## Notes

### General Notes

#### Counterplan Basics

A counterplan is a type of negative argument that proposes a different policy than the plan. It is introduced as an off-case position in the 1NC. The 1NC shell for the counterplan is included in this file. To extend the counterplan in the negative block, the negative should prepare blocks to each affirmative response. When doing so, the negative can make use of the backline evidence contained in this file. Students should carefully choose which extension evidence to read; it is very unlikely that students will be able to read *all* extension cards in any 2NC or 1NR.

When answering this counterplan, the affirmative should use the materials in this file to construct a 2AC. For some of the 2AC arguments, the affirmative is provided with additional extension cards that could be useful for the 1AR. Due to the intense time constraints of that speech, students should carefully choose which (if any) extension evidence to read.

#### Thesis of the CP

In broad strokes: the affirmative lets people move to the US permanently while the CP allows them to come temporarily. The net benefit is the Base DA — the negative argues that temporary immigration would be less objectionable to Trump’s base than permanent immigration. This CP can be read against all three affirmatives, but you will need to read the specific plan text that goes for each case. You will also want to read the Base DA shell since that is the net benefit.

#### Competition

This CP is based on the wording of the resolution, “legal immigration” as a phrase meaning *permanent*. Basically, in order to be “legal immigration” the aff must allow people to stay in the US permanently, which is known as “lawful permanent residency” (what is commonly referred to as a “green card.”) The CP only allows *temporary* residence — the exact terms of how long people get to stay is a bit up in the air. The longer the stay, the more the CP is similar to the affirmative and therefore will “solve” the case. On the flip-side the longer you let people stay, the more likely the CP links to the net benefit for the same reason: the more similar it is to the plan, the harder it will be to explain why politics doesn’t link. You will want to think carefully about how long you clarify the CP allows people to stay.

So why is politics a net benefit? The evidence on this makes the claim that temporary status is a middle ground or compromise between what progressives and conservatives want on immigration. Though the “base” may have extreme views on immigration, the CP will be more palatable to them and therefore the backlash will be severely dampened. A crucial question when debating this counterplan will be “how much link is enough to trigger the DA?” If you were negative reading a DA and defending the SQ, you would want to argue that even a small action was sufficient to trigger the link to the DA. However, in this instance where you are defending a CP that may or may not link somewhat to the DA, you will want to argue that the difference in link is big enough that the CP linking a “small amount” doesn’t matter.

#### What to Read

In the 1NC, you want to read the text for the aff you are debating against as well as the “CP Competition and Solvency” section. They go together as one off-case position.

#### Explanation of “Conditionality”

Conditionality refers to the “status” or “disposition” of the counterplan: is the negative defending only the counterplan or can they “kick” the counterplan at any time and revert to defending the status quo? When the negative defends a counterplan but reserves the right to revert to defending the status quo, they are defending the counterplan conditionally. In response, the affirmative can argue that conditionality should not be allowed. When the affirmative makes this argument, the negative must respond by defending the desirability of conditionality. This is called a theory argument.

#### Explanation of “PICs Bad”

“PICs bad” refers to the relationship between the plan and the counterplan. A “Plan Inclusive Counterplan,” or “PIC” (pronounced “pick”) is a counterplan that excludes a part of the plan. The affirmative will argue that the plan and counterplan are so similar that it is impossible for the aff to have comparative evidence or a good debate on the issue. The neg will argue that the counterplan isn’t a PIC (they’ll say it’s a totally different process) and that PICs are good, not bad, for debate.

### Versus Open Borders Affirmatives

Here are the plan and counterplan texts so you can review them side by side:

#### Affirmative Plan Text

The United States should:

* create a default presumption in favor of admission for legal immigration that requires strict scrutiny to override and
* eliminate existing caps and quotas for legal immigration.

#### Negative Counterplan Text

The United States should:

* create a temporary residency program with a default presumption in favor of admission that requires strict scrutiny to override,
* eliminate existing caps and quotas for temporary residency, and
* renew temporary residency after five years on a year by year basis.

### Versus High-Skilled Immigration Affirmatives

Here are the plan and counterplan texts so you can review them side by side:

#### Affirmative Plan Text

The United States federal government should substantially raise the annual limit for employment-based immigrants, eliminate the per-country limits for employment-based immigrants, and exempt the dependents of sponsored immigrants and individuals with graduate degrees in science and engineering fields from the numerical limit.

#### Negative Counterplan Text

The United States federal government should create a temporary residency program for employment-based immigrants and their dependents if the applicant has a graduate degree in science or engineering fields and renew temporary residency after five years on a year by year basis.

The United States federal government should renew temporary residency after five years on a year by year basis.

### Versus Gender Asylum Affirmatives

Here are the plan and counterplan texts so you can review them side by side:

#### Affirmative Plan Text

The United States federal government should expand the definition of a ‘particular social group’ to include gender for the purposes of determining eligibility for asylum.

#### Negative Counterplan Text

The United States federal government should create a temporary residency program modeled off the asylum process that includes gender for the purposes of determining eligibility, and renew temporary residency after five years on a year by year basis.

# Negative

## 1NC Materials

### 1NC — Open Borders CP Text

#### The [first/next] off-case is the Temporary Counterplan.

#### Text — The United States should:

#### create a temporary residency program with a default presumption in favor of admission that requires strict scrutiny to override,

#### eliminate existing caps and quotas for temporary residency, and

#### renew temporary residency after five years on a year by year basis.

### 1NC — High Skilled Immigrants CP Text

#### The [first/next] off-case is the Temporary Counterplan.

#### Text — The United States federal government should create a temporary residency program for employment-based immigrants and their dependents if the applicant has a graduate degree in science or engineering fields and renew temporary residency after five years on a year by year basis.

### 1NC — Gender Asylum CP Text

#### The [first/next] off-case is the Temporary Counterplan.

#### Text — The United States federal government should create a temporary residency program modeled off the asylum process that includes gender for the purposes of determining eligibility, and renew temporary residency after five years on a year by year basis.

### 1NC — CP Competition and Solvency

#### Contention 1 — Competition.

#### 1. The CP competes and is non-topical — “legal immigration” refers to permanent residency, which the CP does not allow and the plan must require.

Cheng 4 — Anthony Cheng, Economist at the Social Security Administration, 2004 (“A Stochastic Model of the Long-Range Financial Status of the Oasdi Program,” Social Security Administration, Available Online at https://www.ssa.gov/oact/NOTES/pdf\_studies/study117.pdf, Accessed 09/06/2018) [Italics in original; Equations omitted]

*Legal immigration* is defined as persons lawfully admitted for permanent residence into the United States.7 The level of legal immigration largely depends on legislation which basically serves to define and establish limits for certain categories of immigrants. The Immigration Act of 1990, which is currently the legislation in force, establishes limits for three classes of immigrants: family-sponsored preferences, employment-based preferences, and diversity immigrants. However, no numerical limits currently exist for immediate relatives of U.S. citizens. Historical data for legal U.S. immigration for years 1901 through 2002 are from the U.S. Citizenship and Immigration Services.8 Legal immigration averaged nearly one million per year from 1900 through 1914, then decreased substantially to about 23,000 in 1933. Since the mid-1940s, legal immigration increased steadily to over one million in 2002. An ARMA(4,1) equation was selected and parameters were estimated using the entire range of historical data. The R-squared value was 0.92. Figure II.2 presents the actual and fitted values. The modified equation is: (3) In this equation, IMt represents the annual level of legal immigration in year t; represents the projected level of legal immigration from the TR04II in year t; imt represents the deviation of the annual level of legal immigration from the TR04II value in year t; and εt represents the random error in year t. 2. Legal Emigration Legal emigration is defined as the number of persons who lawfully leave the United States, and are no longer considered to be a part of the Social Security program. Although annual emigration data are not collected in the United States, the U.S. Census Bureau estimates that the level of emigration for the past century roughly totaled one-fourth of the level of legal immigration. Using the Census estimates as an approximate guide, the parameters of Equation (3) are multiplied by one-fourth.9 The modified equation is: (4) In this equation, EMt represents the annual level of legal emigration in year t; represents the projected annual level of legal emigration from the TR04II in year t; emt represents the deviation of the annual level of legal emigration from the TR04II value in year t; and εt represents the random error in year t. 3. Net Other Immigration *Net other immigration* is defined as the annual flow of persons into the United States minus the annual flow of persons out of the United States who do not meet the above definition of legal immigration or legal emigration. Thus, net other immigration includes unauthorized persons and those not seeking permanent residence.

#### 2. The CP tests “legal immigration”— forcing the affirmative to defend permanent residence allows more detailed discussion of immigration policy. Permanent and temporary status are mutually exclusive — any permutation either severs part of the plan or doesn’t resolve the net benefit.

#### Contention 2 — Solvency.

#### The counterplan solves and avoids the Base DA — temporary status reduces opposition and creates a viable political compromise.

