

# Immigration debate ensnares foreign workers

Alan Gomez and Mandakini Gahlot, USA TODAY 7:09 p.m. EDT August 11, 2013

NEW DELHI — Sukh Singh had a college degree in mechanical engineering and a dream of working in the United States, but that seemed impossible from his small farming village in northern India.

Then a man named Sukhwinder came to town in November. He says he had just come back from America. He dressed the part, with designer jeans, distinct T-shirts and "fancy sunglasses." He even talked the part, sporting close to an American accent. He says he could help college grads find a job in a big American city for a big engineering firm. Ears perked up when he mentioned Austin as a possible destination.

An excited Singh persuaded his father to sell some of his farmland to pay Sukhwinder for a visa. Singh's father agreed, they collected the cash and handed over more than \$40,000.

The next morning, Sukhwinder disappeared.

"It's almost impossible for a person to migrate to the U.S. on their own because the system is so complicated, so everyone goes through an agent," Singh says. "So giving money to Sukhwinder did not seem strange or out of place."

Cracking down on recruiters who swindle foreigners trying to legally reach the U.S. on work visas is one of the rarely discussed, but potentially transformational, portions of a bill [passed by the Senate](#) last month.

As Congress considers the bill, Democrats and Republicans continue to disagree over the core questions of how best to [secure the nation's borders](#) and [what to do](#) with the 11 million undocumented immigrants living in the country.

But if those disagreements end up killing the bill, they will also sink dozens of changes to immigration law that are generally agreed to by both parties. Those include increasing the number of visas for high-tech, easing the process for agricultural companies to bring in foreign workers and a crackdown on corrupt foreign labor recruiters like Sukhwinder.

"I think ultimately it will be adopted in some form in some way," says Sen. Richard Blumenthal, D-Conn., whose office wrote the recruiter provisions in the Senate bill. "I'm not frustrated ... yet."

Under the bill passed by the Senate, foreign labor recruiters for the first time would have to register with the U.S. government. They would have to post a bond and open themselves up to the jurisdiction of the American court system for visa-holders who feel they've been mistreated.

Naomi Tsu, a senior staff attorney at the Southern Poverty Law Center, which has represented several immigrant workers in lawsuits against employers, says the restrictions are critical because foreign labor contractors serve as the "doorkeepers of the American dream" yet live in an unregulated, mostly unpunished world.

"Current law has not caught up to the realities of international hiring," Tsu says.

And while the U.S. Chamber of Commerce says the restrictions are too broad and need to be changed, they support the overall goal.

"We're well aware of the problem and are obviously against human trafficking," says James Plunkett, director of labor law policy for the chamber. "But some of the problems we saw with this title are that it went beyond what most people would consider to be 'examples of human trafficking.' "

## **DREAM DESTINATION**

Many Americans may take it for granted, but the U.S. remains a place where countless people want to immigrate to every year.

Manpreet Badal, who heads India's People's Party of Punjab, a political party, says young people in his northern Indian region have always tried to find their way to America.

"Even our popular culture — our songs and films — reflect this desire," he says. "The idea is to make a fortune in a foreign land — in a way, it coincides with the idea of the American dream."

South of the border, where U.S. companies recruit many agricultural workers on H-2A visas and other lower-skilled workers through H-2B visas, most people aren't even looking for a fortune — they're just looking for a living wage for themselves and their family.

Gabriel López, a construction worker from the Mexico City suburb of Nezahualcóyotl, has made two dangerous crossings into the U.S. — once across the Rio Grande, and once through the barren desert of New Mexico, where he resorted to eating cactus leaves to survive.

He did all that simply to work in a North Carolina factory and on construction sites in New York City so he could send \$200 a week back to his wife and three children in Mexico.

## **RIPE FOR EXPLOITATION**

That desperation creates a worldwide pool of people who are ripe for exploitation.

In India, where many U.S. companies find engineers through H-1B visas, there's even a phrase for it: *kabootarbaazi*. The literal translation is "pigeon hunting," with the pigeon viewed as a weak and gullible person.

Recruiters must pay a hefty fee and register with the Ministry of Overseas Indian Affairs to operate there, but complaints of mistreatment are everywhere. It's so perilous that Sandeep Garg, CEO of Overseas Career, a recruiting agency in New Delhi, says he often discourages people who come to him for help.

"They don't realize how tough the process of getting to the States is," Garg says. "But people are quite insistent."

In parts of China, another big source of H-1B visa recipients, more than half of Chinese workers may use "informal channels" to go abroad, says Huang Leping, director of the Beijing Yilian Legal Aid and Research Center of Labor, a non-profit dedicated to providing free legal aid for workers.

