



Examining H-1B Visas & High-Skilled Asian Immigration Seminar



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*The second in a series of seminars sponsored by the
Sloan West Coast Program on
Science and Engineering Workers.*



Sloan West Coast Program on Science and Engineering Workers

Examining H-1B Visas & High-Skilled Asian Immigration

UC AAPI Policy Multi-Campus Research Program

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EXECUTIVE SUMMARY

The Sloan West Coast Program on Science and Engineering Workers held its second seminar January 30, 2009 at the University of California, Los Angeles to discuss the cultural and policy implications of the high-skilled immigrant trend. The three major sessions highlighted voices from industries, current research on H-1B visa workers, as well as the social, economic, and policy implications of the H-1B visa program.

The consensus was that input from multiple stakeholders was needed to design and implement policies related to the H-1B visa program, particularly because of the broad implications felt within certain industries who have a high demand for H-1B visas and challenges faced by visa holders. The H-1B visa has social and cultural implications for the Asian community in the United States, however, there must be more research done. For example, we must find out how the engineering industry fares during the boom and bust cycles. Furthermore, in order to remain competitive, what are the costs and benefits of an extended training period in the science fields for domestic workers? Finally, how do the challenges in the U.S. educational system affect training and other labor markets?

The seminar was organized by the UC Asian American and Pacific Islander Policy Multi-Campus Research Program with the support of the Alfred P. Sloan Foundation and cosponsored by the UCLA Asian American Studies Center, UCLA School of Public Affairs, and the UCLA Canadian Studies Program.

VOICES FROM INDUSTRY

The Necessity of H-1B Visas in Academia

There were several conclusions from the January 30, 2009 seminar. First, the H-1B program is considered to be an asset to higher educational institutions, such as the University of California Los Angeles (UCLA), because it allows the universities to bring in faculty, researchers, and post-doctoral researchers from other countries. The requirements that UCLA has in terms of H-1B visas and employing foreign scholars and researchers is different from that of other industries, such as in the technology sector. The most striking difference is that Universities and not-for-profit organizations have been exempt from the cap since 2000. Higher education institutions are not trying to outsource because they are looking for people that can increase areas within research, teaching, and services. The UCLA Dashew Center for International Students and Scholars serve approximately 5,000 international students. It is ranked seventh in the United States in terms of international student enrollment. About two-thirds are graduate students and over 60% are from Asia. They seek out information prior to arrival regarding immigration requirements and acculturation concerns.

UCLA is ranked sixth in terms of the number of visiting scholars. There are over 700 visiting scholars, who include faculty, researchers, and post-doctoral scholars. Employment is based on H-1B visas and other work visas. The H-1B visa program is crucial for universities like UCLA to remain competitive in the research field. As of January 1, 2009, there are 592 visa holders at UCLA, of which 385 are from Asian countries (65%). The countries that are sending H-1B visiting scholars are China (219), India (71), Indonesia, Japan, Korea, Malaysia, Philippines, Taiwan, and Vietnam. There is a large population of visa holders from Asia because their skills and educational background are suitable for open positions. Thirty-nine of these visa holders are faculty members, 278 hold researcher positions (assistant and post-doctoral), 39 programmer analysts, 4 associate engineers, 8 within the medical profession, and others. The leading departments are chemical and molecular, dentistry, electrical engineering, molecular cell, and physiological sciences. Of the postdoctoral scholars (post-docs), three-fourths are visa holders. Generally, post-docs are those who have finished their doctoral education and are in temporary research positions. They are co-authoring papers, attending conferences, and have stayed for three to five years in the science, medical and engineering fields. This opportunity allows post-docs to network with leading faculty members or work in the top research positions.

There have been less visiting scholars in the last few years. The last time there was a peak in visa holders was in 2004 and 2005, when 215 new petitions were filed for visa holders. In 2008, there were 165. There are various factors that influence these fluctuations: fewer grants, reduced federal money and more underfunded departments, legal fees, departmental recharges that range anywhere from \$3,000 to \$4,500. J-1 visas are becoming more popular because they are more cost effective.

During the selections this year, UCLA sought out different methods to limit cost. They could possibly use outside counsel for immigration purposes since the University of California system was spending a quarter of a million dollars to get counseling on hiring H-1B visa holders. Those who are offered a position at UCLA are rarely denied unless they do not match the experience

required for the job. UCLA eases the process by partnering with a private law firm to prepare files and sort out those that are qualified.

Concerns from universities like UCLA, have risen from Senator Richard Durbin's proposal to set aside a separate cap. From the student view, many international students hold a F-1 visa status, and fund their education by themselves or with the help of family members. They come to UCLA to receive practical training, usually in the science and engineering fields. During their time here, they have 17 months to gain optional or curricular practical training, which is also the time frame where they can legally extend their stay and continue onto H-1B status. There are presentations held at UCLA for international students to receive guidance on how to start these petitions.

Businesses Seeking Counsel via Immigration Law Firms

Although the government recently introduced a registration program, corporate immigration firms say large and small firms are open to being audited as long as they receive the necessary number of workers needed to remain competitive within their respective markets. Those from smaller companies are usually comprised of ten people and have witnessed a boom in certain academic fields, healthcare, and some entertainment, such as visual effects. The trend that they have seen is simply that the U.S. does not produce enough students in the science and engineering (S&E) field; thus there is a worker shortage. Science, technology, engineering, and mathematics (STEM) students, who are in the United States, do have the option to get an additional 17 months of optional practical training (OPT). They are entitled to additional time if they work for an employer that uses "e-verify." This opens up the company to governmental audits. Most companies are hesitant to use this system, even though they are not afraid of being audited.