Faizer 17 — Akram Faizer, Professor of Law at LMU-Duncan School of Law, 2017 (“America First: Improving a Recalcitrant Immigration and Refugee Policy,” LMU-Duncan School of Law, Available Online at https://works.bepress.com/akram\_faizer/8/, Accessed 09/06/2018)

At the turn of the last century, my grandfather, Dr. Mohamed Casim Mohamed Kaleel, traveled from his native Colombo, Ceylon, to the United Kingdom to study medicine at the venerable Edinburgh University. Upon graduation, he started practicing medicine in Dublin, Ireland, a city he truly loved. Notwithstanding the fact that the United Kingdom was the center of a clearly racist Empire where white Britons had superior rights to their colonial subordinates, the Empire afforded Dr. Kaleel freedom of movement and residency. It was the fear of a Japanese invasion of Ceylon and a concomitant need for doctors that prompted British authorities to ask him to return to Ceylon. Dr. Kaleel did so, met the woman who became his wife, subsequently advocated for Ceylon's independence from the U.K., and then served in Ceylon's first post-independence government as Health Minister. He eventually had ten children, many of whom, including my mother, migrated to first-world English-speaking democracies. Paradoxically, nearly a full century later, while racial discrimination is illegal in all first-world nations, 4 the citizens of these nations are increasingly unaccepting of global migrants. This is evidenced by President Trump's advocacy of a 2,000 mile border wall with Mexico 5 and the rise of anti-immigration populist parties throughout the developed world.6 The tragic plight of Syrian, Eritrean, and other refugees 7 and the rich-world's reluctance to accept them8 demonstrates how migration from the developing world to mature democracies is unwelcome. Myanmar's genocide of its Rohingya Muslim minority and the refusal of other South and Southeast Asian nations to welcome them9 demonstrates that persecution of migrants is not relegated to the global north. The dynamics behind the migratory surge, including war, collapsing state structures, economic dislocation, climate change, and an anticipated population explosion in the Middle East and sub-Saharan Africa, will not abate. Nor will the causes of rich-world recalcitrance, including Islamophobia, xenophobic authoritarianism, socio-economic and intergenerational immobility, income and wealth inequality and, most importantly, unconsented-to migration-based political and cultural changes. 10 I. AN ARGUMENT FOR CHANGING THE CURRENT RECALCITRANT IMMIGRATION POLICY TO PROVIDE TEMPORARY RESIDENCY FOR INTERNATIONAL MIGRANTS In view of global demand, rich countries, including the U.S., have a humanitarian obligation to substantially increase the admission of international economic migrants and refugees (collectively "migrants"). This must be done in a manner that avoids a political backlash or causes an uptick in social dislocation and nativism. This will be exceedingly difficult and will require rethinking how richworld nations approach the issue of global migration. As long as rich countries continue to treat asylum and migration as a form of immigration, popular pressure will deprive policymakers of the ability to accommodate migrants at the needed level. My proposal is to recognize the humanitarian imperative of welcoming migrants and to foster support for such a disposition by untethering migration from permanent residency and eventual naturalization by means of a substantially expanded temporary residency program. Rich-world governments will have political support to welcome far more migrants than is currently the case because the policy addresses the concerns of conservatives and nationalists who bemoan the cultural and political consequences of permanent international migration and strengthens the position of liberals and moderates who argue for humanitarian admission. The policy will improve overall global wellbeing because it will lead to the admission of far more temporary residents and will protect the sending states of the developing world by protecting them against an irrevocable loss of their most capable citizens. Although admitting far greater numbers of temporary residents risks undermining social cohesion and creating a problematic tiered system of residency by depriving migrants' U.S. born children of citizenship, it is a necessary requirement for a bipartisan immigration compromise. Much of the nativist opposition to immigration is caused by economic insecurity, income inequality, and socio-economic immobility within rich-world countries." Therefore, advocates for migrant rights will also have to push for domestic political reforms in rich-world countries to encourage socio-economic and intergenerational mobility. These include labor market reforms, greater progressivity in the tax code, and ensuring access to highquality public schooling, health care, and higher education as a citizenship right. The need for these reforms is beyond the scope of this paper and is addressed in my previous piece published in the Pennsylvania State Law Review.12 President Trump's election was facilitated by the U.S. electorate's backlash over the fact that the nation's demographics have changed dramatically due to the country's failure to address the permanent residency of illegal migrants, many of whose children have become citizens based on the country's provision of birthright citizenship.13 President Trump could address his supporters' concerns and provide for a far better alternative to the status quo by adopting policies designed to encourage greater acceptance of migrants in conjunction with stricter border and immigration enforcement. This is a needed change in view of the rise of right-wing populism as manifest by Trump's election, the United Kingdom's Brexit vote to leave the European Union, Marine Le Pen's reaching the second round of the French Presidential election, the success of the far right AFD Party in Germany, and the growth of far-right political parties in other mature democracies. 14 It is, moreover, a necessary policy change should rich countries seek to fulfill their humanitarian obligation to accommodate the current international migratory surge and avoid becoming unwelcoming hostages to a fortress-like mentality that demeans the Enlightenment and the idea of global human rights.

## 2NC/1NR

### They Say: “Perm: Do Both”

#### 2AC #\_\_\_ — They Say: “Perm: Do Both,” but the perm links to the Base DA because it still includes permanent status, which infuriates Trump’s base. The counterplan alone is superior.

### They Say: “Perm: Do the Counterplan”

#### 2AC #\_\_\_ — They Say: “Perm: Do the Counterplan,” but the permutation “severs” legal immigration:

#### A. “Legal immigration” is permanent — our 1NC Cheng evidence defines the key resolutional term and divides aff and neg ground. The temporary CP does LESS than the plan and any permutation would have to sever LPR status.

#### B. Severance permutations are illegitimate — the aff could always sever the part of the plan that links to our offense — since they get the last speech we can’t respond to their final clarification. A stable plan is crucial to negative ground — allowing the aff to become a moving target makes negating impossible.

#### The CP is fundamentally different from “legal immigration” in a meaningful way.

American Immigration Council 18 — American Immigration Council, a nonprofit that promotes laws and policies that protect immigrants, 2018 (“The Use of Parole Under Immigration Law,” American Immigration Council, January, Available Online at https://www.americanimmigrationcouncil.org/sites/default/files/research/the\_use\_of\_parole\_under\_immigration\_law.pdf, Accessed 09/06/2018)

What is Parole? The Immigration and Nationality Act (INA) authorizes the Secretary of Homeland Security to exercise discretion to temporarily allow certain noncitizens to physically enter the United States if they are applying for admission but are either inadmissible or do not have a legal basis for being admitted to the United States. DHS only grants parole if the agency determines that there are urgent humanitarian or significant public benefit reasons for a person to be in the United States and that person merits a favorable exercise of discretion. Grants of parole are made for limited periods of time to accomplish a discrete purpose, and individuals are typically expected to depart the United States when the authorized period expires. While individuals who receive a grant of parole are granted entry into the United States, they are not provided an immigration status nor are they formally “admitted” into the United States for purposes of immigration law. An admission occurs when an immigration officer allows a noncitizen to enter the United States pursuant to a visa or another entry document, without the limitation of parole. The distinction between an admission and a parole is a significant one under immigration law.

### They Say: “PICs Bad”

#### 2AC #\_\_\_ — They Say: “PICs Are Bad,” but PICs are essential to fair debate.

#### First, our offense:

#### Fair Side Balance — PICs offset the aff advantage of case selection, literature bias, and the inherent problems with the status quo.

#### Depth of Education — focusing on intricacies is essential to topic knowledge and moving past the un-nuanced “good/bad” frame.

#### Strategic Research — PICs encourage innovative research that avoids stale debates and bridges different parts of the literature.

#### Effective Policy Analysis — differences between similar options is an essential part of policy decisions and academic literature.

#### Second, our defense:

#### Our CP isn’t a PIC — Our CP engages in a different process. At worst, it’s a non-topical PIC, which establishes a fair and predictable division of ground.

#### Doesn’t Skew Ground — the aff can turn our net benefits or defend the entirety of their plan.

#### No Infinite Regression — competition is an adequate standard and literature predictably defines what counterplans are legitimate.

#### DA’s Aren’t Enough — Counterplans are needed to deal with entrenched status quo trends, a critical part of reciprocity, while DAs alone create unfairness, and test comparative necessity rather than desirability.

### They Say: “Conditionality Bad”

#### 2AC #\_\_\_ — They Say: “Conditionality Bad,” but Conditionality is good.

#### 1. Most Logical — the judge should never be forced to choose between a bad plan and a bad counterplan when the status quo is a logical third option. Logic is an objective and fair standard that teaches valuable decision-making skills.

#### 2. Argument Innovation — because debaters are risk-averse, they won’t introduce new positions unless they retain a reliable fallback option. Innovation keeps the topic interesting and encourages research and preparation.

#### 3. Gear-Switching — being able to change gears and defend different positions over the course of a debate teaches valuable negotiation skills and improves critical thinking. Deciding what to go for is a useful skill.

#### 4. No Infinite Regression — each additional position has diminishing marginal utility. We’ve only read one counterplan. This is reciprocal: they get the plan and permutation and we get the counterplan and status quo.

#### 5. Strongly Err Neg — the judge should be a referee, not a norm-setter. Unless we made the debate totally unproductive, don’t vote on conditionality — doing so gives too much incentive for the aff to abandon substantive issues in pursuit of an easy theory ballot.

### They Say: “CP Links to the Base DA”

#### 2AC #\_\_\_ — They Say: “CP Links to the Base DA,” but temporary admission avoids conservative backlash. They are opposed to permanent entry, not the counterplan. That’s Faizer.

#### And, the counterplan is perceived as more legitimate than the plan, reducing nativist backlash.

Faizer 17 — Akram Faizer, Professor of Law at LMU-Duncan School of Law, 2017 (“America First: Improving a Recalcitrant Immigration and Refugee Policy,” LMU-Duncan School of Law, Available Online at https://works.bepress.com/akram\_faizer/8/, Accessed 09/06/2018)

