at various levels (Banerjee 2008). Nitin, an Indian immigrant on the H-1B working for a client in banking, highlighted how the visa has been instrumental in making distinctions based on legal status and work eligibility. **The biggest difference we feel as H-1B workers compared to green card holders or citizens is that they do not need to rely on a company for their legal status in the U.S. or to work. We do. Without the H-1B, we have no status. So, before we think of anything else, we have to think about staying in status which**

immediately means being employed with a company who will hold my visa. Like Nitin, other research participants used words such as “bound,” “tagged,” and “governed by employers” to express their sense of restriction, subordination, and general inability to negotiate the labor market independently without being tied to employers. As a result of being dependent on employers for legal status, immigrant IT professionals were often forced to accept unfavourable terms of payment, take on the responsibility of searching for client projects in order to generate revenue for their labour-vendor employers, and relocate frequently to new project locations in different parts of the country to ensure their employed status. This form of socially constructed dependence on employers has severely compromised these immigrants’ bargaining power and heightened their vulnerability in an employment regime already fraught with chronic job insecurity and transience associated with flexible hiring.

Employer’s dominance over their workers enables rampant exploitation. Banjeeer writes: Cognizant of their authority over foreign workers’ visa status, companies routinely take advantage of their migrant employees. Employers arbitrarily reduce H-1B employee’s wages, increase commission rates, charge exorbitant fees in the name of providing health care, cut back on benefits, decline to increase salary, or continuously threaten to fire their workers.

Banjeree 06 Payal Banjeeer [Syracuse University], 2006 “Indian Information Technology Workers in the United States: The H-1B Visa, Flexible Production, and the Racialization of Labor,” Journal of Critical Sociology //DF

Immigrant and migrant workers’ experiences of exploitation are not automatic, but socially and legally constructed through the racializing practices and laws of the state (Lowe 1998b). In the case of the H-1B, the visa’s terms are implicated in how they expose these workers to immigration status-related vulnerabilities, which contribute to their availability and marginalization as flexible labor. The visa’s

condition of being employer-dependent poses as a double specter for these migrants, as anxieties about unemployment are compounded by the fear of losing work eligibility. Reliance on employers for legal standing creates dependence and subjects those under the visa to a range of unfair practices. **Cognizant of their authority over foreign workers’ visa status, companies routinely take advantage of their migrant employees.**

Employers arbitrarily reduce H-1B employee’s wages, increase commission rates, charge exorbitant fees in the name of providing health care, cut back on benefits, decline to increase salary, or continuously threaten to fire their workers.

One interviewee shared an anecdote about his coworker, Shyam, who was on the H-1B. Shyam had a disagreement with his employer, a subcontractor, regarding his work hours. Refusing to be challenged, the employer retaliated immediately by firing him. Shyam was given a two-hour notice to vacate the company’s guesthouse and was told that his visa would be cancelled the next day. These disciplining mechanisms and the high stakes involved with visa status make it incumbent upon individual workers to behave in ways that maximize their chances of staying employed. According to Adinath, workers on the H-1B are “controlled like puppets” by their employers as they have to depend on their companies for legal standing. As a result of being relegated to subcontractors because of their visa status, workers on the H-1B are also exposed to those conditions of surplus accumulation that are associated with these companies’ specific location and function in the IT field’s subcontracting hierarchy. Krish, while voicing his concerns about being laid off and losing his visa status, made a direct connection between how their position as employees of subcontractors is intertwined with capital’s demands of profit maximization. He said:

Wage disparities between natives and foreigners only display one aspect of this inequality, but they illustrate the degree to which H-1Bs are subordinated. Ontiveros 17 at the University of San Francisco writes: most H-1B workers were paid wages in the bottom 25th percentile of U.S. wages controlled by occupation and state, and just 16% of H-1B workers earned wages that were above the median wage.

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers," BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW, <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

In a typical scenario involving an individual complainant, Cherry Chiu,⁴⁶ a female engineer, arrived from China to work on an H-1B with CGI-AMS as a JAVA programmer. At first there were no problems. She enjoyed her work, received positive performance reviews, had her visa renewed at the three year mark and was working with the company to get a green card. Eventually, however, two problems emerged. First, her supervisor changed. Whereas she had a positive working relationship with her previous boss, her new one treated her poorly, criticizing her personality and English ability. Second, she found out that she was paid less than were other JAVA programmers, and complained that she was not paid the prevailing wage. In response to complaints about her supervisor and her salary, she was fired and progress on her green card also came to a halt. Without a job and without her green card process completed, she became "out of status" and feared going to court because of the possibility that she would be deported.⁴⁷ Many H-1B workers experience similar problems with substandard pay. Although the statute says that visa workers should be paid on par with regular workers, surveys consistently show H-1B workers earning less than their non-visa counterparts. One expert testified before Congress that H-1B workers averaged about \$13,000 less than the median wage for U.S. workers in the same occupation and state; **most H-1B workers were paid wages in the bottom 25th percentile of U.S. wages controlled by occupation and state; and just 16% of H-1B workers earned wages that were above the median U.S. wage for occupation and state.**⁴⁸ **As a result, companies using H-1B workers have reported wage savings of between 20 and 40 percent after switching from using U.S. workers.**⁴⁹

Several reasons explain the ability of companies to pay relatively low wages to H-1B workers. First, because employers may choose among wage surveys or use their own wage surveys to set the prevailing wage, they have control over the wage that will be set and have an incentive "to select the lowest of many widely varying figures."⁵⁰ The ability of private wage surveys to effectively protect the interests of the American workforce was recently criticized and struck down in the context of a parallel guest worker program (the H-2B visa program).⁵¹ In that case, the Third Circuit found that the Department of Labor's shift in policy to allow the use of private wage surveys instead of government surveys violated the Administrative Procedures Act because it did not provide a reason for its change in policy.⁵² Although this procedural defect may not invalidate the use of private surveys for the H-1B program, the finding by the court that allowing the use of private wage surveys was an "arbitrary and capricious act"⁵³ is significant. The court found the Department of Labor's decision faulty because the private surveys resulted in wages that were consistently lower than those found in government surveys and because "this authorization creates a system that permits employers who can afford private surveys to bring H-2B workers into the country for employment at lower wages than employers who cannot afford such surveys and who therefore must offer the higher OES prevailing wage."⁵⁴ These criticisms of private wage surveys are equally applicable to the use of private wage surveys in the H-1B program.

To make matters worse, this system of control prevents H-1B workers who are suffering abuse from seeking recourse. Ontiveros 17 at the University of San Francisco explains: visa workers know that if they are terminated, they lose their legal right to be in the United States and face deportation. This pressure is so immense that visa holders remain less likely to protest against unfair working conditions.

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers," BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW, <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

Finally, there is very little oversight of the information provided on the LCA regarding the job and its associated prevailing wage. Currently, the Department of Labor only reviews the LCA for completeness and looks for glaring inaccuracies.⁶¹ As long as the application looks reasonable on its face, there is no independent verification.⁶² For example, in order to be subject to additional questioning, an employer would have to do something as obvious as putting a prevailing wage rate below the federal minimum wage or putting a wage rate on the application that is below the range it has submitted in its survey.⁶³ As a result, “The DOL’s Office of Inspector General has described the LCA certification process as merely a ‘rubber stamp’ of the employer’s application.”⁶⁴ Taken as a whole, these practices result in H-1B visa workers routinely working at a pay rate below what most people would consider the true prevailing wage rate. H-1B workers rarely complain about these problems for several reasons. Most importantly, the visa workers know that if they are terminated, they lose their legal right to be in the United States and face deportation.⁶⁵ After having worked so hard to get to the United States, even those workers who have come temporarily are reluctant to risk the ire of the employer and being sent home. Those workers who wish to naturalize and are getting close to receiving a green card are in an even more precarious position.⁶⁶ **This pressure is so immense that “visa holders, by the very nature of their situation as workers dependent upon employers for the right to remain in the country— either permanently or temporarily—remain less likely to protest against unfair working conditions than their counterparts with permanent resident status.”**⁶⁷ H-1B visa workers may be especially hesitant to risk losing their jobs because they realize that the process of protesting working conditions is slow and ineffective.⁶⁸ As a result, few H-1B workers will quit a job or complain and risk being terminated. **H-1B workers are also isolated socially and culturally because of their immigrant status.**⁶⁹ **The workers often come without their families.** Even if their spouses are legally allowed to come with them on an H-4 visa, the spouse will not have the legal right to work here unless she has her own visa. In addition, the spouse may not be able to participate in social programs such as public health and educational assistance, and may have difficulty getting a driver’s license. The workers themselves may live near each other and near their place of work, becoming an insular community tied to their employer that remains removed from American society at large.⁷⁰ These immigrants tend to form their own professional and social communities and tend not to interact with other ethnic groups.⁷¹ **These workers also do not have the same political rights as citizens, such as the right to vote,**⁷² **or other avenues to influence the legislature.**⁷³ **As a result, it is difficult for them to advocate for changes in the workplace or through the political process.** Those without a pathway to citizenship may view themselves as perpetual outsiders who will never be able to participate in these processes. As one author summarized, While the high-tech industry and the domestic labor force may express their concerns and complaints in the political process through votes, lobbying groups, and connections, the H-1B workers cannot express their interests in any forum. The temporary workers’ lack of political power leaves them vulnerable to the political process and other groups’ interests, resulting in further inequality as compared to other Americans.⁷⁴

Subcontracting

The H-1B system is based on a subcontracting model; IT consultancies that provide services to large companies use bodyshops –literally accessing the body of IT workers– to bring in flexible foreign labor; natives, because they are already legally here, are exempt from this system

Banerjee 06 Payal Banerjee [Syracuse University], 2006 “Indian Information Technology Workers in the United States: The H-1B Visa, Flexible Production, and the Racialization of Labor,” Journal of Critical Sociology //DF

The interplay between the principles of flexible hiring in the IT field and the H-1B clause about being an employment-based visa has created a contradiction that directly impacts the experiences of workers under this visa. Given the precedence of a decentralized production model, responsibility for hiring employees has been shifted down to a point where no employer wants to maintain a large pool of directly hired workers. Companies that provide IT consulting services to large clients prefer to access contract workers based on project volume and demand, and these workers are not considered their employees. However, the H-1B visa requires that foreign workers be actually hired

by a company in the USA and, therefore, having a formal and direct employer becomes imperative for these workers. This impasse has been resolved through the creation of a tier of subcontracting companies, which act as visa-holding employers and operate solely to facilitate the entry of those who need the H-1B visa. Deep, an Indian IT professional in his mid-twenties, discussed his experience of the process as follows: What happened was that my resume was getting picked up and these large consulting firms, who do projects for big clients from across the board, were calling me for interviews. During the interview, they'd say they really like me and would like me to work for them. I would get all excited. But then, the first thing that they'd say would be, "Well, you will need a H-1B to work and we cannot do your H-1B. But, we want you to work for us." Then they would give me the contact information of the subcontracting company from whom they get their contract workers to place at clients for their projects and ask me to get in touch with that subcontractor. In the meantime, this company would call that subcontractor and say, "Look, we saw this guy and we want him on the project, so hire him on H-1B." So, I do end up working for this big company, on their project and everything, not as their employee, but as a subcontracted worker. This narrative shows that the subcontractors, often called "Bodyshops" (shops from which "bodies" of IT professionals may be accessed), bear the fundamental obligation of acting as legitimate employers of these workers on the H-1B and of holding their visas so that flexible production may continue without interruption. The consulting firms rely on these bodyshops to hire workers and to give them the legitimacy of the H-1B so that the consulting firms can deploy the much-needed flexible labor for their client's projects. Moreover, since the H-1B is an employment-based visa, workers who are not citizens or permanent residents may only work for an employer that agrees to process a H-1B visa on their behalf. As a result, their employment options are restricted to a small pool of firms in the IT field that are willing to hire these workers and process their visas. As discussed above, this happens because most large firms and consulting companies in IT, preferring labor flexibility, seek to limit their number of direct employees and decline to hire workers who need employment-based work authorization. Consequently, Indian IT workers, for whom it is necessary to have an H-1B visa to work in the USA, are relegated to those subcontractors whose primary function is to hire these immigrants and process their visas so that they may be leased out as contract workers to the consulting companies in exchange for a commission. Citizens and residents need not depend on an employer to confer legitimacy to work in the USA and therefore are exempted from having to approach these companies to provide them a foothold in this field.

Contracting firms use the subcontractors to cut costs and lower accountability

Banerjee 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," *Man In India*, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

These visa stipulations have impacted immigrant IT workers on the H-1B in critical ways. The H-1B visa's requirement that non-U.S. workers be hired directly by U.S. employers has partly contributed to their disproportionate concentration as contract workers employed by labour vendors in the lower tiers of subcontractual work (Banerjee 2006). Increasingly, U.S. companies are accessing IT labour through consulting companies and labour vendors who manage projects and also supervise contract workers. Consulting firms, like their clients, have minimized direct hiring given the appeal of flexible hiring. This lack of interest in direct hiring creates a dilemma for those individuals who are required by law to have an employer to process and hold their H-1B visas. The corporate sector in the U.S. has resolved this impasse: the time-consuming and expensive process of large-scale recruitment and subsequent employment of non-U.S. workers is delegated to a subset of companies or labour-vendors (sometimes referred to as Bodyshops). It becomes the responsibility of these subcontractors to aid entry and hiring of skilled workers from India in need of an employer and employment-based work authorization in the U.S. such that the entire range of businesses can benefit from their labour without assuming any responsibilities. Moreover, given the fact that the terms of the H-1B have equated employment, work authorization, and legal status, the visa has created a unique equation of employer-dependence for immigrants at various levels (Banerjee 2008). Nitin, an Indian immigrant on the H-1B working for a client in banking, highlighted how the visa has been instrumental in making distinctions based on legal status and work eligibility.

Subcontracting started as a way to save money in a competitive economy

Banjeree 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," Man In India, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

The shift in the method of inducing immigrants — from a more permanent basis to their incorporation into the economy in previous decades followed by an emphasis on temporary work-visa based short-term entry into the country starting in the 1990s — is paralleled by another significant contemporaneous trend: flexible hiring. Employment patterns in the so-called high-skilled and high-wage services sector, including IT, have been rapidly changing in response to companies' desire for flexible and temporary hiring (Barley and Kunda 2004; Benner 2002; Smith 2001). To minimize operations costs and respond without delay to the rapid demands of the market without sustaining the cost of maintaining permanent employees, companies started to externalize their labour needs to a wide array of intermediaries: e.g., staffing agencies, subcontractors, in-house service providers, consulting companies, web-based labour brokerage firms, as well non-employee consultants and independent contractors. Subsequently, flexible, contingent, and short-term contractual work arrangements in the high-skill services sector increased accompanied by cycles of joblessness and underemployment, insecurity, deskilling, lack of career mobility, and reductions in income and benefits (Barley and Kunda 2004; Benner 2002; Carnoy, Castells, and Benner 1997; Smith 2001). The move toward recruiting IT workers on the H-1B on a temporary basis complements the mandate of flexible hiring under neoliberal labour regimes in general. The defining feature of the H-1B is that it is an employment and employer- dependent visa. An employer seeking to hire a skilled worker who is not a permanent resident or citizen has to petition to the government to approve an H-1B visa on the company's behalf to enable this employee to work in the U.S. for that specific employer only. Therefore, these employees' eligibility to work and stay in the U.S. depends entirely on being employed by the company authorized by the state to hold their visas. Without their visa-holding employer, these immigrants have no independent legitimacy to either work or live in the U.S. Consequently, if fired, these workers lose their status and become liable to deportation unless they find employment with another company willing to transfer their work visa. The H-1B is issued for three years initially and may be renewed for three more following a petition for extension. An immigrant on the H-1B, however, may lose work and immigration status at any given point during this time if faced with a lay-off.

H-1Bs are stuck at the subcontracting tier, unable to switch employers – this system is likely widespread

Banjeree 06 Payal Banerjee [Syracuse University], 2006 "Indian Information Technology Workers in the United States: The H-1B Visa, Flexible Production, and the Racialization of Labor," Journal of Critical Sociology //DF

Indian IT workers interviewed in this research regarded their immigration status, defined by the H-1B, to be the reason they are relegated to the lowest fringes of subcontracting. Adinath, a contract worker, voiced his frustrations about having to be dependent upon or "tied down" to his subcontracting firm, owing to his H-1B status, in the following way: See, if the H-1B was such that I had the legal right to just work here and didn't have to be tied down with an employer to hold my H-1B, then I could just work for any company that was willing to get work done by me. If I didn't get hired directly, I could even be an independent contractor with these consulting firms. But now, even if a company wants me to work on their projects given my skills, I cannot work there as an individual worker, as an independent contractor, because without an employer I have no H-1B, no visa status. Also, since they are not willing to hire directly, I have to go and find a subcontractor who will hold my visa so that I can work for that other company. Like Adinath, other Indian IT workers on the H-1B attribute their disproportionate location in the subcontracting level and lack of access to jobs with upper-level consulting companies to how the terms of their visa make them employer-dependent. Since the visa does not provide any independent eligibility to work on their own right, H-1B workers have to enlist themselves with and depend on subcontractors to have legitimate work status. Statistics from government, policy, and research sources do not indicate exactly what

proportion of the H-1B population in IT, or Indian IT professionals on this visa, work not as direct employees with clients or consulting firms, but as contract workers for subcontractors.⁶ This research suggests that this number would be quite substantial. One of the most striking features about the Indian IT workers interviewed in this study was that, regardless of his/her present immigration status, every one of the participants had worked as a contract worker at clients' sites while on the H-1B and more than 90 percent of the interviewees were still working, at the time of the research, as contract workers on this visa for subcontractors whose employees were all migrants from India.

The subcontracting system creates a racial hierarchy, where Indian workers are limited to the lowest rungs of work, while white natives can work directly in much better and more secure jobs

Banerjee 06 Payal Banerjee [Syracuse University], 2006 "Indian Information Technology Workers in the United States: The H-1B Visa, Flexible Production, and the Racialization of Labor," Journal of Critical Sociology //DF

As the narratives of Deep and Pratap reveal, Indian IT workers constitute the bulk of the most-flexible contract workers employed at the sub-contractor level from which well-established consulting companies access labor or "resource pools" to execute their clients' projects. These consulting companies not only want a lean workforce, they also try to keep an all-American image. Interviewees in this research explicitly stated that the better jobs with consulting firms or clients are reserved primarily for citizens and residents and that these companies' employment ads frequently specify an explicit interest in hiring citizens or residents. These firms have solid financial and client bases and their direct employees are placed at upper-level managerial positions on the clients' projects. Employees of firms in this category have access to a degree of job security, career mobility, and full-time employment (Carnoy et al. 1997). IT workers on the H-1B, as employees of subcontractors at the lower-end of the hierarchy, do not share these prospects. Access to this labor force by numerous subcontracting firms spread across the country has enabled the consulting companies to sustain their cost-effective model of completing projects with a sizeable number of contract workers, which can be expanded or reduced instantaneously based on the needs of the project's cycle. Subcontracting and its partnership with the H-1B visa have thus created an immigration status and race-based hierarchy in which jobs are organized by: (1) a set of relatively stable positions with benefits and career paths for individuals hired as direct employees (who are most likely to be white citizens),⁷ and (2) a set of contractual, dead-end, extremely transient positions without any benefits or job stability for people who are placed at these companies through subcontracting firms. Indian IT workers, given the intersections between the terms of their visa and flexible hiring, are almost entirely segregated into the latter category.

Systematic inequalities and subordinating structures that create lower classes of workers are inherent in the H-1B program. Only amending the current law can change this

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers," BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW,

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

The current de facto administration of the H-1B visa system has created three categories of workers: the "pure H-1B"; the "outsourcing H-1B"; and the "body shop worker." Each of these workers exists on a continuum of exploitation facilitated by the structure of the H-1B visa system. A pure H-1B, such as Raji Patel, arrives on a visa sponsored by the specific company for which he will work. The pure H-1B often finds himself working excessive hours for substandard pay and is afraid to protest the conditions for fear of

being discharged and losing protection from deportation. The outsourcing H- 1B arrives on a visa sponsored by an outsourcing company that has contracted to perform work at a company in the United States. These workers often displace existing U.S. workers, such as Roger Greenman, and work for less pay than the displaced workers work for. Finally, a body shop worker, such as Sanjiv Gupta, labors in an arrangement that exists outside the legal boundaries of the law. He arrives on a visa sponsored by a labor contractor or labor supplier. He often does not have a specific job waiting for him and sits on a metaphorical bench waiting for a job to arrive. The labor contractor often charges the body shop worker for the visa, houses him in deplorable conditions, charges him exorbitant service fees and constrains his ability to quit a job or to return home. Many of these exploitive practices can be challenged through better enforcement of the current visa law, through wrongful discharge lawsuits and through cases brought under the anti- trafficking laws. However, even perfect enforcement of the current law and existing causes of action will not completely eradicate these practices because inherent in the H-1B program are systemic inequalities and subordinating structures that are modern manifestations of involuntary servitude, debt bondage or unfree labor² The current system creates a class of workers laboring beneath the floor for free labor because visa workers often lack the ability to protest unjust conditions or to quit. As a result, the system lowers the floor of labor protections for free, non-visa workers. Second, the visa sponsor, and not the worker, functionally owns and controls the worker's labor. This system is reminiscent of labor ownership under antebellum slave codes. Third, the H-1B system is simply the most current example of commodified immigrant labor being exploited as part of a human supply chain on the basis of race, national origin and migrant status, a practice that began during slavery and continues today. Finally, this system prevents H- 1B workers from becoming full members of the community, thereby denying them the capacity to improve their conditions. These root problems of inequality and exploitation can only be addressed by amending the current H-1B law and the current antidiscrimination statute. The first section of this article describes the three different types of visa workers and the types of exploitation associated with each type. The second section of the article explains how the current structure creates a system of unfree labor that harms both visa and non-visa workers. In doing so, the section provides the moral and theoretical justifications for challenging this exploitation. Section three of the article describes the current legal challenges being brought under the visa laws and through independent causes of action. The final section suggests reforms to strengthen the current law and to attack the underlying system of unfree labor.