Interestingly enough, the U.S. is encouraged to find more workers from Chile and Singapore due to the free trade agreement. The U.S. is allowed to have 6,000 H-1B petitions filed for these countries, but have only used a couple of hundred of the available visas.

In 2008, there were 160,000 applications for an allotted 80,000 spots. The reality is that the government has made it very expensive to get a petition processed. The filing fees range from \$3,000 to \$5,000, on top of another training fee, which must be paid by the employer. The second governmental filing fee is known as the fraud fee, which is \$500—used to conduct audits and investigations. This fee must be paid by everyone; most universities will pay that fee. Furthermore, if you want to decrease the processing time, the regular filing fee is \$320, but in order to have employees working sooner, you can pay for premium processing, which will allow your prospective employee to work three to four months sooner at \$1,500.

The government has recently introduced a registration program, so that they can verify immigration statuses. Companies are fine with being audited. The fraud report that came out last year indicated that there was a 13% fraud rate, 7% technical violations, meaning someone was not paid premium wage or did not actually work at the work site. Some people have been found to work an entirely different job than what they originally applied for. This has occurred in the field of accounting, human resources, business sales, and advertising. This occurs less

with students because consulting companies will not file their petitions until they have found an employer to sponsor them.

The trends that we have seen is that now the private industry will be subject to the cap and they will not be able to apply until the next filing date. The United States has had a loss of jobs in the manufacturing sector. While S&E are now in the forefront, S&E workers are more likely to go to Canada or Australia because they welcome high-skilled workers (comparable to the U.S.'s H-1B visa holders). In China and Singapore, post-docs are going back to Asia because they are finding that there are more S&E labs, funding, and researchers who are able to work for them. A lot of people have wanted to set up their own companies after gaining practical experience within the STEM field.

Perspectives from Qualcomm and Microsoft

According to employers, while there are many U.S. residents with science, technological, engineering, and mathematical educations, there are not enough of them available in the job market that can be hired to help the companies remain competitive. Although the seminar did not hear from different tiers of H-1B employers, Microsoft and Qualcomm represented the group of H-1B employers who were focused on recruiting the best talent. The issue was focused around whether companies should bring the work to the talent or vice versa.

In the case of Qualcomm, 70% of their total foreign national population are on H-1B visas, mainly from India and China where 70.75% are from India, 14.3% from China, 2.44% from Korea, 1.9% from Taiwan, and 11.32% from other countries. In the fiscal year of 2008, the hiring trends for Qualcomm were as follows: of 2,500 employees, 30% were foreign nationals. There was a 75% success rate even though 428 were considered cases at capacity. Foreign nationals did get the option to be put on extension to work in the United States as long as they had a STEM degree. Other years, Qualcomm would send H-1B visa workers back to their home countries to work. In the last three years, foreign national hires have increased with an average of 4.7%. Realistically, Qualcomm would like to hire from the U.S. population but it depends on educational development programs; there is a shortage in the United States and Qualcomm must find the most qualified talent to help keep them competitive with other companies no matter where that talent resides. If we compare the United States to Asia, China has doubled those with first engineering degrees, giving them a 7:1 ratio compared with the U.S. From 1995 to 2005, the U.S. has not remained as competitive as Asia. Given the recent trends of the U.S. economy, eventually many companies might have to send individuals overseas to work because it all relies on supply and demand. In the case of Qualcomm, they will continue looking for talent from the United States, but they currently have offices in China, Taiwan, and Korea. Qualcomm believes it is making competitive offers to all workers and is also registered with e-verify to show that they are not just hiring workers for cheap labor. Qualcomm, just like other companies that provide similar services, are all competing for the same talented individuals.

Microsoft does not routinely bring workers from foreign states, however, more than half of U.S. educated college students in STEM filed H-1B visas. Microsoft has been able to hire 1,200 to 1,400, where about 1,000 of those are for software developing jobs. When Microsoft hires students, they look at the institutions where they have received their Ph.D. degrees. Since 1998

to 2003, there have been more students interested in the program. Microsoft has opened up its own Canada development center which is an hour and half away from Seattle so that they can hire students who were not able to work in the United States because they were not qualified for H-1B visas in the U.S. This year, in order to increase the talent from the United States, Microsoft is pushing more first and second year college students to intern at their company.

RESEARCH: H-1B VISAS' CULTURAL AND SOCIAL INFLUENCE

Connections Between U.S. and Asian Firms

One method where U.S. companies are able to access credentials of prospective employees is by employing people directly in the Silicon Valley or to set up companies in their home countries and later sponsor them to come work in the United States. However the question remains, does the immigration policy help connect the United States with Asian firms? Until about 2000, most of the work that Indian outsourcing companies were doing was still in the U.S., but then workers were sent to the United States. These workers then became managers and now the work has returned to India due to a large increase of education in India with 540,000 engineering graduates. The rates continue to grow because new educational institutions are opening up. With work having moved to India, there may be fewer issues tied to H-1B visas.

Narrating Between a Flexible Citizenship

There is growing concern within academia that the H-1B program has become an issue that refers to high-skilled workers as non-human since there is a lack of narration that highlights personal experiences of migration, membership in the United States and their struggles to resist being taken advantage of. Asian immigrants are often labeled as “non-immigrants.” Increasingly, Asian America is being defined through this “temporary” lens.