The U.S. has benefited from immigration in that its population is 72 million higher than it would be but for the enactment of the 1965 Immigration and Nationality Act. n46 The increased population has corresponded with increased racial and ethnic diversity. To illustrate, the proportion of non-Hispanic whites dropped from 84% in 1965 to 62% and, as of 2015, continues to fall, largely because the Hispanic and Asian populations have grown during this time frame from 4% and 1% to 15% and 6%, respectively. n47 Because of lower fertility in the native-born population, a full 88% of future U.S. population growth will be attributable to immigration and the descendants of these immigrants. n48 This, however, places pressure on a country's absorptive capacity to integrate newcomers, especially when the majority of the population is relatively stagnant with respect to both population and economic productivity and fears cultural and economic displacement. n49 For example, enactment of the 1986 Simpson-Mazzoli Immigration Reform and Control Act, n50 which regularized the status of previously illegal migrants, was facilitated by U.S. economic and population growth, which was 3.5% and 1.7% respectively, under the Reagan Presidency when Islamic fundamentalism and geopolitical [\*944] instability were unheard-of problems to most western citizens. n51 The success of President Trump's populist xenophobia is, in turn, attributable to the fact that economic and population growth in post-financial-crisis America are 1.5% and .75%, respectively, in a period of geopolitical instability and fear of political Islam. n52 Furthermore, compared to other developed nations, the U.S. has very high levels of income inequality as measured by a GINI index of 45.0, n53 and socio-economic intergenerational immobility as evidenced by the fact that between 50% and 60% of Americans' relative income is explained by that of their parents. n54 These are far higher measures of inequality than in the U.S's northern neighbor, Canada, which has been lauded for an altogether more welcoming approach to migrants. n55 That said, unlike Canada, which is surrounded by the U.S. and three major oceans, the U.S. is the destination point of a major migratory route from Central America and Mexico, which explains the unauthorized immigration problem. n56 The 11 million unauthorized immigrants, in conjunction with the fear of Islamic extremism and domestic economic insecurity, are the obvious explanations for domestic disquiet over the issue. Less discussed is how the substantial in-migration of developing-world residents has changed the nation's political culture in a manner that arguably explains much of the backlash that resulted in President Trump's election. This is due to both the [\*945] Immigration and Naturalization Act of 1965 n57 and the insufficiently-acknowledged migration incentives that have resulted in development of the above-referenced migration route. The former effectively ended preference for European immigrants and led to a marked uptick in racial minority immigration. n58 The latter is attributable to relatively strong economic performance in the U.S. compared to the economic and political crises that developed in Mexico and Central American in the 1980s. n59 To illustrate the political consequences, if the same proportion of white voters as compared to racial minority voters that voted for Jimmy Carter in his landslide loss to Ronald Reagan in 1980, voted for Barack Obama in 2012, the popular vote tally in the 2012 election would have been in Mitt Romney's favor. n60 Obama won reelection because the white vote fell from nearly 90% of the electorate in 1980 to approximately 73% in 2012 and continues to fall. n61 A full 73% of Asian Americans and 71% of Hispanics, who comprise 4.5% and 10% of the U.S. voting populations respectively, voted for President Obama in the 2012 presidential election. n62 This, in conjunction with the fact that African Americans overwhelmingly vote for the Democratic Party candidate, meant that President Obama was able to win a decisive electoral college victory and earn more than 51% [\*946] of the popular vote while winning only 39% of the white vote. n63 This is a disquieting phenomenon for nativists and conservatives. n64 Indeed, although much of President Trump's support is explained by his demotic characterization of unauthorized immigrants, it would be wrong to conclude that this fully explains his decisive electoral college win. n65 His base expressed understandable disquiet over the previous failure of both major political parties to either enhance border security to prevent continued unauthorized immigration or repatriate the undocumented migrants living in the country. n66 Mass migration has had serious political repercussions. A Pew Research Center study finds that half of Americans want immigration to be reduced and incorrectly blame immigrants for a disproportionate share of the nation's crime and economic problems. n67 This is in spite of the fact non-immigrants have nearly two and three times the incarceration rate of unauthorized and legal immigrants, respectively. n68 These perceptions vary by immigrants' region of origin, with Americans most likely to hold negative views about immigrants from Latin America and the Middle East. n69 Amid the uproar regarding President [\*947] Trump's recent Executive Orders n70 suspending the U.S.'s refugee resettlement program and temporarily banning the entry of individuals from six majority Muslim countries, the political culture has conveniently forgotten how ungenerous the Obama Administration and all rich countries are on this issue. n71 For example, the Obama Administration admitted only 85,000 refugees for the fiscal year ending in September 2016 and planned on admitting only 110,000 for fiscal year 2017, n72 both of which are negligible numbers in view of the scale of the international refugee problem -- e.g. there are an estimated 16 million refugees worldwide n73 and the United States alone is home to approximately 11 million undocumented or illegal economic migrants. n74 The Obama Administration's response to these problems, namely, a refusal to abide by its own "red line" and intervene to stop the Syrian Genocide n75 and a belatedly issued Presidential Executive Order to designate a large subset of undocumented residents as non-deportable, n76 has proven to be both unworkable and counterproductive. The refugee surge that is affecting Jordan, Lebanon, Turkey, and the European Union n77 is most likely caused by the effects of global climate change in conjunction with the political consequences brought about by the American-led invasion of Iraq in 2003 and the Obama Administration's decision to subsequently disengage from the Middle [\*948] East. n78 With respect to unauthorized migration to the U.S., the Obama Administration's failure to obtain a bipartisan immigration compromise was largely attributable to the Democratic Party's failure to disentangle the demand for economic migration from the current immigration and naturalization paradigm as well as the Republican Party's reflexive nativism. This resulted in the issuance of an ineffective Executive Order on the issue, which was enjoined by the federal courts n79 and still had the parlous consequence of inciting a backlash on the right that facilitated Trump's election as President. How might the federal government have better anticipated and addressed the demand for unauthorized migrants? My argument is that it could have forthrightly been addressed by a proactive temporary residency and worker program, used in conjunction with development assistance provision to the sending states of Mexico and Central America. This would have minimized the incentives for unauthorized migration, protected guest workers from the perils of undocumented status and ensured the public that migration-based demographic changes are legitimate. The fact that neither political party pushed for such a program, all the while refusing to provide for either greater border enforcement or stepped-up deportation, facilitated the current populist backlash. Although the U.S. resettles more refugees than any other developed country n80 and has resettled more than 3 million persons since 1975, n81 its expected refugee resettlement number of 50,000 n82 this year is relatively minuscule and inadequate in view of the total number of refugees and displaced persons worldwide. The fact that a non-existent threat from Syrian refugees was seized upon by the President to temporarily suspend the U.S. Refugee Assistance Program n83 evidences that the disquiet felt about Islam and unauthorized migration has superimposed itself onto the refugee [\*949] crisis and demands a response. The response, however, should recognize that concerns about migration's consequences are legitimate while allowing for expanded migration so that the U.S. can maintain its moral authority as the world's leading nation and fulfill its obligation to help with the problems confronting international migrants.

#### Parole is less controversial and leads to future permanent status.

Benach 18 — Ava Benach, immigration attorney at Benach Collopy LLP, 2015 (“After Hanen: How Parole Could Solve the Administration’s Executive Action Quandary,” Benach Collopy LLP, February 18th, Available Online at http://www.benachcollopy.com/2015/02/hanen-parole-solve-administrations-executive-action-quandry/, Accessed 09/06/2018)

The Texas judge’s decision to enjoin the government from implementing DAPA and extended DACA has brought the administration’s executive action program to a screeching halt just as thousands were getting ready to file for extended DACA today, February 18, 2015. Instead, people are trying to unearth the procedures for seeking a “stay of the stay” at the Fifth Circuit. Media reports have already surfaced that the administration will not seek emergency review of the stay, raising the specter that the entire executive action program will be on hold for many months. Perhaps, there is a silver lining here. Perhaps, the administration gets a chance to revisit an option that was surely presented to it, but just as surely rejected by the administration as too far-reaching. Ironically, this alternative approach would have been on far more solid legal ground than the expansion of deferred action. We are referring to “parole.” Parole is the authority to inspect and allow to enter any person that is ineligible for admission. Congress has granted the executive branch with broad discretionary parole authority. Immigration & Nationality Act Sec. 212(d)(5)(A) states that the Secretary of Homeland Security “may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.” This authority would allow the administration to establish a procedure by which individuals could apply for admission and seek parole. There is precedent for granting parole to individuals who are already in the United States. This process is known as parole in place, which we discussed here in August. It allows an individual already in the U.S. to present themselves for inspection and seek parole without leaving the country. Most recently, parole in place has been used to allow the undocumented relatives of members and veterans of our Armed Forces to obtain lawful immigration status. This option was likely rejected by the administration because once an individual has been paroled into the U.S., they are eligible to adjust status to permanent residence if they are the beneficiary of certain immigrant petitions. By extending parole in place, the administration would have opened the door to permanent residence for thousands of undocumented individuals. It is all but certain that the administration did not want to be accused of granting residence to these individuals. Somehow, it was deemed more politically palatable to place individuals into quasi-limbo deferred action. By shrinking the prize, the administration must have thought that they would have gotten less opposition. How wrong they were again. Congress is on the verge of shutting down the Department of Homeland Security over the administration’s executive action program and, of course, 26 states have filed suit against executive action and convinced a judge to put a stop on the EA program. The irony is that paroling individuals into the U.S. would have been easier to defend legally than the deferred action program has proven to be. A key thread running through Judge Hanen’s decision is that Congress has passed no law giving the President broad authority to use deferred action this way. Such a thing could not be said about parole. As stated above, Congress has given the executive broad authority to parole individuals into the United States. This authority is placed “in the discretion” of and “under such conditions as he may prescribe” the Secretary of Homeland Security. There are multiple laws that insulate discretionary determinations from judicial review. Congress itself in INA 242(a)(2)(B) stated that “no court shall have jurisdiction to review . . . any other decision or action of the Secretary of Homeland Security for which is specified under this title to be in the discretion of the Secretary of Homeland Security.” In addition, the Administrative Procedures Act (APA), which Judge Hanen used to stay executive action, contains an exclusion to review of “discretionary determinations.” Finally, terms such as “urgent humanitarian reasons” and “significant public benefit” are the types of determinations that the judiciary will, generally, not review and will leave to the the determination of the administration. Judge Hanen’s decision, while awful in many respects, is a result of a timid and feckless White House. Unwilling to take the heat that would have likely accompanied a decision to create a system for parole, the administration relied upon a less defensible procedure of deferred action. Of course, even though the administration thought it was turning down the heat by only providing for deferred action, the administration got a full on battle. And somehow, despite the last six years of obstruction and bad faith by the opponents of the administration, the White House seems once again surprised by the vehemence of the opposition. Hopefully, the White House will embrace the solution of parole and have a bigger impact than they could have ever imagined.

### They Say: “CP Doesn’t Solve Open Borders”

#### 2AC #\_\_\_ — They Say: “CP Doesn’t Solve Open Borders,” but temporary admission leads to massive inflows of migrants and solves our moral obligation. That’s Faizer.