It grants employers control over not just a worker's job, but also their ability to be in America. This gives them incredible power to abuse the workers.

We cannot support a system that contains the germ of exploitation, because human nature and the pressures of capitalism will inevitably lead to abuse.

Examples of that abuse happening.

There are three critical questions we need to examine when assessing worker exploitation.

First, what rights should foreign guest workers be afforded?

Lenard 11 of the University of Ottawa explains that temporary workers are afforded labor rights to protect their capacity to interact fairly in the marketplace. They include the right to fair wages, and the right to a safe work environment

Lenard 11 Patti Tamara Lenard [University of Ottawa], 2011 "Temporary labour migration, global redistribution, and democratic justice," Politics, Philosophy & Economics, 10.1177/1470594X10392338 //DF

One way to think about rights divides them into multiple categories: political or civil, economic or labour, and social. Political rights protect the right to participate in the government of one's country, and are typically extended to newcomers in time, over the course of a naturalization process (thus, if guest-workers are not permitted to naturalize, they do not gain access to these rights). Civil rights are sometimes included in the category 'political', since they are rights that are essential to participating in the political life of a community; they are, however, frequently thought of as being guaranteed to people by virtue of their humanity, that is, rights to which people are entitled independently of their citizenship. They include the right to free expression, for example, and the right to free association. Social rights typically guarantee access to welfare rights, including access to social security, the right to access publicly provided health care and education, and so on (Beetham, 1995). Although sometimes considered to be less 'basic' than political rights, social rights are often extended to newcomers considerably in advance of political rights. **Economic (or labour) rights protect one's capacity to interact fairly in the market place, and include the right to fair wages** and the right to join trade unions. The divisions are not neat, of course, and some rights that are included in one category can also be included in another. The right to join trade unions can, for example, be thought of as both economic and political. The absence of a clear division between political, economic, and social rights is further illustrated by the set of rights granted, or denied, to guest-workers. In the first place, it is worth noting that these decisions are state specific: guest-workers are entitled to more rights in some countries than in others.⁹ In general, guest-workers are denied the right to vote, for example, even as they are (increasingly) entitled to the right to join unions (thus, we might say that guest-workers are increasingly entitled to free association, although to the extent that they are tied to an employer or an industry, they are not entitled to fully free association).¹⁰ Additionally, guest-workers are often entitled to economic or labour rights without being entitled to a broader set of social rights. Within the category of economic or labour rights, **guest-workers remain at least conventionally entitled to only a subset of employment rights, however: they are entitled to a safe work environment**, for example, but are not permitted the right to change employers. Guest-workers might therefore be described as forgoing a state-specific package of 'citizenship rights' in exchange for the opportunity to participate in guest-work programmes; that is, they forgo the right to access, in time, the set of rights to which only citizens are entitled for the opportunity to participate in guest-work programmes.¹¹

Second, does the H-1B program violate those foreign labor rights?

The clear answer is yes. Banjeree 14 at Smith College writes that the defining feature of the H-1B is that it is an employment and employer dependent visa. An employer seeking to hire a skilled worker has to petition to the government to approve an H-1B visa on the company's behalf to enable this employee to work in the U.S. for that specific employer only. Therefore, these employees' eligibility to work and stay in the U.S. depends entirely on being employed by the company authorized by the state to hold their visas. Without their visa-holding employer, these immigrants have no independent legitimacy to either work or live in the U.S

Banjeree 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," Man In India, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

The shift in the method of inducing immigrants — from a more permanent basis to their incorporation into the economy in previous decades followed by an emphasis on temporary work-visa based short-term entry into the country starting in the 1990s — is paralleled by another significant contemporaneous trend: flexible hiring. Employment patterns in the so-called high-skilled and high-wage services sector, including IT, have been rapidly changing in response to companies' desire for flexible and temporary hiring (Barley and Kunda 2004; Benner 2002; Smith 2001). To minimize operations costs and respond without delay to the rapid demands of the market without sustaining the cost of maintaining permanent employees, companies started to externalize their labour needs to a wide array of intermediaries: e.g., staffing agencies, subcontractors, in-house service providers, consulting companies, web-based labour brokerage firms, as well non-employee consultants and independent contractors. Subsequently, flexible, contingent, and short-term contractual work arrangements in the high-skill services sector increased accompanied by cycles of joblessness and underemployment, insecurity, deskilling, lack of career mobility, and reductions in income and benefits (Barley and Kunda 2004; Benner 2002; Carnoy, Castells, and Benner 1997; Smith 2001). The move toward recruiting IT workers on the H-1B on a temporary basis complements the mandate of flexible hiring under neoliberal labour regimes in general. **The defining feature of the H-1B is that it is an employment and employer dependent visa. An employer seeking to hire a skilled worker who is not a permanent resident or citizen has to petition to the government to approve an H-1B visa on the company's behalf to enable this employee to work in the U.S. for that specific employer only. Therefore, these employees' eligibility to work and stay in the U.S. depends entirely on being employed by the company authorized by the state to hold their visas. Without their visa-holding employer, these immigrants have no independent legitimacy to either work or live in the U.S.** Consequently, if fired, these workers lose their status and become liable to deportation unless they find employment with another company willing to transfer their work visa. The H-1B is issued for three years initially and may be renewed for three more following a petition for extension. An immigrant on the H-1B, however, may lose work and immigration status at any given point during this time if faced with a lay-off.

The H-1Bs make the worker totally dependent on their employer. Banjeree furtherers: given the fact that the terms of the H-1B have equated employment, work authorization, and legal status, the visa has created a unique equation of employer-dependence for immigrants.

Banjeree 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," Man In India, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

These visa stipulations have impacted immigrant IT workers on the H-1B in critical ways. The H-1B visa's requirement that non-U.S. workers be hired directly by U.S. employers has partly contributed to their disproportionate concentration as contract workers employed by labour vendors

in the lower tiers of subcontractual work (Banerjee 2006). Increasingly, U.S. companies are accessing IT labour through consulting companies and labour vendors who manage projects and also supervise contract workers. Consulting firms, like their clients, have minimized direct hiring given the appeal of flexible hiring. This lack of interest in direct hiring creates a dilemma for those individuals who are required by law to have an employer to process and hold their H-1B visas. The corporate sector in the U.S. has resolved this impasse: the time-consuming and expensive process of large-scale recruitment and subsequent employment of non-U.S. workers is delegated to a subset of companies or labour-vendors (sometimes referred to as Bodyshops). It becomes the responsibility of these subcontractors to aid entry and hiring of skilled workers from India in need of an employer and employment-based work authorization in the U.S. such that the entire range of businesses can benefit from their labour without assuming any responsibilities. Moreover, given the fact that the terms of the H-1B have equated employment, work authorization, and legal status, the visa has created a unique equation of employer-dependence for immigrants at various levels (Banerjee 2008). Nitin, an Indian immigrant on the H-1B working for a client in banking, highlighted how the visa has been instrumental in making distinctions based on legal status and work eligibility. The biggest difference we feel as H-1B workers compared to green card holders or citizens is that they do not need to rely on a company for their legal status in the U.S. or to work. We do. Without the H-1B, we have no status. So, before we think of anything else, we have to think about staying in status which immediately means being employed with a company who will hold my visa. Like Nitin, other research participants used words such as “bound,” “tagged,” and “governed by employers” to express their sense of restriction, subordination, and general inability to negotiate the labor market independently without being tied to employers. As a result of being dependent on employers for legal status, immigrant IT professionals were often forced to accept unfavourable terms of payment, take on the responsibility of searching for client projects in order to generate revenue for their labour-vendor employers, and relocate frequently to new project locations in different parts of the country to ensure their employed status. This form of socially constructed dependence on employers has severely compromised these immigrants’ bargaining power and heightened their vulnerability in an employment regime already fraught with chronic job insecurity and transience associated with flexible hiring.

This allows for exploitation. One of its main manifestations is wage theft. Chen 17 writes in the Nation Magazine: companies find it more profitable to bring in lower-wage migrants, often highly trained specialists frustrated by economic barriers in their own home countries, than to hire American workers. But they are paid much worse than their American counterparts, and still kept in poverty. 40 percent of H-1B visas occupied the lowest-wage tiers.

Chen 17 Michelle Chen, 4-13-2017, "Silicon Valley Sweatshops," Nation, <https://www.thenation.com/article/silicon-valley-sweatshops/> //DF In vilifying “white collar” workers from Asia, Trump opportunistically courted struggling lower-middle-class professionals, playing on lower-bourgeois protectionist anxieties. But beyond the political arena, whatever piecemeal reforms Trump presents will fail to hold accountable the real corporate giants driving Silicon Valley’s modern-day “shape-up.” Advocates say the system encourages abuse by mega-staffing firms like Infosys and Accenture, who acting as labor brokers that feed low-cost workers to employers, leaving many individual smaller companies unable to tap into a labor pool that is monopolized by the biggest players. While huge multinationals and staffing agencies dominate the market for this perma-outsourced workforce, they can harvest masses of applications in order to claim as many visa spots as possible, creating an epic backlog that the government tries to manage by issuing visas through a lottery system. Bosses insist there simply “aren’t enough” STEM-field graduates in the United States to match the job-market demand. But the labor mismatch is less about workers’ qualifications than whether the job fits for workers. Why would an American STEM graduate take a job that won’t earn her enough to repay student debt, in a field where promotional opportunities are often reserved for white men? So companies find it more profitable to bring in lower-wage migrants, often highly trained specialists frustrated by economic barriers in their own home countries. But their career pathways are constrained by debt, restrictions on changing employers, and severely limited access to green cards. And they’re still poor. About 40 percent of H-1B

visas approved in 2015 occupied the lowest-wage tiers, which the Economic Policy Institute estimates could undercut a sector's prevailing wages by 40 percent. Tracking career progress over time, EPI found that out of roughly 460,000 H-1B visas imported in recent years, the ratio of immigrant Mark Zuckerbergs to rank-and-file coders was heavily skewed, despite Big Tech's youthful entrepreneurial promise: [T]he top H-1B employers have been using the program for temporary labor—and as a vehicle to outsource jobs to overseas locations—rather than as a bridge to permanent immigration, which could keep skilled workers in the US labor market for the foreseeable future.

H-1B workers are often paid at illegally low levels. Hira 15 at Howard University cites the example of Tata Consultancy Firms, that, in 2013, paid \$30 million to settle a wage theft dispute involving 13,000 foreign workers.

Hira 15 Ron Hira [associate professor of public policy at Howard University], 2-19-2015, "New Data Show How Firms Like Infosys and Tata Abuse the H-1B Program," Economic Policy Institute, <https://www.epi.org/blog/new-data-infosys-tata-abuse-h-1b-program/> //DF

The principal reason that firms use H-1Bs to replace American workers is because H-1B nonimmigrant workers are much cheaper than locally recruited and hired U.S. workers. As Table 1 shows, Infosys and Tata pay very low wages to their H-1B workers. The average wage for an H-1B employee at Infosys in FY13 was \$70,882 and for Tata it was \$65,565. Compare this to the average wage of a Computer Systems Analyst in Rosemead, CA (where SCE is located), which is \$91,990 (according to the U.S. Department of Labor). That means Infosys and Tata save well over \$20,000 per worker per year, by hiring an H-1B instead of a local U.S. worker earning the average wage. But at SCE specifically, the wage savings are much greater. SCE recently commissioned a consulting firm, Aon-Hewitt, to conduct a compensation study, which showed that SCE's IT specialists were earning an average annual base pay of \$110,446. That means Tata and Infosys are getting a 36 to 41 percent savings on labor costs—or saving about \$40,000 to \$45,000 per worker per year. Adding insult to injury, Infosys and Tata have a history of getting in trouble for paying even lower wages than they are already legally allowed to pay. In 2013 Tata paid \$30 million to settle a wage theft dispute involving 13,000 foreign workers, and Infosys paid a record \$34 million to settle a visa fraud case after it committed "systemic visa fraud and abuse of immigration processes." As a general principle, companies that behave like this should not be allowed to benefit from the U.S. temporary foreign worker programs, much less be the top two beneficiaries of them.

Worker exploitation extends far beyond wage theft; the H-1B consitutes indentured servitude. The Center for Investigative Reporting has documented why this exploitation persists – through humiliation, intimidation and legal threats. An “ecosystem of fear”. It’s a shadow world that can turn a worker’s dream of self-betterment into a financial nightmare.

Smith 14 Matt Smith, Jennifer Gollan and Adithya Sambamurthy For The Center For Investigative Reporting, 10-28-2014, "Job brokers steal wages and entrap Indian tech workers in US," Guardian, <https://www.theguardian.com/us-news/2014/oct/28/-sp-jobs-brokers-entrap-indian-tech-workers> //DF

Labor brokers providing Indian high-tech workers to American companies have hijacked a professional visa program, creating an underground system of financial bondage by stealing wages and benefits, even suing workers who quit. About 840,000 people from around the world work in the United States on temporary visas, intended to help companies seek uniquely talented employees for specific jobs. In the tech realm, labor brokers often sponsor the visas, then contract out the workers to technology companies or government agencies to build databases, test software and complete other technical projects. For decades, critics have sounded alarms about immigrant tech workers being treated as indentured servants by the worst of these staffing firms, known as "body shops." In a yearlong investigation, The Center for Investigative Reporting has documented why this exploitation persists – through humiliation, intimidation and legal threats. Judgments against Indian workers sued for quitting their US jobs can exceed \$50,000. One worker called it an “ecosystem of fear”. It’s a shadow world that can turn a worker’s dream of self-betterment into a financial nightmare. Shackling workers to their jobs is such an entrenched business practice that it has even spread to US nationals. This bullying persists at the bottom of a complex system that supplies workers to some of America's richest and

most successful companies, such as Cisco Systems, Verizon and Apple. "You can pretty much see a leash on my neck with my employer," said Saravanan Ranganathan, a Washington-area computer security expert here on an H-1B visa. "It's kind of like a hidden chain ... and you'd better shut up, or you'll lose everything." Through thousands of documents filed with government agencies and in courts across the US and interviews with dozens of workers, CIR found the tools of intimidation included restrictive employment contracts – signed by workers unaware of their rights – as well as legal loopholes. Even immigration experts have trouble sorting out how the brokers manage to game the system. From 2000 through 2013, at least \$29.7m was illegally withheld from about 4,400 tech workers here on H-1B visas, US Department of Labor documents show. And this barely hints at the problem because, in the hidden world of body shops, bad actors rarely are caught. No federal clearinghouse logs labor brokers' punitive lawsuits against employees, often filed in far-flung courthouses. But by running the Labor Department violators' names through court dockets in tech hubs across the country, CIR unearthed a sample of 100 cases in which companies have sued workers for actions as commonplace as changing jobs.

There is no recourse for H-1B workers suffering abuse. Ontiveros 17 at the University of San Francisco explains: visa workers know that if they are terminated, they lose their legal right to be in the United States and face deportation. This pressure is so immense that visa holders remain less likely to protest against unfair working conditions. H-1B workers are also isolated socially and culturally because of their immigrant status. The workers themselves may live near each other and near their place of work, becoming an insular community tied to their employer that remains removed from American society at large. These workers also do not have the same political rights as citizens, such as the right to vote, or other avenues to influence the legislature. As a result, it is difficult for them to advocate for changes in the workplace or through the political process.

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers," BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW,

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

Finally, there is very little oversight of the information provided on the LCA regarding the job and its associated prevailing wage. Currently, the Department of Labor only reviews the LCA for completeness and looks for glaring inaccuracies.⁶¹ As long as the application looks reasonable on its face, there is no independent verification.⁶² For example, in order to be subject to additional questioning, an employer would have to do something as obvious as putting a prevailing wage rate below the federal minimum wage or putting a wage rate on the application that is below the range it has submitted in its survey.⁶³ As a result, "The DOL's Office of Inspector General has described the LCA certification process as merely a 'rubber stamp' of the employer's application."⁶⁴ Taken as a whole, these practices result in H-1B visa workers routinely working at a pay rate below what most people would consider the true prevailing wage rate. H-1B workers rarely complain about these problems for several reasons. Most importantly, the visa workers know that if they are terminated, they lose their legal right to be in the United States and face deportation.⁶⁵ After having worked so hard to get to the United States, even those workers who have come temporarily are reluctant to risk the ire of the employer and being sent home. Those workers who wish to naturalize and are getting close to receiving a green card are in an even more precarious position.⁶⁶ This pressure is so immense that "visa holders, by the very nature of their situation as workers dependent upon employers for the right to remain in the country— either permanently or temporarily—remain less likely to protest against unfair working conditions than their counterparts with permanent resident status".⁶⁷ H-1B visa workers may be especially hesitant to risk losing their jobs because they realize that the process of protesting working conditions is slow and ineffective.⁶⁸ As a result, few H-1B workers will quit a job or complain and risk being terminated. H-1B workers are also isolated socially and culturally because of

their immigrant status.⁶⁹ The workers often come without their families. Even if their spouses are legally allowed to come with them on an H-4 visa, the spouse will not have the legal right to work here unless she has her own visa. In addition, the spouse may not be able to participate in social programs such as public health and educational assistance, and may have difficulty getting a driver's license. **The workers themselves may live near each other and near their place of work, becoming an insular community tied to their employer that remains removed from American society at large.⁷⁰** These immigrants tend to form their own professional and social communities and tend not to interact with other ethnic groups.⁷¹ **These workers also do not have the same political rights as citizens, such as the right to vote,⁷² or other avenues to influence the legislature.⁷³ As a result, it is difficult for them to advocate for changes in the workplace or through the political process.** Those without a pathway to citizenship may view themselves as perpetual outsiders who will never be able to participate in these processes. As one author summarized, While the high-tech industry and the domestic labor force may express their concerns and complaints in the political process through votes, lobbying groups, and connections, the H-1B workers cannot express their interests in any forum. The temporary workers' lack of political power leaves them vulnerable to the political process and other groups' interests, resulting in further inequality as compared to other Americans.⁷⁴

Banjeree 06 explains: The terms of this visa have relegated a set of skilled and documented third- world labor into positions of dependency and of continual trepidation regarding their employment and legal status, which force them to accept low wages, to pay commissions on their salaries to their employers for conferring upon them the right to work, and to adapt to unstable terms of work. To compensate for repeated stretches of unemployment, these migrants live as frugally as possible. Their self-imposed survival strategies reproduce third world consumption and living patterns.

Banjeree 06 Payal Banjeree [Syracuse University], 2006, "Indian Information Technology Workers in the United States: The H-1B Visa, Flexible Production, and the Racialization of Labor," Journal of Critical Sociology //DF

The Indian IT workers' interpretations of their marginalization as being determined by the visa serve as the premise to analyze how the state's immigration apparatus continues to construct migrants as dependent, dis- enfranchised, and flexible labor even when these workers are documented under the H-1B program. The narratives show how the H-1B visa facil- itates an exploitative employment system reliant on the labor of migrants of color. **The terms of this visa, working in favor of flexible subcon- tracting in IT, have relegated a set of skilled and documented third- world labor into positions of dependency and of continual trepidation regarding their employment and legal status, which force them to accept low wages, to pay commissions on their salaries to their employers for conferring upon them the right to work, and to adapt to unstable terms of work. To compensate for repeated stretches of unemployment, these migrants live as frugally as possible. Their self-imposed survival strate- gies, which reproduce third world consumption and living patterns,** serve well to subsidize labor costs for consulting companies and clients. Indeed, these concessions made by the workers themselves, due to their fragile legal status, have made them ideal as flexible and inexpensive labor. Under these circumstances, the corporate sector in the USA is able to access a ready-to-use, docile workforce, which, out of its own compulsions, is prepared to accept any project, part with commissions from their wages, relocate swiftly, and place itself in the incessant wave of the "hire and fire" doctrine so that flexible and lean production may be maintained. Indian IT workers' experiences under the H-1B visa pro- gram show how the racialization of immigration, with its coimbrication with gendering, has continued through the current immigration regime to sustain the conditions required for flexible accumulation in late capital.

Third, why do these rights violations matter?

Lenard explains: The existence of partial members, whose access is restricted, is our failure to live up to the democratic principles we claim to uphold. We are perpetuating injustice and this constitutes harm to us. Any other decision serves, in effect, to perpetuate tyranny: that is why the government of guest workers looks very much like tyranny: it is the exercise of power outside its sphere, over men and women who resemble citizens in every respect that counts in the host country, but are nevertheless barred from citizenship.