How should we organize as human beings to have temporal and geographical stability, such as in the three years, should workers be attending class, having stable jobs, or filing papers? Ethnographic work based on H-1B visa workers in Los Angeles, who are largely Korean Americans, and then in West Los Angeles are from the high-tech and multi-media companies. It would be beneficial to take a step back and put context behind these numbers and new dynamics.

The H-1B program started in 1990, but since implementation, it has profoundly reshaped the Asian American immigrant experience. Today, people become new permanent residents by just filing papers. In the case of Korean Americans, they are considered to have flexible citizenship because they do not walk around stating their visa status. When Asian Americans think of diversity, there is now the idea of diversity in the “status” and whether they have H-1B visas. To rebuttal, there is mobilization among H-1B visa workers. As a group they have quietly politically mobilized.

The number one priority of H-1B visa holders is to cut ties that bond them to their employers because they would rather seek opportunities in countries that offer better benefits. Asian immigrants understand that they are an essential part of the American economy, however since they are such a fluid group, it is difficult to gain individual stories and contributions and success. There is also a recent rise of Indian firms that sponsor H-1B visa workers that skew the image of their struggles.

Migration Trends from India

In post-colonial India, it has been widely accepted that there has been a constant outflow of skilled labor from the country. In the first phase, which began in the early 1950s and continued until the 1970s, a substantial number of technically skilled and professionally qualified persons migrated to industrialized countries, in sharp contrast to previous centuries when most labor outflow consisted of unskilled and very often indentured workers. The popular destinations were the United Kingdom, the United States, Canada and to a lesser extent Western Europe and Australia.

The second phase began in the mid-1970s and peaked in the early 1980s when the destination was largely to the oil-exporting areas of the Middle East. The nature of this migration was strikingly different, in that the migrants were overwhelmingly either unskilled or semi-skilled workers. However, although emigration in this period largely concerned unskilled workers, emigration to developed countries, particularly in the United States, continued to involve professionals with technical qualifications. According to Deepak Nayyar (1994), although India's share of total immigration to the U.S. was a mere 3.6% in the period 1981-90, India represented 13.4% of the admissions of professional, highly skilled migrants. Indian H-1Bs grew steadily from 1989 clearly becoming the largest category in 1994, then doubling in size by 1996, and quintupling by 1999—a remarkable pattern of growth and accounting for nearly half of all visas issued in 1999 (47 percent).

India's racial and religious makeup is a social, political, and economic construction that is a complex structure going beyond an understanding of the simple idea of one nation, one people. India does not consist of or recognize racial groups. Instead, there exists a caste system, a visible hierarchy that was enforced through the British in their attempt to successfully rule India. Today, the nation of India or Hindustan (the land of Hindu's) is comprised of 35 individual states all under the umbrella of one nation and one flag. In order to trace why there was a surge in H-1B visa workers going to the United States from India we must examine their history concerning the caste system and socioeconomic status. By the mid-1990's, over 40% of H-1B visas were going to India. Currently, India receives 30-35% of available H-1B visas. The emergence of global labor markets in India as high-tech workers though has very distinct features. It was endemic that the majority of males in middle class families had sons in the United States under H-1B visas. Based on in-depth interviews conducted by Dr. Sharmilla Rudrappa from the University of Texas, there was a selection bias among those who had parents that were H-1B visa workers. Patterns persisted following an online survey of 200 respondents.

The patterns that explain why there are so many high-skilled Indian workers in the United States seemed quite clear. Most Indians who are using H-1B visas today and do not have a green card in the United States are men between the ages of 25 and 35. Almost all of them are considered to be a part of the upper-cast and are brahman's. Many of them are from the southern regions of India, particularly Karnataka and Madharsha. If these workers came to the U.S. and were originally from the northern regions of India, they either grew up in neighborhoods that had a majority of southern Indians, went to school in southern India, or worked in the south. Many H-1B visa workers had fathers who were professionals with a technical background in India and had worked for the state or at the regional level. This meant that the likelihood of their father

being transferred from job to job within the state was considered a norm. These family members then either moved with the father when they changed jobs or stayed in one area with the mother to create while the father went off to work. Migration then, has been endemic to a large number of southern Indians. Thus, the idea of migrating to the United States for work is not a new concept to them.

Those who received H-1B visas in the early 1990's now have citizenship status in the United States. They grew up in an India that was not liberalized because open markets did not exist. Thus, those that were recent arrivals were ones that grew up in liberal India. The creation of a global labor market is not the result of deliberate government tactics. The Indian government is pushing for more Indians to migrate so that they could become a member of international organization for migration to negotiate bilateral agreements to send high-tech workers. Furthermore, if we examine the education policy in India, we will see that the Indian government has a history of sponsoring technological education. There has been a wealth of second tier engineering colleges that have been developed regionally. The third tier of colleges has been created by the state in order to increase the number of science and engineering related workers. Those who worked blue color jobs were trained in institutions known as "shop floors" in order to give citizens comparable options to their more well-off counterparts for career opportunities. Of the jobs available in India, only 22.5% of available seats were in higher education and government jobs were reserved for the sheduit caste. It was in the 1970s and 1980s when middle class families of upper caste background realized that their sons did not have access to equal education. With the help of private donations, they were able to create colleges that would give proper training in the engineering field. These engineering colleges were considered to be caste-less because if your grades were sufficient and you could pay the donation and entrance fee, you were able to become a student. Unfortunately, it was problematic because once these students graduated from school, they were not able to find a job in India. Even if they worked for enterprises that were state-funded they were still not able to be promoted because it was caste-based. Thus, young individuals moved to the United States in the mid-1980's due to this frustration and sought out employers that would sponsor them.