#### And, parole allows rapid response to crisis and provides for long term immigration solutions.

Reitz 11 — Whitney Reitz, Branch Chief of Programs at the USCIS International Operations Division and before that worked at the U.S. Department of State for seventeen years, 2010/11 (“Reflections on the Special Humanitarian Parole Program for Haitian Orphans,” *New York Law School Law Review*, Available Online at http://www.nylslawreview.com/wp-content/uploads/sites/16/2013/11/55-3.Reitz\_.pdf, Accessed 09/06/2018)

Let me conclude with a hopeful thought. The Special Humanitarian Parole Program for Haitian Orphans was the first program of its kind, and it can become an important precedent. In a humanitarian crisis, we can use the parole authority established by U.S. immigration law n6 as part of the immediate relief effort to bring people already on a path to permanent immigration out of harm's way. The discretionary authority to admit certain aliens to the United States under humanitarian parole is vested in DHS, with USCIS taking the lead on considering humanitarian parole applications in response to emergent humanitarian situations. USCIS crafted the Special Humanitarian Parole Program for Haitian Orphans in this context, essentially defining a class of individuals who could qualify for humanitarian parole based on a set of specific eligibility requirements. The program fell within the scope and intent of parole authority, but approached its application in a new and powerful way by crafting this group definition. [\*798] The best of what is possible in America, as one of the only countries in the world that embraces large-scale immigration, can become part of our response to tragedy going forward. Some might argue that using parole authority in this way violates the principle that parole is not meant to be used in lieu of regular immigration tracks. That is not what happened and is not what I am proposing. Rather, a discretionary authority can be used to provide life-saving humanitarian relief for well-defined and identifiable groups in an emergency situation, not to circumvent regular immigration processing. Consideration of whether the beneficiaries will be able to obtain a regular immigration status after they are paroled in the United States comes into play because, if they are already on the path to an immigration status, it is more likely that documents and records of their identity exist (through processing in their country of origin or in the U.S. immigration system) and will therefore allow us to identify them with confidence, even in the midst of the emergency. In addition, when granting parole to a class of individuals who are unlikely to be able to return to their country of origin in the near term, we must consider whether there will be a downstream option for them to regularize their immigration status in the United States. The lessons from the Special Humanitarian Parole Program for Haitian Orphans are bright and straightforward: in crafting such a program to benefit a group in response to a humanitarian emergency, we need to know who the intended beneficiaries are; we need to know how we can verify their identities and status; we need to be prepared to run a sprint followed by a marathon because such a program demands that degree of effort; and we need to allow the fences to fall and work together as human beings responding to the crying need of our fellow creatures. Parole authority provides us with an invaluable tool. Our humanitarian spirit provides us with a motive. The lives we touch will be our validation.

### They Say: “CP Doesn’t Solve High-Skilled Immigration”

#### 2AC #\_\_\_ — They Say: “CP Doesn’t High-Skilled Immigration,” but temporary admission leads to massive inflows of high-skilled workers. That’s Faizer.

#### And, parole can get necessary talent for innovation.

Johnson 14 — Jeh Johnson, former Secretary of Homeland Security, 2014 (“Policies Supporting U.S. High-Skilled Businesses and Workers,” Department of Homeland Security, November 20th, Available Online at https://www.dhs.gov/sites/default/files/publications/14\_1120\_memo\_business\_actions.pdf, Accessed 09/07/2018)

To enhance opportunities for foreign inventors, researchers, and founders of start-up enterprises wishing to conduct research and development and create jobs in the United States, I hereby direct USCIS to implement two administrative improvements to our employment-based immigration system: First, the "national interest waiver" provided in section 203(b)(2)(B) of the Immigration and Nationality Act (INA) permits certain non-citizens with advanced degrees or exceptional ability to seek green cards without employer sponsorship if their admission is in the national interest. 5 This waiver is underutilized and there is limited guidance with respect to its invocation. I hereby direct USCIS to issue guidance or regulations to clarify the standard by which a national interest waiver can be granted, with the aim ofpromoting its greater use for the benefit ofthe U.S economy. Second, pursuant to the "significant public benefit" parole authority under section 212(d)(5) ofthe INA, 6 USCIS should propose a program that will permit DHS to grant parole status, on a case-by-case basis, to inventors, researchers, and founders of start-up enterprises who may not yet qualify for a national interest waiver, but who have been awarded substantial U.S. investor financing or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting-edge research. Parole in this type of circumstance would allow these individuals to temporarily pursue research and development of promising new ideas and businesses in the United States, rather than abroad. This regulation will include income and resource thresholds to ensure that individuals eligible for parole under this program will not be eligible for federal public benefits or premium tax credits under the Health Insurance Marketplace ofthe Affordable Care Act.

#### Immigration classification a secondary factor in return.

Kerr 13 — William Kerr, professor of business administration at Harvard Business School, 2013 (“U.S. High-Skilled Immigration, Innovation, and Entrepreneurship: Empirical Approaches and Evidence,” The National Bureau of Economic Research, August, Available Online at http://www.nber.org/papers/w19377, Accessed 9/7/2018)

Return Migration We close by noting an area where we really wish we knew more: return migration. Immigration has always been a temporary step for many, and recent case studies and surveys describe the important migration of skilled workers back to home countries (e.g., Saxenian 2006, Wadhwa et al. 2009). 13 At this point, we know that this return migration from the United States is happening for a variety of reasons, most notably the increased attractiveness of foreign locations on personal and professional levels. Restrictive U.S. immigration policy plays a role, but this role is likely secondary to the attractive opportunities seen for many in returning home. Given the exceptional importance of immigrants for work in U.S. STEM fields, this trend could challenge the United States’ role in technology leadership. Alas, while countries measure inflows of people reasonably well, outflows of people are measured very poorly, it at all. For the United States, clever data work to further quantify these features would be most welcome.

### They Say: “CP Doesn’t Solve Asylum”

#### 2AC #\_\_\_ — They Say: “CP Doesn’t Solve Asylum,” but temporary admission allows inflows of migrants and solves our moral obligation. That’s Faizer.

#### And, parole allows rapid response to crisis and provides for long term immigration solutions.

Reitz 11 — Whitney Reitz, Branch Chief of Programs at the USCIS International Operations Division and before that worked at the U.S. Department of State for seventeen years, 2010/11 (“Reflections on the Special Humanitarian Parole Program for Haitian Orphans,” *New York Law School Law Review*, Available Online at http://www.nylslawreview.com/wp-content/uploads/sites/16/2013/11/55-3.Reitz\_.pdf, Accessed 09/06/2018)

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#### Parole is a superior option for potential refugees.

Basco 9 — Kenneth Basco, Judge Advocate and Senior Defense Counsel for the U.S. Army, 2009 (“Don’t worry, we’ll take care of you: immigration of local nationals assisting the United States in overseas contingency operations,” *Army Lawyer*, Republished by The Free Library by Farlex, October 1st, Available Online at https://www.thefreelibrary.com/Don%27t+worry%2c+we%27ll+take+care+of+you%3a+immigration+of+local+nationals...-a0212767032, Accessed 09/07/2018)

Local nationals who have put themselves and their families in danger by associating with U.S. forces have various avenues for immigration to the United States. Three options, discussed in the primer, include refugee resettlement and asylum, parole, and two special programs created for specific categories of Iraqis and Afghans. The refugee resettlement process is demanding and should be the option of last resort. Once in the United States, refugees fortunate enough to gain entry into the United States may avail themselves of the asylum application process. Parole represents a second option. Parole differs significantly from the other options discussed in this primer because it is not intended to be a method of immigration at all; rather, it serves as temporary authorization for an individual to enter the United States for a fixed period of time. Humanitarian parole may justify helping local nationals with serious medical needs that cannot be addressed in their home country, while significant public benefit parole may be invoked to assist local nationals in immediate danger and in need of evacuation from their country of nationality.

### They Say: “Political Inclusion DA”

#### 2AC #\_\_\_ — They Say: “Political Inclusion DA,” but the counterplan status is renewable, which creates certainty that allows political participation.

#### And, parole is binding — the Accardi doctrine means parolees cannot be deported.

Magill 9 — M. Elizabeth Magill, Dean of Stanford Law School, 2009 (“Agency Self-Regulation,” SSRN, June 8th, Available Online at https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1416287, Accessed 09/07/2018)

Accepting all of this, an agency does have some limited capacity to make credible commitments.42 There are no doubt a variety of interesting reasons for this, such as an agency’s ability to discern and rely on stable allocations of political, institutional, or economic power.43 Here this Article focuses on one formal, legal reason why agencies can commit to the stability of their policy over time. This is due to the operation of an administrative law doctrine that goes by different names but will be called here the Accardi principle.44 The complexities of that doctrine will be explored shortly, but consider now a simple statement of it: an agency has an obligation to follow its own rules.45 From the perspective of permitting an agency to credibly commit to future action, the most important feature of that doctrine is that its enforcement is not up to the agency, but is rather up to the courts.46 It is true that the courts only enforce the Accardi doctrine if a proper party comes along and brings a timely challenge to an agency’s failure to abide by its own rules, but if that occurs, a court can invalidate agency action that does not comply with existing rules. And all relevant parties proceed in the shadow of that possibility. Thus, if an agency chooses to embed its self-regulatory measure in a rule, it can rely on the fact that a court will require it to adhere to that rule in the future. This doctrine gives the agency some capacity to make credible commitments.

The problem of a government agent promising adherence to a policy in the future is that the government agent (or her successor), absent some effective enforcement mechanism, can thereafter ignore the promise.47 Government can say today that it will respect contract rights, but tomorrow it can exercise its coercive powers in ways that ignore them. The availability of an effective third party enforcer of the original promise permits the agent to back it with some level of credibility and thus induces whatever behavior the original promise was intended to facilitate.48 And an effective third party enforcer of self-regulation is what the Accardi doctrine provides. An agency can say today that it will only bring certain cases and not others, and, if the doctrine applies, parties can rely on the fact that a court will force the agency to follow it in the future.

The Accardi doctrine provides third party enforcement of a particular status quo baseline that the agency must follow—namely, the existing rules that limit the agency’s discretion. It is worth noting that it would be possible for the regime to be otherwise. It could be that every time a new administration begins its tenure, the prior administration’s self-regulatory measures would not bind the new administration, or at least not be judicially enforceable by the courts. The new administration would start from scratch, as it were. Such a regime would have obvious advantages in terms of electoral responsiveness, but at a cost to stability. Regardless, it is not the regime we have.

