Book Review Foreign Temporary Workers in America, Policies that Benefit the United States Economy

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Foreign Temporary Workers in America, Policies that Benefit the United States Economy, Edited By Dr. B. Lindsay Lowell: Quorum Books, 1999

Reviewed by Sonia A. Hehir*

I. INTRODUCTION

It is well established that the United States has been in the forefront of technology development, professional research and advancement, and providing numerous businesses vast opportunities for growth and expansion. As a result, the United States attracts many foreign individuals to come and reap the many benefits it has to offer. These individuals enter the United States on a temporary or permanent basis, either legally or illegally. Dr. Lowell focuses his book on those individuals who legally enter the United States on a temporary basis to work, study, or conduct business. He terms these people the “nonimmigrant,” and examines their impact on the United States economy.

Various chapters raise thought provoking dilemmas worthy of academic discussion such as the displacement of the highly-skilled U.S. computer analyst or a university’s “preference” for accepting (and funding) foreign student doctoral candidates. The various contributing authors recommend many changes and policy reforms. However, there remains the perception that change in the nonimmigrant entrance structure may be a long way off. On the other hand, the book shows that the United States benefits significantly from foreign temporary workers and students, even if in the long term, these individuals return to their homeland or decide to remain in the United States.

II. TEMPORARY VISAS FOR WORK, STUDY AND CULTURAL EXCHANGE

Foreign Temporary Workers in America, Policies That Benefit the U.S. Economy is comprised of twelve chapters from fourteen contributing authors and divided in three major topic areas: System Overview, Workers, and Students. In the initial chapter, Dr. Lowell sets the stage for the reader and the topics which will be explored. There is a myriad of visa classifications under which an individual is

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2000 / Foreign Temporary Workers in America

granted permission to work, conduct business, or study and learn in the United States. In order to fully appreciate the discussions that ensue in the following twelve chapters, Dr. Lowell provides a summary of the relevant visa classes issued on a temporary basis. The majority of the discussions of this book revolve around worker and student classifications set forth below:

<table>
<thead>
<tr>
<th>Class</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>H-B</td>
<td>Workers: professionals and highly skilled individuals in specialty occupations</td>
</tr>
<tr>
<td>H-A</td>
<td>Agricultural workers</td>
</tr>
<tr>
<td>H-2B</td>
<td>Non-agricultural workers</td>
</tr>
<tr>
<td>F</td>
<td>Foreign student</td>
</tr>
<tr>
<td>J</td>
<td>Cultural exchange visitor (researchers, scholars, au pairs)</td>
</tr>
<tr>
<td>L</td>
<td>Intracompany transferees</td>
</tr>
<tr>
<td>M</td>
<td>Vocational students</td>
</tr>
</tbody>
</table>

Dr. Lowell concludes that overall, nonimmigrants, many of which are highly-skilled individuals, enhance the United States’ competitiveness in the global economic structure.

III. SYSTEMATIC OVERVIEW

In this section three authors provide a global view of the nonimmigrant worker in the United States and recommend a restructuring of the United States’ current temporary admissions policies. In Demetrious Papademetriou’s article, it is asserted that U.S. businesses must be able to remain competitive amongst foreign owned firms. An essential component of competing in today’s global economy requires maintaining a quality work force in place. Thus, U.S. businesses must have access to the most qualified individuals possessing the necessary specialized expertise even if it means recruiting from outside the United States. The Immigration Act of 1990 recognized the need to recruit exceptionally qualified individuals by encouraging and simplifying immigration policies. However, Papademetriou notes that there is a dilemma between promoting U.S. competitive interests in facilitating access to key foreign-born personnel without unnecessary procedures, and simultaneously, not undermining the social policy goal of advancing the interests of U.S. workers.