SOCIAL, ECONOMIC, AND POLICY IMPLICATIONS OF THE HIGH-SKILLED IMMIGRATION TREND

Trends Witnessed by the Consulate General of Canada

Due to the long and expensive visa process in the U.S., other countries, such as Canada, have found it favorable to them. In 2008, H-1B visas were issued in Los Angeles from the Canadian Consulate. One thousand two hundred people received permanent residency visas and 300 qualified for work permits. Of these, 40% were issued to Chinese and Indians and 20% to all others. In order to qualify, the program stressed transparency.

The Canadian consulate is located in Los Angeles because they take immigrants from the United States who are not yet considered an U.S. citizen. Their duty is to process all applications for non-immigrants and emigrating persons. The migration program does not hold active recruitment, however the program thrives on the huge foreign population due to its Los Angeles location. About 90% of applicants are non-Americans where most eligible applicants are processed. If the applicant is eligible to apply, they will be processed without any quotas, however, this does not mean you will get a visa. There are no quotas on nationalities, but people from Asia represent 80% of those in the migration program. Canada is benefiting from U.S. immigration policies. Most look to Canada because of difficulty involved in renewing their status in the U.S. or in some cases they are told to return to their home country and have already married or have children residing in the United States. Most qualify for migration because of education and work experience in the U.S., thus the refusal rate is low for those who do apply with the Canadian Consulate.

Prospective immigrants, like those who applied for the H-1B visa, can directly apply for permanent resident status from outside of Canada. There are 90% of cases of those who are working overseas. The criteria to be a temporary foreign worker (TFW) states that there must be a job that has been offered by local authorities and there is a work permit required for specific jobs. There are about 60% of Americans who are temporary foreign workers.

Need for Policy Reform and Increased Transparency

Critics of the H-1B program say that in order for the U.S. to remain competitive, its companies should have access to the workers they need. The goal of policymakers though should be to provide the U.S. with talent, however, policies should be implemented to protect domestic workers. There is evidence from research that the presence of skilled immigrants cause wage decline for native workers. Some H-1B workers were brought to work in skilled occupations, yet when they arrived, are working in low-skilled and low-paid jobs, thus undermining and bringing down regular standards. This allows questions of fraud. The compromises that the United States would have to deal with to stay in the current labor force is to deal with the processing and high backlogs of graduates which make companies rely on visas more and more. There is a need for skilled temporary workers in general. There are 145,000 families that gain permanent residency every year.

CONCLUSION

The H-1B program was created to deal with the changing US labor market and has catered to the non-profit/educational sector as well as businesses that are looking for a competitive edge within the research and S&E fields. There remains a high demand of H-1B visa workers because although there may not be a shortage of science and engineering workers in the United States, they lack the skills required to remain competitive. Critics believe that there does need to be more transparency because there have been cases where H-1B visas were used inappropriately. Policy reform must also be addressed in a timely manner so that companies in need of high-skilled labor may have access to workers that they need, but more importantly, so that high-skilled working immigrants have a fuller understanding of their rights when migrating to the United States.

PANELIST BIOGRAPHIES

Vance Anderson



Vance Anderson joined Qualcomm in 2002 as a Staffing Specialist providing recruiting support for various divisions and positions.

In 2006, he was promoted to his current position, Immigration Manager. In this role, Vance administers Qualcomm's immigration program, oversees a team of Immigration Specialists focused on supporting Qualcomm's domestic immigration population and manages the relationship with our external immigration vendor.

Prior to joining Qualcomm, Vance spent 7 years providing staffing support to various small and large sized corporations throughout Southern California.

Vance graduated from Temple University with a BS degree in Political Science in 1995.

Jeanne Batalova



Jeanne Batalova is a Policy Analyst at the Migration Policy Institute. Her areas of expertise include impacts of immigrants on society and labor markets; integration of immigrant children and elderly immigrants; and the policies and practices regulating immigration of highly skilled workers and foreign students. She is also Manager of the MPI Data Hub, a one-stop, web-based resource that provides instant access to the latest facts, stats, and maps covering US and global data on immigration and immigrant integration.

Dr. Batalova has co-authored research on brain waste in the United States, estimates of unauthorized youth eligible for legal status under the DREAM Act, on economic impacts of

immigrants in the United States, and educational outcomes of English language learners, among others. She is also the author of *Skilled Immigrant and Native Workers in the United States: The Economic Competition Debate and Beyond* (LFB Scholarly Publishing 2006) and *Competing for Global Talent: The Race Begins with Foreign Students* (Immigration Policy Center 2006). Her commentary has appeared in the *New York Times*, *Baltimore Sun*, *Chicago Tribune*, and *Dallas Morning News*. As a Russian-speaking migration specialist, Dr. Batalova participated in the discussions of legal and illegal immigration in the United States and Russia organized by the Russian Service of the Voice of America.

She earned a PhD in Sociology, with a specialization in demography, from University of California - Irvine, MBA from Roosevelt University, and BA in Economics from Academy of Economic Studies, Chisinau, Moldova.

Rafiq Dossani



Rafiq Dossani is a senior research scholar at Shorenstein APARC, responsible for developing and directing the South Asia Initiative. His research interests include South Asian security, and financial, technology, and energy-sector reform in India. He is currently undertaking projects on political reform, business process outsourcing, innovation and entrepreneurship in information technology in India, and security in the Indian subcontinent. His most recent books are *India Arriving*, published in 2007 by AMACOM Books/American Management Association, *Prospects for Peace in South Asia* (co-edited with Henry Rowen), published in 2005 by Stanford University Press, and *Telecommunications Reform in India*, published in 2002 by Greenwood Press.