### They Say: “Social Services DA”

#### 2AC #\_\_\_ — They Say: “Social Services DA,” but the Base DA outweighs:

[insert impact comparison between the Base DA and the aff’s Social Services DA to the counterplan.]

# Aff

## 2AC

### 2AC — Perm: Do Both

#### Perm: do both. The permutation creates double solvency and is thus the best option.

### 2AC — Perm: Do the CP

#### Perm: do the CP. “Legal immigration” can include temporary status, so the counterplan is just more than the plan or a possible way the plan could be done. It doesn’t compete.

Passel and Cohn 15 — Jeffrey Passel, senior demographer at Pew Research Center and expert of immigration to the U.S., and D’Vera Cohn, senior writer and editor at Pew Research Center, 2015 (“Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls Since 2007,” Pew Research Center, March 26th, Available Online at http://www.pewhispanic.org/2015/03/26/share-of-unauthorized-immigrant-workers-in-production-construction-jobs-falls-since-2007/, Accessed 09/07/2018)

The “legal immigrant” population is defined as people granted legal permanent residence [LPR]; those granted asylum; people admitted as refugees; and people admitted under a set of specific authorized temporary statuses for longer-term residence and work. This group includes “naturalized citizens,” legal immigrants who have become U.S. citizens through naturalization; “legal permanent resident aliens” who have been granted permission to stay indefinitely in the U.S. as permanent residents, asylees or refugees; and “legal temporary migrants” (including students, diplomats and “high-tech guest workers”) who are allowed to live and, in some cases, work in the U.S. for specific periods of time (usually longer than one year). “Unauthorized immigrants” are all foreign-born non citizens residing in the country who are not “legal immigrants.” These definitions reflect standard and customary usage by the U.S. Department of Homeland Security and academic researchers. The vast majority of unauthorized immigrants entered the country without valid documents or arrived with valid visas but stayed past their visa expiration date or otherwise violated the terms of their admission. Some who entered as unauthorized immigrants or violated terms of admission have obtained work authorization by applying for adjustment to legal permanent status, obtaining Temporary Protected Status (TPS) or receiving Deferred Action for Childhood Arrivals (DACA) status. This “quasi-legal” group could account for as much as 10% of the unauthorized population. Many could also revert to unauthorized status.

### 2AC — PICs Bad

#### Plan Inclusive Counter Plans are illegitimate and a voting issue.

#### Bad Disads — PICs artificially inflate bad DAs because the neg doesn’t need to win they outweigh the case. Running the net benefit alone as a disad is sufficient for negative ground.

#### Limits — there are a near infinite number of ways status could be adjusted or temporary visas be extended. There is no comparative literature base comparing them to the plan. Literature as a standard justifies the “penny saved is a penny earned” CP.

#### Damage is Done — reading the CP in the 1NC already affected the way we debate every other issue, allowing them to kick the CP magnifies the harm.

### 2AC — Conditionality

#### Conditionality is a Voting Issue — the neg should get the status quo or an unconditional counterplan, not both. Conditionality creates an unproductive argument culture because it values coverage more than engagement. This discourages in-depth clash and argument resolution (because less time is spent on each position) and lowers the barrier of entry for low-quality arguments (because the neg is trying to distract the 2AC). Different advocacies should be debated in different debates, not crammed into this one. Vote for the theoretical position that best encourages high-quality debates.

### 2AC — CP Links to the Base DA

#### CP Links to the Base DA — executive action will be noticed and politicized.

**Wilkerson 10** — F. Brendan Wilkerson, writer for Medill News Service, MS in Journalism from Northwestern’s Medill School of Journalism, 2010 (“Illegal Immigration Foes Say Memo Hints at Back-Door Amnesty Plan,” *Medill News Service*, August 25th, Available Online at <http://dc.medill.northwestern.edu/blog/2010/08/25/illegal-immigration-foes-say-memo-hints-at-back-door-amnesty-plan/#sthash.jNJzDhHX.YEjKCrtu.dpbs>, Accessed 09-05-2018)

After a year of little to no movement on immigration, some groups say they fear the president is looking at other ways to skirt Congress and address the issue of illegal immigrants living in the U.S. through other channels. At a joint press conference Monday, in a letter to President Barack Obama, 17 groups expressed concerns that the president would legalize millions of immigrants without the approval of Congress. Their fear, the groups said, comes from sources within the Department of Homeland Security and particularly a memo that was leaked to Iowa Sen. Chuck Grassley’s office, in which U.S. Citizenship and Immigration Services officials discuss the parameters of different immigrant status’, and whether steps like “deferred action” might allow fewer individuals to be put in deportation proceedings. The memo’s purpose is described as offering “administrative relief options to promote family unity, foster economic growth, achieve significant process improvements and reduce the threat of removal for certain individuals present in the United States without authorization.” In the memo, which is addressed to the USCIS Director Alejandro Mayorkas, high-ranking USCIS officials discuss a sort of back-up plan for U.S. Citizenship and immigration Services, should no immigration reform be passed by Congress. The press conference comes after eight senators also raised the issue with the president, lead by Republican Grassley, who obtained the memo. “A lot of groups are looking at this because it looks to them like a pattern of abusive power,” said Roy Beck, president of Numbers USA, a group that advocates for reduce immigrant numbers for the reason of preserving American jobs. “You have the administration grabbing more authority than they really deserve.”

### 2AC — CP Doesn’t Solve Open Borders

#### No Solvency — the people who need it most won’t trust the CP. It creates worse limbo.

**Mountz et al. 2** — Alison Mountz, Professor of Geography and Environmental Studies at the Balsillie School of International Affairs at Wilfrid Laurier University, Canada Research Chair in Global Migration, Ph.D. in Geography, Richard Wright, Professor of Geography and Public Affairs at Dartmouth College, Ph.D. in Geography from Indiana University, Ines Miyares, Professor of Geography at Hunter College – CUNY, Ph.D. in Geography, Adrian J. Bailey, Professor of Geography and Dean of Social Sciences at Hong Kong Baptist University, Ph.D. from Indiana University, 2002 (“Lives in limbo: Temporary Protected Status and immigrant identities,” *Global Networks*, December 16th, Available Online at https://onlinelibrary.wiley.com/doi/abs/10.1111/1471-0374.00044, Accessed 09-05-2018)

Interpretations of policies and their effects immigrant communities cannot be divorced from social and historical contexts of mobility and displacement. The temporary status programmes provide individuals permission to work -known as el permiso - and to reside in the United States on a temporary basis until a permanent decision regarding their asylum and residency is reached. Groups who fled surveillance regimes as pervasive as in El Salvador are particularly fearful of such a regulated and tenuous relationship with government. Indeed, Menjivar (2000: 88) found that TPS programmes initially escalated the fear of deportation. Having experienced a prolonged war fought with techniques of surveillance implemented by the United States and torture (to which the USA turned a blind eye), Salvadorans quickly recognize INS disciplinary strategies by which they are made visible by requirement. Asylum applicants with TPS must, for example, report any change of residence or job to the INS. Many do not trust the intentions of the programmes, fearing that they were designed to monitor their whereabouts, rather than to assist them. According to one community activist, many fellow Salvadorans feared the continuance of documentation by the INS: Yes, it was Bush, when they gave us that TPS extension. And the people didn't believe it. They said, 'No, this is to catch us. If we fill out the application, they're going to send us home sooner. Many people stayed [without per- mission]. But they kept watching and saw the people filling out their permiso We told them, when it ended, when TPS and DED ended. But many people said no, they weren't going to fill the papers out for asylum. Many people remained without asylum. So these people are in an even worse limbo because they don't know if tomorrow they will be coming to get them and send them to El Salvador, with no questions, with nothing, because they refused to apply for asylum.And for fear also, because they said that political asylum was a double-edge sword, that applying for asylum could deport us more quickly ... They were afraid, after so many things that they had seen (Salvadoran man with temporary status, Newark). By requiring that applicants keep INS informed of changes in residence and employment, the temporary programmes rendered applicants visible to the federal government at all times. Participants were confined to the United States, unable to return to El Salvador as they awaited asylum adjudication, and without family reunification rights. This confinement has had profound emotional consequences for those who have missed children, funerals, marriages, births and other important events in EL Salvador. As applicants await resolution for years, compliance with these conditions compounds psychological experiences of legal limbo, pos-traumatic stress disorder, displacement and poverty. The choice to not comply with the conditions of the programme results in a loss of temporary status, as well as the rights provided by the programme, such as permission work, a valid social security number and the hope of becoming a permanent resident.