Two kinds of companies in China are able to recruit workers and send them abroad, he says: labor-export organizations, approved by local governments, and Chinese companies — often state-owned behemoths — that have branches or programs abroad. But the situation is complicated by recruitment agencies that promise a lot, and may deliver little, says Huang.

"They tell workers, 'The salary is high, the benefits are excellent, and there will be skills training,' but the reality when they get there is far from what they said," he says. Some workers must endure terrible work conditions on very low salaries, and suffer occupational illnesses, but are unable to return home, says Huang.

In an [April report](#), the International Labor Recruitment Working Group, a collection of labor organizations, found that workers in every visa category are forced to pay high, and illegal, recruitment fees to even be considered for a visa.

Mexicans who work in the Maryland crab industry paid on average \$750 for their visas, according to the report. Guatemalans who work in American forestry programs paid about \$2,000 for visas and travel. Thai farmers paid up to \$21,000 to work in Washington state.

Patricia Pittman, a professor at George Washington University and executive director of the Alliance for Ethical International Recruitment Practices, says highly educated workers get duped, too, because of how desperate they are to get to America. But she says about 50% of nurses her group surveyed who came into the U.S. from 2003 to 2007 suffered some kind of abuse.

"People tend to assume that higher-skilled workers are not vulnerable to this kind of abuse," she says. "But these nurses, they had their passports withheld, or had their contract change without their consent, or arrived in the United States not knowing where they were going to work."

Making matters worse is that mistreated foreign workers in the U.S. can't get to those recruiters.

Tsu of the Southern Poverty Law Center has helped exploited workers sue recruiters who are in the U.S. But because it's difficult for the U.S. government to prosecute a foreigner based on his actions in a foreign country, they are generally out of reach.

"The recruiter often never sets foot in the United States," Tsu says.

## **ACCOUNTABILITY COMING?**

The Senate bill changes all that.

For the first time, foreign labor contractors will be required to register with the U.S. Department of Labor, submit their fingerprints, open themselves to court action in the U.S. judicial system, and post a bond that can be used to pay workers who win any court cases, or pay fees levied by the U.S. government.

U.S. employers will be required to use registered labor contractors, or risk exposing themselves to lawsuits and government fees.

Once registered, the contractors are then forbidden from charging any fees to visa applicants, must offer them binding contracts outlining their jobs in America and will be required to abide by a variety of U.S. hiring laws, including the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 and the Americans with Disabilities Act of 1990.

"The lever that's applied is essentially the jurisdiction and authority of the U.S. over its visa, and the right of labor recruiters to send people to this country," Blumenthal says. "When they commit a bait and switch in recruiting, when they lure innocent workers into modern-day slavery, they should be held accountable."

Officials with the chamber are fighting back on some provisions.

They wonder how the U.S. can extend very detailed, highly litigated hiring rules to recruiting situations abroad.

"We view this as way overly broad," says Randy Johnson, the chamber's senior vice president of labor.

Some big users of foreign work visas will not be subject to the new restrictions. Companies such as Microsoft, which finds most of its foreign engineers on American college campuses, will not have to register its recruiters with the government. The restrictions will mostly target international outsourcing firms, such as Infosys and Wipro, that secure the visas and provide their workers to U.S. companies.

Some feel that foreign governments need to help the U.S. crack down on the worldwide problem.

"A thorough overhaul of recruitment agencies is needed. Many of the smaller agencies are fly-by-night operations and completely unaccountable," says Geoffrey Crothall, communications director for China Labour Bulletin, a Hong Kong-based labor rights group that has researched Chinese labor-recruitment agencies that send workers overseas.

"It should be the Ministry of Commerce that has responsibility for it, but there are so many layers of subcontracting, and recruiters working at different levels, who all want a cut of the recruitment fee, so workers must pay such a high fee."

Garg, the Indian recruiter, says the U.S. government should coordinate directly with the Indian government to get a handle on the problem.

"No matter how much regulation this new bill brings in, the illegal recruiters will always find some loophole or other," Garg says. "That's their job — they look for loopholes like hawks and always find them, and exploit them. For the United States to effectively regulate these illegal practices, they have to hook up with some department in India."

All those possibilities will have to wait until Congress figures out what to do with immigration reform. In the meantime, people like Singh will continue waiting.

"I still want to go to the U.S.," he says. "I am sure I will go someday. Next time I will just have to be more careful."

<http://www.usatoday.com/story/news/world/2013/08/11/immigration-foreign-recruiters/2586571/>