Dossani earlier worked for the Robert Fleming Investment Banking group, first as CEO of its India operations and later as head of its San Francisco operations. He has also been the chairman and CEO of a stockbroking firm on the OTCEI exchange in India, the deputy editor of *Business India Weekly*, and a professor of finance at Pennsylvania State University. He holds a BA in economics from St. Stephen's College, New Delhi, India; an MBA from the Indian Institute of Management, Calcutta, India; and a PhD in finance from Northwestern University.

Bob Ericksen



Bob Ericksen is the Director of the UCLA Dashew Center for International Students and Scholars. The Dashew Center serves as a resource and learning center for the entire UCLA community to promote global connection, international understanding and cultural sensitivity.

Franklin Gilliam, Jr.



Dr. Gilliam received his B.A. from Drake University and his Ph.D. from the University of Iowa. He is Professor of Political Science and Founding Director of the Center for Communications and Community at the University of California, Los Angeles. He has also taught at the University of Wisconsin-Madison, Grinnell College, and the University of Dar Es Salaam, Tanzania. Most recently, he has taught with former Vice President Al Gore at Columbia University, Fisk University, and Middle Tennessee State University. He will be a Visiting Scholar at Brandeis University in 2001-2002. Professor Gilliam has served as the Research Director for the California Commission on the Status of African American Males and as Chair of the B.A. and M.A. Programs at the Center for African-American Studies, UCLA.

He is the author of the *Farther to Go: Reading and Cases in African-American Politics* (Harcourt Brace) and, with Shanto Iyengar, the forthcoming *Race, Television News, and American Politics: Script-based Reasoning About Crime and Welfare* (Princeton University Press). Dr. Gilliam has also published in the *American Political Science Review*, *American Journal of Political Science*, *Social Policy Report*, *Urban Affairs Review*, *Journal of Politics*, *Nieman Reports*, *Harvard International Journal of Press/Politics*, *Social Science Quarterly*, *Public Opinion*, *Legislative Studies Quarterly*, *Government and Policy*, *Sociological Inquiry*, *Public Opinion Quarterly*, *Political Psychology*, *Ethiopian Review* and *The Source*. His paper (with Seth Masket) was voted the "best paper" in black politics at the 2000 meetings of the Western Political Science Foundation.

The Ford Foundation and UCLA's African American Studies Center awarded Dr. Gilliam post-doctoral fellowships. He was awarded a Research Fellowship from the Center for American Politics and Public Policy, UCLA. He has been twice nominated for UCLA's Luckman Distinguished Teaching Award. Dr. Gilliam has served on the editorial boards of the American Journal of Political Science and Political Research Quarterly. In addition, the National Science Foundation appointed him to the Committee of Visitors. He also serves on the Advisory Boards of UCLA's Center for Urban Poverty, Lewis Center for Regional Policy, and Center for African American Politics.

Over the last five years Dr. Gilliam has consulted on a wide range of projects focusing on race and media for groups such as the Aspen Institute, the National Funding Collaborative for Violence Prevention, the Annie E. Casey Foundation, the Rockefeller Foundation, the W.T. Grant Foundation, the Youth Law Center, the MacArthur Foundation, Children Now, Council on Foundations, National Governor's Association, and the Charles S. Benton Foundation. Dr. Gilliam serves on the Boards of the National Funding Collaborative for Violence Prevention and the FrameWorks Institute, both of Washington, D.C.

Dr. Gilliam has been quoted in the Los Angeles Times, Washington Post, San Diego Union Tribune, Boston Globe, Des Moines Register, and the Sydney Times. He has appeared on the NBC Nightly News, ABC Nightly News, CNN, C-Span, KNBC, KABC, KRON, and KPIX.

Phil Martin



Professor Phil Martin teaches in the Department of Agriculture at University of California, Davis. He is the Chair of the UC Comparative Immigration and Integration Program as well as the Editor of the monthly Migration News and the Quarterly Rural Migration News.

He has studied Labor Economics and Agricultural Economics at the University of Wisconsin-Madison, where he earned a PhD in 1975. Professor Martin does research on farm labor, labor migration, economic development, and immigration issues, and has testified before Congress and state and local agencies numerous times on these issues.

John M. Miano



Mr. Miano is a Fellow at the Center for Immigration Studies and his area of expertise is in guest worker programs, particularly in how they affect the technology work force. Mr. Miano has a BA in Mathematics from The College of Wooster and a JD from Seton Hall University. Mr. Miano is also the founder of the Programmers' Guild, an organization committed to advancing the interests of technical and professional workers.

Kerry Olin



Kerry Olin is General Manager, University and Central Talent Acquisition at Microsoft. In this role, he is responsible for worldwide university recruiting and for building Microsoft's global sourcing model for strategic professional talent, enabling the company to hire "from anywhere for anywhere". Kerry began his career in product management at Procter & Gamble and transitioned to HR several years later, serving as HR leader for P & G's worldwide marketing organization, as well as for the company's internet ventures and corporate business development units. He then spent several years in a technology and intellectual property consulting partnership before returning to HR. Kerry joined Microsoft in 2004 as an HR leader in Microsoft's Server & Tools business group and assumed responsibility for college and intern recruiting in 2006. He was appointed to his current role in 2008. Kerry holds an undergraduate business degree from Michigan State University and spends his time trying to keep up with his family and stay close to his son in golf.

