

H1B EMPLOYEES

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Abstract

The H-1B visa program, essential for addressing labor shortages in specialized fields in the United States, has sparked significant debate, particularly during economic downturns. While it plays a key role in securing skilled foreign labor, concerns about job competition, organizational abuse, visa dependency, and long-term residency remain prevalent. This paper explores the challenges faced by H-1B workers, focusing on instances of overwork, withheld benefits, fee misallocation, and visa lapses that may lead to undocumented status. These issues are widespread in private IT firms. The study involves interviews with four individuals who are either currently on or were previously on H-1B status, representing diverse cultural backgrounds and fields, including Information Technology, Engineering, Education, and Marketing. A pilot study was initially conducted to refine the interview questions. Findings indicate that while mistreatment is not widespread, there are notable instances of exploitation. Only one out of four participants reported mistreatment, highlighting positive and negative experiences. The paper recommends enhancing HR management practices, including regular company audits, investment in HR training on immigration policies, and transparent, written immigration procedures. Reducing H-1B quotas and improving compensation, benefits administration, and diversity management are critical to ensuring a fair and effective system. Further research should focus on HR management and its impact on H-1B employees, especially regarding compensation, employee rights, and professional development.

Keywords: H-1B visa, labor exploitation, immigration policy, human resource management, employee rights, workforce diversity, organizational abuse, legal status

INTRODUCTION

Employment under an H1B has sparked some controversy in the United States since the downturn in the United States economy. This paper will attempt to look into the experiences of a small area in Human Resource management and Immigration employment the “H1B employee”. An H1B employee is an employee on an H1B visa “a temporary immigration visa for workers in specialized occupations” Reichl 2003. There are two emerging debates regarding the H1B employees; those that see the employees as a pool of skilled labor supply to meet a demand that cannot be met by US citizens and those that see the H1B employees as a source of competition for US citizens as they have the option of obtaining a permanent green card through the H1B “employers and some policy who argue that the H1B has run its course, the H1Bs tend to transfer to permanent residents and thus become sources of long term competition” Reichl 2003.

The impact of highly skilled immigrants on the economy was examined by Friedberg, he stated “that every 1% increase in the number of first-generation immigrants from a given country is associated with a 0.5% increase in exports to that country California, she argues that high skill immigrants make everyone better off by creating new jobs in the United States and new ties to economies, leading to enhance trade and investment flows” Mithas 2010. Moreover, Dorairaj (2023) study found that an increase in Industry H1B visa approvals is associated with a significant and positive increase in Industry GDP. Furthermore, Dorairaj (2023) study suggests that the increase in foreign talent resulted in a positive impact on the US economy. It can thus be seen that H1B employees can be beneficial to the economy the individual and their parent country. This paper will attempt to explore the experience of the H1B employee and possible means and ways of improving the system. However, Sanders (2020) reported on an H1B employee who filed a law suit against PoliteMail Software because they claimed that the company did not make a reasonable accommodation for the employee to work remotely due to her falling ill and she lost her H1B visa status. Furthermore, Sahay and Anjali (2019) examined the impact of Trump executive order on H1B and India. Moreover, Sahay and Anjali (2019)

suggested that the impact of Trump immigration policies impacted skilled foreign workers in the technology sector negatively. Additionally, there was a threat of potential deportation of skilled Indian workers waiting for their green cards. The consequences of this policy may result in a skill gap which may further hurt the US technology industry. The exploration of this topic would also help HR professionals make decisions as to whether or not it is still a viable option to obtain skilled immigrant workers through the H1B while facing extreme economic downturn in America. Additionally, if employees are hired how to better orient them into companies and understand what their needs may be.

To better understand these experiences an interview setting and participants of varying backgrounds were used in this study. The participants were asked several questions that gave insight to some of the challenges and strengths of the H1B program. My overarching research question was what is it like to be an employee with an H1B visa status? This overarching question will attempt to shed some light into the life of an H1B employee in the United States. The overarching question was skillfully woven into several pointed questions that help to answer the overarching question. The detailed questions were about twelve in number as to add to the richness of the data and capture as much information from the interviewees. The first pointed question was what would you say is the best sector of employment with an H1B? An understanding of where persons worked with an H1B may be insightful as to their experiences whether positive or negative. Second research question: How did you find your place of employment? This may explain how employees do their process of elimination or seek out such companies to sponsor the H1B. Third research question: Were there any promises made to you by your respective employers as an employee and if so what were they? If promises are made to the employee this may give insight as to whether or not employees are misled in the hiring process or if they are not. Fourth research question: In what ways were your employers accommodating to your needs? This will guide HR practitioners as to whether or not more can be done in this area. Fifth research question: How do you think this system can be improved and why? Improvements can always be made where limitations exist and also this will help us understand if H1B employees are happy with the system the way it is currently designed.