As a possible response, Papademetriou suggests reforming the selection process of nonimmigrants whereby the focus of choosing among entrants is squarely on the individual’s capacity for contributing to a technologically sophisticated and global economy. Papademetriou proposes a myriad of changes one of which is a three-tier entrance system. The first tier of potential entrants would be comprised of foreign nationals with extraordinary ability to enhance the economic strength of the U.S.
The second tier would include professionals who meet selection criteria; this includes possessing at least three years work experience, a job offer currently in place, and certain value points awarded for certain human capital attributes. Lastly, investors would be permitted entrance because they enhance the economic well-being of the United States. The entrance requirements would focus on the visa’s intent. Papademetriou favors the adoption of a Point System Model used in other countries such as Canada and Australia. This system evaluates and selects immigrants based on certain human capital characteristics deemed to advance the host country’s interests. Other suggested reforms include the restructuring of the H visa category and other working visas. In addition, he calls for a reorganization of the management structure of immigration which is currently scattered among a number of federal offices. Inevitably, this lack of centralized management leads to flaws prevalent in our current structure. Data collection and evaluation, compliance enforcement, and better cooperation between businesses and government are all worthy recommended enhancements to the current selection process. In sum, Papademetriou’s proposed scheme focuses on permitting admittance to nonimmigrants who are most talented or truly needed workers so that U.S. workers are not faced with competing against low-skilled immigrants for entry level positions.

Chapter 3 contains David North’s extensive essay, *Some Thoughts on Nonimmigrant Student and Worker Programs*. He discusses not only the domestic impacts of nonimmigrant programs, but also provides an enlightening perspective of how nonimmigrant policy is made. North finds that nonimmigrant programs are meeting the needs of the institutions that designed them such as the corporations and educational institutions. He calls these programs “gatekeepers” to science and engineering programs where individuals they want are allowed to come to the United States and the rest are kept out, with INS simply rubber-stamping their decision. North explores the long-term impact of these programs on the size of the legal immigrant population. Interestingly, most of the nonimmigrants within the four classes of visas reviewed *did not* stay in the United States. However, North does not ignore that a sector of foreign individuals that may have entered the United States with a nonimmigrant visa have eventually drifted into illegal status. There is concern about the long-term impact caused by the H category shifting to permanent residency status in the United States, such as an overproduction of foreign born Ph.D’s impacting the U.S. labor market. Such overproduction, he comments, benefits no one other than the institutions doing the training.

To curtail some of the problems found in the present nonimmigrant programs North makes both general and specific recommendations. Much like Papademetriou, North suggests limiting the number of nonimmigrant classes, limiting the number of government agencies involved, and instituting enforcement mechanisms to discourage program abuses. Other suggestions include the cessation of Congress leaving immigration policy in the hands of treaty makers, as well as
creating an entirely new nonimmigrant system. He also introduces the concept of requiring all nonimmigrants arriving by air or sea, a lifetime nonrefundable round trip ticket in order to facilitate the individual’s actual return. Although, North and Papademtriou may not offer all-encompassing solutions to our current nonimmigrant selection system, they do provoke discussion in the search of long-term policy changes.

In chapter 4, Charles B. Keely provides the reader with six criteria for developing a nonimmigrant visa policy. Similar to Papademetriou’s assertion, Keely states that routine knowledge-based services and personal services should not command immigrant and nonimmigrant visas except in the rare cases involving truly world-class practitioners. Keely also sets forth an international labor migration policy outline. He believes a certification system should continue to ensure that wages and standards are not undercut. Keely also identifies numerous other proposals, all of which can be summarily explained as a movement toward recruiting into the U.S. work force, only world-class foreign individuals who possess unique skills and can contribute toward keeping U.S. companies competitive. At the same time, procedures currently in place used to protect the U.S. labor force should continue to remain in place.

IV. WORKERS

The next section is comprised of four chapters, offering studies on the impact of nonimmigrants to a variety of professions and fields including a chapter devoted to agricultural labor. In Chapter 5, Michael P. Smith details an extensive study conducted of nonimmigrants employed by the computer industry. Those interviewed included employers, the U.S. worker, the nonimmigrant, as well as consulting firms and regulatory agencies. Smith ultimately concludes that the displacement of the highly skilled computer worker is due to company restructuring and corporate downsizing. Computer firms have moved toward decreasing the number of full-time workers and relying instead on contract labor. Consequently, the supply of computer software engineers and programmers comes from domestic and foreign “job shops” with the foreign consultants generally requiring lesser pay. Smith proposes various recommendations, which primarily consist of implementing regulatory and enforcement mechanisms to ensure that the true employers of the contract worker are held accountable for paying prevailing wages. Additionally, efforts must be made toward creating retraining opportunities for highly-skilled workers displaced by immigrants. Monitoring of the “job shops” is also recommended to ensure that nonimmigrants are being paid the prevailing wages.