Paul Ong



Professor Ong has done research on the labor market status of minorities and immigrants, displaced high-tech workers, work and welfare and transportation access. He is currently engaged in several projects, including studies on the effects of neighborhood economies on welfare and work, community economic development in minority communities, and the labor market for healthcare workers.

Previous research projects have included studies of the impact of defense cuts on California's once-dominant aerospace industry, the impact of immigration on the employment status of young African Americans, and the influence of car ownership and subsidized housing on welfare usage. He was co-author of a widely reported 1994 study on Asian Pacific Americans, which challenged the popular stereotype of Asians as the country's "model minority" by showing they are just as likely as other groups to be impoverished.

Dr. Ong has served as an advisor to the U.S. Bureau of the Census, and to the California Department of Social Services and the state Department of Employment Development, as well as the Wellness Foundation and the South Coast Air Quality Management District.

Edward J.W. Park



Edward J. W. Park is the director and associate professor in the Asian Pacific American Studies Program at Loyola Marymount University in Los Angeles. He received his Ph.D. in Ethnic Studies and a Master's in City and Regional Planning, both at the University of California, Berkeley. His research topics include immigration policy, race relations, urban studies, and economic sociology. His publications include "A New American Dilemma? Asian Americans

and Latinos in Race Relations Theorizing” (Journal of Asian American Studies, 1999), “Competing Visions: Political Formation of Korean Americans in Los Angeles, 1992–1997” (Amerasia Journal, 1998), and Probationary Americans: Contemporary Immigration Policies and the Shaping of Asian American Communities (Routledge, 2005, co-authored with John S.W. Park). From 1993-1999, he served as the Director of Research for the Korean Immigrant Workers Advocates of Southern California, and during the 2005-2006 academic year, he was a Fulbright Visiting Professor of American Studies at the University of Tokyo and the Japan Women’s University.

John Rose

John Rose is the Immigration Program Manager for the Canadian Consulate General in Los Angeles, California. Prior to working at the Canadian Consulate, Dr. Rose was a Counselor and Program Manager for the Canadian Embassy in Berlin, Germany in 2001, and Deputy Director of the Human Resources Branch for the Department of Citizenship and Immigration in Ottawa in 1997. He has been involved with the Foreign Service since 1981, when he first entered as the Third Secretary of Immigration at the Canadian Embassy in Belgrade, Yugoslavia.

He earned a Ph.D. from the University of Toronto, and a M.A. and B.A. from McGill University in Montreal.

Sharmila Rudrappa



Sharmilla Rudrappa is the Associate Professor in the Sociology Department and Center for Asian American Studies at the University of Texas, Austin. Her areas of specialization include race and ethnicity studies, gender, immigration, political sociology, and social theory. Dr. Rudrappa earned her B.Sc. in Horticulture at the University of Agricultural Sciences in Bangalore, India in 1989. She then pursued both her M.S. in Conservation Biology and Sustainable Development at the Institute for Environment Studies in 1994 and her Ph.D. in Sociology in 2001 at the University of Wisconsin-Madison.

She published a book in 2004, titled “Ethnic Routes to Becoming American: Indian Immigrants and the Cultures of Citizenship” and has contributed her insight to numerous articles, book chapters, book reviews, and reports. Currently, she is working on an article, titled, “High Wage and Low Wage Immigrant Workers: Comparing the Experiences of Indian and Mexican Guest

Workers in the United States,” and is also the co-author of “Gendered Individuality and Rationality: Emotional Fronts in Court, and the Quest for Justice.”

Dr. Rudrappa is a member of the American Sociological Association, Association for Asian American Studies, Sociologists for Women in Society and an affiliate member of the Alfred Sloan Foundation.

She has taught graduate seminars in the following topics: citizenship in multiracial democracies, feminist theory, and comparative perspective in race/ethnicity. Her undergraduate courses include special topics in race: nation and citizen, South Asian American activism, social theory: self and society, Asian American issues: family politics, gender and society in South Asia, and contemporary issues in U.S. race/ethnicity.

Kathy Sims



Kathy Sims is the Director of the UCLA Career Center. She has served as President of the National Association of Colleges and Employers (NACE) and has been actively involved with NACE through the Board and numerous committees. Sims is an instructor for the NACE Management Leadership Institute and recipient of the NACE Kauffman Award.

Michael Teitelbaum



Michael S. Teitelbaum is responsible for a number of Alfred P. Sloan Foundation programs, including the Sloan Research Fellowships, the Professional Science Master's program, the Science and Engineering Work Force program, the Federal Statistics program, the Sloan Public Service Awards, and the Sloan Awards for Excellence in Teaching Science and Mathematics.

Dr. Teitelbaum is a demographer educated at Reed College and at Oxford University, where he was a Rhodes Scholar. He is a regular speaker on the subjects of demographic change and

immigration, a frequent invited witness before Committees of the United States Congress, and publishes extensively in scientific and popular journals and in national op-ed pages.

Dr. Teitelbaum joined the Alfred P. Sloan Foundation in 1983 and served as Vice President from 2006-2008.

Tien-Li Loke Walsh



Tien-Li Loke Walsh is a senior supervising attorney with the Law Offices of Bernard P. Wolfsdorf in Los Angeles. She practices exclusively in the area of immigration and nationality law, with an emphasis on visas for investors, company transfers, professionals, executives, professors, researchers and entertainers. Ms. Loke Walsh currently serves on the American Immigration Lawyers Association (AILA) Department of State Liaison Committee and previously served two terms on the AILA/California Service Center Liaison Committee. She graduated from the University of Sydney with a B.A. in Political Science and History, and received her J.D. from Boston University School of Law.