Sixth research question: Who do you think benefits more and why? This would show if there is mutual benefit or employers or employees are being abusive of the system. Seventh research question: What form of protection against loss of income in the interim process of waiting to get another H1B is there? At times because the H1B is stipulated for a 3yrs period the employee may need to renew the H1B and as a result of the slow process in administration may be out of employment. Eight question: Who are you allowed to bring as dependents and what are they entitled to? H1B employees may have families living with them in the United States therefore it may not be the employee alone affected by decisions made by their employer but their families may be affected. Ninth research question: What do you think was your original intent when you applied for the H1B? E.g. was it to stay or not to stay? If to stay please say how you would go about doing that? Some H1B employees may have intentions to stay and become a permanent resident as they may want to escape terrible economic conditions in their country of residence. Tenth research question: Under what circumstance would you say someone would consider staying illegally if renewal of the H1B is delayed or denied? H1B employees may contribute to the staggering amounts of illegal immigrants in the United States if they decide to stay illegally. Eleventh question: What is the process to obtaining a green card through the H1B and is it a viable option? The H1B employee may see this as an incentive to be on their best behavior to their employer and when this goal is achieved they may stay loyal to their company or they may leave. Twelfth research question: Is there anything else you can tell me about your experience to being on an H1B? There may be experiences the interviewee may like to share that I didn't address in the pointed research questions.