Lenard 11 Patti Tamara Lenard [University of Ottawa], 2011 “Temporary labour migration, global redistribution, and democratic justice,” Politics, Philosophy & Economics, 10.1177/1470594X10392338 //DF

It should be clear, now, that individual guest-workers are harmed as a result of their inability to access citizenship rights. What may seem less clear, perhaps, is that the receiving society is equally harmed as a result of its willingness to condone injustice of this kind within its boundaries.

The existence of partial members, whose access to the political environment is restricted, is our failure to live up to the democratic principles we claim to uphold. We are perpetuating injustice, in other words, and this constitutes harm to us. The willingness to condone restricted rights access for some individuals additionally suggests the possibility that we shall be willing to do the same in the future; indeed, the ongoing attempts to restrict immigrant rights in receiving countries can be seen as part of a slippery slope whereby rights are constrained for more and more individuals. As Stephen Castles writes, ‘the failure to grant social rights to any group of residents leads to social divisions that can undermine the rights of the majority’ (2004: 869). One way to reverse this trend, therefore, is to refuse to constrain rights for all migrants. **Any other decision serves, in effect, to perpetuate tyranny: ‘that is why the government of guest workers looks very much like tyranny: it is the exercise of power outside its sphere, over men and women who resemble citizens in every respect that counts in the host country, but are nevertheless barred from citizenship’** (Walzer, 1983: 59). Alternatively, as one scholar worries (we might think a tad hyperbolically): One long-time consequence of this trend [towards guest-worker programmes] will be the exacerbation of the already present development of a neo-feudal two-tiered society with a hierarchy where the wealthy upper and middle classes are isolated on . . . one end of the socio-economic spectrum and a vast population of unskilled, low-income, temporary workers, a Lumpenproletariat, [are] on the other. (Franz, 2007: 366) The harm here, in other words, is with respect to living in a community in which a commitment to moral equality is not obviously respected, where some are worth more than others because of their status as full members of the community and where others are worth less because of their status as partial members.

Because of this on-going abuse, the lives of H-1B workers are worse here. Maria Ontiveros from University of San Francisco Law School argues in 2017 that

Maria L. Ontiveros, Professor of Law, University of San Francisco. “H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers”, 38 Berkeley J. Emp. & Lab. L. 1 (2017). <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell> //JA

The H-1B program was originally intended to help American companies and **workers** like the hypothetical Raji Patel. He could provide needed, hard-to-find technical expertise to a company, make a decent living, and perhaps become an American citizen.

Unfortunately, the visa rules are set up in such a way as to leave [H-1B visa workers] him powerless to protest poor treatment, overwork, or lack of pay. At the same time, American workers like the hypothetical Roger Greenman have to compete with Raji and other H-1B workers or find themselves displaced. As a result, their living standards decline. Finally, **the lives of some of the H1B workers** like Sanjiv Gupta **are even worse**. They arrive in America to find broken promises about the job they thought would be waiting for them and the amount of money they would earn. **Bound by contracts with unconscionable penalties, they find themselves unable to quit and go home, even if they want to.** Better enforcement of the visa laws, as well as state and federal causes of action, can help ameliorate the situation, but true change will only happen with revisions to the guest worker visa program, so that it is no longer a system of unfree labor.

How does the H-1B program violate those rights?

Why should we uphold those rights when they have been violated?

The impact is exposing more workers to entrapment. Workers face abuse, aren't given promised salaries, and threatened if they aren't silent. Matt Smith from The Guardian writes in 2014 that

Smith, Matt, et al. "Job Brokers Steal Wages and Entrap Indian Tech Workers in US." The Guardian, Guardian News and Media, 28 Oct. 2014, www.theguardian.com/us-news/2014/oct/28/-sp-jobs-brokers-entrap-indian-tech-workers. //JA

Labor brokers providing Indian high-tech workers to American companies have hijacked a professional visa program, creating an underground system of financial bondage by stealing wages and benefits, even suing workers who quit. About 840,000 people from around the world work in the United States on temporary visas, intended to help companies seek uniquely talented employees for specific jobs. In the tech realm, **labor brokers** often **sponsor the visas, then contract out the workers** to technology companies or government agencies to build databases, test software and complete other technical projects. **For decades, critics have sounded alarms about immigrant tech workers being treated as indentured servants** by the worst of these staffing firms, known as "body shops." In a yearlong investigation, **The Center for Investigative Reporting has documented** why **this exploitation** persists – **through humiliation, intimidation and legal threats**. Judgments against Indian workers sued for quitting their US jobs can exceed \$50,000.

It's a shadow world that can turn a worker's dream of self-betterment into a financial nightmare. Shackling workers to their jobs is such an entrenched business practice that it has even spread to US nationals. **This bullying persists at the** bottom of a complex **system that supplies** workers to **some of [the]** America's richest and **most successful companies, such as Cisco Systems, Verizon and Apple**. "You can pretty much see a leash on my neck with my employer," said Saravanan Ranganathan, a Washington-area computer security expert here on an H-1B visa. "It's kind of like a hidden chain ... and you'd better **shut up, or you'll lose everything**." Through thousands of documents filed with government agencies and in courts across the US and interviews with dozens of workers, CIR found **the tools of intimidation included restrictive employment contracts – signed by workers unaware of their rights – as well as legal loopholes**. Even immigration **experts have trouble sorting out how the brokers manage to game the system**. **From 2000 through 2013, at least \$29.7m was illegally withheld from** about 4,400 **tech workers here on H-1B visas**, US Department of Labor documents show. And **this barely hints at the problem because**, in the hidden world of body shops, **bad actors rarely are caught**. No federal clearinghouse logs labor brokers' punitive lawsuits against employees, often filed in far-flung courthouses. But by running the Labor Department violators' names through court dockets in tech hubs across the country, CIR unearthed a sample of 100 cases in which companies have sued workers for actions as commonplace as changing jobs.

Because of this on-going abuse, the lives of H-1B workers are worse here. Maria Ontiveros from University of San Francisco Law School argues in 2017 that

Maria L. Ontiveros, Professor of Law, University of San Francisco. "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers", 38 Berkeley J. Emp. & Lab. L. 1 (2017). <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell> //JA

The H-1B program was originally intended to help American companies and **workers** like the hypothetical Raji Patel. He could provide needed, hard-to-find technical expertise to a company, make a decent living, and perhaps become an American citizen. **Unfortunately, the visa rules are set up in such a way as to leave [H-1B visa workers]** him **powerless to protest poor treatment, overwork, or lack of pay**. At the same time, American workers like the hypothetical Roger Greenman have to compete with Raji and other H-1B workers or find themselves displaced. As a result, their living standards decline. Finally, **the lives of some of the H1B workers** like Sanjiv Gupta **are even worse**. They arrive in America to find broken promises about the job they thought would be waiting for them and the amount of money they would earn. **Bound by contracts with unconscionable penalties, they find themselves unable to quit and go home, even if they want to**. Better enforcement of the visa laws, as well as state and federal causes of action, can help ameliorate the situation, but true change will only happen with revisions to the guest worker visa program, so that it is no longer a system of unfree labor.

Mayer 07 Robert Mayer [Loyola University, Chicago], 11-14-2007, "Sweatshops, Exploitation, and Moral Responsibility," Journal of Social Philosophy,

<https://onlinelibrary.wiley.com/doi/full/10.1111/j.1467-9833.2007.00401.x> //DF

In this type of environment the minimum profit necessary to survive is in fact the maximum profit that can be made. With declining profits a business loses shareholder confidence, cannot raise capital or borrow on favorable terms, will lack the resources to invest in innovation or attract talent, and so forth. It will be doomed and much of the stake that has been risked will be lost. That is a prospect Jason does not face. His exploitation was gratuitous, but Nike's is not. Its exploitation is built into the very structure of the situation. Given this difference, what then is Nike's responsibility?³⁹ First, it should not tolerate any discretionary exploitation in the contractors it employs—for example, when managers try to extort sexual favors from vulnerable workers. Second, it should insist that the established labor laws be obeyed and also that governments enforce those rules uniformly. This will do away with impure structural exploitation. Third, it should press for structural solutions that end the exploitability of labor and do its fair share to repair the background circumstances that make taking unfair advantage possible. Certainly it should not lobby for policies that perpetuate or strengthen the structural conditions that permit businesses to exploit workers.⁴⁰

But this third obligation is one we share with Nike too. **The responsibility is collective. We must change the rules of the game and alter the distribution of assets that puts some at a disadvantage. And until we do this, agents who have fulfilled their other obligations may continue to exploit. They may gain at the expense of their workers as long as the exploitation is not gratuitous or illegal.** In other words, they may play by the rules of this unfair but mutually advantageous game that we call capitalism.

H-1Bs facilitate offshoring of American jobs, leaving hundreds of thousands of workers unemployed

Maria L. Ontiveros, Professor of Law, University of San Francisco. "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers", 38 Berkeley J. Emp. & Lab. L. 1 (2017). <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=hjell> //JA

Roger, Raji and Sanjiv all suffer along a continuum of exploitation. **The guest worker program facilitates this exploitation because it is based on the creation and use of unfree labor.** The United States' most notorious system of unfree labor was the institution of chattel slavery practiced before the Civil War. Although the Thirteenth Amendment to the U.S. Constitution states "neither slavery nor involuntary servitude . . . shall exist with the United States,"¹²⁸ there are echoes of slavery and involuntary servitude in many current labor situations that have been described as "modern day slavery" and criticized as violations of the Thirteenth Amendment.¹²⁹ **Current guest worker programs contain many of the hallmarks of slavery and involuntary servitude.**¹³⁰ **Their echoes are present in the constraints placed upon a guest worker's ability to protest poor working conditions or quit employment, which destroys the floor for free labor.** There are also echoes of old slave codes in the visa sponsor's "ownership" and "control" of the guest worker's labor. Finally, **echoes of slavery exist in the commodification of immigrants as part of the human supply chain and in the ways in which the citizenship right of guest workers are constrained. Although high technology workers earning \$40,000 - \$60,000 per year in 21st century America obviously do not labor in the same conditions as chattel slaves, their treatment is arguably a difference of degree, not of kind. Examining the unfree labor aspects of the guest worker program provides a framework for understanding how guest worker exploitation operates and provides insights for ways to address that exploitation.**

Tag

Maria L. Ontiveros, Professor of Law, University of San Francisco. "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers", 38 Berkeley J. Emp. & Lab. L. 1 (2017).

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell> //JA

One way to conceive of slavery is as the nation's first immigration policy.¹⁴⁷ Slaves were brought to the United States to work, under an official policy that infringed their human rights, their labor rights, their citizen rights, and their civil rights in order to maximize production and maintain a system of racial supremacy.¹⁴⁸ The history of guest worker programs in the agricultural industry continued this system of oppression.¹⁴⁹

When guest workers are brought to the United States for their labor, but denied their human rights,

they are commodified and viewed as labor, not as human beings. This is uncomfortably similar to the ultimate commodification of human beings that took place during slavery where people, also immigrants, were literally bought and sold. As discussed in the context of undocumented workers and guest workers, **"[t]he wrong of slavery was the commodification and**

dehumanization of a racially defined group of workers." The H1B program is simply the most recent

program created to bring in Asian immigrant workers, keep them powerless, and push "non-white workers into commodity status, further disempowering them, while simultaneously benefiting

capital." For Asian immigrants, the history of oppressive labor immigration systems includes the recruitment of workers in Hawaiian sugarcane plantations, California gold mines, and for the construction of the transcontinental railroad, as well as for California agriculture. On the Hawaiian sugarcane plantations, "Filipinos" were listed on supply manifests right in between "fertilizer" and "fuel." H-1B workers are procured through an immigration system based on race.¹⁵⁶ **Their labor is incorporated, allocated, controlled and compensated through the immigration system. In these ways, this immigration system commodifying and disempowering H-1B workers echoes the system of chattel slavery.**

Smith 14 Matt Smith, Jennifer Gollan and Adithya Sambamurthy For The Center For Investigative Reporting, 10-28-2014, "Job brokers steal wages and entrap Indian tech workers in US," Guardian,

<https://www.theguardian.com/us-news/2014/oct/28/-sp-jobs-brokers-entrap-indian-tech-workers> //DF

Labor brokers providing Indian high-tech workers to American companies have hijacked a professional visa program, creating an underground system of financial bondage by stealing wages and benefits, even suing workers who quit. About 840,000 people from around the world work in the United States on temporary visas, intended to help companies seek uniquely talented employees for specific jobs. In the tech realm, labor brokers often sponsor the visas, then contract out the workers to technology companies or government agencies to build databases, test software and complete other technical projects. For decades, **critics have sounded alarms about immigrant tech workers being treated as indentured servants** by the worst of these staffing

firms, known as "body shops." In a yearlong investigation, **The Center for Investigative Reporting has documented why this exploitation persists – through humiliation, intimidation and legal threats**. Judgments against Indian workers sued for

quitting their US jobs can exceed \$50,000. One worker called it **an "ecosystem of fear". It's a shadow world that can turn a worker's dream of self-betterment into a financial nightmare**. Shackling workers to their jobs is such an entrenched business practice that it has even spread to US nationals. This bullying persists at the bottom of a complex system that supplies workers to some of America's richest and most successful companies, such as Cisco Systems, Verizon and Apple. "You can pretty much see a leash on my neck with my employer," said Saravanan Ranganathan, a Washington-area computer security expert here on an H-1B visa. "It's kind of like a hidden chain ... and you'd better shut up, or you'll lose everything." Through thousands of documents filed with government agencies and in courts across the US and interviews with dozens of workers, CIR found **the tools of intimidation included restrictive employment contracts – signed by workers unaware of their rights – as well as legal loopholes**. Even immigration experts have trouble sorting out how the brokers manage to game the system. From 2000

through 2013, at least \$29.7m was illegally withheld from about 4,400 tech workers here on H-1B visas, US Department of Labor documents show. And this barely hints at the problem because, in the hidden world of body shops, bad actors rarely are caught. No federal clearinghouse logs labor brokers' punitive lawsuits against employees, often filed in far-flung courthouses. But by running the Labor Department violators' names through court dockets in tech hubs across the country, CIR unearthed a sample of 100 cases in which companies have sued workers for actions as commonplace as changing jobs.

Frontline: DoL can't investigate, reform impossible

Maria L. Ontiveros, Professor of Law, University of San Francisco. "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers", 38 Berkeley J. Emp. & Lab. L. 1 (2017).

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell> //JA

Unfortunately, **recent case law constrains the ability of the Department of Labor to investigate effectively allegations of wage theft by body shops. In** Greater Missouri Medical Pro-Care Providers Inc. (**“GMM”**) **v. Perez**,¹⁸² an employee filed a complaint with state officials alleging a variety of workplace violations. GMM “provides physical and occupational therapists to serve in hospitals, nursing homes and similar facilities” by filling out numerous LCA’s and hiring physical and occupation therapists from the Philippines.¹⁸³ According to the allegations, its operations were characteristic of most body shops. The worker complained that she was required to pay all of the fees to file and extend her H-1B visa, including attorney’s fees; was required to stay with others in company-paid apartment during the time she studied for and took a licensing exam; was only paid \$50 per week for food during that non-productive time; and that her contract contained an illegal fee for early termination. The complaint was forwarded to the Department of Labor, which treated it as an “aggrieved party complaint”¹⁸⁴ and found reasonable cause to investigate whether the contract contained an illegal penalty for ceasing employment early. The Department of Labor, in accordance with its regular policy, then conducted a full investigation of all the H-1B employees at the employer “to determine if any violations exist under H-1B and to see if there are any violations to any employee during the relevant time period.”¹⁸⁵ It found that the employer owed back wages to forty employees for benching violations, in the amount of approximately \$340,000; owed about \$8,000 to seventeen employees for illegal fee deductions; and owed over \$8,200 to four employees for illegally withholding paychecks. On review, the award for back wages was decreased to approximately \$105,000 because the original award included pay for time that was beyond the twelve-month statute of limitations.¹⁸⁶ The District Court upheld the award, and the employer appealed to the Eighth Circuit Court of Appeals. **The Eighth Circuit** reversed the judgment of the District Court. It **held that the Department of Labor could not initiate an investigation based on a specific complaint by an aggrieved party and then conduct** a full-scale **investigation into** all the **H-1B visa practices** of that employer. It stated that the DOL would have to open a new investigation under a different provision of the visa statute in order to inquire into these other matters. Because the DOL had exceeded its investigatory powers, **the appeals court threw out the award, thereby limiting the DOL’s ability to investigate broadly the policies and practices of body shop employers.**

Fulmer, Christopher. “A CRITICAL LOOK AT THE H-1B VISA PROGRAM AND ITS EFFECTS ON U.S. AND FOREIGN WORKERS—A CONTROVERSIAL PROGRAM UNHINGED FROM ITS ORIGINAL INTENT .” Lewis & Clark Law Review, 16 Sept. 2009, pp. 823–860., www.lclark.edu/live/files/2196. //JA

Arguments on both sides of the H-1B debate have reached a feverish pitch in recent years. **While the debate continues and H-1B visa demand grows, the annual cap remains** at eighty-five thousand. Perhaps **the reason why Congress has not enacted any of the many bills to raise the cap is that its flaws have finally been exposed.** While **Congress would be ill advised to raise the cap without improving protections** for U.S. and foreign **workers**, it would also be remiss to maintain the H-1B program as it currently is. It is likely that once the much needed worker protections are built in, the old cost-saving reasons for hiring H-1Bs will disappear, and demand for the visa will fall. Uniquely skilled foreign workers will be compensated on par with their American counterparts, and the original intent of the program will be realized.

Impact

Respecting the rights of workers must always come first, proceeding any other concern. This is for three reasons

1. Analogy. Ontiveros 17 writes: When guest workers are brought to the United States for their labor, but denied their human rights, they are commodified and viewed as labor, not as human beings. This is uncomfortably similar to the ultimate commodification of human beings that took place during slavery where people, also immigrants, were literally bought and sold. The wrong of slavery was the commodification and dehumanization of a racially defined group of workers. The H1B program is simply the most recent program created to bring in Asian immigrant workers, keep them powerless, and push “non-white workers into commodity status, further disempowering them, while simultaneously benefiting capital. No system that masks enslavement is justified, regardless of any exterior utility it may bring

Maria L. Ontiveros, Professor of Law, University of San Francisco. “H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers”, 38 Berkeley J. Emp. & Lab. L. 1 (2017).

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell> //JA

One way to conceive of slavery is as the nation’s first immigration policy.¹⁴⁷ Slaves were brought to the United States to work, under an official policy that infringed their human rights, their labor rights, their citizen rights, and their civil rights in order to maximize production and maintain a system of racial supremacy.¹⁴⁸ The history of guest worker programs in the agricultural industry continued this system of oppression.¹⁴⁹

When guest workers are brought to the United States for their labor, but denied their human rights,

they are commodified and viewed as labor, not as human beings. This is uncomfortably similar to the ultimate commodification of human beings that took place during slavery where people, also immigrants, were literally bought and sold. As discussed in the context of undocumented workers and guest workers, **“[t]he wrong of slavery was the commodification and**

dehumanization of a racially defined group of workers.” The H1B program is simply the most recent program created to bring in Asian immigrant workers, keep them powerless, and push “non-white workers into commodity status, further disempowering them, while simultaneously benefiting capital.”

For Asian immigrants, the history of oppressive labor immigration systems includes the recruitment of workers in Hawaiian sugarcane plantations, California gold mines, and for the construction of the transcontinental railroad, as well as for California agriculture. On the Hawaiian sugarcane plantations, “Filipinos” were listed on supply manifests right in between “fertilizer” and “fuel.” H-1B workers are procured through an immigration system based on race.¹⁵⁶ **Their labor is incorporated, allocated, controlled and compensated through the immigration system. In these ways, this immigration system commodifying and disempowering H-1B workers echoes the system of chattel slavery.**

H-1Bs are fundamentally exploitative because it’s based on the use of unfree labor

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, “H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers,” BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW,

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

Another form of wage theft occurs when the body shop completes an H-1B visa for a fictitious job in an area with a relatively low prevailing wage rate (such as Coon Rapids, Iowa) but then places the employee in a job in a different geographic region (such as New Jersey) that requires a higher rate of pay. The employee is paid at the lower rate, while the employer collects the higher rate and keeps the difference.¹²⁷ *Roger, Raji and Sanjiv* all suffer along a continuum of exploitation. **The guest worker program facilitates this exploitation because it is based on the creation and use of unfree labor.** The United States' most notorious system of unfree labor was the institution of chattel slavery practiced before the Civil War. Although the Thirteenth Amendment to the U.S. Constitution states "neither slavery nor involuntary servitude . . . shall exist with the United States,"¹²⁸ **there are echoes of slavery and involuntary servitude in many current labor situations that have been described as "modern day slavery"** and criticized as violations of the Thirteenth Amendment.¹²⁹ Current guest worker programs contain many of the hallmarks of slavery and involuntary servitude.¹³⁰ **Their echoes are present in the constraints placed upon a guest worker's ability to protest poor working conditions or quit employment, which destroys the floor for free labor. There are also echoes of old slave codes in the visa sponsor's "ownership" and "control" of the guest worker's labor.** Finally, **echoes of slavery exist in the commodification of immigrants as part of the human supply chain and in the ways in which the citizenship right of guest workers are constrained. Although high technology workers earning \$40,000 - \$60,000 per year in 21st century America obviously do not labor in the same conditions as chattel slaves, their treatment is arguably a difference of degree, not of kind.** Examining the unfree labor aspects of the guest worker program provides a framework for understanding how guest worker exploitation operates and provides insights for ways to address that exploitation.