Ms. Loke Walsh has published extensively and is the author of numerous articles including, The Technology Alert List and Export Control: Frequently Asked Question;, Navigating Through the Maze of Security Checks, Consular Processing – New Restrictive Security Measures Change the Playing Field; Practical Considerations for Immigration Practitioner; Consular Processing: Practice Tips for The Unwary Practitioners in the Post-IIRAIRA Era; Practice Tips for NIV Processing at Adjacent U.S. Consular Posts in Mexico and Canada; Multinational Executives and Managers: Comparing L and E Visas and Practice Tips for NIV Processing at Adjacent U.S. Consular Posts in Mexico and Canada and the Effect of INA Section 222(g). In addition, Ms. Loke Walsh has spoken at numerous national and regional immigration conferences including the Annual AILA California Chapters Conferences (2000-2003), the Annual AILA National Conference (2003), various Southern California Chapter meetings (1999, 2002), the Orange County Bar Association (2003), as well as on several teleconferences for ilw.com seminars.

APPENDIX A. AGENDA

9:00 | Sign In & Breakfast

9:30 | **Welcome Remarks and Introduction**

Franklin Gilliam, Jr., *Dean, UCLA School of Public Affairs*

Phil Martin, *UC-Davis Department of Agriculture*

Michael Teitelbaum, *Vice President, Sloan Foundation*

10:00 | **Voices from the Industry**

Moderator: Kathy Sims, *Director, UCLA Career Center*

Vance Anderson, *Immigration Manager, Qualcomm*

Bob Ericksen, *Director, UCLA Dashew Center for International Students and Scholars*

Kerry Olin, *University and Central Talent Acquisition, Microsoft Corporation*

Tien-Li Loke Walsh, *Attorney, Wolfsdorf Immigration Law Group*

11:30 | Lunch

12:00 | **Research Briefs**

Moderator: Paul Ong, *Professor, Public Policy and Asian American Studies, UCLA*

Rafiq Dossani, *Professor, Economics, Stanford University*

Edward J.W. Park, *Associate Professor, Asian Pacific American Studies Program, Loyola Marymount University*

Sharmila Rudruppa, *Associate Professor, Sociology and Center for Asian American Studies, University of Texas, Austin*

1:00 | Break

1:15 | **Open Discussion**

2:45 | Break

3:00 | **Social, Economic, and Policy Implications of the High-Skilled Immigration Trend**

Moderator: John Rose, *Immigration Specialist, Consulate General of Canada, LA*

Jeanne Batalova, *Policy Analyst and Manager, Migration Policy Institute*

John Miano, *Research Fellow, Center for Immigration Studies*

4:30 | **Closing Remarks and Evaluations**

5:00 | **Reception**

APPENDIX B. PROGRAM OVERVIEW

Background

The US high-tech industry is a rapidly moving economic machine, providing millions of jobs for Americans. However, the last decade has witnessed the increase of high-skilled immigration to fill jobs in the industry through the H-1B visa program. According to the US Department of Homeland Security, India, Japan, and China are among the top 10 countries sending workers to the US through the H-1B visa program, with India as the nation with the highest number overall.

This trend of high-skilled immigration has become a controversial issue within the US high-tech industry and has received growing attention in the fields of immigration and labor studies, as well as public policy discourse. This seminar will explore the economic and policy implications of high-skilled immigration policy and the H-1B visa in both Asia and the US.

The H-1B visa program was created by the Immigration Act of 1990 (PL101-649) during a time when there was an assumption that the U.S had too few workers who were prepared to fill jobs in the fast-growing new industries, such as the high tech industry (Lowell, 2007). The H-1B temporary worker visa allows professional foreign nationals to work in the United States in “specialty occupations” for a period of up to six years, two terms of three years each (Congressional Research Council, 2007). H-1B visas were beneficial to these temporary workers because they had the option of stating that they wanted to seek immigration visas while coming to the US; prior to this, declaring an intention to settle in the US would normally lead to denial of a nonimmigrant visa. The application must be filed by the employer because an individual could not obtain an H-1B visa on his or her own. This program would provide employers with a pool of accessible foreign workers in the US labor market until sufficient numbers of US workers could be trained.

U.S. businesses utilize the H-1B program to employ foreign workers in fields that require theoretical and practical expertise in specialized occupations requiring a bachelor’s degree or higher (or its equivalent). Those who fill these specialized occupations usually attain scientific, technological, engineering, and mathematical (STEM) educations. By law, U.S. Citizenship and Immigration Services (USCIS) could not grant more than 65,000 new H-1B visas per fiscal year, subject to certain limited exceptions. For the first eight years, 65,000 workers was a sufficient number to fill jobs in the information technology (IT) boom, however, by 1998, with assistance from middlemen who spread the knowledge of the program, more employers were requesting H-1B visas. Congress responded by raising the cap to 195,000 a year and allowing an additional 20,000 H-1B petitions filed on behalf of immigrants with U.S.-earned masters’ or doctoral degrees. However, an unlimited number of H-1B visas are granted to nonprofit universities and research institutions.

The Department of Labor's Review and Selection Process

Employers begin the process of hiring an H-1B foreigner with at least a Bachelor of Arts degree by filing a Labor Condition Application (LCA) with the Department of Labor's Office of Foreign Labor Certification (DOL OLFC) using the internet. The OFLC reviews LCAs electronically for completeness and obvious inaccuracies (like having insufficient digits for the employer ID or not checking the appropriate boxes). Over 99 percent are approved within minutes.

