

F1 Race (the Other Kind): How the Industry of International Education Provides a Pathway for Permanent Migration

Abstract

The industry of international education has provided a pathway for permanent migration to the west. In this paper, I examine student migration from the Indian subcontinent to the United States (US). Using existing literature along with data extracted from internal reports of various US consulates (now in the public domain), I provide a picture of the chain of actors who have stake in the industry and the extent of their embroilment in illegitimate activities. I argue that students in the Indian subcontinent are especially susceptible to the tightening US immigration policies.

Section I: Introduction

There is high demand for migration from the developing countries to the more developed ones. In 2007, a poll by the Times of India showed that 37 percent of Indians would emigrate if they had the option (as cited in Simkin, 2009). The developed countries are selective in choosing permanent migrants. So, it has become popular for migrants to enter western countries with temporary stay permission before legally or illegally residing in the countries beyond the authorized duration. For instance, out of all those issued non-immigrant visas by the US embassy in New Delhi between 2007 and 2008, twelve percent either could not be contacted or were confirmed to have stayed in the US past the expiry of their visas without initiating any formal procedure for visa renewal. (Mulford, 2009) A portion of those seeking visas also resort to fraud and misrepresentation in the hopes of meeting the visa eligibility criteria. In the six months between March and August 2009, the US embassy in India identified 3,596 cases of suspected visa fraud. On an annual basis, this amounts to about one percent of visa applications. Roughly half of the suspects were verified to be fraudulent. Certain types of visas, such as the work visas, require

applicants to show prior work experience. However, in many instances visa applicants falsify their employment experiences. In just one Indian city (Hyderabad) where the embassy investigated 150 companies, 77 percent turned out to be fraudulent (Simkin, 2009).

International Tertiary Students' Origins and Destinations in 2012		Destination				
		United States	United Kingdom	Australia	Canada	All Destinations
Origin	China	210,452 (30%)	76,913 (11%)	87,497 (13%)		694,364 (100%)
	India	97,120 (51%)	29,713 (16%)	11,684 (6%)	8,142 (4%)	189,472 (100%)
	Viet Nam	15,083 (28%)	3,769 (7%)	11,081 (21%)		53,802 (100%)

Source: (United Nations, 2015)

In this paper, I focus my attention on students from the Indian subcontinent travelling to western countries— particularly the US. I choose this focus for two reasons. Firstly, the volume of students migrating from the Indian subcontinent to the US is sizable. In 2012, 694,364 Chinese students and 189,472 Indian students migrated abroad. Out of these, 30 percent of the Chinese students and 51 percent of the Indian students travelled to the US alone. (United Nations, 2015) Secondly, I am bound in scope by the nature of the data I intend to use for the majority of my analysis. My analysis will focus on studies on visa fraud and overstay rates conducted internally by various US embassies. The reports are

most detailed and methodologically rigorous for India, and to the best of my knowledge, have not been systematically analyzed since they entered the public domain.

The paper is organized as follows. In section II, I will briefly describe some regulations surrounding student visas as well as the legal pathway foreign students in the US can follow in order to obtain the right to reside permanently. In section III, I will describe the chain of actors in the industry of student migrations, particularly in relation to the various kinds of fraud that occur. In section IV, I will go over some policy debates in the US, which will lead up to conclusions in section V.

Section II: The Pathway from Studentship to Permanent Residence in the US

In order to understand the functions of the various actors in the student migration industry, and to digest the internal communications of the US embassies, it is important to first have an understanding of the interrelated regulations surrounding student visas, work visas, and permanent residence in the US. This section provides a brief, albeit incomplete, overview of the general regulatory landscape.

Students who wish to study in the US can enter the country under three¹ different visas depending on the nature of study. The most common student visa is the F1 visa, which is provided to students in full-time academic programs such as bachelors, masters, and doctoral degree programs. The visa is valid for the duration of the program. There is no limit on how many F1 visas can be issued. In 2012, 78.1 percent of foreign students in the US held F1 visas. (Ruiz, 2014)

¹ The M-1 visa is for vocational education and is valid for one year. The J-1 visa is for exchange students, typically for the duration of a year. Many students with J-1 visas are funded by the US government or their own government, and are expected to acquire skills useful in their own countries. They are required to return to their home country for at least 2 years after the completion of studies, and are not eligible for work visas, or to apply for permanent residence, unless they acquire special waivers.