2. US Government Obligation. Lenard 11 explains: liberal democratic communities are defined by a commitment to the inclusion of all on an equal basis; the concern for equal treatment that demands that equal work is paid equally. The existence of partial members of society is our failure to live up to the democratic principles we claim to uphold. We are perpetuating injustice, and this constitutes harm to us.

Lenard 11 Patti Tamara Lenard [University of Ottawa], 2011 "Temporary labour migration, global redistribution, and democratic justice," *Politics, Philosophy & Economics*, 10.1177/1470594X10392338 //DF

In part, it seems, this mistake is so easily made because it is taken, by the critics, to be obvious that the relevant concern for guest-workers is how they fare in relation to members of their home country. If guest-work opportunities permit them to flourish in relation to citizens of their home country, we can conclude that justice is served in the right way. **This sort of argument might permit, for example, justifications for paying guest-workers less than local workers for equivalent work** (thus making guest-workers even more lucrative for the receiving societies, though perhaps to the detriment of those who would otherwise compete with guest-workers for these positions, which is something that we will discuss in the next section). **From this perspective, what is relevant is simply whether the opportunities available to guest-workers enable them to realize goals 'back home', and therefore the principle of political justice, or inclusion, that underpins our arguments here is irrelevant.** If guest-workers intend, or are required, to return home, there is no reason to assume they require a wage that would permit them to survive in the host economy over the long term. **A concern for global justice in this instance might therefore seem to permit violating the principles of reciprocity and equal treatment that define liberal democratic communities.** **This possible conclusion can now be rejected since, as we have argued, liberal democratic communities are defined by a commitment to the inclusion of all on an equal basis; the concern for equal treatment that demands that equal work is paid equally, in other words, derives from the political rights to which we believe guest-workers are entitled.** It should be clear, now, that individual guest-workers are harmed as a result of their inability to access citizenship rights. What may seem less clear, perhaps, is that the receiving society is

equally harmed as a result of its willingness to condone injustice of this kind within its boundaries. **The existence of partial members, whose access to the political environment is restricted, is our failure to live up to the democratic principles we claim to uphold. We are perpetuating injustice, in other words, and this constitutes harm to us.** The willingness to condone restricted rights access for some individuals additionally suggests the possibility that we shall be willing to do the same in the future; indeed, the ongoing attempts to restrict immigrant rights in receiving countries can be seen as part of a slippery slope whereby rights are constrained for more and more individuals. As Stephen Castles writes, 'the failure to grant social rights to any group of residents leads to social divisions that can undermine the rights of the majority' (2004: 869). One way to reverse this trend, therefore, is to refuse to constrain rights for all migrants.

R2R

We negate, Resolved: the U.S. government should increase its quota of H-1B visas.

Our Sole contention is Brain Drain.

India's economy is on the rise. Iyengar 18 at CNN reports: with a 7.2% GDP growth rate, India is currently the world's fastest growing economy.

A lot of this growth is fueled by progress in the tech sector, which the Indian government is backing. The Economic Times 18 writes: India's new-age enterprise is taking off as innovative startups mushroom because the government is keen to make doing tech business easier.

Even skilled workers who left are returning now, looking to benefit from the new opportunities. Indian newspaper, The Hindu 17, reports: Over 1,000 Indian scientists working abroad have returned to India in the last two years because they feel that India is changing and they can fulfil their ambitions here.

All of these good times are fundamentally enabled by the low H-1B visa quota, which restricts the number of workers who can enter the US. IndiaSpecial 9 explains: the low H-1B visa cap is a blessing in disguise for India, enabling more entrepreneurship to remain in India and growing the economy.

However, raising the H-1B quota would drive more Indian workers to the United States, depriving the country of the talent needed to grow the economy. This would happen in two ways.

First, worker flight.

Mani 09 at the Center for Development Studies writes: high skilled migration from India has a detrimental consequences on the supply of high skilled personnel by encouraging workers to move to America.

Those that leave do not often return. Gan 17 at Boston College explains: the only way to reconcile the effect of worker flight is if these Indian immigrants were to return. But since we see a flight of human capital in the first place, high skilled migrants find higher returns in the U.S. and prefer to stay, especially given the great geographic distances between India and the US.

In fact, Mani finds: more than 50 percent of all H-1B workers end up staying in the US.

Second, student flight.

Kato at Colgate University explains in 2011: Foreign students often study in the United States hoping that an American undergraduate education will serve as a gateway to longer-term US employment.

Because employment is a main goal of foreign students studying in the US, they are highly reactive to changes in the chance of securing a job. In 2003, the US lowered the H-1B visa cap from 195,000 to the current level of 65,000. This decrease, according to Kato, led to a 14% decline in undergraduate enrollment of foreign students, likely because many students felt that they would have worse chances of getting a job. However, raising the visa cap would increase the probability that students get US jobs, likely increasing foreign enrollment.

The exit of more Indian students to foreign colleges presents a huge problem for India, because many of them never come back. Watts 07 at the Guardian writes: seven out of every 10 students who enroll in an overseas university never return to live in their homeland, seeking higher living standards and brighter career opportunities.

The loss of a skilled labor force destroys India's economic growth. Haque 07 at the Pakistan Institute of Development Economics writes: human capital flight generates a permanent reduction of per capita growth in the home country and that the magnitude of this reduction is proportional to the fraction of the population that has migrated.

This effect spills over to investors. Gan 17 at Boston College explains: the flight of some of the country's most high-skilled workers can make India less appealing for direct foreign investment thus hindering the growth and development of "high technology clusters" and institutions, especially universities.

Overall, this will be really bad for India's economy. Desai at Harvard examined when the cap was increased in 2001. He found that this increase decreased income for Indians by 1.5% of GDP.

Lower incomes for Indians will increase poverty. Tambunan of the Center for Industrial Economic Studies finds: an increase in per capita income growth translates into a one-for-one increase in average income of the poorest 40%.

Thus, we negate.

Nye 15 at Harvard University explains: India has a window of opportunity for significant change. With Prime Minister Narendra Modi elected to office after a campaign focused on job creation and economic growth—not the sops and welfare promises typically seen as vote-getters. It is the first time in India's history that a national election featured a campaign about economic growth, which also means that if Modi cannot deliver on growth and jobs, public disillusionment may result in Indian politics reverting to its usual ways

Nye 15 Joseph S. Nye [Harvard University], 2015 "Working With a Rising India A Joint Venture for the New Century," Council on Foreign Relations //DF

Successive U.S. administrations have bet on India, seeing its rise and its emerging capabilities as squarely aligned with U.S. national security interests. Call it an American consensus: India now matters to U.S. interests in virtually every dimension of geopolitics. India's growing military capabilities can help protect the sea lanes and deliver humanitarian assistance quickly throughout the region, as its leading response to the Nepal earthquake and the evacuations from Yemen demonstrated this year. India's long-standing stability anchors the volatile Indian Ocean region and helps ensure that no single power dominates the Asia Pacific, leading to a stable balance of power. Given India's sheer scale, complex global challenges such as climate change, cybersecurity, and health cannot be solved without it. And in a world in which authoritarianism poses new threats to the interests of the United States and its allies—with Russia under Vladimir Putin for the foreseeable future, and China under Xi Jinping escalating activities in the South China Sea, cyber arena, and elsewhere—supporting democracy will be of even greater importance to U.S. interests. Today, India has a window of opportunity for significant change. With Prime Minister Narendra Modi elected to office after a campaign focused on job creation and economic growth—not the sops and welfare promises typically seen as vote-getters—India may at last be able to translate its long-heralded power potential into reality. It is the first time in India's history that a national election featured a campaign about economic growth, which also means that if Modi cannot deliver on growth and jobs, public disillusionment may result in Indian politics reverting to its usual ways. The window for

making the reforms needed to unleash high rates of growth may not be open forever, which makes this moment all the more decisive. Over the last year, the Indian economy has regained momentum after a slow period from 2011 to 2014, when annual GDP growth dropped as low as 5.1 percent. India's 7.5 percent growth rate this year also stands out against slowing global growth. In fact, India's growth has surpassed China's this year, making it the fastest-growing major economy in the world. The Task Force finds that if India can maintain its current growth rate, let alone attain sustained double digits, it has the potential over the next twenty to thirty years to follow China on the path to becoming another \$10 trillion economy. This places India at a unique moment in which the right choices could propel it to far greater relevance for global GDP growth in the decades to come. Consequently, nothing is more important to India's future success—across all facets of national power—than achieving sustained high levels of annual economic growth. The natural corollary to that observation lies in the opportunity India's economic growth presents for global prosperity.

Frontlines

Brain Drain

R/T Other Countries

Battachayara explains that Indian workers are being shut out of tons of countries. The UK is adding English-language requirements and banning short-term transfers; student enrollment has dropped 10% in the last couple years.

Battacharya 17 Ananya Bhattacharya, 4-20-2017, "Everywhere Indian engineers are unwanted," Quartz, <https://qz.com/963530/h-1b-its-not-just-trumps-america-indian-techies-are-unwanted-from-east-to-west/> /DF

The UK is increasingly less hospitable for Indian students and workers alike. In 2012, the country abolished its post-study work visa that let fresh graduates remain in the country for two years, so all those who did not graduate with a job in hand had to pack their bags and leave. The government also raised the maintenance funds (living expenses) a student needed to have in their bank accounts by 24% in 2015, shutting out some of the internal student population because of the ballooning cost. Between 2014 and 2015, the number of first-year Indians enrolling in UK universities dropped 10% from 11,270 to 10,125. Indian workers, who hold nearly 60% of the skilled foreign worker visas in the UK, faced similar woes as the country raised the salary threshold for different visas and added new English language requirements. Under the new

rules, Tier 2 short-term intra-company transfers—the provision under which Indian tech companies typically take their workers to the UK—would be discontinued. This change went into effect on April 6. Although British Chancellor Phillip Hammond assured India that efforts to shrink migration of less-skilled labour would not impact India adversely, that did not hold true. At least 30,000 Indian software professionals currently working in the UK will not have their work permits renewed, India's National Association of Software and Services Companies (Nasscom) told The Hindu Business Line.

Battacharya 17 Ananya Bhattacharya, 4-20-2017, "Everywhere Indian engineers are unwanted," Quartz, <https://qz.com/963530/h-1b-its-not-just-trumps-america-indian-techies-are-unwanted-from-east-to-west/> /DF

The 5.6-million-strong island nation of **Singapore has upped the resistance against Indian techies in recent years**. In order to make sure that companies have a "Singapore core," and to address concerns about overpopulation, **officials have been "shutting the tap down" on Indian workers**, according to Nasscom. In 2015, Singapore adopted the Fair Consideration Framework to ensure employers are considering Singaporeans for vacancies. It requires, among other things, that an employer with over 25 employees advertise a vacancy for two weeks before applying for an employment pass for an international worker. Singaporean authorities are also reportedly asking Indian tech companies based in the region to carry out labor market testing, which Nasscom says violates the 2005 economic cooperation agreement between the two countries. Other measures to curb foreign worker populations include raising the bar for salaries and English proficiency. Before these recent efforts, Indian tech companies were awarded between 5,000 and 10,000 work permits each year. Recently, the total population of Indian techies in Singapore has shriveled to under 10,000, NDTV reported. Applications—which typically took two to four weeks to process—have been held up for months, Nasscom said.

Doctor Brain Drain

Link – A2: No Cap for Doctors

No, the cap definitely applies to them

Susser 17, 6-28-2017, "ABCs of Immigration: Cap-Exemption Strategies For the H-1B Visa Category," Siskind Susser PC

<http://www.visalaw.com/abcs-immigration-cap-exemption-strategies-h-1b-visa-category/> //DF

The limitations placed upon the number of H-1B visas which can be granted each year to professional workers are one of the most confounding aspects of the United States employment-based immigration system. That allotment of 65,000 was decided upon nearly a quarter-century ago and has failed to grow despite the country's gross domestic product per capita is about 50 percent larger than the H-1B cap was originally set. Furthermore, the economy is far more globalized than it was when it was created in 1990, and American employers, with the purpose of remaining effective, often need to bring in highly specialized talent from abroad. **Because H-1B numbers are almost always expended before physicians generally are able to complete their training in June, the cap particularly affects doctors.** It is possible for employers to file H-1B visas on April 1 which would give them a chance (in 2005 that would have been roughly one in three); for many, however, either licensing cannot be completed in time or the job offer comes too late. Also, many employers cannot wait months, or even years, for an H-1B cap number.

Exploitation

R/T Their Choice

1. Guest worker programs deny people choice

2. Lenard 11 explains that just because they choose guest-work in developed countries over poverty in their home countries doesn't mean that they would choose that if they had more options to pick from; this is just the only option they might have

3. It is a mistake to think that the only issue of moral relevance should be maximizing choice, especially since democracies constrain the agency of their citizens all the time to protect their rights. For example, some people might be willing to work for less than minimum wage, but we 'constrain' these individuals by requiring that minimum wage standards are respected. This is a constraint that we are prepared to justify because it protects citizens from harm. We should be unwilling to relax our commitment to democratic principles for guest-workers simply because they might be willing to work in unjust conditions.

Lenard 11 Patti Tamara Lenard [University of Ottawa], 2011 "Temporary labour migration, global redistribution, and democratic justice," Politics, Philosophy & Economics, 10.1177/1470594X10392338 //DF

For those for whom the trade is legitimate, it is a mistake to consider expanding the rights of guest-workers seriously, since there is no real moral question at stake in what we have described above. Insisting on extensive rights for migrants, rather, fails to acknowledge the genuine agency of migrants who are themselves willing to forgo any claim they have to apply for full membership in a given political community for the opportunity to participate in (what are to them lucrative) guest-worker programmes. On this view, a certain kind of paternalism is evident among western liberals who insist that guest-workers must be entitled to extensive rights, whereas giving proper attention to the stated desires (that is, the agency) of guest-workers worldwide suggests a genuine willingness on their part to accept restricted rights in exchange for the opportunities provided by guest-work.¹³ The conditions under which guest-workers choose to participate in these programmes should satisfy us that they are genuinely consenting. As a result, we ought to respect the agency of guest-workers who willingly accept the constraints on their actions, even if we may believe that the conditions they accept are unjust. This position rests on two mistakes, however. First, since the conditions of guest-work are determined in advance by the receiving society, it is misleading to conceive the current preferences of guest-workers as the choice they would make given other options. That they choose guest-work in developed countries over poverty in their home countries is not unreasonable in other words, but it is a mistake to conclude from this choice that they would then choose guest-work over full membership if this choice was made available to them instead. Guest-workers, in many cases, choose guest-work because full membership is unavailable to them; immigration intake regimes in developed countries place considerable obstacles in the way of poor potential migrants who would, if given the option, migrate permanently to developed countries. Second, it is a mistake to think that the only issue of moral relevance should be maximizing agency, especially since democracies constrain the agency of their citizens as a matter of course. Take minimum wage requirements for example – it might well be

the case that some individuals would be willing to work for less than minimum wage, but we 'constrain' these individuals by requiring that minimum wage standards are respected. In so doing, we may prevent some people from having an opportunity to work in the first place – employers may simply not have the resources to pay additional workers (where they would do so if they were not required to respect minimum wage standards). **This is a constraint that we are prepared to justify to those who 'fall victim' to it, and the justifications are made largely in terms of protecting citizens from harm, from coercion, and so on.**¹⁴ **Our willingness to 'constrain' the choices of temporary workers, by granting them rights, is simply a decision to apply the principles to which we are committed to all those who reside within our boundaries. We should, in other words, be unwilling to relax our commitment to democratic principles with respect to guest-workers simply because they might be willing to labour under conditions of injustice.**¹⁵

R/T Better-Off Here Than There

1. Maybe in absolute terms migrants make more here than there, but not in relative terms. When they come to the US, they're still put in the underclass

This justifies their suffering and writes it off as just what all immigrants have to go through

Banerjee 14 Payal Banerjee, [Department of Sociology, Smith College], 2014, "THE INSECURITIZATION OF IMMIGRANT LABOUR: ASIAN INDIANS IN THE UNITED STATES," Man In India, <http://www.serialsjournals.com/serialjournalmanager/pdf/1401262969.pdf> //DF

What is the sociological significance of the narratives shared by Auntie-ji and Singh-ji and those of the IT professionals and how do we interpret them to gain a better understanding of the intersections among the state, the global economy, and immigration? If neoclassical economics-based migration theories are used to frame their narratives, then unfortunately we are left with a rather simplistic analysis: that the couple's migration, facilitated by a form of network or chain migration through family-members, is a reflection of people's movement from low-wage countries to high-wage countries based on individual rational choice subsequent to cost-benefit equations about the potential rewards of migration. This argument about wage-differentials would also be applied to explain the migration of Indian IT professionals. **This view, entrenched in ahistorical assumptions of high and low-wage countries, does not take us beyond the framework of rational-choice individualism in favor of migration to high-wage economies.** Furthermore, **the immigrants' hardships get lodged within a quintessential lineage of struggles that all immigrants –white and non-white—experience in their quest to improve their lives.** But, the immigrant biographies of Singh-ji and Auntie-ji in the lower-income service sector along with those of the **IT professionals in the much higher-salaried skilled sector, compel us to probe deeper and figure out the institutional and structural bases of their experiences.** Theories of migration informed by World-systems theory and a critique of transnational capitalism draw our attention to the ways in which international migration is linked with the course of capitalism and the socioeconomic and political processes of expanding global markets (Cheng and Bonacich 1984; Sassen 1998). As such, it reveals the following relationships: expansion and entry of capitalism in the developing world play a central role in international migration; capital penetration, e.g., foreign direct investment, frequently results in the transformation of economic infrastructure, which in turn leads to displacement and dispossession causing migration; former colonial linkages serve as a catalyst in capitalist expansions and economic shifts associated with labour recruitment and international migration; governments of advanced capitalist countries protect their economic interests overseas through political and economic interventions, which cause conflict, displacement, and refugee problems and thus lead to migration (Massey et al. 1993).

2. Liberal democratic communities are defined by a commitment to the inclusion of all on an equal basis; the concern for equal treatment that demands that equal work is paid equally derives from the political rights to which we believe guest-workers are entitled.

Lenard 11 Patti Tamara Lenard [University of Ottawa], 2011 "Temporary labour migration, global redistribution, and democratic justice," Politics, Philosophy & Economics, 10.1177/1470594X10392338 //DF

In part, it seems, this mistake is so easily made because it is taken, by the critics, to be obvious that the relevant concern for guest-workers is how they fare in relation to members of their home country. If guest-work opportunities permit them to flourish in relation to citizens of their home country, we can conclude that justice is served in the right way. This sort of argument might permit, for example, justifications for paying guest-workers less than local workers for equivalent work (thus making guest-workers even more lucrative for the receiving societies, though perhaps to the detriment of those who would otherwise compete with guest-workers for these positions, which is some- thing that we will discuss in the next section). From this perspective, what is relevant is simply whether the opportunities available to guest-workers enable them to realize goals 'back home', and therefore the principle of political justice, or inclusion, that underpins our arguments here is irrelevant. If guest-workers intend, or are required, to return home, there is no reason to assume they require a wage that would permit them to survive in the host economy over the long term. A concern for global justice in this instance might therefore seem to permit violating the principles of reciprocity and equal treatment that define liberal democratic communities. This possible conclusion can now be rejected since, as we have argued, liberal democratic communities are defined by a commitment to the inclusion of all on an equal basis; the concern for equal treatment that demands that equal work is paid equally, in other words, derives from the political rights to which we believe guest-workers are entitled. It should be clear, now, that individual guest-workers are harmed as a result of their inability to access citizenship rights. What may seem less clear, perhaps, is that the receiving society is equally harmed as a result of its willingness to condone injustice of this kind within its boundaries. The existence of partial members, whose access to the political environment is restricted, is our failure to live up to the democratic principles we claim to uphold. We are perpetuating injustice, in other words, and this constitutes harm to us. The willingness to condone restricted rights access for some individuals additionally suggests the possibility that we shall be willing to do the same in the future; indeed, the ongoing attempts to restrict immigrant rights in receiving countries can be seen as part of a slippery slope whereby rights are constrained for more and more individuals. As Stephen Castles writes, 'the failure to grant social rights to any group of residents leads to social divisions that can undermine the rights of the majority' (2004: 869). One way to reverse this trend, therefore, is to refuse to constrain rights for all migrants.