Smith also conducted a study on university teaching and research positions being held by nonimmigrants. One learns that determination of the prevailing wages within the university multi-layer tenure track system is complicated and requires careful consideration by state and federal regulators. Furthermore, the potential for
exploitative working conditions for nonimmigrants exists within the postdoctoral research positions. Thus enforcement mechanisms must be put in place to ensure prevailing wages are being paid.

Much like Smith, Jacqueline Hagan and Susana McCollum conducted a study of skilled workers in the computer and research fields in the state of Texas. The purpose of the study was to better understand how the H-1B system works and how it affected those involved. In Texas, the downsizing of large corporations resulted in the use of consulting firms and job shops to perform the portion of the production process, requiring computer-related skills. This increased reliance on job shops has worked to the detriment of both the H-1B worker and the U.S. employee. The most poignant example is that of the job shop consisting of mostly Filipino computer programmers recruited to work in New York. While initially the H-1B worker is lured into coming to work in the United States, he essentially ends up overworked and underpaid in a high-tech “sweat shop.” More important, the jobs filled by H-1B workers in the sample could easily be performed by qualified U.S. employees. The authors’ suggested changes are similar to Smith’s; monitoring, retraining displaced workers, and accountability are recommended policy considerations.

With respect to the research conducted of university and private research settings, the authors found a consensus among foreign and U.S. workers and their employers on the importance of H-1B visas in advancing research in the United States. Positions are filled on a competitive basis and recruitment occurs even at a global level. Consequently, the authors recommend that efforts be made to facilitate continued entry of high level foreign scientists into research institutions without the imposition of a numerical cap because the H-1B program seems to provide employers with access to the “crème de la crème” of the scientists and researchers.

Chapter 7 contains Gregory DeFreitas’ analysis of this country’s nonimmigrant policy and the need for reforms. The thrust of this chapter is on promoting regulatory efforts that protect the U.S. worker from being displaced by an H-1B worker. Among the reforms suggested by DeFreitas is the requirement that an employer attest that within six months before an H-1B worker begins employment, the employer has neither laid off legal permanent resident aliens nor U.S. workers with similar qualifications and work experience for the position which the H-1B worker will fill. Another recommendation is the reduction of the time from six to two years that an employer is allowed to keep an H-1B worker in the United States. DeFreitas also favors that the H-1B worker be required to leave the United States for one year following the expiration of the H-1B visa. Overall, DeFreitas supports increased limitation on and continued monitoring of, skill-based temporary immigration programs.

This section of the book would not appear to be complete without some discussion on temporary nonimmigrant workers and their impact on American agriculture. Dr. Lowell strategically includes Phillip Martin’s very informative overview of the California Farm Labor Market and its integral components in the
final chapter of this section. Of significance is Martin's depiction of the farm labor force and the dynamics between the employer and farmer, the middleman contractor, and the actual laborer. According to a 1995 survey, farmers reported a lack of awareness as to the legal status of forty-one percent of their seasonal workers. Despite the increase in border patrol controls, farmers had no difficulties in finding seasonal workers. While some growers do propose a guestworker program, Martin's research indicates that no new guestwork program is needed. Martin also depicts the problems surrounding the H-2A program, which is "rife with controversy and litigation." Nonetheless, he finds the current program better than the alternatives.

V. STUDENTS

The nonimmigrant students and their impact upon our universities' research positions and U.S. labor force is the focus of the last chapters in this book. Barry R. Chiswick provides two fundamental reasons why foreign individuals seek foreign visas. First, they seek to obtain high quality education in the United States that may not be available at all or in the same form in the home country. Second, the student visa may be the easiest or least costly mechanism for entering and remaining for some time in the United States. He finds that foreign students are important to fulfilling two key roles of a university: the transmission and generation of knowledge. Moreover, whether in teaching or research positions, foreign students help maintain the competitive edge of the United States. The author attributes part of the U.S.' lead in science and technology to foreign-born scientists. Chiswick concurs with North who advocates nonimmigrants should obtain a prepaid return ticket home. Like many of the other contributing authors, Chiswick disfavors quotas in this arena.