In order to obtain an F1 visa, students must provide proof² of admission into a degree program offered by a school which is certified in the Student and Exchange Visitor Information System (SEVIS)— a system for tracking international students that was put in place after the 9/11 attacks. Furthermore, students need to demonstrate that they are able to cover the educational and living costs for the duration of their study. In addition, the student also needs to convince the US embassy or consulate officer that they have no intention of staying in the US beyond the duration of their study; the F1 visa is a non-immigrant visa. The student under the F1 visa is eligible to work within the premises of their institutions for up to 20 hours per week, or up to 40 hours per week during vacation. After completion of their studies, they are allowed to engage in full-time work if they opt to use a provision called the Practical Training. Under this provision, students studying under F1 visas are eligible to work full-time within the US for a period of 12 months³. Since 2008, this has been raised to 29 months if the student's degree is in the field of science, technology, engineering, or mathematics. There are no restrictions on how many students can opt for practical training. (Ruiz, 2014)

After completion of their program, F1 students are also eligible for the H1-B visa—the most common type of work visa. The H1-B visas are those which employers can request for foreign workers. The visa is provided in increments of up to three years, for a total of up to 6 years. While there are no restrictions on the number of students who can opt for practical training, only 85,000 H1-B visas can be issued every year, out of which 20,000 are for workers who hold advanced degrees from US schools. Though the visa is a non-immigrant visa, those holding it are assumed to have dual intent— the intent to return home

² The I-20 form provided by the school is what serves as proof of admission.

³ In fact, a variant of this provision allows students to work fulltime before completing coursework.

and that to migrate permanently to the US. Workers with this visa can pursue the option of obtaining permanent residence⁴ through the sponsorship of their employers or other means. (Ruiz, 2014)

Section III: The Industry

In this section, we will first look at agents as one category of actors in the industry of international education. I use the term agent to refer to individuals or organizations that help students meet the criteria for visa approval. These agents, as we will see, can range from illegitimate to entirely illegal. Secondly, we will get a glimpse of the US government as the regulator who administers the immigration policies. Of course, the US government is not a single body but one with many players with their own interests and functions. We will focus primarily on the perspective of US embassies adjudicating visas. Finally, we will look at the US universities who have a significant stake in the industry.

Agents

In the Indian subcontinent, the demand for student visas coupled with information asymmetry have led to the boom of an industry of agents who facilitate aspiring study-abroaders through the whole process of taking standardized tests, acquiring admission to educational institutions, and subsequently, preparing documents required for student visa applications. (Blake, 2009) Often called consultants, these companies now even specialize in areas of work and study, such as nursing (Adhikari, 2010). Despite their claims, the agencies are likely not effective in increasing chances of visa approval. In Nepal, “[c]onsular officers have become familiar with common phrases visa facilitators coach their applicants to use, thereby making it easier to distinguish applicants trained by consultants from those who have done their own research, and therefore who are more likely genuine students.” (Moon, 2009) Such

⁴ The identification card which serves as a proof of permanent residence authorization is colloquially called the Green Card.

middlemen have been known to charge thousands of dollars just for the opportunity to apply for work visas.

Consultancy services might be seen as illegitimate, but they are not illegal. Nevertheless, consular offices regularly face cases of misrepresentation and fraud. In fact, student visas are among the most common targets of visa fraud encountered by US embassies (Simkin, 2009). “Applicants regularly bring to their [visa] interviews audit reports showing overvalued land, business holdings and property leases. Often, bank balances are either artificially built up within weeks of the visa interview, or someone within the bank, itself, falsifies months of credits and large deposits to indicate a credible source of income.”