R/T Job Switching

Most H-1Bs can't find a new job if they are fired or quit

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers," BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW,

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

The H-1B visa allows a worker to stay in the United States for three years.³⁵ After that time, it can be renewed for another three years.³⁶ If an individual wants to stay in the United States longer than those six years, he must apply for and receive a "green card," which confers the status as a "legal permanent resident."³⁷ After being in green card status for a number of years, the individual can apply for naturalization to become a U.S. citizen.³⁸ Significantly, the H-1B visa is a work visa; it is not an immigrant visa. It allows an employee to stay in the United States for as long as he is connected to an employer with a valid H-1B opening.³⁹ Generally that means that the employee must remain with the company

that originally sponsored his H-1B visa. If he wants to quit, he must be able to find another company that has an H-1B opening and is willing to hire him. Otherwise, he will no longer have the legal right to be in the United States, and becomes deportable.⁴⁰ Although some highly skilled H-1B workers are able to transition to new employers, most are unable to do so. The DOL and USCIS require employers to provide H-1B workers with transportation back to their home country upon discharge. 2. Problems Life for Raj Patel, working as a “pure” H-1B, is not so bad. He earns far more than he would have in India, is treated reasonably well, and may be on a path to becoming a United States citizen. Unfortunately, things do not always go as planned or described in the immigrations rules, even for the pure H-1B. The biggest problems arise from being underpaid, overworked, and feeling unable to complain for fear of having a visa revoked and being deported.

R/T Reform

Generic

1. There is no unanimous support for H-1B reforms; even bipartisan reform bills have been attempted multiple times with no success

Popper 17 Ben Popper, 4-20-2017, "The H-1B visa system has been broken for decades. Now workers want Trump to fix it," Verge, <https://www.theverge.com/2017/4/20/15370248/trump-h-1b-visa-reform-tech-worker-outsourcing-cap> //DF

Trump’s executive order does not increase the H-1B cap, but the administration says it is asking government agencies for suggestions on how to do away with the lottery format, and instead implement a process that favors higher-wage workers first. That move would echo a 2007 bipartisan bill crafted by Senators Dick Durbin, a Democrat from Illinois, and Chuck Grassley, a Republican from Iowa, that has been floated several time with no success. The bill would replace the current system with a preference system that would favor students and those being paid higher wages. A second bill introduced last year by California Congressman Darrell Issa would tweak the hiring requirements so that companies have to show they tried to hire an American for any position paying \$100,000 or less, up from \$60,000. It would also do away with the exemption that allows companies to displace American workers if their replacement has a master’s degree or better. But it would leave the current lottery system in place. **Not everyone in Washington agrees that reforms or cutbacks are needed. Senators like Orrin Hatch of Utah and Marco Rubio of Florida have been pushing** an updated version of a bill known as “I-Squared” that would dramatically increase the number of visas approved each year but not drastically raise the requirements, moving the cap from 65,000 back to the 195,000 level it hit in 2000. “The simplest, quickest, easiest fix out there is the Durbin-Grassley bill, I think, but the tech community has been dead set against it,” says Daniel Costa, director of immigration law and policy research at the Economic Policy Institute. The I Squared bill, says Costa, is a gift to the tech industry, offering “many more numbers and no real reforms.” He says that while Trump’s proposal calls for stronger enforcement, it isn’t very specific, and that deeper reform is needed. “What we’re all talking about here is really just sort of minimum basic standards to make this thing not be a total corporate scam.” In the current system, Costa believes that “US workers are getting screwed and migrant workers who come here are getting screwed as well.”

2. Even if reforms increase federal enforcement, they still don’t give H-1Bs more protections in the courts

Stonawski 13 Rebecca Stonawski [Political Science Department, Concordia University Wisconsin], 2013 “Understanding Proposed Changes to the H-1B Visa: Protecting American Government Interests, Improving the Opportunities for American Companies, or Potentially Hurting Hopeful Immigrants?,” Journal Laws, doi:10.3390/laws2030233 //DF

One key problem with the immigration reform bill is that immigrants still lack court protections granted to American citizens. On paper, legal immigrant workers should receive prevailing wages. The law also says that H-1B victims should not suffer from retaliation and discrimination by their employer; however,

use of the court system is not possible [14]. H-1B workers who feel that their rights have been violated, i.e., through the withholding of wages, discrimination, etc., may file complaints with the federal government, but no further substantial legal rights belong to them. The problem is that there is little recourse for H-1B visa holders who are let go or pass six years without receiving permanent residency. First, H-1B visa holders have few protections when their positions are terminated. The US government requires that H-1B workers be notified of termination, that the US Citizenship and Immigration Services also be notified, and that the company offers to pay the H-1B worker for the costs of return abroad [15]. If an employee feels that this is not done correctly, she cannot ask a court for help. She may file a complaint with the US Citizenship and Immigration Services (USCIS), but USCIS is not required to enforce these employer obligations nor are there any regulatory mechanisms for the employee's protections [16]. This essentially means that when an H-1B holder loses her job, she receives a letter and a ticket back to her home country, with no other protections for her or her family. While a ticket back home may sound generous, the timing is not. While no general rule exists, a common misnomer is that H-1B visa holders have only 10 days to leave the country. It is true that an H-1B employee falls out of immigration status as soon as she is terminated from employment. It is possible that another company could hire the individual or that she could file for another visa status such as a visitor to the US. However, there are no guarantees, and by staying in the US, the out-of-status immigrant lacks protections, and the potential for future legal entrance to the US [16].

3. Still no path to a green card

Stonawski 13 Rebecca Stonawski [Political Science Department, Concordia University Wisconsin], 2013 "Understanding Proposed Changes to the H-1B Visa: Protecting American Government Interests, Improving the Opportunities for American Companies, or Potentially Hurting Hopeful Immigrants?," Journal Laws, doi:10.3390/laws2030233 //DF

The only option then is for H-1B visa holders to hope that their employers will keep them and help them to successfully apply for permanent residency. This causes further complications. First, employers know that they have a six-year window in which to utilize a foreign employee. During that time, the employee must stay with the company if she wishes to remain in the US. This may lead to a delay by companies to file for permanent residency. In other words, they can keep foreigners at low pay for up to six years or until the person receives permanent residency. With permanent residency, the H-1B holder can look for other jobs. Therefore, the best option is to delay filing for employees as long as possible. Employers are also incentivized not to apply for their employee's permanent residency by the actual government procedure. Most companies must hire expensive [17] attorneys to file the paperwork, and the actual application process requires much oversight and dedication by a company's HR personnel. In addition, the rate of success is quite low. H-1B petitions are often denied by the US government. Since 1999, only 56% of H-1B petitions for long-term permanent residency status were approved [18]. With the legal and HR costs involved, a 56% percent return may not be enough for many employers. With this in mind, immigrants are caught in a Catch-22 situation. If they apply for the visa and are denied, their employer will be less willing to do the paperwork and pay the costs of applying again. Second, if an employee wishes to stay in the US to make a better financial future for herself, she may also delay application for permanent residency—especially if she knows her company lacks the incentive to apply again. This means that she is stuck with the lower wages her company offers her for six years and the knowledge that she is probably leaving the US at the end of her term.

R/T Trump

Trump isn't undergoing substantial or fundamental reform

Buga 18 Bunga Buga, 3-19-2018, "The H-1B Visa Resistance Movement is Underway," Dice Insights, <https://insights.dice.com/2018/03/19/h-1b-visa-resistance-movement-underway/> //DF

Even before President Trump officially took office last year, the prospect of H-1B reform was real. Now it seems that the Trump administration is pushing through some reforms, which is sparking some pushback. **Reform hasn't happened as some expected. There was no sweeping change** at the behest of the White House, and no party-line maneuvering (at least, not yet). **Instead, the White House is trying to prevent spouses of H-1B visa holders from obtaining H-4 visas, which would allow them to work while they're in the United States.** Meanwhile, various **bills meant to reframe H-1B are mired in political red tape.** Trump also ordered the departments of Homeland Security, Justice, Labor, and State to review H-1B policy. This was a precursor to the United States Citizenship and Immigration Services (USCIS) implementing a policy that companies seeking H-1B employees had to prove they were filling specialty roles. **The renewal process is also tougher under these new guidelines; H-1B visa holders will face the same scrutiny in renewing as they did in gaining a visa in the first place. It all amounts to something, but it's still not the full-fledged reform some have wanted.** It's also not what candidate Trump promised. At a campaign rally before winning the Presidency, Trump claimed he would end the use of H-1B "as a cheap labor program, and institute an absolute requirement to hire American workers first for every visa and immigration program." In an interview with Silicon Republic, Richard Burke, CEO of Envoy (a company that helps businesses navigate the H-1B process), said US companies are already feeling the pinch from Trump's subtle jabs. He claimed 26 percent of companies that Envoy works with are delaying projects, and 14 percent say they won't be able to fulfill client projects. Around 25 percent are facing budget increases, with 22 percent claiming to have moved work overseas. "If we can't hire the best from around the world to work here, because either we don't have the immigration system to support or immigrants are unwilling to come here anymore, then these high-paying jobs will be moved overseas," Burke told the publication.

Weighing

Why brain drain is important (short term econ growth)

- Magnitude / Helping Indian citizens in the slightest may take them out of poverty or feed them for a week, but helping Americans won't have as much of an impact.

Protectionist Policies vs. US Cybersecurity

Protectionist Policies vs. US Job Creation

1. Doesn't make sense: why can't the US take a policy action that works for the greater global good?

Ex. more liberal trade policies that may be somewhat disadvantageous for a US industry, like steel, but good for global free trade.

2. Problematic restriction: the idea that we should preclude discussion of the effect of policy on other peoples presupposes American superiority and justifies mistreating others in the name of nationalism.

Ex. deporting illegal immigrants that are violating our laws but fleeing violence and poverty

3. Thompson 17 explains that we have an obligation to help others because birth is a lottery, by which some infants are randomly gifted the guarantees and opportunities of a rich country while other infants are randomly subjugated to poverty and suffering – nationalist justifications are illusory

4. (ONLY IF READING INDIA STUFF) - Indian growth is in the best interest of the US as well. Karabell of the Slate explains that growing Indian middle class means a greater demand for global goods, which directly benefits the US economy. For example, in the early 2000's, when the Chinese middle class began to grow, a huge consumer market developed there which greatly increased the profitability of Nike, an American company.

because we're randomly born into this nation

Thompson 17 Derek Thompson, 2-15-2017, "Is the H-1B Program a Cynical Attempt to Undercut American Workers?," Atlantic,

<https://www.theatlantic.com/business/archive/2017/02/the-dark-side-of-the-h-1b-program/516813//DF>

Finally, in the broader context of immigration policy, it is dispiriting that both conservative and liberal Americans remain so uninterested in improving the lives of people who didn't happen to be born on American soil. Yes, the H-1B program may be a fixed lottery system to benefit a handful of individuals at the expense of others. But so is American citizenship. **Birth is a lottery, by which some infants are**

randomly gifted the guarantees and opportunities of a rich country while other infants are randomly subjugated to poverty and suffering. Fully eliminating this inequity would require the dissolution of the nation-state, which is

going too far. But **what about economic policies that dramatically improve the lives of foreigners and only hurt Americans a little bit?** The political case against such a law is obvious. The moral case is harder to make.

Growth in India increases the strength of the middle class which increases the demand for global goods which stimulates the US economy

Zachary Karabell. (Slate). How India's Economic Rise Could Bolster America's Economy. 7/2/14.

http://www.slate.com/articles/business/the_edgy_optimist/2014/07/india_s_economic_rise_it_could_do_for_the_2010s_what_china_did_at_the_turn.html

But what if, with the aid of Modi's reforms, India's growth outstrips even the more optimistic predictions? **What if instead of growing an anticipated 6 percent a year, India accelerates to 8 percent or 9 percent a year, with several hundred millions of ascendant middle-class consumers becoming more than half a billion in 15 years, or even 10. The demand for goods, services, and materials will far exceed current expectations, which will appreciably catalyze global growth.** Obviously, it is easier to have boundless potential than to deliver true dynamic change.

If Modi and his party do deliver, **the impact will be felt not just in India but across the global economy. The effect will be comparable to what happened after 2001, as China blossomed much more rapidly than anyone expected—and that in turn will notably impact U.S. growth. More Nike sales in China between 2000 and 2010 certainly boosted Nike's profitability. More Caterpillar sales in China in those years did**

the same for Caterpillar parts suppliers in Mississippi and other parts of the U.S. The same point could be made for any number of American companies and the resulting effects on the domestic economy.

Protectionist Policies vs. Indian Development

- India must deal with short term crisis over any long term ones; if they don't get over this hump, they won't achieve any long term stability
 - Any positive impact to the Indian econ won't counteract the long term stagnation.
 - SHORT TERM DECLINE = we never get into the long term impacts that they tell you about
 - Having a pro-growth political party in power is pre req for any of the benefits of emigration they bring up

Magnification overview

Countries are competing on the market for more high skilled immigrants. This means when one country begins to open its doors more, another country also opens up. This essentially creates a bidding war which adversely affects developing countries. **After the US passed the American Competitiveness in the 21st Century Act of 2000 several countries followed suit. For example Germany liberalized high skilled immigration Norway initiated policy reforms, the United Kingdom made it easier for specialists in "shortage occupations" to get work permits, and Ireland has put a fast track system in place to meet labor shortages in a number of occupations.** Thus, if the US increases the cap it will set off a chain reaction, exacerbating brain drain. (Desai 2001)

- R/T Nonunique
 - Analogy: if there is a plate of cookies on the table, no one's gonna take one until after the first person, but after the first person takes, they'll be gone in a few minutes

Mihir Desai. (Harvard University). Sharing The Spoils: Taxing International Human Capital Flows. September 2001.

<https://pdfs.semanticscholar.org/2022/716a4c31420f154ff5f48b32537d327f5d70.pdf>

The success of the U.S. IT sector in the 1990s, and the perceived importance of immigrants and workers targeted by the H-1B program as an important factor shaping this outcome (Saxenian, 1999), has played an important role in putting corresponding pressures on European countries to change immigration policies as well.¹⁰ Germany has begun to change its immigration policies, introducing separate flexible quotas (based on a Canadian-style point system) for economic immigrants based on the needs of the labor market even as it is clamping down on asylum seekers, a traditional source of immigration. In introducing the bill, Germany's Interior Minister Otto Schily argued that "There's competition among the industrialized countries for the best minds. That's why we have to direct our immigration law more strongly toward our own economic interests."¹¹ According to the new policy, an immigrant can stay up to five years provided he or she has adequate IT competence. Norway has recently initiated policy reforms, and the new policy is expected to be in place by January, 2002. The United Kingdom has made it easier for information technology specialists and others in "shortage occupations" to get work permits, and Ireland has put a fast track system in place to meet labor shortages in a number of occupations. **While there is large variation in the nature of immigration policies and their attention to skills, the preceding brief review shows that even those countries that don't explicitly account for skills through a points system appear to be shifting toward recognizing the importance of attracting skilled migrants. In effect, countries are becoming more**

skill focused as they compete in the market for migrants. We now turn to some forces that suggest this nascent targeting of skilled migrants by developed countries will accelerate over the next half century. The following subsections examine three long-term developments: i) the fiscal impact of demographic shifts on public pension provision, ii) chronic manpower shortages in

Exploitation

Indian Development

1. This forces you to make a hierarchy of wrongs, but Lenard explains, an injustice is an injustice, and we cannot easily argue that we should forgo principles of justice at the domestic level in favour of pursuing them at the global level

2. Even if the suffering of people in other nations matters more than the suffering of people here, we still shouldn't actively make people suffer just to help others

Lenard 11 Patti Tamara Lenard [University of Ottawa], 2011 "Temporary labour migration, global redistribution, and democratic justice," *Politics, Philosophy & Economics*, 10.1177/1470594X10392338 //DF

There is, however, a fundamental error in this way of raising the objection: it asks us to distinguish between 'social' or 'domestic' justice and global justice, and then to prioritize considerations of global justice.¹⁸ For these critics, the permitting of guest-work as traditionally conceived serves global justice (understood in terms of redistributing wealth across borders), and this is the only relevant measure in their view. This is a mistake, however, since considerations of domestic justice and considerations of global justice are interdependent in ways that make establishing a hierarchy of normative objectives, absent the relevant contextual considerations, impossible.¹⁹ A justice violation at the domestic level, in other words, cannot be weighed so easily against a violation at the global level; an injustice is an injustice, and we cannot easily argue that we should forgo principles of justice at the domestic level in favour of pursuing them at the global level, nor should we forgo principles of global justice in favour of pursuing them at the domestic level.²⁰ In the case of temporary labour migration programmes, as with many other policies, there are domestic and global principles of justice at play that must be balanced against each other. In part, it seems, this mistake is so easily made because it is taken, by the critics, to be obvious that the relevant concern for guest-workers is how they fare in relation to members of their home country. If guest-work opportunities permit them to flourish in relation to citizens of their home country, we can conclude that justice is served in the right way. This sort of argument might permit, for example, justifications for paying guest-workers less than local workers for equivalent work (thus making guest-workers even more lucrative for the receiving societies, though perhaps to the detriment of those who would otherwise compete with guest-workers for these positions, which is something that we will discuss in the next section). From this perspective, what is relevant is simply whether the opportunities available to guest-workers enable them to realize goals 'back home', and therefore the principle of political justice, or inclusion, that underpins our arguments here is irrelevant. If guest-workers intend, or are required, to return home, there is no reason to assume they require a wage that would permit them to survive in the host economy over the long term. A concern for global justice in this instance might therefore seem to permit violating the principles of reciprocity and equal treatment that define liberal democratic communities. This possible conclusion can now be rejected since, as we have argued, liberal democratic communities are defined by a commitment to the inclusion of all on an equal basis; the concern for equal treatment that demands that equal work is paid equally, in other words, derives from the political rights to which we believe guest-workers are entitled.

Extras

Competitiveness

Uniqueness: The US tech labor shortage is causing increased attention and resources to be devoted towards developing human capital. Briggs 09 at Cornell University writes: Tight labor markets can provide opportunities to direct public attention to the inadequacies of domestic training, education, and labor mobility programs, as well as being chances to re-examine the state of prevailing anti discrimination efforts that assure that available human resource reservoirs are fully tapped

Vernon Briggs, Jr., Emeritus Professor of Labor and Human Resource Economics at Cornell University, "Immigration Policy in Free Societies: Are There Principles Involved or Is It All Politics?" November 2009, <http://www.cis.org/immigration-principles>

By the same token, xenophobic demagoguery also serves no useful purpose for public discussions of immigration reforms. Immigration is, as mentioned earlier, fundamentally an economic issue in terms of its societal impacts. Exaggerated and uncritical assertions that proclaim the merits of more immigrants while ignoring their fiscal and opportunity costs on the receiving countries does little to further public debate. The mere existence of labor shortages—locally, regionally or nationally—does not mean that more immigration is necessary or desirable as a policy response. Tight labor markets can provide opportunities to direct public attention to the inadequacies of domestic training, education, and labor mobility programs, as well as being chances to re-examine the state of prevailing anti discrimination efforts that assure that available human resource reservoirs are fully tapped. Furthermore, such efforts at human-resource development can reduce the tendency of expanded immigration to "brain-drain" skilled labor from developing nations where such supplies are always chronically short. Increasing the level of immigration is one way to meet real labor shortages; but it is not the only one or necessarily the preferred first option.

This keeps the US at the forefront of global technology

However, raising the H-1B cap will undermine US competitiveness by flooding the market with cheap tech workers.

Kellogg Insight 16 writes: increasing the supply of H-1B workers might drive down everyone's pay over time because employers have more potential employees to choose from and thus do not have to offer high salaries to attract and retain staff.

Kellogg Insight. Does the H-1B Visa Program Hurt American Workers? 9/7/16

<https://insight.kellogg.northwestern.edu/article/does-the-h1-b-visa-program-hurt-american-workers>

In theory, the visa program rules should prevent companies from paying H-1B workers less than their American counterparts. Employers are not allowed to offer an H-1B applicant a salary that is lower than similar employees' pay or the "prevailing wage" for that job in that location. But the standards for determining prevailing wages are shaky, and companies can take advantage of loopholes, such as hiring the person through a third-party service. In addition, increasing the supply of workers might drive down everyone's pay over time

because employers have more potential employees to choose from and thus do not have to offer high salaries or raises to attract and retain staff.

Aobdia, who teamed up with [Anup Srivastava](#) of Dartmouth College and independent researcher Erqiu Wang, wanted to understand the true effect of highly skilled immigrant workers. They turned to the auditing industry, which allowed them to combine three sets of publicly available data—audit documents, which include information regarding the auditing office that performed the work and its fee; the characteristics of that audit office's clients; and the details of the H-1B applications that office submitted. They examined 16,997 H-1B applications from dozens of offices belonging to the six biggest public accounting companies in the U.S. from 2001 to 2012. To find out which types of offices hired H-1B workers, the researchers looked for links between "immigration intensity" within an office—the number of applications submitted or in progress, adjusted for the estimated size of the office—and other characteristics of individual offices, such as the types of clients they served, the quality of life in their city, and the office's reputation. To find out whether hiring more immigrants drove down the entire office's wages, the team analyzed the starting salaries offered to the H-1B workers, as reported in the visa applications. The researchers investigated whether offices that hired more H-1B immigrants offer lower salaries, while controlling for other factors affecting wages. Filling Gaps in the Workforce The team found that H-1B workers tended to play two roles. First, they were more likely to be hired by offices that might have difficulty attracting U.S. workers—for example, offices that were smaller, served fewer prestigious clients, or were in less desirable locations. Along the same lines, H-1B applications were more common among offices that had recently made mistakes on an audit, which likely damaged their reputation. "Those offices start hiring more immigrants," he says. Secondly, the companies hired H-1B applicants for specialized work. Offices whose clients required complicated accounting or had higher foreign income tended to apply for more visas, perhaps because these employees offered skills such as speaking another language. And more H-1B workers were hired in areas of the country with a relatively high proportion of immigrants. This pattern might have arisen because companies in those areas are more welcoming of immigrants or local foreign-born clients want to interact with other immigrants.