Frank L. Morris' chapter on the Denial of Doctoral Opportunities for African Americans is nicely counterbalanced by Jagdish Bhagwati's and Milind Rao's piece, Foreign Students in Science and Engineering Ph.D. Programs: An Alien Invasion or Brain Gain? Morris argues that universities contribute significantly to the lack of prospective African-American graduate students at the master and doctoral levels as they fail to assist such students with the necessary funding. He provides data from the National Research Council of 1990 that shows a disproportionate level of funding in favor of foreign students over funds provided for minorities. Morris also believes that much of the monies spent on foreign students by universities should be redirected toward supporting the minority doctoral candidacy pool. Incentives should be built in for universities to spend federal monies proportionately among minorities and foreign students alike.

Bhagwati and Rao initially explain that the pool of foreign students from which universities must choose as potential doctoral candidates consists of highly qualified and superbly trained and gifted individuals. Thus, having such individuals
within the United States is beneficial to this country; "Other nations 'brain drain' is our 'brain gain.'" The authors also help put some of the figures depicted in Morris' essay into perspective. The 1994 field study information explains the disparity between a university generously funding doctoral programs in science and engineering versus the much lower funding provided for doctoral programs in the humanities. Therefore, African Americans in the science and engineering programs do receive primary financial support from such entities and, in the larger scheme, the number of doctorates awarded to African Americans in science and engineering over the years has increased.

The book concludes with Susan Martin's chapter, Limited Duration Admissions, a term which she substitutes for "nonimmigrant." This chapter addresses both the student and worker and the final recommendations of the U.S. Commission on Immigration Reform. Martin outlines seven principles upon which a properly regulated system should be founded. First, clear goals and priorities must be established for each visa category (their procedures and requirements). Second, limited duration admissions (LDAs) categories must be organized and simplified so that the requirements for admission and the application procedures for each category can be readily understood. Third, LDA policy needs to be administered in a timely and efficient manner to respond to the changes in the economy and educational systems. Next, Martin indicates that policies should specify clearly the conditions of entry and the penalties for noncompliance. Mechanisms need to be in place to monitor and enforce this compliance. Policies should also be realistic and take into account those LDA's who eventually transition into permanent status. Protection of the U.S. worker from unfair competition and of foreign workers from exploitation and abuse must be sought. Lastly, Martin asserts that Congress, in passing enabling legislation should assess more carefully the long-term ramifications of trade negotiation for immigration policy.

Martin proceeds to set the framework of the system by restructuring the current visa categories into five major groups: official representatives, short-term visitors, foreign workers, students and transitional family members. With respect to foreign workers Martin asserts that these individuals "would be subject to rigorous tests of their impact on the labor market unless they are exempt from these tests because their admission will generate substantial growth and/or significantly enhance U.S. intellectual and cultural strength and pose little potential for undermining the employment prospects and remuneration of U.S. workers." Martin then outlines the labor market test in detail. Finally, two essential components, monitoring and enforcement mechanisms, must be set in place to curtail abuses of the system. In order to accomplish this, more staff and funds must be allocated to the enforcing agency. In addition, penalties should be imposed against employers for violations of serious labor standards. Martin advises that implementation of these recommendations would allow the United States to benefit from LDAs yet still be able to protect the interests of its citizens.
VI. CONCLUSION

Overall, Dr. Lowell has provided an informative collection of works from various authors regarding the nonimmigrant’s impact on the United States academic circuit and its economy. Dr. Lowell’s book reminds us that nonimmigrants contribute significantly to the United States’ successful competition with the global economy. Throughout the various chapters, one sees the need to delicately balance between implementing policies which encourage this competitiveness while at the same time promote and preserve the interests of U.S. workers and students. This book leaves the reader with the desire to be part of the policy-making process to ensure that this balance is achieved and maintained.