(Moon, 2009) For certain kinds of employment related visas, 50 percent of the work experience documents submitted were found to be fraudulent. There are also numerous cases of fake educational certificates. (Moon, 2009) In Bangladesh, aside from fake bank documents, employment documents, and educational certificates, the US embassy notes “one enterprising chap who is known to have 17 different passports in five different identities”. (Chammas, 2006) There seems to be a thriving black market of fake documents. Moriarty (2005), for instance, notes the arrest of document vendors in Nepal. The line between the illegitimate vendors and legitimate educational institutions can get blurry. Majilla (2016) has found that, in India, providers of falsified educational certificates keep close ties with university officials. In a climate prone to fraud, some embassies coordinate with government authorities and other embassies to verify the legitimacy of visa applicants. For example, the US consulate in Sri Lanka began obtaining examination records directly from the Sri Lankan Department of Examinations. (Blake, 2009)

Agents are present not only in the home countries, but the host countries as well. In February, 2014, the BBC exposed agents in the United Kingdom (UK) who took visa application examinations on behalf of

students who were already in the country but wanted to extend their stay. The agents were so well organized that they were able to have answers read out to all test takers at the examination hall. Furthermore, BBC was able to obtain fake bank details which could help demonstrate that a student had enough funds to remain in the UK. Following the investigation, the UK government stopped using the test for the purpose of assessing candidates for student visas. (Watson, 2014) On other occasions, ETS—the company which owns but does not directly administer the abovementioned test— has cancelled other examinations or delayed the release of scores due to threats of mass cheating. (Edwards, 2014)

The Regulator

As mentioned above, the US has a policy of denying F1 visas to students unless they can demonstrate intent to return to their home country. It is not clear, however, that the US embassies are able to accurately assess applicants' intent to return home. In September 2008, at one US university, fourteen Sri Lankan students en masse demanded upon enrolment that they be issued social security numbers—an identifying number essential for having a bank account and for getting on payroll. When the school refused, they transferred to language schools or community colleges. (Blake, 2009) There is evidence from more systematic studies as well. The US Mission to India in Mumbai conducted a study of 800 randomly sampled Indian students who had been in the US for at least 2 years under the F1 visa. They found that fourteen percent of the students entering the US as students transferred to a different university than those which they originally intended to attend. Out of these transfers, 40 percent were to a lower level educational program (from graduate to undergraduate, or undergraduate to language training/vocational). Out of these 800 students, 86 percent were either in "active" status or had completed their program. The remaining fourteen percent were either "terminated", "cancelled", or "deactivated". (Tylerda, 2009) In contrast, a study by the US mission in China found that only four percent of F1 students were "out-of-status". (Goldbeck, 2009) While the transfers and dubious status of

these Indian students raises questions about their intent to return home, in the view of consulate officials, they also reflect poorly on the universities' ability to make admission decisions.

Universities

In the academic year 2015-2016, US universities earned an estimated USD 32.8 billion from foreign students. (NAFSA, 2016) As such, they are active participants in the industry, and the US government is aware. In order to assess the role of universities in students' non-return, the US mission to India in Mumbai drew another sample of 800 random students from 20 "targeted" institutions. In this case, only 86% had either completed their program or were in "active" status (compared to the 89 percent in the general sample mentioned above) with the remaining fourteen percent being either "terminated", "cancelled", or "deactivated". (Tylerda, 2009) In general, the rate of "SEVIS non-compliance" was found to be higher in two-year associate degree programs and language programs. (Blake, 2009)

Consulate officers recognize that "institutions appear to be exploiting the Practical Training exception in [the regulation]". (Tylerda, 2009) However, some universities seem to violate the spirit of student visas more than others. At one university, students had "the opportunity to earn academic credits while working 40 hours a week over multiple semesters anywhere in the U.S., with no requirement that they attend any classes and very limited contact with academic faculty." (Blake, 2009) An article in this university's newspaper had a statement from a former student, who claimed that prospective international students can have anyone pose as their sponsor for the purpose of obtaining a visa, and later work while studying to cover the educational costs of over 20,000 US dollars annually. (Blake, 2009) Educational consultants in the home countries also have "exclusive contracts with schools in the U.S. which pay them based on the number of students recruited, with no penalty for those who are no-shows, withdraw, or otherwise violate their student status." (Blake, 2009) These patterns pose a

challenge to the embassies in maintaining their “commitment to adjudicating the applicant, not the school”. (Tylerda, 2009) On certain occasions in the past, the US government has responded to the misbehaviour of universities by revoking their right to admit foreign students. In 2014, the UK government took a similar step when it withdrew the right of at least 700 colleges to admit students from outside the European Union. (Watson, 2014)