This is empirically true. The Independent Computer Consultants Association reports that the use of cheaper foreign labor has forced down the hourly rates of U.S. consultants by between 10 to 40 percent.

FAIR 08 4-2008 "H-1B Visas: Harming American Workers," Federation for American Immigration Reform, <https://fairus.org/issue/workforce-economy/h-1b-visas-harming-american-workers> //DF

The advocates for increasing the admission of H-1B workers suggest that our ability to compete internationally depends on being able to employ the 'best and the brightest' professional workers from around the world. This claim is belied by the fact that nearly half of all of the approved petitions are for persons with undergraduate degrees rather than advanced degrees (see chart below). In addition, the rate of conversion of H-1B workers to green card holders indicates that most employers are not keeping their temporary workers after their temporary visa expires. Workers—Or Cheap Workers? Simply having a large influx of workers into the industry floods the labor market and drives down wages.² Study after study shows that H-1B workers are paid lower wages than their American counterparts, driving down the prevailing wage: A UCLA study found that H-1B engineers were paid 33 percent less than comparable U.S. citizens. ³ A Cornell University study found that H-1B programmers and engineers were underpaid by 20 to 30 percent.⁴ An INS report found that the computer-related H-1B employees were paid a median salary 25 percent less than the national median for their field. ⁵ A National Research Council report found that "H-1B workers requiring lower levels of high tech skill received lower wages, less senior job titles, smaller signing bonuses, and smaller pay and compensation increases than would be typical for the work they did."⁶ It also found that H-1Bs have an adverse impact on overall wage levels.⁷ **The Independent Computer Consultants Association reports that the use of cheaper foreign labor has forced down the hourly rates of U.S. consultants by as much as ten to 40 percent.** ⁸ The effect of depressing wages by increasing the available pool of qualified workers is not an innocent by-product of the H-1B visa program. Statements by Alan Greenspan, former Chair of the Federal Reserve Board make the point that this wage lowering effect is intended.

H-1B wage depression pushes two groups out of computer science.

First, workers. When the H-1B influx depresses wages, American CS workers leave the field for higher paying jobs. Bound 17 found that the higher H-1B quota in the late 90s lowered the number of US computer scientists by between 6-10%.

John Bound. (NBER). UNDERSTANDING THE ECONOMIC IMPACT OF THE H-1B PROGRAM ON THE U.S. February 2017.

file:///C:/Users/domin/Desktop/10.0000@www.nber.org/generic-F1DDF2928FC5.pdf

Figure 4a describes the restriction under the counterfactual exercise. It shows how, under the real scenario where the economy is open to H-1B immigration, there is an increase in the stock of foreign computer scientists, whereas under the counterfactual scenario where the economy is 'closed,' the stock of foreign computer scientists is restricted to the 1994 level. How this restriction affects the stock of US computer scientists in our model can be seen in Figures 4b-4c. Over this period there is an increase in the total number of computer scientists when we allow for immigration, but the number of US computer scientists actually decreases with respect to the closed economy every year as the number of immigrants increases. In 2001, the number of US computer scientists was between 6.1%-10.8% lower under the open than in the closed economy (Table 5). These numbers imply that for every 100 foreign CS workers that enter the US, between 33 to 61 native CS workers are crowded out from computer science to other college graduate occupations. When the economy is open to immigration under the H-1B program, some US computer sci- entists switch over to non-CS occupations, shifting out the supply of these workers. This can be seen in Figure 4d. While over time there has been a rapid increase in the number of non- CS college educated workers, this increase would have been lower if the number of foreign CS workers were restricted. In fact, the growth rate between the open and closed economies plotted in Figure 4d mirrors the decrease in Figure 4c as US workers switch from CS to non-CS occupations.

Second, students. Matloff 13 at the Economic Policy Institute writes: the stagnant salaries caused by the foreign influx discourage young people from pursuing a career in STEM. Young people see these market signals and respond accordingly. Between 2003 and 2006 the percentage of graduates from MIT going into financial services rose from 13 percent to almost 25 percent. Fewer American-born workers pursue science and engineering not only because they have more career choices than foreign workers, but also because some choices offer better wages

Norman Matloff (Economic Policy Institute). "Are Foreign Students the 'Best and Brightest'? Data and implications for immigration policy."

February 28, 2013. <http://www.epi.org/files/2013/outstanding-talent-high-skilled-immigration.pdf>

Note that diversion cannot be viewed as a failure of the American K-12 educational system, as is often claimed. True, some students are weak in STEM or are disinterested in it, but the points made above apply to students who are skilled at STEM, and who do specialize in STEM in college.

As remarked above, the issue of diversion concerns workers who have bachelor's degrees in STEM but who, either immediately after attaining their degrees or later on, are working outside of STEM. Indeed, in the NIH study discussed above, the workers have doctorates in STEM, plus years of postdoctoral work. As noted, the NIH fretted that the H-1B visa is resulting in loss of career to many Americans in lab science. In

addition, the stagnant salaries caused by the foreign influx discourage young people from pursuing a career in STEM. Young people see these market signals and respond accordingly. Even many Indian immigrant

engineers' children see the tech field as unstable, subject to outsourcing to India (Grimes 2005). The talents STEM students have been applying—keen quantitative insight, good problem-solving and analytical skills, and so on—are much more highly rewarded outside STEM, as exemplified by the Microsoft salary analysis above. Georgetown University

researcher Anthony Carnevale has remarked, “If you’re a high math student in America, from a purely economic point of view, it’s crazy to go into STEM” (Light and Silverman 2011). A Forbes Magazine article cites the troubling effects of stagnant salaries and offshoring: **Between 2003 and 2006 the percentage of graduates from MIT going into financial services rose from 13 percent to almost 25 percent. ...One can hardly blame these young hires. Financial firms offer considerably higher pay, better career prospects and insulation against offshoring, than traditional science and engineering companies**. ... (Schramm 2011) Gavin (2005) summarized the connection made by Richard Freeman of Harvard: In his paper, Freeman argues that **fewer American-born workers pursue science and engineering not only because they have more career choices than foreign workers, but also because some choices offer better wages**. Average annual salaries for lawyers, for example, amounted to more than \$20,000 above those for doctoral-level engineers and \$50,000 more than those for life scientists with doctorates, according to Census data that Freeman cites in the paper.... **U.S. companies**, he added in an interview, **have been quite willing to encourage a foreign supply of technical workers. This has allowed them to pay lower wages, but it has also created conditions that make science and engineering less attractive to Americans**. “You can’t say, ‘I want more visas’ and ‘I expect more Americans to enter the field,’” Freeman said. “The thing that always strikes me about these business guys is they never say, ‘We should be paying higher salaries.’”²⁰ **This internal brain drain might have been justified if the foreign workers were of higher caliber than the Americans, but, as shown earlier, this is not the case. The consistent theme in the results here has been that the immigrant engineers and programmers who first come to the United States on student visas—the group the industry lobbyists claim are most talented—are quite similar to the Americans in talent, or are of lesser talent than the Americans**, contrary to the “genius” image projected by the industry.

Overall, pushing out the skilled US computer science workforce creates what the EPI calls an “internal brain drain.” Since the foreign workers displacing U.S. workers are not more talented, this internal brain drain endangers the country’s ability to retain its worldwide lead in technological innovation.

EPI 13 2-28-2013, "H-1B visa program is not attracting the best and brightest workers, new EPI paper finds," Economic Policy Institute

<https://www.epi.org/press/1b-visa-program-attracting-brightest-workers/> //DF

“Ironically, the biggest victims of the industry obsession with H-1B visas are the technology companies themselves,” said Matloff. “Their ‘penny wise, pound foolish’ policy means they are often not hiring the best talent.” Proponents of H-1B visas argue that tech firms are unable to find qualified U.S. applicants for STEM positions, but stagnant wages in these fields refute claims of a labor shortage. Indeed, **flat wages are discouraging talented U.S. workers with STEM degrees from pursuing graduate study or even careers in the field—causing an internal “brain drain.” Since the foreign workers displacing U.S. workers are not more talented, this internal brain drain endangers the country’s ability to retain its worldwide lead in technological innovation**. Current reform proposals to grant special visas and green cards to all foreign STEM graduate students at U.S. schools would exacerbate this internal brain drain. Instead, the federal government must ensure that programs like the H-1B visa are truly attracting the best and brightest or remedying genuine labor shortages. Reform must change the way prevailing wages are calculated so that H-1B visa holders are paid a genuine market wage for their education and skill sets. At the same time, policymakers could expand the EB-1 and O-1 visa programs (for workers of “extraordinary ability”) as a means of more reliably attracting the best and brightest workers without crowding out U.S. graduates.

In fact, foreign workers are much less likely to be innovating. Matloff finds: Americans are 10 percent more likely to be working in R&D, the core source of innovative work, than high-skilled foreign workers.

Norman Matloff (Economic Policy Institute). "Are Foreign Students the 'Best and Brightest'? Data and implications for immigration policy." February 28, 2013. <http://www.epi.org/files/2013/outstanding-talent-high-skilled-immigration.pdf>

The results of the logit model for both computer science and electrical engineering, looking at the probability of working in R&D while controlling for age (and the square of age18) and education level, are presented in Table 6. The estimated coefficients from a logit regression are interpreted as the rate of change in the "log odds" of (in our case) working in R&D, as the independent variables change. As is common practice in discussions of logit regression results, here we discuss the more intuitive "marginal effect" of being a foreign former student for specific values of the other independent variables. The data indicate that in both computer science and electrical engineering, the foreign former students are significantly less likely to work in R&D, compared to Americans of the same age and educational background.

For example, consider 30-year-old workers with master's degrees. **In computer science, substitution into the logit formula shows that the Americans are about 10 percent more likely to be working in R&D than are comparable foreign former students** (a 0.89 probability versus 0.81) **In electrical engineering, the difference is dramatic—the Americans are 68 percent more likely to be in R&D than the foreign former students,** with the probability of R&D work being 0.76 for the Americans but only 0.46 for the foreign former students. These are interesting results. One might take the view that considering patents or dissertation awards is setting the bar too high: A worker might be quite innovative without necessarily having the work patented, and the bar for the dissertation awards is extremely high. **These latter findings, however, address the industry's core source of innovative work, its R&D units, and the data show that these units are staffed disproportionately by Americans rather than by foreign former students.**

Doctor Brain Drain

Uniqueness: India's doctors are in short supply now. The Hindu Times writes in 2017: India is suffering from a severe lack of doctors, putting a strain on public health facilities. They simply can't handle a shock to the system

Hindu Times 17 12-1-2017, "Doctors' shortage is the big ailment afflicting India's primary healthcare system," Hindu Times

<https://www.hindustantimes.com/editorials/doctors-shortage-is-the-big-ailment-afflicting-india-s-primary-healthcare-system/story-2MquhBhS5sQjnIOa1KWMqK.html> //DF

Last year, nine-year-old schoolboy Ansh died on his father's shoulders when the emergency section of a Kanpur hospital denied him admission. A few days after that, when district hospital authorities in Odisha's tribal Kalahandi district refused to arrange for a hearse, Dana Majhi was compelled to carry his wife's body on his shoulders for 10 kilometres. These shameful incidents point to the gaps in our shambolic public healthcare system. **We have just one government doctor for every 10,189 people, one government hospital bed for every 2,046 people and one state-run hospital for every 90,343 people.** With a doctor-patient population ratio worse than Vietnam, Algeria and Pakistan, **the shortage of doctors is one of the biggest ailments afflicting our health-management system,** a parliamentary panel report on health and family welfare said in 2016. A 2017 study by the economics and business policy faculty at the FORE School of Management says India needs 2.07 million more doctors by 2030 to achieve a decent doctor-to-population ratio of 1:1,000. **A shortage of doctors puts a strain on our public health facilities, particularly in the villages.** According to Indiaspend, public-health centres in our rural areas are short of more than 3,000 doctors. The shortfall has increased 200% over the last decade. Clearly there is a discrepancy between the State's national healthcare plans and ground realities. The National Health Policy 2017 wants to raise

India's public health expenditure to 2.5% of the GDP from the current 1.4%. The Centre's Rs 160,000 crore National Health Assurance Mission promises more than 50 free drugs, a dozen diagnostic tests and insurance cover to every citizen by 2019. As a part of the National Health Mission, among the ambitious goals set by the Centre is to reduce the infant mortality rate to 30 per 1,000 live births, from the current estimate of 40. This will involve setting up of medical and nursing resources within a three-kilometre radius of villages. Given the size of our population and the lack of even basic healthcare facilities, it is obvious that just a market-led mechanism can't bridge the demand-supply gap. The Niti Aayog's action agenda for 2020 admits as much.

Increases in available H-1B visas do just that. They will push Indian doctors, who are crucial to improving the country's ramshackle healthcare system, to leave for the US. Nate Baptiste of Foreign Policy in Focus writes in 2014: the increase of available H-1B visas allows for more foreigners to pursue careers in the US, leaving India behind and reducing the number of doctors available for care.

Baptiste 14 Nathalie Baptiste, Foreign Policy In Focus, 2-26-2014, "Brain Drain and the Politics of Immigration," Nation, <https://www.thenation.com/article/brain-drain-and-politics-immigration/> //DF **The increase of available H-1B visas allows for highly educated foreigners to pursue a more prosperous career in the United States. But what does it mean for the countries they leave behind? In India,** home to the large majority of H-1B visa recipients, **many medical students opt to study abroad because of rising costs and limited capacity at their public institutions. The medical brain drain in India not only reduces the number of doctors available for care, but it also removes the people needed to push for healthcare reforms.** Considered the most privatized health system in the world, India's public health system is made up of mainly rural health centers that lack basic infrastructure, medicines and staff. India **spends only 0.9 percent of its GDP on healthcare, which promotes a large private healthcare industry that remains inaccessible to the poor.** The wealthy can afford to be treated at a state-of-the-art hospital for a stomach ache, while the poor must walk long miles to receive treatment for sicknesses and sometimes discover that the medicine they need is unavailable. **The shortage of doctors is staggering: there are only six doctors for every 10,000 patients.** People in need of medical attention may spend days waiting in line for tests or drugs because there are simply not enough doctors and nurses available to tend to their medical needs. India is not the only country that suffers from brain drain, and the loss of human capital does not only affect the medical industry. Zimbabwe is struggling to keep its education sector from collapsing after losing 45,000 teachers in 2010 alone. Haiti has lost more college graduates than any other country in the world. Brain drain is occurring in every region of the developing world.

Card: the one that says 1 million were denied.

Internal Link: less doctors harms healthcare outcomes

Cards: Sivakumar 15 and then Macinko 07

Substantial reductions in India's doctors is a matter of life or death. James Macinko writes in the International Journal of Health Services in 2007: a one-unit increase in primary care supply reduced all-cause mortality by more than 5 percent. Correspondingly, decreases in India's physician supply would be fatal.

James **Macinko**, Barbara **Starfield**, and Leiyu **Shi**, 2007, "QUANTIFYING THE HEALTH BENEFITS OF PRIMARY CARE PHYSICIAN SUPPLY IN THE UNITED STATES," International Journal of Health Services, http://www.jhsph.edu/sebin/m/n/2007_IJHS_Macinko.pdf

The studies reviewed here suggest that ecological measures of primary care physician supply are consistently associated with improved health outcomes, regardless of the year, level of analysis, or type of outcome studied. **A one-unit increase in primary care supply (one PCP/10,000) resulted in improvements in all health outcomes studied, with a range of 0.66 to 10.8 percent improvement,** depending on the outcome and the geographic unit of analysis. **Limiting results to all-cause mortality predicted reductions averaged 5.31 percent, with a corresponding average decrease in mortality rate of 49 per 100,000.** Race-stratified analyses suggest that potential reductions in mortality would be greater for blacks than for whites. The policy impact of these findings is considerable. **At the national level, a 5.31 percent reduction in all-cause mortality in 2000 would translate into 127,617 deaths potentially averted. An increase of one PCP/10,000 would necessitate a 12.6 percent overall increase in primary care physician supply, or an absolute increase of 28,726 physicians,** based on the supply in 2000. If there is indeed a physician shortage in the United States, these results suggest that **considerable health gains could be obtained by** creating incentives to train **more physicians** in primary care.

Taking more doctors away from India will worsen the current problem.

Census, 10-21-2015, "27% of deaths in India for want of medical attention," Times of India, <https://timesofindia.indiatimes.com/india/27-of-deaths-in-India-for-want-of-medical-attention/articleshow/49474537.cms>

Nearly 27% of the total deaths in India happen with no medical attention at the time of death, according to the 2013 civil registration data released by the Census directorate. Data based on 27 states and Union territories also indicated that **only 43% of the total deaths happen in institutions and only 3.9% of the rest under the care of a qualified allopathic doctor.** As against the number of deaths, 71% of the total births happen in institutions and other births get care from physicians, nurses, mid-wives etc. Experts say a large percentage of deaths happen without medical care due to high cost and inaccessibility to medical care in rural and hilly areas. According to experts, many people die due to lack of minor surgeries (Bell weather surgeries) and globally too in 2010, an estimated 16.9 million people died (32% of all deaths worldwide) due to lack of access to surgery and anaesthesia. A Lancet commission report says the above figure surpasses the number of deaths due to AIDS (1.46 million), tuberculosis (1.2 million) and malaria (1.17 million).

Exploitation

The current de facto administration of the H-1B visa system has created three categories of workers: the "pure H-1B"; the "outsourcing H-1B"; and the "body shop worker." Each of these workers exists on a continuum of exploitation facilitated by the structure of the H-1B visa system. A pure H1B, such as Raji Patel, arrives on a visa sponsored by the specific company for which he will work. The pure H-1B often finds himself working excessive hours for substandard pay and is afraid to protest the conditions for fear of being discharged and losing protection from deportation. The outsourcing H1B arrives on a visa sponsored by an outsourcing company that has contracted to perform work at a company in the United States. These workers often displace existing U.S. workers, such as Roger Greenman, and work for less

pay than the displaced workers work for. Finally, a body shop worker, such as Sanjiv Gupta, labors in an arrangement that exists outside the legal boundaries of the law. He arrives on a visa sponsored by a labor contractor or labor supplier. He often does not have a specific job waiting for him and sits on a metaphorical bench waiting for a job to arrive. The labor contractor often charges the body shop worker for the visa, houses him in deplorable conditions, charges him exorbitant service fees and constrains his ability to quit a job or to return home. Many of these exploitive practices can be challenged through better enforcement of the current visa law, through wrongful discharge lawsuits and through cases brought under the antitrafficking laws.

Most H-1Bs can't find replacement jobs if they choose to leave their own

Ontiveros 17 Maria L. Ontiveros [Professor of Law, University of San Francisco], 3-1-2017, "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers," BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW,

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1499&context=bjell> //DF

The H-1B visa allows a worker to stay in the United States for three years.³⁵ After that time, it can be renewed for another three years.³⁶ If an individual wants to stay in the United States longer than those six years, he must apply for and receive a "green card," which confers the status as a "legal permanent resident."³⁷ After being in green card status for a number of years, the individual can apply for naturalization to become a U.S. citizen.³⁸ Significantly, the H-1B visa is a work visa; it is not an immigrant visa. It allows an employee to stay in the United States for as long as he is connected to an employer with a valid H-1B opening.³⁹ Generally that means that the employee must remain with the company that originally sponsored his H1-B visa. If he wants to quit, he must be able to find another company that has an H-1B opening and is willing to hire him. Otherwise, he will no longer have the legal right to be in the United States, and becomes deportable.⁴⁰ Although some highly skilled H-1B workers are able to transition to new employers, most are unable to do so. The DOL and USCIS require employers to provide H-1B workers with transportation back to their home country upon discharge.

Contention One: Brain Drain

As part of his larger tough stance on immigration, The Trump administration is cracking down on the H-1B visa program, making it more difficult to get a visa and making less visas available. The Economic Times India reports: more than 500,000 skilled Indian workers might have to come back from the US if a proposal by the Trump administration not to extend H-1B visa of those waiting for permanent residency (Green Card) is implemented.

Economic Times 18 1-5-2018, "US President Donald Trump's new disruptive H-1B visa move can be a boon for India," Economic Times, <https://economictimes.indiatimes.com/nri/visa-and-immigration/trumps-new-disruptive-h-1b-visa-move-can-be-a-boon-for-india/articleshow/62365964.cms> //DF

More than 500,000 skilled Indian workers might have to come back from the US if a proposal by the Donald Trump administration not to extend H-1B visa of those waiting for permanent residency (Green Card) is implemented. The move would not only disrupt careers but also families. On top of that, India is already passing

through a jobs crisis. The grim outlook, however, has a silver lining. While it will be a big loss for individuals, it could be a huge gain for the country. Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, the return of such a large number of Indian tech workers can give a big push to Indian business. Most of these workers are the brightest Indians who have passed out of elite Indian institutions. While Indians are proud of Sundar Pichai who heads Google and Satya Nadella who heads Microsoft, they are still American success stories. For long, India has lost its best talent to the West in what has come to be called brain drain. Trump's decision can trigger a reverse brain drain. This could be an unintended benefit of an otherwise disruptive move. In the long term, the move can also help Indian information technology (IT) industry evolve beyond its labour-arbitrage model. From being called "body shoppers", Indian IT firms can turn into true innovators, something they can't do without in times when emerging technology.