### 2AC — CP Doesn’t Solve High-Skilled Immigration

#### Temporary status fails — creates massive delays, locks in menial jobs, reduces innovation.

**Wadhwa 18** — Vivek Wadhwa, Professor at Carnegie Mellon's School of Engineering at Silicon Valley and American technology entrepreneur, 2018 (“How Trump is making China and India great again,” *Hindustan Times,* January 23rd, Available Online at https://www.hindustantimes.com/analysis/how-trump-is-making-china-and-india-great-again/story-0FKz16kitI0CVjz0mIohBJ.html, January 23rd, Accessed 09-05-2018)

 “Thank you for what you are doing for America; your successes have put India in very positive light and shown us what is possible in India” said Atal Bihari Vajpayee to me in a one-on-one meeting during his visit to the White House in September 2000. He added that he would love to see Indian-American entrepreneurs return home to help build India’s nascent technology industry. Bill Clinton and George W. Bush granted him his wish with their flawed immigration policies. The U.S. admitted hundreds of thousands of foreign students and engineers on temporary visas but did not have the fortitude to expand the numbers of green cards.The result was that the waiting time for permanent resident visas began to exceed 10 years for Indian and Chinese immigrants. Some began returning home. Now with his constant tirades against immigrants, particularly from what he calls “shithole countries”, Donald Trump is giving many countries the greatest gift of all: causing the trickle of returning talent to become a flood. For India, the timing could not be better. With hundreds of millions of people now gaining access to the Internet through inexpensive smartphones, India is about to experience a technology boom that will transform the country itself. And with the influx of capital and talent, it will be able to challenge Silicon Valley—just as China is doing. This is the irony of America’s rising nativism and protectionism. When I met Prime Minister Vajpayee, I was the CEO of a technology startup in North Carolina. Later, I became an academic and started researching why Silicon Valley was the most innovative place on this planet. I learnt that it was diversity and openness that gave Silicon Valley its global advantage; foreign-born people were dominating its entrepreneurial ecosystem and fueling innovation and job growth. My research teams at Duke, the University of California at Berkeley, New York University, and Harvard documented that between 1995 and 2005, immigrants founded 52% of Silicon Valley’s technology companies. The founders came from almost every nation in the world: Australia to Zimbabwe. Immigrants also contributed to the majority of patents filed by leading US companies in that period: 72% of the total at Qualcomm, 65% at Merck, 64% at General Electric, and 60% at Cisco Systems. Surprisingly, 40% of the international patent applications filed by the US government also had foreign-national authors. Indians have achieved the most extraordinary success in Silicon Valley. They have founded more start-ups than the next four immigrant groups, from Britain, China, Taiwan, and Japan, combined. Despite comprising only 6% of the Valley’s population and 1% of the nations, Indians founded 15.5% of Silicon Valley startups and contributed to 14% of US global patents. At the same time, I also realised that protectionist demands by nativists were causing American political leaders to advocate immigration policies that were (and are) choking US innovation and economic growth. The government would constantly expand the number of H1-B visas in response to the demands of businesses but never the number of green cards, which were limited to 140,000 for the so-called key employment categories. The result? The queues kept increasing. I estimate that today there are around 1.5 million skilled workers and their families stuck in immigration limbo, and that more than a third of these are Indians. Meanwhile, I have witnessed a rapid change in the aspirations among international students. The norm would be for students from China and India to stay in the US permanently because there were hardly any opportunities back home. This changed. My engineering students began to seek short-term employment in the US to gain experience after they graduated but their ultimate goal was to return home to their families and friends. Human resource directors of companies in India and China increasingly reported that they were flooded with resumés from US graduates. For students, the prospect of returning home and working for a hot company such as Baidu, Alibaba, Paytm, or Flipkart is far more enticing than working for an American company. You cannot blame them, especially given that delays in visa processing will lock them into a menial position for at least a decade during the most productive parts of their careers. This has been an incredible boon for China. One measure of the globalisation of innovation is the number of technology start-ups with post-money valuations of $1 billion or higher. These companies are commonly called “unicorns”. As recently as 2000, nearly all of these were in the US; countries such as China and India could only dream of being home to a Google, Amazon, or Facebook. Now, according to South China Morning Post, China has 98 unicorns, which is 39% of the world’s 252 unicorns. In comparison, America has 106, or 42%, and India has 10 unicorns, 4%. An analysis by the National Foundation for American Policy revealed that 51% of the unicorns in the US have at least one immigrant founder. It is clear how shortsighted the US government has been. With the clouds of nativism circling the White House, things will only get worse. America’s share of successful technology startups will continue to shrink and Silicon Valley will see competition like never before. America’s loss is India’s gain.

### 2AC — CP Doesn’t Solve Asylum

#### No Solvency — vulnerable asylees won’t trust the CP. It creates worse limbo.

**Mountz et al. 2** — Alison Mountz, Professor of Geography and Environmental Studies at the Balsillie School of International Affairs at Wilfrid Laurier University, Canada Research Chair in Global Migration, Ph.D. in Geography, Richard Wright, Professor of Geography and Public Affairs at Dartmouth College, Ph.D. in Geography from Indiana University, Ines Miyares, Professor of Geography at Hunter College – CUNY, Ph.D. in Geography, Adrian J. Bailey, Professor of Geography and Dean of Social Sciences at Hong Kong Baptist University, Ph.D. from Indiana University, 2002 (“Lives in limbo: Temporary Protected Status and immigrant identities,” *Global Networks*, December 16th, Available Online at https://onlinelibrary.wiley.com/doi/abs/10.1111/1471-0374.00044, Accessed 09-05-2018)

Interpretations of policies and their effects immigrant communities cannot be divorced from social and historical contexts of mobility and displacement. The temporary status programmes provide individuals permission to work -known as el permiso - and to reside in the United States on a temporary basis until a permanent decision regarding their asylum and residency is reached. Groups who fled surveillance regimes as pervasive as in El Salvador are particularly fearful of such a regulated and tenuous relationship with government. Indeed, Menjivar (2000: 88) found that TPS programmes initially escalated the fear of deportation. Having experienced a prolonged war fought with techniques of surveillance implemented by the United States and torture (to which the USA turned a blind eye), Salvadorans quickly recognize INS disciplinary strategies by which they are made visible by requirement. Asylum applicants with TPS must, for example, report any change of residence or job to the INS. Many do not trust the intentions of the programmes, fearing that they were designed to monitor their whereabouts, rather than to assist them. According to one community activist, many fellow Salvadorans feared the continuance of documentation by the INS: Yes, it was Bush, when they gave us that TPS extension. And the people didn't believe it. They said, 'No, this is to catch us. If we fill out the application, they're going to send us home sooner. Many people stayed [without per- mission]. But they kept watching and saw the people filling out their permiso We told them, when it ended, when TPS and DED ended. But many people said no, they weren't going to fill the papers out for asylum. Many people remained without asylum. So these people are in an even worse limbo because they don't know if tomorrow they will be coming to get them and send them to El Salvador, with no questions, with nothing, because they refused to apply for asylum.And for fear also, because they said that political asylum was a double-edge sword, that applying for asylum could deport us more quickly ... They were afraid, after so many things that they had seen (Salvadoran man with temporary status, Newark). By requiring that applicants keep INS informed of changes in residence and employment, the temporary programmes rendered applicants visible to the federal government at all times. Participants were confined to the United States, unable to return to El Salvador as they awaited asylum adjudication, and without family reunification rights. This confinement has had profound emotional consequences for those who have missed children, funerals, marriages, births and other important events in EL Salvador. As applicants await resolution for years, compliance with these conditions compounds psychological experiences of legal limbo, pos-traumatic stress disorder, displacement and poverty. The choice to not comply with the conditions of the programme results in a loss of temporary status, as well as the rights provided by the programme, such as permission work, a valid social security number and the hope of becoming a permanent resident.

### 2AC — Political Inclusion DA

#### Temporary status prevents political inclusion.

**Allerdice 11** — Hanna Allerdice, Ph.D. candidate in Political Science at Syracuse University, 2011 (“The Effects of Settlement Policy on Refugee Political Activism: Sudanese Refugees in Australia and the US,” *Political Science – Dissertations,* Available Online at https://surface.syr.edu/psc\_etd/101/, Accessed 09-05-2018)

Policies specifically pertaining to both immigrants and refugees have an enormous influence on migrant political activities. Rules, regulations and programs for incorporating newcomers into the political, social and economic fabric of the host society can encourage or bar migrant access to the policy process. Citizenship and naturalization policies and eligibility requirements with lower residency time limits, and fewer requirements ease this significant prerequisite to engaging in any type of migrant political activities (Koopmans 2004). Furthermore, newcomer legal status that places migrants in limbo, such as temporary protection status, serves to weaken the confidence to engage in political activities (Al-Ali et al 2001; Mountz et al 2002; Bailey, Wright, Mountz, Miyares 2002).

### 2AC — Social Services DA

#### Temporary status denies social service benefits.

**Cebulko 13** — Kara Cebulko, Associate Professor of Sociology and Global Studies at Providence College, 2013 (“Documented, Undocumented, and Liminally Legal: Legal Status During the Transition to Adulthood for 1.5‐Generation Brazilian Immigrants,” *The Sociological Quarterly*, Vol. 55, Issue 2, Winter, Available Online at Wiley Online Library, December 2nd, Accessed 09-05-2018)

In line with the literature on the socio-legal production of legal status, several scholars have demonstrated that binary legal statuses are problematic as immigration laws and policies produce gray areas of legality that are temporary and uncertain (Calavita 1998; Mountz et al. 2002; Menjívar 2006; Goldring, Berinstein, and Bernhard 2009). For example, Menjívar (2006) shows how various legal dispensations— including but not limited to Temporary Protected Status (TPS) and Deferred Enforced Departure—confer temporary legality to Guatemalan and Salvadoran immigrants.7 Menjívar (2006) uses Turner’s (1967) concept of liminality and Coutin’s (2000) work on “legal nonexistence” to theorize liminal legality as a gray area of legal limbo that has characteristics of both a documented and an undocumented status. Unlike “fully undocumented” immigrants, those in liminal legality have been granted work authorizations and thus can legally work in the United States, but they continue to be denied access to most social services. Moreover, liminal legality can persist for an indefinite period of time and does not necessarily lead to permanent legal status.

## 1AR

### Extend: “Perm: Do the CP”

#### Legal immigration includes temporary migrants.

Wasem 12 — Ruth Wasem, former domestic policy specialist t the U.S. Library of Congress’ Congressional Research Service and has a Ph.D. in History, M.A. in History, B.A. in History, Political Science and Psychology, 2012 (Overview of Immigration Issues in the 112th Congress,” Congressional Research Service, January 12th, Available Online at https://fas.org/sgp/crs/homesec/R41704.pdf, Accessed 9/7/2018)

The scope of legal immigration includes permanent admissions (e.g., employment-based, familybased immigrants) and temporary admissions (e.g., guest workers, foreign students). There are some foreign nationals admitted temporarily in a conditional status who may be on a path to permanent residence. The challenge inherent in reforming the system of legal immigration is balancing the hopes of employers to increase the supply of legally present foreign workers, the longings of families to re-unite and live together, and a widely shared wish among the various stakeholders to improve the policies governing legal immigration into the country.