Section IV: Policy

Immigration has become an increasingly contested topic in the US. The H1-B visa in particular has received attention in parliamentary debates. In 2015, the proposed “I-Squared Act” unsuccessfully tried to increase the number of H1-B visas, and establish that students no longer have to prove that they intend to return to their home countries in order to be eligible for student visas (that is, they should be allowed to have dual intent). (Hatch, 2015) Again, in January 2017, two separate bills targeting the H1-B visa program were introduced in the US parliament. The “Protect and Grow American Jobs Act” proposed measures to cut down competition to US workers from H1-B visa holders. (Issa, 2017) Similarly, the “High-Skilled Integrity and Fairness Act” was introduced with the goal to curtail competition from foreign workers to American workers, while at the same time easing the requirements for foreign students to demonstrate that they intend to return to their home countries after the completion of their studies (essentially allowing them to have dual intent). (Lofgren, 2017) Though the acts did not pass, again in April 2017, the US president issued an executive order called “Buy American and Hire American” which, among other things, required certain bodies of the government to “reform” the H1-B visa system. (Trump, 2017) As is evident, US lawmakers are no strangers to the relationship between the F1 and H1-B visa statuses. In a protectionist climate, H1-B workers might be the primary target, but F1 students are close seconds.

In 2016, 44.4 percent of the “H” visas issued (H1-B and other types of work visas) were held by Indian nationals making Indians the top recipients of work visas, followed by nationals of Mexico, and only then by Chinese nationals who held five percent of the visas. (US Department of State, 2016) Similarly, 30.3 percent of F visas (F1 students or their dependents) were held by Chinese nationals, making them the top recipients of F visas, while Indian nationals in second place took thirteen percent of them. (US Department of State, 2016) Compare China with India. While the stakes are high for both China and India, China is less susceptible to the US potentially tightening immigration regulations because the levels of visa fraud and abuse are lower in China. Within China, the US mission deems visa applicants from the eastern region to be of higher quality. According to the mission, “applicants from Shanghai are more likely to return... because they see greater opportunities in Shanghai than they might have in the United States.” (Jarrett, 2008) Of course it is not only in the Indian subcontinent that fraud occurs in excess. US missions in several African countries such as Kenya (Ranneberger, 2007), Uganda (Lanier, 2009), Nigeria (Blair, 2009), and Morocco (Ordonez, 2009) have also reported frauds of similar nature. However, the degree of fraudulent activity surrounding visas, and the volume of people seeking them makes countries in the Indian subcontinent most susceptible to corrective policy measures. In contrast, countries like Malaysia are unlikely to suffer because they have low incidence of fraud, and F1 visa approval rates of above 95 percent. (Rapson, 2009)

Other western countries have taken measures in the past. In September 2008, for instance, Australia began requiring that student visa applicants from Sri Lanka demonstrate they have held, for at least 6 months, an amount of bank balance that can cover their tuition and living expenses for 3 years. (Blake, 2009)

Section V: Conclusions

This paper has a necessarily narrow perspective because of the nature of the data used. Importantly, I have not touched upon the positive attributes and the economic value of the international education industry. The survey of the underbelly of the international education industry, and the presentation of the perspective of US immigration authorities should nonetheless be informative to policymakers in home countries interested in the migration of their students. It might be in the interest of the home countries to take preemptive action and show commitment towards curtailing visa fraud. If clues are to be taken from the internal communications of US embassies, establishing point-of-contacts within law enforcement and educational institutions for the verification of personal and educational details of applicants could be a step in this direction. However, the most meaningful plan of action would probably follow from consultation with host countries.

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