This is good news, since the return of such a high number of workers could be a boon for India's economy. The Economic Times furthers: Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, the return of such a large number of Indian tech workers can give a big push to Indian business. Most of these workers are the brightest Indians who have passed out of elite Indian institutions. For long, India has lost its best talent to the West in what has come to be called brain drain. Trump's decision can trigger a reverse brain drain.

Economic Times 18 1-5-2018, "US President Donald Trump's new disruptive H-1B visa move can be a boon for India," Economic Times, <https://economictimes.indiatimes.com/nri/visa-and-immigration/trumps-new-disruptive-h-1b-visa-move-can-be-a-boon-for-india/articleshow/62365964.cms> //DF

More than 500,000 skilled Indian workers might have to come back from the US if a proposal by the Donald Trump administration not to extend H-1B visa of those waiting for permanent residency (Green Card) is implemented. The move would not only disrupt careers but also families. On top of that, India is already passing through a jobs crisis. The grim outlook, however, has a silver lining. While it will be a big loss for individuals, it could be a huge gain for the country. Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, the return of such a large number of Indian tech workers can give a big push to Indian business. Most of these workers are the brightest Indians who have passed out of elite Indian institutions. While Indians are proud of Sundar Pichai who heads Google and Satya Nadella who heads Microsoft, they are still American success stories. For long, India has lost its best talent to the West in what has come to be called brain drain. Trump's decision can trigger a reverse brain drain. This could be an unintended benefit of an otherwise disruptive move. In the long term, the move can also help Indian information technology (IT) industry evolve beyond its labour-arbitrage model. From being called "body shoppers", Indian IT firms can turn into true innovators, something they can't do without in times when emerging technology.

However, expanding the H-1B cap would drive Indian workers back to the United States, depriving the country of much needed talent. Vernon Briggs at Cornell University writes in 2009: visa development can reduce immigration to skilled labor from developing nations where such supplies are always chronically short.

Vernon Briggs, Jr., Emeritus Professor of Labor and Human Resource Economics at Cornell University, "Immigration Policy in Free Societies: Are There Principles Involved or Is It All Politics?" November 2009, <http://www.cis.org/immigration-principles>

By the same token, xenophilic demagoguery also serves no useful purpose for public discussions of immigration reforms. Immigration is, as mentioned earlier, fundamentally an economic issue in terms of its societal impacts. Exaggerated and uncritical assertions that proclaim the merits of more immigrants while ignoring their fiscal and opportunity costs on the receiving countries does little to further public debate. The mere existence of labor shortages—locally, regionally or nationally—does not mean that more immigration is necessary or desirable as a policy response. Tight labor markets can provide opportunities to direct public attention to the inadequacies of domestic training, education, and labor mobility programs, as well as being chances to re-examine the state of prevailing anti discrimination efforts that assure that available human resource reservoirs are fully tapped. Furthermore, such efforts at human-resource development can reduce the tendency of expanded immigration to “brain-drain” skilled labor from developing nations where such supplies are always chronically short. Increasing the level of immigration is one way to meet real labor shortages; but it is not the only one or necessarily the preferred first option.

India has been harmed by H1B expansions in the past. Mihir Desai at Harvard examines when the cap was increased from 65,000 to 195,000 in 2001. He found that this increase decreased income for Indians by 1.5% of GDP.

Desai 01 Mihir A. Desai [Harvard University and NBER], 12-2001, "The Fiscal Impact of the Brain Drain: Indian Emigration to the U.S. ," No Publication,

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.4540&rep=rep1&type=pdf>
//DF

The levels of participation from the varied methods provided in Table 8 can be coupled with the varied estimates of earnings presented in Table 9. The top panel of Table 9 provides the median annual wages and distribution of annual wages for the participants in the NSS data. The second panel demonstrates the tremendous differences between those wages and the wages generated by the application of the PPP method. Median earnings from the PPP estimates for 1994 are more than fifteen times the median salary from the NSS data and, consequently, the distribution of earnings from the PPP estimates are highly skewed toward high earners. This same pattern is evident, but to a much lesser degree, in the simulated earnings using the Mincer method based on either participation based on the results from the selection equation or from the actual participation rates. The simulated earnings from the Mincer equation are only three times the level of median earnings from the NSS data. These wage levels under the Mincer method hold regardless of the way in which participation is treated. Combining the participation rates from Table 8 and the simulated earnings from Table 9 provides the summary results for aggregate income losses as provided in Figure 4. Figure 4 presents the lost income of Indian-born U.S. residents as a fraction of Indian GDP for three methods – the PPP method, the Mincer method using Mincer participation rates, and the Mincer method using the actual U.S. participation rates. **By 2001, the PPP method yields income losses of nearly 1.5 percent of GDP for the Indian-born residents of the U.S.** In contrast, the Mincer method, regardless of the participation method chosen, yields considerably smaller, yet still sizable, lost income figures of approximately 0.25 percent of GDP. These two methods of estimating the counterfactual earnings distributions have distinct strengths and weaknesses. The primary relative advantage for the PPP method is that actual earnings from the Indian-born residents in the U.S. are employed rather than some simulated level of earnings based on populations that may not be representative of the pool of emigrants. The primary relative disadvantage of the PPP method is the implicit assumption that U.S. resident Indians would be able to enjoy identical living standards if they were in India.

Some generic brain drain shit

Jose L. Groizard. (Universitat de les Illes Balears). Skilled migration and sending economies. Testing brain drain and brain gain theories. October 2007. <http://pareto.uab.cat/jllull/Papers/BrainDrain.pdf>

This paper investigates the relationship between the migration of individuals with a higher education and the outcomes for sending economies by examining cross-country evidence. In particular, we focus on human capital, openness to trade, FDI inflows, worker remittances and GDP per capita growth. We contribute to the existing literature by estimating the effect of skilled migration probability on human capital post migration. We also contribute to the business network literature, by isolating the effect of skilled migration on trade from the overall migration effect, a channel relatively unexplored in the literature. Similar disaggregation was considered when measuring FDI and remittance channels. Finally, we investigate the overall effect of brain drain on GDP per capita growth. Results suggest that **brain drain harms human capital in the home economy.** More precisely, our estimates suggest that **the incentive to education is too low to overcome the human capital loss from skilled migration,** not only when migration probability is very high, but also at lower levels

This paper takes some steps towards understanding the consequences of crosscountry variations in brain drain rates on migrants' home economies. It provides empirical evidence on the consequences of brain drain on sending economies; in particular, it analyzes the effect of skilled worker migration on human capital, trade, FDI, remittances and growth. **Human capital stock (ex-post) appears to be reduced as a consequence of increased skilled emigration rates; brain drain predominates over brain gain,** at least during the period studied. This result is compatible with Beine et al. (2007) findings which suggest that skilled migration generates significant incentives to acquire higher education, and it reconciles that evidence with Schiff (2006), who argues that net brain gain has been greatly exaggerated.

Brain drain is bad

Nadeem Ul Haque. (Pakistan Institute of Development Economics). Brain Drain or Human Capital Flight. May 2007.

https://www.researchgate.net/publication/228220834_Brain_Drain_or_Human_Capital_Flight

In a growth model with heterogeneous agents and a Lucas externality of education, **human capital flight (i.e. loss of skills from the upper tail of the skill distribution) generates a permanent reduction of per capita growth in the home country and that the magnitude of this reduction is proportional to the fraction of the population that has migrated** [see Haque and Kim (1995)]. Because of brain drain there may be no convergence in incomes. **Not only are permanent differences in growth likely to result but so in a permanent difference in level of incomes across countries. The more skill poor the country the greater the impact of human capital flight on its growth since growth depends on the cumulative human capital distribution.**⁹ The experiment here is maintaining the assumption of openness and comparing the

Brain Drain

UQ

Indian scientists are returning now. The Hindu 17 reports: Over 1,000 Indian scientists working abroad have returned to India in the last two-three years because they feel that India is changing and they can fulfil their ambitions here.

The Hindu 17 5-23-2017, "India has moved from brain drain to brain gain'," The Hindu,

<http://www.thehindu.com/news/national/india-has-moved-from-brain-drain-to-brain-gain-says-harshvardhan/article18551391.ece> //DF

Over 1,000 Indian scientists working abroad have returned to India in the last two-three years, said Dr. Harsh Vardhan, Minister for Science & Technology and Earth Sciences on Tuesday. "They feel that India is changing and they can fulfil their ambitions here. They are finding that opportunities in India are better. From brain drain, we now have a scenario of brain gain." he said at a media interaction on the NDA government's three years in power. Dr. Vardhan said that the scientists were being attracted back to India through several scholarships and fellowships, such as the Ramanujan fellowship. Responding to questions that these fellowship schemes had been introduced long back, he said, "That may be so, but the number of scientists returning to India is significant only now." However, he clarified that not everyone who wishes to come back is accepted. Those interested are put through an evaluation process, he said. "These scientists are non-resident Indians (NRIs) who were looking to come back and decided to take up the available opportunity until they found long-term ones," a ministry official said. Meanwhile, the Department of Science and Technology (DST) is all set to roll out a scheme to attract scientists from abroad on a longer term basis. The program, called Visiting Advanced Joint Research (VAJRA) Faculty Scheme, will offer accomplished NRI scientists the opportunity to undertake research in India for a maximum period of three months every year, while granting them the status of adjunct faculty in an Indian institution round the year. Contribution to Tejas On the subject of developing advanced technologies locally, Dr. Harsh Vardhan said that the Council of Scientific and Industrial Research (CSIR) had played an important role in the development of India's Light Combat Aircraft (LCA) Tejas, which was recently inducted into the Air Force.

H-1b restrictions send high-skilled Indian immigrants to their home country, leading to new industries and innovation

Chaudhuri, October 19, 2009

(Saabira, Livemint.com/blogs & Wall Street Journal, "The Boat's Headed East", <http://blog.livemint.com/the-development-dossier/2009/10/19/the-boats-headed-east/>, accessed 8/2/10)

With a struggling economy and an H-1B visa quota that in recent years has proved woefully insufficient (this year's lack of applicants has been an exception spurred by the global recession), the US may have to consider a policy change to both attract and enable more foreign students to stay on. And even that may not be anywhere near sufficient, given how "home" for Indian and Chinese immigrants is increasingly being perceived as the land of burgeoning opportunity. On the flip side, for India, the "reverse brain drain" is good news. The country, which in recent decades has developed a history of losing doctors, engineers and IT professionals to the US, is already benefiting from a wave of foreign returnees, who armed with the skills and knowledge honed by a US education could help breakdown conservative attitudes, refine cumbersome business practices and inefficient business models, and of course sow the seeds for innovation and new industry.

India is becoming more competitive now. PTI 18 reports: India has moved up on a global index of talent competitiveness

PTI 18 PTI, 4-26-2018, "Study says India improves global talent competitiveness rank by three points, but warns of 'worsening brain drain'," Firstpost,

<https://www.firstpost.com/business/study-says-india-improves-global-talent-competitiveness-rank-by-three-points-but-warns-of-worsening-brain-drain-4314759.html> //DF

India has moved up on a global index of talent competitiveness to the 81st position, but remains a laggard among the BRICS nations, an annual study showed in Davos on Monday while warning that the country faces "serious risk of worsening brain drain". While Switzerland continues to top the list released every year on the first day of the World Economic Forum (WEF) annual meeting in Davos, India has improved its position from 92nd last year. India was at the 89th place in 2016 on the

index that measures how countries grow, attract and retain talent. India's ranking was the worst among the five BRICS countries in 2017 as well when China was ranked 54th, Russian Federation was placed at 56th, followed by South Africa (67) and Brazil (81). China has moved up to 43rd now, Russia to 53rd, South Africa to 63rd and Brazil to 73rd position. As per the study released by Adecco, Insead and Tata Communications, the developed, high-income countries are still the global talent champions while Zurich, Stockholm and Oslo take the top spots in the cities' ranking. Among the countries, Switzerland is followed by Singapore and the US. European countries dominate the top ranks, with 15 out of the top 25 places. The report said that although in recent years we have witnessed a cooling off in the growth of emerging markets, the BRICS cannot be ignored in the global talent race and it is China (43rd) that leads the pack. "India (81st) is the laggard of this group. Formal Education (67th) and Lifelong Learning (37th) are keeping pace — and thus the pool of Global Knowledge Skills (63rd) is solid compared with other emerging markets. "Where the country has plenty of room for improvement is in minimising brain drain while achieving a brain gain by luring back some of its talented diaspora members (it ranks 98th in the Attract pillar) and in retaining its own talent (99th in Retain) — particularly in the context of high emigration rates of high-skilled people (India is at serious risk of worsening its brain drain despite the connection with the diasporas working in the information technology sector)," the report said.

However, things are about to change. The Economic Times reports this January: More than 500,000 skilled Indian workers might have to come back from the US if a proposal by the Trump administration not to extend H-1B visas of those waiting for permanent residency is implemented. Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, the return of such a large number of Indian tech workers can give a big push to Indian business.

Economic Times 18 1-5-2018, "US President Donald Trump's new disruptive H-1B visa move can be a boon for India," Economic Times,

<https://economictimes.indiatimes.com/nri/visa-and-immigration/trumps-new-disruptive-h-1b-visa-move-can-be-a-boon-for-india/articleshow/62365964.cms> //DF

More than 500,000 skilled Indian workers might have to come back from the US if a proposal by the Donald Trump administration not to extend H-1B visa of those waiting for permanent residency (Green Card) is implemented. The move would not only disrupt careers but also families. On top of that, India is already passing through a jobs crisis. The grim outlook, however, has a silver lining. While it will be a big loss for individuals, it could be a huge gain for the country. Just when India's new-age enterprise is taking off as innovative startups mushroom in all big cities and the government is keen to make doing business easier, the return of such a large number of Indian tech workers can give a big push to Indian business. Most of these workers are the brightest Indians who have passed out of elite Indian institutions. While Indians are proud of Sundar Pichai who heads Google and Satya Nadella who heads Microsoft, they are still American success stories. For long, India has lost it's best talent to the West in what has come to be called brain drain. Trump's decision can trigger a reverse brain drain. This could be an unintended benefit of an otherwise disruptive move. In the long term, the move can also help Indian information technology (IT) industry evolve beyond its labour-arbitrage model. From being called "body shoppers", Indian IT firms can turn into true innovators, something they can't do without in times when emerging technology.

IL

Brain drain deprives developing nations of talent that is crucial for improving quality of life

Nader 14 Ralph Nader, 1-19-2014, "Why US brain drain harms developing countries," Al Jazeera, <https://www.aljazeera.com/indepth/opinion/2014/01/why-us-brain-drain-harms-developing-countries-201411553847358568.html> //DF

If "human capital" means anything in the poorer areas of Africa, South America and Asia, it means civil engineers, scientists, physicians, nurses, computer and communications specialists, logistical experts, architects and entrepreneurs. They all are in short supply in these regions that have already lost so many skilled people to the West. When a wealthy nation like the United States allows its giant corporations to turn their backs on the American labour force, impoverished societies overseas are also exploited unconscionably, often with deadly results. In Africa, human beings die or become seriously sick for lack of physicians, nurses and indigenous scientific laboratories searching for ways to prevent or deal with infections and other diseases ignored by Western nations. Moreover critical public services are not maintained for the necessities of life. Look at this problem from another perspective. Isn't it fortunate for the people of Bangladesh and others that a young Muhammad Yunus was not lured away to Wall Street and stayed in Bangladesh to start the now famous micro-credit movement in thousands of villages? or wasn't it better for Brazil that Paulo Freire was not lured to Berkeley but instead remained in Brazil to create and apply his brilliant world-famous literacy programme for impoverished rural Brazilians? Wasn't it better that an aggressive brain drain did not bring Hassan Fathy to our land instead of him becoming Egypt's "people architect" to show poor Egyptian peasants how to build small homes from the soil beneath their feet and stimulate architectural counterparts in other developing countries? A quick glance at the annual report of the Ashoka Community of Fellows, founded by Bill Drayton, showcases the kind of skilled people from developing countries who became "change makers" because they remained in their own countries where they learned their many talents and refined their motivations. Sure, nobody is forcing skilled workers from less developed countries to come to the US other than dictators, but if the US wants peace, stability and better livelihoods to have a chance, it has to tell its giant corporations to pull back on their gluttonous appetite to recruit the "cream of the crop" from these countries and invest in American skills.

Restrictions on H1B cause Indian skilled workers to remain in India leading to technologic innovation and increased competitiveness

Bharali, February 18, 2009

(Eureka, SiliconIndia, "India to have more startups due to H1B visa ban", http://www.siliconindia.com/shownews/India_to_have_more_startups_due_to_H1B_visa_ban-nid-52677.html, accessed 8/2/10)

Bangalore: While the ban on U.S. H1B visa holders is heavily criticized, for India it is a blessing in disguise. The ban will cause more Indian expats to return leading to the emergence of more technology startups in the country. "The return of such talented individuals who have international experience will be of huge benefit to India. It will definitely imply a greater level of activity in the innovation sector," said Hari Venkatacharya, President of TiE Toronto. He is also the Managing Director of Nytric Business Partners. In the last decade, Indians have founded more engineering and technology companies in the U.S. than immigrants from Britain, China, Taiwan, and Japan combined, as 26 percent of all immigrant-founded firms have Indian founders. As per the findings of a research made by Vivek Wadhwa, Senior Research Associate, Harvard Law School and executive in residence at Duke University, the immigrant workers are getting frustrated with the immigration process and tens of thousands of expats are returning home. Agreeing to Venkatacharya's statement, a returnee from U.S. who now Heads Bell Labs Research of India, Vijay Poosalaa said, "The immigrants are trying to come back to India, which has emerged as a land of opportunities. They gain the required experience in U.S. which will help them to thrive in India." The immigrants are also great deliverance for the top tech firms in U.S., who are highly dependent on Indians and Chinese for their patents on technology. Thirty-three percent of patents filed by Intel was contributed by the expats while the contribution in Microsoft's patents accumulated to around 23 percent. Even in IBM the

percentage of contribution of the expats towards the patents filed was 22 percent. The brainpower of the foreigners has immensely helped U.S. to thrive on the technology front. This experience will be of immense help for the Indian IT to build up the product development side which is comparatively lagging behind the IT services. "The expats from U.S. will definitely want to come back and start something of their own, the focus though will be more on product development than on services companies," said Prashanth L J, Managing Director, Lectra India. However, Kiran Datar, Managing Director, India Cisco, WebEx Technology Group cautions saying, "It should be kept in the mind that in order for these startups to be successful we need to have a supportive ecosystem and a robust domestic market which can be tapped by them." Encouraging the entrepreneurs to kickstart their startups, Nitin Paranjape, CEO of a startup company named maxoffice.biz said, "It may be a good idea for the immigrants to come back and start their ventures now because it is a good time for recruiting talented people. Lower inflation, lower cost of funds, lower infrastructure rates are all favorable for this phenomenon." He also added that industry bodies, management institutes and government can actually run a proactive campaign to encourage people to come back. Providing a single window or simplified set of processes for business start-ups will enhance this further.

Vernon Briggs at Cornell University writes in 2009: visa development can reduce immigration to skilled labor from developing nations where such supplies are always chronically short.

Vernon Briggs, Jr., Emeritus Professor of Labor and Human Resource Economics at Cornell University, "Immigration Policy in Free Societies: Are There Principles Involved or Is It All Politics?" November 2009, <http://www.cis.org/immigration-principles>

By the same token, xenophilic demagoguery also serves no useful purpose for public discussions of immigration reforms. Immigration is, as mentioned earlier, fundamentally an economic issue in terms of its societal impacts. Exaggerated and uncritical assertions that proclaim the merits of more immigrants while ignoring their fiscal and opportunity costs on the receiving countries does little to further public debate. The mere existence of labor shortages —locally, regionally or nationally—does not mean that more immigration is necessary or desirable as a policy response. Tight labor markets can provide opportunities to direct public attention to the inadequacies of domestic training, education, and labor mobility programs, as well as being chances to re-examine the state of prevailing anti discrimination efforts that assure that available human resource reservoirs are fully tapped. Furthermore, such efforts at human-resource development can reduce the tendency of expanded immigration to “brain-drain” skilled labor from developing nations where such supplies are always chronically short. Increasing the level of immigration is one way to meet real labor shortages; but it is not the only one or necessarily the preferred first option.

Contention Two: Outsourcing

The main reason for H-1B demand is not a desire for more workers, but a desire for more profits. Nathalie Baptiste of the Nation writes in 2014: By spending a little extra on the hiring process for these workers, they can net higher profits by paying their immigrant employees less than their US-born counterparts. More than 80 percent of H-1B visa holders, in fact, are paid lower wages than US citizens in comparable positions.