### Extend: “CP Links to Base DA”

#### The CP would be perceived as *abusing* the parole process. Prefer our evidence about the base.

**Vinik 17** — Danny Vinik, staff writer for Politico, 2017 (“Four hidden policy changes in Trump’s immigration memos,” *Politico*, February 23rd, Available Online at <https://www.politico.com/agenda/story/2017/02/four-hidden-policy-changes-trump-immigration-memos-000323>, Accessed 09-05-18)

Immigration officials have long been able to use an immigration policy called "parole" to create some flex in the system, cracking open the door for noncitizens who technically aren't supposed to enter the U.S., but who have some personal or political claim to leniency. The “wet-foot, dry-foot policy” that Obama ended in January used parole as the mechanism to allow Cuban immigrants to stay in the country if they made it onto U.S. soil. Another program, known as “parole in place,” allows close undocumented relatives of U.S. service members and veterans to apply for a green card without leaving the U.S., keeping military families together. Perhaps the most common use of parole, called “advance parole,” allows immigrants who are in the U.S. and applying to adjust their status — mainly applying for a green card — to travel abroad and return while their applications are pending. To immigration critics, these broad policies amount to a systematic abuse of the parole system, which is supposed to be judged strictly on a case-by-case basis, rather than handed out to broad categories of immigrants. In what sounds like a slap at the Obama administration, one subsection of a memo says expanded use of parole “has contributed to a border security crisis, undermined the integrity of the immigration laws and the parole process, and created an incentive for additional illegal immigration.” The new memo calls for parole to be used “sparingly” and directs the heads of the three main immigration agencies to issue regulations clarifying when parole can be used. How the immigration agencies will reform parole programs won’t be clear until they release final regulations; a DHS spokesperson did not respond to questions about the memos. But experts on both sides of the immigration debate believe the intent is to turn parole from an exemption that certain people can count on to an infrequent privilege — curtailing or eliminating many of these programs, including the “parole in place” program for U.S. soldiers' families.

### Extend: “CP Doesn’t Solve (Open Borders/Refugees)”

#### Parole links to politics and fails the most vulnerable migrants.

Basco 9 — Kenneth Basco, Judge Advocate for the U.S. Army, Senior Defense Counsel, U.S. Army Trial Defense Service, Grafenwoehr, F.R.G. LL.M., 2009 (“Don't worry, we'll take care of you: immigration of local nationals assisting the United States in overseas contingency operations,” *Army Lawyer*, October 1st, Available Online at https://www.thefreelibrary.com/Don%27t+worry%2c+we%27ll+take+care+of+you%3a+immigration+of+local+nationals...-a0212767032, Accessed 09-27-2018)

D. Criticism of Parole Very few Iraqi nationals relative to the total number of Iraqi refugees from the war have been granted parole. (75) Moreover, the "obscure program that bypasses the State Department's normal immigration procedures" has been subject to criticism. (76) First, parolees are spared the difficult "multimonth waiting period in a third country like Jordan or Syria" that is typical of the "estimated 2 million Iraqi refugees" who have fled their country. (77) Bypassing the queue benefits the parolees themselves, but it creates a disparity and an appearance of unfairness to those not fortunate enough to receive parole. Second, the public benefit to the United States that the parolees provided may not be clear to the media or the general public. (78) Third, it is arguably counterproductive to remove Iraqis that are beneficial to the public from their home nation. Their country could use some heroes. In response to the criticisms, the significant public benefit parole program has been characterized as "an extraordinary measure that is sparingly used to bring an otherwise inadmissible alien into the United States for a temporary period due to a compelling emergency." (79) Those granted parole are carefully screened, and only a small percentage of them eventually seek permanent residence in the United States. (80) "Applicants with the intent of paroling into the US to seek asylum are not good candidates" for parole. (81) Perhaps the most serious criticism of the DoD's use of parole is that it could create a humanitarian disaster for parolees in the United States with no plans for their long-term support or safety upon termination of the parole. Judge advocates involved in nominating individuals for parole must ask whether the parolee's basic needs will be met while in the United States and must consider what will happen to the parolee once the period of parole expires.

#### Parole is an inadequate response to humanitarian admission.

**Keyes 17** — Elizabeth Keyes, Associate Professor, Director of the Immigrant Rights Clinic, University of Baltimore School of Law, J.D. from Georgetown University Law Center, M.P.A. from Princeton, and B.A. from Carleton College, 2017 (“Unconventional Refugees,” *American University Law Review*, Vol. 67, Issue 1, Available Online at http://www.aulawreview.org/unconventional-refugees/, Accessed 09-05-2018)

[HP = Humanitarian Parole]

4. Humanitarian parole DHS has the ability to issue humanitarian parole (HP) to temporarily admit someone who has no other lawful way to enter the United States. n290 It issues humanitarian parole only under compelling humanitarian circumstances. It is implicitly part of the CAM program, n291 which relies on the parole authority, but could be available to those without the CAM's requirement of a qualifying relative in the United States. Nothing in the parole authority precludes that result. However, in practice, HP is granted extremely rarely. n292 Moreover, we have seen from other programs like Deferred Action for Childhood Arrivals (DACA), that delineating clear eligibility criteria inevitably creates clear ineligibility criteria that reduces the likelihood of being granted broader relief (like deferred action, in the DACA context). n293 The CAM program provides clear criteria for those fleeing the Northern Triangle who qualify, and it seems unlikely that those falling outside the criteria could qualify for broader HP absent extremely compelling circumstances. Furthermore, as "parole" signifies, it is not a sturdy immigration status. Indeed, it does not even legally constitute an admission to the United States, as if the border were a rubber band around the individual paroled in. n294 There are no benefits attached to parole, except for the intrinsic benefit of achieving temporary safety (in the case of Central American migrants using HP to flee danger). As Don Kerwin, Director for the Center on Migration, notes, such programs, along with TPS, "rest primarily on executive discretion, fail to cover numerous at-risk populations, and do not typically lead to permanent status or other durable solutions."

### Extend: “CP Doesn’t Solve (High-Skilled Immigration)

#### Only permanent status harnesses the economic potential of immigration.

Peri et al. 16 — Giovanni Peri, Professor of Economics at UC Davis, Ph.D. in Economics from Cal Berkeley, Rsearch Associate at the National Bureau of Economic Research, and Gaetano Basso, Professor of Economics at UC Davis, Sara McElmurry, The Chicago Council on Global Affairs, 2016 (“Opportunity Lost: The Economic Benefit of Retaining Foreign-Born Students in Local Economies,” *The Chicago Council on Global Affairs*, April, Available Online at https://www.thechicagocouncil.org/sites/default/files/report\_economic\_benefit\_retaining\_foreign-born\_students.pdf, Accessed 09-05-18)

Home to many of the world’s leading universities, the United States is a top destination for higher education for many talented students from across the globe (see figure 1).3 Almost 600,000 new F-1 student visas were issued in 2014, up from only 110,000 in 2001, more than quintupling in 14 years.4 In addition, the children of immigrants already based in the United States are also pursuing college degrees at higher rates than ever before.5 Immigrants have long driven innovation and growth in the US economy. Over the past 50 years, one-quarter of US-based Nobel laureates were foreign born.6 Immigrants were behind 25 percent of new high-tech companies founded between 2006 and 2012, generating $63 billion in sales.7 Immigrants with advanced degrees are three times more likely to file patents than their native-born peers.8 Yet despite immigrants’ long history of advancing the US economy, the economic contributions of many of today’s US-educated foreign-born students are stifled by an outdated immigration system. The temporary nature of F-1 visas limits international students’ ability to work after they have obtained their degrees in the United States. Faced with limited visa channels, many return to their countries of origin to build their careers and possibly compete with their US-based peers (see figure 2). Furthermore, undocumented students, brought to the United States as children and educated in American school systems, face uncertain prospects for work authorization and significant barriers to higher education.9 Only one group of foreign-born students—lawful permanent residents, many of whom arrived in this country as the children of authorized immigrants and now enjoy a stable and permanent immigration status—are fully putting their college educations to work in the US economy. Their successes illustrate the potential to maximize the economic contributions of all foreign-born students through immigration reform. While failure to integrate talented foreign-born students is costly at the national level, effects are most acute at the local level. Local universities compete to attract top-tier students, and local economies subsidize their education. The fact that universities are increasingly pioneering programs—offering everything from cultural orientations for international students to in-state tuition and financial aid to the undocumented—suggests that they recognize the value of the human capital of foreign-born students. Yet once this capital is produced at local universities, federal immigration policy causes its dissipation and loss of potential contributions.

#### Temporary status causes job lock and discourages migration to the US.

**Sataline 17** — Suzanne Sataline, writer based in Hong Kong, 2017 (“Trump Has Started a Brain Drain Back to India,” *Foreign Policy*, September 22nd, Available Online at https://foreignpolicy.com/2017/09/22/trump-has-started-a-brain-drain-back-to-india/, Accessed 09-05-18)