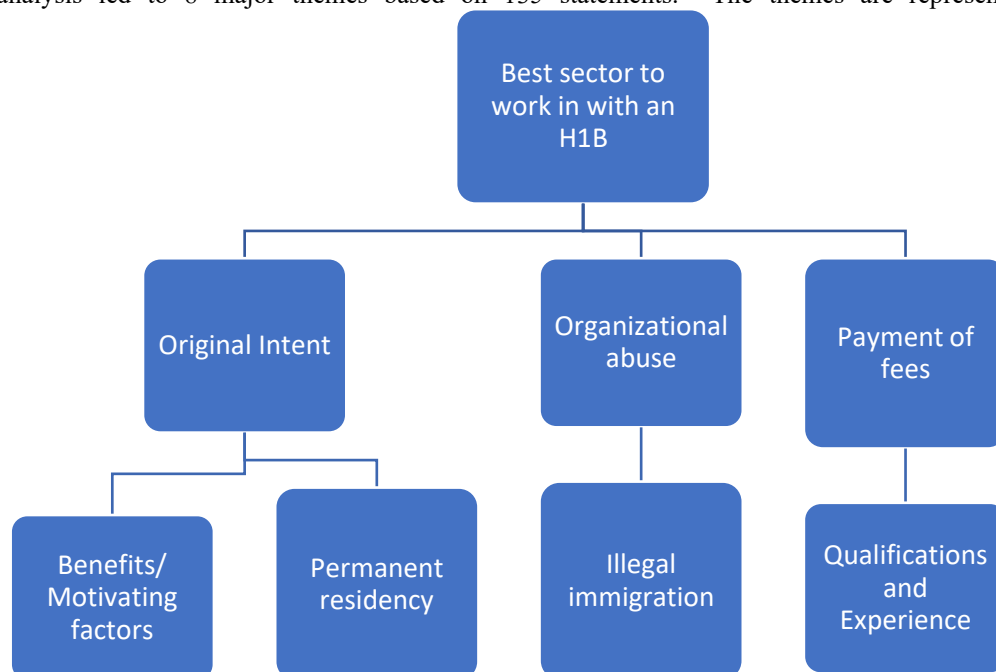
Methodology

The design involved the study of 3 males and 1 female on an H1B or previously on an H1B. A pilot study was conducted at first to help in framing and reframing questions posed to interviewees. From this pilot study questions were reframed for clarity and precision and then used in the study. The individuals chosen formed a convenient sample from which interviews could be conducted. Their cultural backgrounds were different for example a Jamaican male, Trinidadian female and Brazilian male and Trinidadian male. They were in the fields of Information Technology, Engineering, Education, and Marketing. 45 Minute interviews were conducted over a period of 2 weeks with these individuals based on their availability. Passive consent was used due to limited time frame to conduct research. The research questions mentioned above were asked and body language were recorded to help in analyzing whether or not individuals were lying or being truthful about research questions mentioned above posed. The data would be analyzed through a description of the case and themes of the case as well as if there are cross case themes that emerged.

The data analysis of these interviews consisted of the following tasks:

- Reading through the written transcripts several times to obtain an overall feeling for them.
- Identifying significant phrases or sentences that pertained directly to the experience of being on an H1B.
- Integrating the results into an in-depth, exhaustive description of the H1B employee.
- Validating the findings with the participants.

This analysis led to 8 major themes based on 135 statements. The themes are represented on a chart:



Themes examined further:

Best sector to work with an H1B:

Harry reported the engineering and medical fields are the best sectors to work in the US. The US competitive advantage and core competencies stems from their focus on engineering and design. During the downturn in the economy, the engineering field was still growing. Also, engineering firms were complaining that schools were not producing enough engineers. The second best field is the medical which were also in demand and never had enough doctors. The

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H1B also had quotas which increased or decreased depending on the demand by firms. The field that had the highest demand had first preference.

Larry: Areas involving math and science are usually the best areas to work in as there are more job opportunities in these areas. E.g. computer related fields, engineering, physics and chemistry. Plus the US government does consider these areas critical because of the need for skilled labor so getting an H1B is easier.

Chavez: The public sector University campuses.

Sue: public sector/government. I worked at the university as a student and after graduation I was invited to interview for a position which became vacant. Everything was on time for me. It always is with the government agencies. They have to or the federal government would come down on them. That's why I say it's better with gov't agencies. All orgs are supposed to though. The private sector sometimes does this on purpose then let the employees go. Or let their visa lapse and the employee has to leave.

From the 4 interviewees it can thus be seen that Public sector gov't or, medical and engineering fields are the best places to work with an H1B. Additionally there is a demand for the H1B in certain fields like engineering, IT, physics and medical fields. Students with the desire to stay and work in the US could pursue these fields.

Original Intent

Larry: my initial intention was to stay for as long as the H1B lasted so I could repay my student loan, save some money and gain practical industry experience after which I would go home.

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However, as time went on I began to consider staying for reasons such as find someone I loved and wanted to get married to.

Harry: My intent was to stay but God had a different plan. If you were on an H1B you can always get a new one every three years and always be in that status unless you got a green card. I was on the H1B for 9 years. I bought a house and was settled. My last job was applying for my green card for me but I left everything and left.

Chavez: It was too stay, get work experience and start a lucrative career and hopefully save some money.

Sue: The original intent was to get an opportunity to work and save some money to return home.

It can thus be seen that H1B employees initial intent vary from seeking a way to stay legally in the United states and obtaining work experience and saving money. Their intentions may change as they begin to build social lives and interact with others e.g. falling in love.

Benefits/ Motivating factors

Harry: I was told if you were married you were allowed to bring your wife and kids. The husband can apply for a work permit for his wife. I had health benefits and at other jobs they help me move to another state.

Larry: Typically, both parties employer and employee benefits from the H1B arrangement. However, to my knowledge employers more often than ever benefit more because they get an excellent employee and sometimes at a reduced salary. If a company sponsors you for an h1b visa your family can accompany you, however there are certain restrictions. Not sure of the details.

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Chavez: They relocated employees close to business site and took care of rental expenses. The employer benefits most because they are getting a qualified skilled employee at a lower wage rate or as in my case they charge the consulting company 120,000 and pay the employee next to nothing. Additionally, in order to keep the employee quiet they have them sign a contract stating if they leave the company for any reasons they can be sued 20,000 us dollars.