Baptiste 14 Nathalie Baptiste, Foreign Policy In Focus, 2-26-2014, "Brain Drain and the Politics of Immigration," Nation, <https://www.thenation.com/article/brain-drain-and-politics-immigration/> //DF
The US immigration structure operates on a visa system. The government issues H-1B visas to foreign workers with specialized skills in science, technology and medicine, among many other fields, allowing them to legally reside and work in the United States. This particular visa is popular among large corporations with the resources to pay the visa fees for their foreign applicants. By spending a little extra on the hiring process for these workers, they can net higher profits by paying their immigrant employees less than their US-born counterparts. More than 80 percent of H-1B visa holders, in fact, are paid lower wages than US citizens in comparable positions. The tech industry in particular is notorious for its abuse of H-1B visas. In 2012, after claiming that it could not fill 6,000 domestic jobs due to a lack of available visas and qualified American workers, Microsoft proposed a solution. If the US government would increase the number of visas available by 20,000, Microsoft said, the company would agree to pay \$10,000 for each applicant—nearly four times the usual fee. The revenue earned would go toward funding STEM education programs in the United States. Microsoft's bid garnered support from the STEM Coalition, an organization made up of corporations, educational nonprofits and some labor advocates that Microsoft is a member of. The coalition signed a letter expressing support for the visa increase as Microsoft approached a group of senators to craft the bill. It was a noble solution to the alleged problem, but the final draft of the legislation turned out to be vastly different from what Microsoft had initially described. In what was billed as a "classic bait and switch," the bill ended up calling for an increase of 300,000 available visas—some fifteen times what Microsoft had proposed—with Microsoft only paying a paltry fee of \$1,825 per visa, or less than 20 percent of what the company had promised.

Ronil Hira at Howard University explains: Every firm that aims to maximize profits, and that's every firm, will avail itself of cheaper H-1Bs. Thus, increasing the supply of H-1B visas, by raising the visa cap, will companies to save more profits by cutting off US workers.

Hira 16 Ronil Hira [Ph. D, Associate Professor of Public Policy, Howard University], 2-25-2016, "The Impact of High-Skilled Immigration on U.S. Workers," Hearing Before The Subcommittee On Immigration And The National Interest Of The Judiciary Committee Hearing Before The Subcommittee On Immigration And The National Interest Of The Judiciary Committee, <https://www.judiciary.senate.gov/imo/media/doc/02-25-16%20Hira%20Testimony.pdf> //DF

As Table 1 shows, 11 of the top 20 H-1B firms are so-called H-1B Dependent. These are firms where more than 15% of their workforce in the U.S. are H-1Bs. Congress created the H-1B Dependent category of employers because it was concerned that those firms are most likely to abuse the H-1B program. Congress wanted tighter recruiting and non-displacement standards for H-1B Dependent firms to ensure that those firms only used the H-1B program sparingly, as a last resort, after they had sought for American workers. Yet, the H-1B Dependent firms in Table 1 demonstrate that it is extraordinarily easy to get H-1Bs while avoiding hiring American workers. Many, if not all, of those firms have been reported in the press of being engaged in directly replacing American workers with cheaper H-1Bs. All of them use similar business models of preferring H-1B workers over Americans because they are cheaper. But it would be folly to assume that H-1B Dependent firms are the only ones using the program for cheaper labor and to substitute for Americans. IBM is most likely doing the same thing with its contract with Hertz right

now. **Every firm that aims to maximize profits, and that's every firm, will avail itself of cheaper H-1Bs.**

Accenture, Deloitte, IBM, and Computer Sciences Corporation, all top H-1B employers but not H-1B Dependent, employ the same business models as Tata and Infosys. And it's important to keep in mind that the technology industry is very focused on keeping labor costs down. The wage-fixing scandal reached the highest levels of Silicon Valley. The nonpoaching emails between Apple's CEO Steve Jobs with Google's Eric Schmidt demonstrates the alarming lengths that the two most profitable technology firms will go to keep workers' wages low. III. **Hiring H-1B workers because they are cheaper than Americans is a routine and mainstream practice.** Well-known firms throughout the country are exploiting the H-1B and L-1 programs to bring in cheaper workers. Southern California Edison and Northeast Utilities are well-known, regulated utilities, and Disney and Toys R Us are household names. The contractors which hired the H-1Bs are Tata, Infosys, HCL, and Cognizant. While they may not be known to the average American, they are the leading H-1B employers. Over the past ten years those four firms alone brought in nearly 95,000 new H-1B workers. IV. **Leading H-1B employers like Cognizant and HCL specialize in offshore outsourcing. When they get work from customers like Disney, the goal is to ship as much of the work offshore to India and other locations as possible. Those jobs that are shipped offshore are lost forever.** The government is speeding up the offshoring of high-wage jobs by allowing the H-1B and L-1 programs to be exploited for cheaper labor. The top H-1B employers in 2014 are shown in table below. **All of the top 10, and 15 of the top 20, H-1B employers in 2014 used the H-1B program principally to facilitate offshoring. Those fifteen employers brought in more than 190,000 new H-1B workers over the ten-year period FY05-14. That means that hundreds of thousands of American jobs were lost and many were offshored.** Many more had their wages depressed, all because of abuse of the H-1B loopholes.

There are two impacts.

First, job offshoring. Hira explains: Employers hire H-1B workers and use them to directly replace American workers. In many cases the H-1B worker literally takes over the American's work and sits at his desk. The H-1B worker acts as a liaison to the offshore team. Language and cultural commonalities help with the transfer of work to the offshore team, and the maintenance of that coordination. This is cheaper and easier than sending the U.S. worker to India to conduct the knowledge transfer. Then the H-1B workers return to their country of origin, taking the jobs with them.

Hira 8-16 Ronil Hira [Ph. D, Associate Professor of Public Policy, Howard University], 8-22-2016, "Top 10 H-1B employers are all IT offshore outsourcing firms, costing U.S. workers tens of thousands of jobs," Economic Policy Institute, <https://www.epi.org/blog/top-10-h-1b-employers-are-all-it-offshore-outsourcing-firms-costing-u-s-workers-tens-of-thousands-jobs/> //DF

In practice the firms use H-1B workers in one or more of the following ways: 1. **Employers hire H-1B workers and use them to directly replace American workers. In many cases the H-1B worker literally takes over the American's work and sits at his desk.** Employers prefer to hire H-1B workers because H-1B workers are much cheaper and compliant because of their visa status. I recently spoke to an H-1B worker at Tata Consultancy Services (the top H-1B employer) who described to me a never-ending workday. While he was paid for eight hours of work, he regularly put in twelve hour days and when he complained about the long hours, he was threatened with termination. 2. **The H-1B worker acts as a liaison to the offshore team. Language and cultural commonalities help with the transfer of work to the offshore team, and the maintenance of that coordination.** 3. The H-1B visa enables the foreign worker to come to the U.S. to learn the job. **This is cheaper and easier than sending the U.S. worker to**

India to conduct the knowledge transfer. 4. Then the H-1B workers return to their country of origin, taking the knowledge and jobs and tasks with them. The upshot is that the government substantially lowers the costs of offshoring through the H-1B program. **In essence, the government is heavily subsidizing offshoring through its lax H-1B policies.** Top H-1B employers regularly use the program to replace, or substitute for, American workers. Newspapers have reported some of these cases. Below are just a few examples, but keep in mind that most of the cases go unreported because American workers have to sign gag orders when they're replaced in order to receive their severance pay, and newspapers don't want to report the same story over and over again:

This practice is incredibly widespread. Hira finds: All of the top 20 H-1B employers use the H-1B program principally to facilitate offshoring. Those fifteen employers brought in more than 190,000 new H-1B workers, meaning that hundreds of thousands of American jobs were lost and many were offshored.

Hira 2-16 Ronil Hira [Ph. D, Associate Professor of Public Policy, Howard University], 2-25-2016, "The Impact of High-Skilled Immigration on U.S. Workers," Hearing Before The Subcommittee On Immigration And The National Interest Of The Judiciary Committee Hearing Before The Subcommittee On Immigration And The National Interest Of The Judiciary Committee,

<https://www.judiciary.senate.gov/imo/media/doc/02-25-16%20Hira%20Testimony.pdf> //DF

As Table 1 shows, 11 of the top 20 H-1B firms are so-called H-1B Dependent. These are firms where more than 15% of their workforce in the U.S. are H-1Bs. Congress created the H-1B Dependent category of employers because it was concerned that those firms are most likely to abuse the H-1B program. Congress wanted tighter recruiting and non-displacement standards for H-1B Dependent firms to ensure that those firms only used the H-1B program sparingly, as a last resort, after they had sought for American workers. Yet, the H-1B Dependent firms in Table 1 demonstrate that it is extraordinarily easy to get H-1Bs while avoiding hiring American workers. Many, if not all, of those firms have been reported in the press of being engaged in directly replacing American workers with cheaper H-1Bs. All of them use similar business models of preferring H-1B workers over Americans because they are cheaper. But it would be folly to assume that H-1B Dependent firms are the only ones using the program for cheaper labor and to substitute for Americans. IBM is most likely doing the same thing with its contract with Hertz right now.

Every firm that aims to maximize profits, and that's every firm, will avail itself of cheaper H-1Bs.

Accenture, Deloitte, IBM, and Computer Sciences Corporation, all top H-1B employers but not H-1B Dependent, employ the same business models as Tata and Infosys. And it's important to keep in mind that the technology industry is very focused on keeping labor costs down. The wage-fixing scandal reached the highest levels of Silicon Valley. The nonpoaching emails between Apple's CEO Steve Jobs with Google's Eric Schmidt demonstrates the alarming lengths that the two most profitable technology firms will go to keep workers' wages low. III. **Hiring**

H-1B workers because they are cheaper than Americans is a routine and mainstream practice. Well-known firms throughout the country are exploiting the H-1B and L-1 programs to bring in cheaper workers. Southern California Edison and Northeast Utilities are well-known, regulated utilities, and Disney and Toys R Us are household names. The contractors which hired the H-1Bs are Tata, Infosys, HCL, and Cognizant. While they may not be known to the average American, they are the leading H-1B employers. Over the past ten years those four firms alone brought in nearly 95,000 new H-1B workers. IV. **Leading H-1B employers like Cognizant and HCL specialize in offshore outsourcing. When they get work from customers like Disney, the goal is to ship as much of the work offshore to India and other locations as possible. Those jobs that are shipped offshore are lost forever.**

The government is speeding up the offshoring of high-wage jobs by allowing the H-1B and L-1 programs to be exploited for cheaper labor. The top H-1B employers in 2014 are shown in table below. **All of the top 10, and 15 of the top 20, H-1B employers in 2014 used the H-1B program principally to facilitate offshoring. Those fifteen employers brought in more than 190,000 new H-1B workers over the ten-year period FY05-14.** That means that **hundreds of thousands of American jobs were lost and many were offshored.** Many more had their wages depressed, all because of abuse of the H-1B loopholes.

H-1B visas are mainly used for outsourcing. Torres at the Harvard Business Review explains in 2017: Say you're a big company with your own IT department. To reduce overhead, or to cut costs, or to increase efficiency, you decide to contract out, outsource, your IT work. So you hire an IT services firm to do that work on a temporary, as-needed basis. That firm sends workers, who are on H-1B visas, to do those tasks and you lay off your own IT staff, cutting costs.

Torres 17 Nicole Torres, 5-04-2017, "The H-1B Visa Debate Explained," Harvard Business Review <https://hbr.org/2017/05/the-h-1b-visa-debate-explained> //DF

One of the most consequential criticisms of the H-1B program is its heavy use by IT outsourcing firms such as Infosys, Tata Consultancy Services, and Wipro. Outsourcing has been a trend in information management for years, as companies have increasingly hired contractors (at lower cost) to do tasks such as software programming and data entry, processing, and storage. Here's a simplified way to explain how this plays out:

Say you're a big company with your own IT department. To reduce overhead, or to cut costs, or to increase efficiency, you decide to contract out (outsource) some or all of your IT work. So you hire an IT services firm to do that work on a temporary, as-needed basis. That firm sends workers, many of whom are on H-1B visas, to do those tasks. Sometimes, these contract workers supplement your IT staff; other times, **you lay off**

your IT staff and the contractors effectively replace them. Because these IT firms receive so many H-1B visas, there are fewer for other companies. "No matter what your view on outsourcing is, this was not the original intent of the program," says William Kerr, an economist at Harvard Business School who has studied the effects of high-skilled immigration in the U.S. "One of the implications of this is it reduces the number of visas available for their original purposes." "The outsourcing companies bring lower-level workers than the American tech companies," Kerr says. "That work has \$60,000 salaries, which is not minimum wage by any means, but it's lower paid than a typical computer scientist at a large U.S. tech employer." IT companies in India and the U.S. have lobbied against making the H-1B program more restrictive, arguing that they help American companies become more competitive by handling their IT operations. They've also said that the visa programs allow them to keep jobs in the U.S., so reducing the number of visas they're allowed may result in them shifting work back to India. (However, Bloomberg recently reported that Infosys plans to create thousands of new jobs for Americans over the next two years.)

This strategy is so lucrative for IT companies that most H-1B visas go towards this purpose. The Economist reports in 2017: outsourcing firms from India are now the biggest employers of H-1B workers. Raising the number of available visas will just encourage companies to lay off more workers and replace them with cheaper work from abroad.

Economist 17 2-9-2017, "H-1B visas do mainly go to Indian outsourcing firms," Economist, <https://www.economist.com/news/united-states/21716630-not-good-argument-against-them-h-1b-visa-s-do-mainly-go-indian-outsourcing> //DF

MOST of the debate about immigration in America concerns the illegal sort. But legal immigration can be controversial too, even when the migrants in question have either an unusual talent for writing computer code or improbably long legs. The H-1B visa programme is aimed at skilled workers in "speciality occupations", mostly medicine and information technology (though fashion models can also qualify). Currently the programme is limited to 85,000 visas a year, with 20,000 carved out for those who earn postgraduate degrees from American universities. Most workers must make a minimum of \$60,000 a year to qualify. Critics argue that the programme has strayed from its original purpose and is now being abused by firms to replace Americans with cheaper labour. Three bills to curtail H-1Bs have already been introduced to the new Congress.

Reports suggest that an executive order may also be in the works. **Demand for the visas far exceeds the 85,000 cap, meaning that the government has to ration them to firms by lottery. Indian outsourcing firms like Tata Consultancy Services (TCS), which provides low-cost back-office services, are now the biggest employers of H-1B workers.**

Analysing data compiled by Théo Négri of jobsintech.io, The Economist found that between 2012 and 2015 the three biggest Indian outsourcing firms—TCS, Wipro and Infosys—submitted over 150,000 visa applications for positions that paid a median salary of \$69,500. In contrast, America's five biggest tech firms—Apple, Amazon, Facebook, Google and Microsoft—submitted just 31,000 applications, and proposed to pay their workers a median salary of \$117,000.

This outsourcing has serious costs. Hira at the Economic Policy Institute writes in 2015: it's likely that Americans lost more than 12,000 jobs to H-1B workers in just one year.

Hira 15 Ron Hira, 2-19-2015, "New Data Show How Firms Like Infosys and Tata Abuse the H-1B Program," Economic Policy Institute,

<https://www.epi.org/blog/new-data-infosys-tata-abuse-h-1b-program/> //DF

The outsourcing companies involved in the Southern California Edison (SCE) scandal I wrote about last week—where U.S. workers were replaced with H-1B guestworkers—are Infosys and Tata Consultancy Services. These two India-based IT firms specialize in outsourcing and offshoring, are major publicly traded companies with a combined market value of about \$115 billion, and are the top two H-1B employers in the United States. In Fiscal Year (FY) 2013, Infosys ranked first with 6,269 H-1B petitions approved by the government, and Tata ranked second with 6,193. As with the SCE scandal, these leading offshore outsourcing firms use the H-1B program to replace American workers and to facilitate the offshoring of American jobs. Because of this, it's likely that Americans lost more than 12,000 jobs to H-1B workers in just one year. FY13 H-1B data I've analyzed, acquired through a Freedom of Information Act request, reveals new details about how firms like Infosys and Tata are using the H-1B nonimmigrant visa program. Spoiler alert: they don't use the H-1B visa as a way to alleviate a shortage of STEM-educated U.S. workers; they use it primarily to cut labor costs. But the other main arguments proffered to support an expansion of the H-1B program are easily debunked with even a cursory look at the H-1B data.

Summary Explanation

Outsourcing

Go to our first contention on outsourcing. As explained by Hira, this trend is widespread, done by all of the top 20 H1B employers. These companies outsource because it is cheaper, as 80% of H1B workers are underpaid according to Baptiste. All companies want to cut costs and use this is a shortcut. Woodward explains however, that because of the low wages these companies are paying, US graduates with STEM degrees don't go into STEM jobs. This triggers 190,000 lost jobs which outweighs their case. Finding

Labor shortage: As my partner referenced, data from the Bureau of Labor Statistics and other sources indicate that supply and demand relationship for broad categories of tech workers is quite healthy: US businesses are adding tech jobs at a fast pace. The supply of tech graduates has been outpacing the demand for tech jobs. If there was a labor shortage we would see companies raising

wages in order to incentivize US workers to get jobs. There is no better way to measure the shortage, as people talk with their wallets.

Additionally, Most H-1B holders definitionally are not innovating.

a) Chen at The Nation explains that most visas go to outsourcing companies that employ back room workers performing filing and other menial tasks, not Mark Zuckerberg's.

b) They don't even stay around long enough to innovate. According to Harkinson at Mother Jones less than 3% of visa holders apply for permanent residency.

c) Even the ones who do apply likely won't get a green card. Ruiz at the Brookings Institution explains: there is a considerable backlog in green card applications due to per-country limits, particularly for Indian and Chinese nationals.

Cybersecurity is non-unique, zanofsky says this is happening b/c of trump

Even If there is a shortage, it solves for itself in the long term b/c wages will always increase.

Exploitation

Start off with our second contention on exploitation. As Chen explains, 40% of H1B workers occupy the lowest wage tiers. Additionally, when these workers are essentially indentured students to the companies they originally get an H1B for. Smith writes that the H1Bs create an underground system of financial bondage by stealing wages and suing workers who quit. The tools of intimidation include restrictive employment contracts – signed by workers unaware of their rights – as well as legal loopholes, humiliation, and threats. Ontiveros states that Because of this ongoing abuse, the lives of H-1B workers are worse here than in their own countries. Judges, as Mayer writes, we we have a collective obligation to reject expanding structurally exploitative systems that precedes any benefit that stems from the system.

Mayer 07 Robert Mayer [Loyola University, Chicago], 11-14-2007, "Sweatshops, Exploitation, and Moral Responsibility," Journal of Social Philosophy,

<https://onlinelibrary.wiley.com/doi/full/10.1111/j.1467-9833.2007.00401.x> //DF

In this type of environment the minimum profit necessary to survive is in fact the maximum profit that can be made. With declining profits a business loses shareholder confidence, cannot raise capital or borrow on favorable terms, will lack the resources to invest in innovation or attract talent, and so forth. It will be doomed and much of the stake that has been risked will be lost. That is a prospect Jason does not face. His exploitation was gratuitous, but Nike's is not. Its exploitation is built into the very structure of the situation. Given this difference, what then is Nike's responsibility?³⁹ First, it should not tolerate any discretionary exploitation in the contractors it employs—for example, when managers try to extort sexual favors from vulnerable workers. Second, it should insist that the established labor laws be obeyed and also that governments enforce those rules uniformly. This will do away with impure structural exploitation. Third, it should press for structural solutions that end the exploitability of labor and do its fair share to repair the background circumstances that make taking unfair advantage possible. Certainly it should not lobby for policies that perpetuate or strengthen the structural conditions that permit businesses to exploit workers.⁴⁰

But this third obligation is one we share with Nike too. **The responsibility is collective. We must change the rules of the game and alter the distribution of assets that puts some at a disadvantage. And until we do this, agents who have fulfilled their other obligations may continue to exploit. They may gain at the expense of their workers as long as the exploitation is not gratuitous or illegal.** In other words, they may play by the rules of this unfair but mutually advantageous game that we call capitalism.

Because of this on-going abuse, the lives of H-1B workers are worse here. Maria Ontiveros from University of San Francisco Law School argues in 2017 that

Maria L. Ontiveros, Professor of Law, University of San Francisco. "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers", 38 Berkeley J. Emp. & Lab. L. 1 (2017). <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell>

The H-1B program was originally intended to help American companies and **workers** like the hypothetical Raji Patel. He could provide needed, hard-to-find technical expertise to a company, make a decent living, and perhaps become an American citizen.

Unfortunately, the visa rules are set up in such a way as to leave [H-1B visa workers] him powerless to protest poor treatment, overwork, or lack of pay. At the same time, American workers like the hypothetical Roger Greenman have to compete with Raji and other H1-B workers or find themselves displaced. As a result, their living standards decline. Finally, **the lives of some of the H1B workers** like Sanjiv Gupta **are even worse**. They arrive in America to find broken promises about the job they thought would be waiting for them and the amount of money they would earn. **Bound by contracts with unconscionable penalties, they find themselves unable to quit and go home, even if they want to.** Better enforcement of the visa laws, as well as state and federal causes of action, can help ameliorate the situation, but true change will only happen with revisions to the guest worker visa program, so that it is no longer a system of unfree labor.