In 2005, two years after Sameer Sahay arrived in the United States from India to pursue an MBA, he was thrilled when an Oregon health care company hired him and agreed to sponsor his green card. His life as an American, he thought, had begun. Twelve years later, Sahay, now 50, is still a data architect, still working for the same firm, and still waiting for that green card**.** It’s not clear when he’ll clear the government backlog. He does know that his provisional status stalled his career — changing jobs would have required the company to file a new petition. “Personally, I have sacrificed my career to help my family to have a better life,” Sahay says. “That has taken its toll. Had I gotten a green card, I could have moved on, moved up, done a lot more things. This held me where I was 10 years ago.” Tangled and contradictory immigration policies of this sort have frustrated Indian immigrants for years, but the United States was seen as a prize worth pursuing. Now, though, many Indians — long a vital pillar of U.S. hospitals, tech firms, and engineering efforts — are reconsidering their options. Despite a chummy Rose Garden meeting between U.S. President Donald Trump and Indian Prime Minister Narendra Modi in June, the permanent legal status of many Indians in America has become far more uncertain since Trump’s election. In the president’s short time in office, his promises and policies — from the “Muslim ban” to a directive that may alter who gets a work visa — have convinced many foreign nationals that they are not welcome. For many of the 2.4 million Indian nationals living in the United States, including roughly 1 million who are scientists and engineers, the fears are existential; although roughly 45 percent are naturalized citizens, hundreds of thousands still depend on impermanent visas that must be periodically renewed. Changes in the U.S. skilled visa scheme could trigger large economic and intellectual losses, especially in states with many South Asian residents such as California and New Jersey. Some foreign nationals there wonder if Trump’s policies will trigger an Indian brain drain. Since Trump’s election, the number of Indian-born residents in the United States searching for jobs back in India has climbed more than tenfold, consulting firm Deloitte Touche Tohmatsu found. Six hundred people were searching in December, and the number spiked in March to 7,000. Four out of 10 U.S. colleges say they’ve seen a sharp drop in international applicants for the fall term, especially among applicants from India and China, the top sources for international students.Nearly 167,000 Indians studied at American colleges in the 2015-2016 school year. Some graduates from Indian colleges have considered setting out for Canada, which is wooing tech workers, or heading to Europe. Personal safety fears are driving decisions, as well. After a white U.S. Navy veteran shot two Indian engineers in Kansas in February, killing one, Indian newspapers ran news coverage of the story and editorials for days. The vet had angrily questioned the pair about their visa status. This year, the number of people applying for a high-skilled worker visa, the H-1B, dropped for the first time in four years — from 236,000 last year to 199,000, the government reported. Attorneys sensed that Trump’s travel ban and vows to tighten vetting procedures have unnerved petitioners. The new wave of H-1B applicants began processing on Sep. 18 – with the numbers severely tightened. More applications are being challenged than ever before. “The platform he got elected on, that hatred, denigrating other religions, it wasn’t making America great again and uplift the world. It’s ‘We’re going to make America great’ at the cost to the rest of the world. We’re doing long-term damage here,” says Vivek Wadhwa, a distinguished fellow at Carnegie Mellon University. At the same time, the opportunities in India are growing exponentially. “They don’t have to leave.” Nearly 127,000 Indians were given H-1B visas to work in the United States in the 2016 fiscal year, far more than any other nationality. (The Chinese claimed 21,600 visas.) Most of the 85,000 documents awarded annually by lottery go to outsourcing companies. Such firms recruit foreigners with college diplomas, most of whom are Indian, to work in technical jobs. For years, big tech companies such as Microsoft and Google have pressed the government to raise the number of visas allotted, saying they can’t find enough Americans with the necessary skills. H-1B critics say there are enough Americans with technology degrees to fill all the country’s technical jobs. In April, Trump rolled out another “America First” policy and announced changes to the program. He signed an executive order that may alter who gets the annual visas, saying he wants to ensure that only the highest-skilled, best-paid immigrant workers gain entry. Lower-skilled workers would be prevented from taking jobs from Americans, he said. Outsourcing firms, such as Infosys, expect a sharp drop in the number of visas they would receive, which would hurt Indians who possess only undergraduate degrees. The policies and outcomes have discouraged both undergraduate and graduate students from India who would like to study science and engineering in theUnited States, says Tahmina Watson, an immigration attorney in Seattle**.** “Why would students come here if the path to a long-term career does not exist?” she says. So many workers have been frustrated that attorney Brent Renison sought class-action status for a lawsuit filed last year in U.S. District Court in Portland. He argued, in part, that the H-1B lottery was arbitrary and capricious. The suit asked the court to order the government to process visa petitions in the order they are filed and compel the government to establish a waitlist like the one used for green card petitions. The government prevailed. “Some people are moving out of the country, taking valuable skills with them,” Renison says. “Some people are choosing not to come. If this persists, were going to lose a lot of the foreign students we educate.” The system was barely functioning as it was. Applications for work visas already were so clogged in the federal bureaucracy that in recent years even Ivy League graduates couldn’t be certain of receiving one. Getting a work visa hasn’t guaranteed stability, as Sahay, the data architect, knows. Employers can sponsor immigrants’ green cards, or permanent visas, but the approvals process is backlogged. The federal government places caps for green cards on each country each year. Indians seeking permanent residency say it’s routine for them to linger in line for a decade or more. Up to 2 million Indian workers here and abroad may be waiting in a green card backlog that could take a decade or more to clear if there are no changes to the system, says David Bier, an immigration policy analyst at the Cato Institute think tank. Those concerns may add to the shortage of highly skilled technology workers in theUnited States, just as Canada or Singapore vie for those same people. Every other startup company, says Vish Mishra, an investor with Clearstone Venture Partners, a venture capital firm in Silicon Valley, has operations based overseas or recruits workers in India, Eastern Europe, Canada or Israel. “You’re not going to have, all of a sudden, 200,000 [American] people filling the gap that exists. What are businesses going to do? Businesses have to import talent,” he says. Canada has become more attractive just since the U.S. presidential election. The country granted temporary work visas to 1,960 Indian nationals in all of 2015, and 2,120 total in the fourth quarter of 2016 and first quarter of this year. In November, Canada announced that as of June, the country would speed the processing of standard visas and work permits to two weeks for highly skilled talent working for companies doing business in Canada. The move, the government says, will help companies grow and fuel job growth for Canadians. Meanwhile, in the United States, tech workers and engineers are bound to established companies that filed paperwork for them years back. Almost everyone in the Indian tech community knows a weekend entrepreneur who desperately wants to start his or her own company but can’t quit work because they would be visa-less. Meanwhile, friends and family in India beg them to come home and bring their ideas to India’s own booming silicon valleys.

#### Perception of LPR backlog deters top talent from coming to the US.

**Smith 17** — Brad Smith, President and Chief Legal Officer of Microsoft, JD from Columbia Law School, 2017 (“The per-country limits on employment-based green cards are neither fair nor good for our country,” *Microsoft on the Issues*, October 6th, Available Online at https://blogs.microsoft.com/on-the-issues/2017/10/06/per-country-limits-employment-based-green-cards-neither-fair-good-country/, Accessed 09-05-2018)

A vigorous and important debate is currently underway about various aspects of the U.S. immigration system. While many ideas are consistently part of these ongoing discussions, one area has not received enough attention: the extraordinary backlog in high-skilled green cards. The U.S. is fortunate to have talented, high-skilled immigrants from around the world who are contributing their substantial skills to our nation’s companies, paying taxes, investing in our economy and contributing to local communities. But despite sponsorship by their U.S. employers, some individuals face frustrating bureaucratic hurdles in the green card process, including lengthy backlogs of over a decade and uncertain futures. This backlog is the result of a woefully outdated employment-based green card system put in place back in 1990 – the year that “Ice Ice Baby” topped the Billboard Music Charts. Clearly, the world has changed. Unfortunately, our green card system has not. One would be hard-pressed to find any aspect of our immigration system less grounded in common sense than the so-called “per-country limits” applied to green cards. The rule is simple even if devoid of logic. It prohibits immigrants from any single country from receiving more than 7 percent of the total number of green cards each year. This limit means that immigrants from large countries like India and China, with populations of well over 1 billion people, have the same maximum number of green card allotments each year—only 9,800—as Liechtenstein, whose total population is less than 40,000 people. Because of per-country limits, the burden of today’s employment-based green card backlog unfairly falls only on immigrants from India, China and the Philippines. For most employees from India, it is expected to take well over a decade to make it through their country-specific backlog, even after their jobs and skills have been certified by the U.S. Department of Labor to merit green cards. Meanwhile, as of this month, there is no backlog this long for any other country. This isn’t fair, and it isn’t smart — not if we want the U.S. to be able to continue attracting top talent. The length of a person’s green card process might reasonably be based on a number of legitimate factors, but it shouldn’t be differentiated solely on the size of the population of a person’s country of birth. These backlogs have a real impact on our employees and their families. Employees worry about limitations to career changes and job growth that could impact their green card process. Their spouses are often unable to work. Despite having grown up in the U.S. and attended our schools, their dependent children may be left out if they reach adulthood before their application makes it through the backlog. This kind of uncertainty is not the way to attract the best talent in the world to U.S. companies. The solution is a modern green card system that allows high-skilled immigrants to stay and continue growing our country’s businesses and our economy. Beyond fixing the overall shortage of green cards, we should eliminate these per-country limits. Solutions to this problem have been proposed, like H.R. 392, the “Fairness for High-Skilled Immigrants Act,” led by Rep. Kevin Yoder, R-Kansas, which has the overwhelming bipartisan support of 271 co-sponsors. Sen. Mike Lee, R-Utah,introduced an identical measure in the Senate, S. 281, and Sen. Orrin Hatch, R-Utah, has previously included the elimination of per-country limits in the “Immigration Innovation Act,” accompanied by reasonable increases in green card numbers to help address the backlog. We enthusiastically support these types of legislative fixes. It will be difficult for America to remain a leader in global innovation if we cannot put in place a more modern and common-sense based approach to green cards. We are committed to working with the administration and Congress to address lasting reform of our immigration system through meaningful bipartisan solutions that will help strengthen our economy, ensure protections for American workers and give the world’s top talent a reason to continue making a bet on this great nation.

#### Permanent status key to avoid reverse brain drain.

**Lohr 7** — Steve Lohr, senior writer and reporter for the New York Times, 2007 (“A Solution to the High-Tech Immigrant Challenge,” *Bits: A New York Times Blog,* August 22nd, Available Online at <https://bits.blogs.nytimes.com/2007/08/22/a-solution-to-the-high-tech-immigrant-challenge/>, Accessed 09-05-2018)

No one really doubts the “immigrant dividend” to America’s high-tech economy. But a new academic study — the third in a series — details the benefits and the threat of a “reverse brain drain.” Yet one of the authors of the new study has a solution that is not in step with the high-tech lobby. He advocates getting rid of the H-1B visa, the temporary work permit for skilled workers. Vivek Wadhwa, a fellow at the Harvard Law School and executive-in-residence at Duke University, said today that the H-1B program is “wonderful for technology companies and employers. They have a captive audience.” The H-1B, he explained, allows the sponsoring company to control employees, and often underpay them, as critics of the visa program contend. Instead, Mr. Wadhwa said the United States should simply grant skilled immigrant workers permanent residence visas, so-called green cards. The new report says that more than 1 million skilled workers — scientists, engineers, doctors and researchers — are competing for 120,000 permanent residence visas each year. The surging backlog, the study adds, is starting to fuel a “reverse brain drain” as skilled workers return to their home country.