Employers make attestations on their LCAs: (1) to pay the higher of the prevailing or actual wage paid to US workers; (2) that the employment of the H-1B workers will not adversely affect similar US workers; (3) there is no strike or lock out that has made the job to be filled by the H-1B worker vacant; and (4) the employer has notified workers at the place of employment of its intent to hire H-1B workers (National Science Foundation, 2007).

The entire application process usually takes a few months, unless premium processed. Employers do not pay the Department of Labor to have their LCAs approved, however, they must pay \$1,500 filing fee, if they would like 26 or more employees certified, plus a \$500 fraud-prevention fee. The U.S. Citizenship and Immigration Services then checks to the foreigner's credentials. An applicant who is not already work authorized may not begin employment until the petition is approved by both the DOL and USCIS.

Qualifications

The position must be a professional one that requires specialized training. A Bachelor's degree must be a minimum requirement of the position. The foreign national must also have the appropriate Bachelor's degree, or equivalent training and experience. If the position requires a license, the foreign national must possess the appropriate license prior to the filing of the H-1B petition.

Portability

An approved H-1B petition is not immediately transferable to a second employer or a second job with the same employer. If a foreign worker accepts a new job, the new employer must begin the entire H-1B process again. However, the employee who is already in H-1B status can join the new employer as soon as the change-of-employer H petition is "filed" with (meaning, received by) USCIS. In other words, the employee does not need to wait until the new petition is approved to join the new company. If the new H-1B petition is ultimately denied, the authorization will end at the time of the denial.

Filing Fees

Recent legislation has re-imposed an employer paid fee of \$1,500 for employers with 26 or more employees and \$750 for small employers, in addition to the current filing fee of \$320 for each H-1B petition filed. The fee is not required of colleges, universities, affiliated non-profits, or non-profit research organizations. The fee is also not required for extensions with the same employer

after the first-time filing fee. These funds are targeted primarily to train U.S. workers. Employers may not require an H-1B employee-beneficiary to reimburse or otherwise compensate the employer for the cost of this fee, or they will be subject to a \$1,000 fine per violation. Additionally, there is a \$500 “antifraud” fee for the initial H-1B filing by an employer or for change of employment.

Pro and Con Arguments

There are two perspectives on “importing foreign talent,” and both are represented in Congress (CRS, 2007). Proponents of large foreign student and H-1B programs and an easy conversion process from foreign student to H-1B to immigrant argue that it would be foolish for the US government to require foreign students or H-1B workers that are desired by US employers to leave. There are a large number of persons in the science and engineering graduate programs in US universities where the students are foreign-born. The belief is linked to the idea that US employers should determine who is the best person to fill a particular job.

Opponents say that there is little evidence of widespread labor shortages in science and engineering fields, such as sharply rising wages, and that the US would better maintain its competitiveness if it discouraged easy access to foreign workers and encouraged US students and workers to fill jobs now filled by foreign-born workers. Opponents often cite instances of fraud and abuse to recommend strict caps on visa numbers and more enforcement. Some argue that the H-1B ceiling could be increased if there were strict enforcement of labor laws, so that employers did not turn to H-1B workers as cheap labor.

The US has almost 16 million residents with at least one degree in an S&E field, but less than five million in S&E occupations (NSF, 2007). This is not for lack of interest in science and engineering. A year or two after graduation, only about half of all S&E graduates are working in S&E occupations or continuing their S&E studies. S&E training may be useful in other fields including management, but the fact that there are two workers trained in S&E subjects for every worker employed in S&E a year after graduation casts doubt on “shortage” claims.

The Reform Debate

The major reform proposal debated in Congress was the Kennedy-Specter Amendment 1150 offered in the May-June 2007. The debate on comprehensive immigration reform would have required W-2 forms to be submitted with H-1B renewal petitions. It would have also required all US employers to attest that they made a good faith effort to hire US workers, and that the presence of the H-1B visa holder would not displace a US worker. Amendment 1150 would have prohibited US employers from hiring H-1B workers who are outsourced to other US firms and prohibited US employers with at least 50 employees, at least half of whom are H-1B visa holders, from being approved to hire more.

Most of the other bills introduced in Congress in 2007 would increase the annual cap on the number of H-1B visas available for foreign graduates of US universities with Master and PhD degrees (currently 20,000 a year). Some would simply raise the 65,000 a year cap, some would

raise the cap and require additional employer-paid fees for scholarships for US students, and some would allow the cap to rise if employers requested all available visas.

Summary

The H-1B program was created to deal with the changing US labor market at a time when it was thought that there were sufficient US workers, but not enough with the skills needed to fill jobs in fast-growing industries that employed science and engineering (S&E) workers. The H-1B program was meant to provide employers with easy access to foreign workers and bridge the labor gap until sufficient U.S. S&E workers could be trained.

The H-1B program has become the keystone to a system that permits foreigners with S&E degrees to become US immigrants. Finding the proper balance between the appropriate number of H-1B visas and protections for US workers, especially new entrants, is complicated by overarching assertions about the need for more S&E workers to maintain US competitiveness. At one extreme are those who argue that there should be few or no limits on H-1B visas, since the US needs all the college-educated workers its employers request, and that the US should make it easy for H-1B workers to stay as immigrants. At the other extreme are those who argue that, if the US government makes it too easy to employ H-1B foreign workers, US students and workers shy away from S&E education and careers, putting the US on an immigration treadmill in science and engineering.

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