Sue: I think both parties benefit. It depends of course on the nature of the job. Areas that need a unique perspective from an international viewpoint may benefit a whole lot more than an org. that just hires the student because they exhibited the best skills from the interview. International persons definitely benefit from getting the global experience. It broadens their perspective. Gives them a different point of reference. It can thus be seen that besides monetary benefits H1B employees can obtain valuable work experience. Additionally, the employers may be seen as benefiting from gaining a skilled worker at a lower wage rate.

Permanent residency

Harry: In my time it was 5 years and a natural process providing you had experience in that field. Your first job after college could not apply for your green card since you had no prior experience. If you lost your job in the process or the company closed and got a job was obtained at another company you had to start over the process since the sponsorship is company based.

Larry: One has to secure a commitment from the company they work for to sponsor them for the green card. After which a lawyer will have to be retained to file all the necessary documents.

However, the willingness of companies to sponsor varies and it is usually easier for someone who has a master's degree level job.

Chavez: It is as long as you can withstand the pressures from employers

Sue: There are various ways of getting a green card. Via H1B the company would have to file for you. It can thus be seen that obtaining permanent residency is a viable option for an H1B employee but there are factors that determine if this can be done mainly the company's willingness to do this for the employee.

Organizational abuse:

Harry: They really treated me well and never had any issues.

Larry: With end of the H1B issued through the school, I had to reapply for a standard one. The process is tedious and requires quite a lot of information from both myself and the company. HR and the relevant departments were very helpful and provided prompt response to all information requests.

Chavez: They relocated employees close to business site and took care of rental expenses. Regular meetings with relevant information on immigration status. It started out to be a too good to be true situation, they were very kind at first. This changed after 3 months when they started to make request to come to work during the weekend including Sundays. The land lady started complaining she wasn't receiving the rent from the company and they are trying to avoid her calls and visits. The CEO made remarks to employees like he is wondering if he is wasting his time sponsoring employees he needs them to put in more hours of work. Management staff would

speak in another language in front of English speaking employees to ensure they didn't understand what they were saying. Some of the new employees were feeling very stressed and their hair was falling out and so forth. The CEO lied to clients about employees work experience to secure contracts and employees were expected to lie to clients, if you choose not too the CEO would bring up the issue of your sponsorship that he would not be willing to do that.

Sue: I think people should focus more on gaining the skills rather than getting the green card. I think if they do this their ability will show and the organization would naturally want to keep them. When they make it obvious that they are in the game for the green card sometimes organizations abuse them. This is what I heard from friends anyway. Which is why I say gov't agencies; I think they are more inclined to treat people fairly and be honest about the appointment? My supervisor was one of the best bosses I have ever had. I now consider her a mentor. I think people should take advantage of the opportunity given and not see it only as an opportunity to a green card. It can thus be seen that while most H1B employees in the case did not experience organizational abuse it was a reality for one of the interviewees who was from an IT consulting firm in the US and it could be the result of employers knowing the nature of the H1B ties the employee to that company or the employee made it obvious that sponsorship was the main reason for choosing the job. The private sector preferable IT sector was seen as participants in organizational abuse.

Illegal Immigration

Larry: It is a risk you take. You have to find a job in a month or else you are considered illegal if the company reports that you are no longer working an employee. With this knowledge, you have to save money for those rainy days if you are in this predicament. The law has changed so

much, as long as an application is in the system you can always be legal. The only way you can be illegal is if the company reports you are no longer an employee. Since the H1B is for 3 years a person can be legal for max three years.

Harry: Persons usually decide to stay in the US illegally for economic reasons: They stay because believe they cannot survive in the economic conditions of their home country and they stand a better chance here, thou being illegal hoping to one obtain legal status. For whatever reason some have been here for a very long time legally and have built their lives here (sometimes having families, assets and social ties) so when their status becomes illegal they refuse to leave.

Chavez: 5 persons joined the IT company 2 of them got approvals of the H1B the other 3 decided to stay illegally at first, one then opted to go back to school for an MBA the other 2 eventually went back to their countries. I would say people don't plan to stay illegal but after social ties, financial commitments and extreme poverty in their home country they decide to stay with the hope of someone getting married to them.

Sue: I would say under no conditions one should stay illegally. I would say don't risk being discovered and put a stain on your visa for years maybe forever just because it was your plan to stay and it does not work out like that. There is not supposed to be any lapses between processing a new H1B I don't think. Lapses mean the employee is there illegally.

It can thus be seen that H1B employees intentions are not to stay illegally however if they are not successful at securing another H1B they may stay illegally. It can also be seen that religious

beliefs may also be a factor in indicating whether or not they may migrate back to their home country or stay illegally.

Performance based

Sue: I think people should focus more on gaining the skills rather than getting the green card. I think if they do this their ability will show and the organization would naturally want to keep them. It can be seen that based on one's performance employees may be offered the opportunity to have an H1B. Sue also indicated that immigration lawyers would also call and ask employers if they had any employee they would like to sponsor.

Payment of fees

Harry: H1B is a sponsorship so at the beginning the process took 3 months and they paid the fees to have me on board which I was grateful. They also promised to pay for my green card.

Larry: Per legal requirement the company should pay for the h1b process including lawyer fees, however most companies will not take on the expense and the employee has to pay. It is always best to have a well recommended lawyer with lots of experience dealing with Immigration issues.

Chavez: Yes they said they would take care of all fees in sponsoring an H1B and permanent residency card. Some employers can be seen as generous and taking on the responsibility of the fees associated with sponsoring the H1B and others not so generous.

Qualifications and Experience

Harry: Bachelor's degree Marketing and Master's degree and experience in his field

Larry: Bachelor in Engineering degree little experience in his field.

Chavez: Bachelor degree in Business Administration and experience in his field

Sue: Bachelor degree in Human Resources Management little experience in her field. It can be seen that qualifications and some work experience play an important part in securing an H1B from prospective employers.

Assertions

- H1B employees do get mistreated but the system is not all bad. Out of the 4 cases only 1 spoke of experiencing mistreatment which is good but not great. The H1B should be kept as a viable option for obtaining skilled immigrants but with improvements in the system such as follows:
 - Have investigators visit companies example private companies 2 or 3 times a year to ensure H1B employees are being treated fairly and they are in status.
 - Invest in training human resource management staff that handle H1B filing and so forth.
 - Human Resource Management staff should put their immigration policies in writing and employees given a hand out at orientation. Included in this policy can be under what conditions will a company sponsor an H1B and permanent residency and decide whether they will pay fees related to sponsorship.
 - Immigration can lower the quotas for H1B employees in the United States to ensure that nationals feel as if they are given an opportunity to obtain jobs without the threat of competition and also to help with the downturn in the economy.
- **These areas of Human Resource management may be directly affected by an H1B employee;**
 - Compensation; ensuring employees are being paid fairly in comparison to other professional with experience in the field.
 - Benefits Administration: ensuring equity in benefit administration
 - Employee rights and employer responsibilities: ensuring this is written and clear to both parties.
 - Training and development: ensuring staff is trained to better assist H1B employees.
 - Diversity management: ensuring that there is equal opportunity, and the positive benefits harnessed for companies for having such diversity.

Further research can be done in these areas of HR since the H1B employee does have the legal right to work in the United States.

- Other assertions are that H1B employees if not given an opportunity to renew their H1B in a timely manner or ability to file for permanent residency they are faced with the decision to stay illegally. In these cases none stayed illegally but they knew of persons who did.
- HR in large Companies needs to properly monitor managers and supervisors or the company or chain branches to ensure that they are properly doing their jobs instead of abusing their authority or showing favoritism, either towards the H1B employees or native employees, as this could cause dissention and chaos in the work place. Also so that the work load is evenly distributed.

To conclude, this study explored several cases of H1B employees and their respective experiences which were found to be mostly positive depending on the organization the employee was working for. The findings show to have important policy and managerial implications.

Closing vignette

On many boats they sailed the sea,
To gain freedom of their faith and economy,
From their homeland from which they grew,
They left to start a life anew.
Some later came, not of their will,
To work as slaves or be killed.
Some came still as indentured laborers,
And others; war refugees to be their neighbors.
This is how this land was filled and it's no mystery,
That America is called the melting pot with all this history.
That's why for many years' people with dreams or persecuting communities
Call America the land of Opportunities.
H1B employees are no different from these ancestors,
Who dreamed of a better life, a new start in another land as a foreigner.
Remember that's how America became what it is today,

Because each newcomer had an important part to play.

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