

ISSUE BRIEF

No. 4818 | FEBRUARY 15, 2018

Scrutinize Special and Other Green Card Eligibility Categories as Part of the Effort to Modernize the U.S. Immigration System

Brett D. Schaefer and James Jay Carafano, PhD

Congress is in the midst of a broad debate on immigration. Within the legal immigration system, Heritage experts have previously recommended ending extended chain migration and the visa diversity lottery program. In addition to these larger immigration categories, however, are smaller categories making specified aliens eligible for green cards and permanent residency. Specifically, there are green card categories set aside for specific employment groupings, foreign policy objectives, and humanitarian reasons.

Although individually these groups are rather small, collectively they are responsible for roughly 40,000 green cards annually. As part of the effort to modernize America's immigration programs, Congress should scrutinize these categories to determine whether they remain necessary and in the best interests of the United States—or whether they should be eliminated.

Special Immigration Categories

Aliens seeking to live and work permanently in the United States must apply for a permanent resident card or “green card.” Under the law, there are many categories governing eligibility. By far the largest category involves receiving a green card through a family relationship to a U.S. citizen. There are also

a number of other categories and sub-categories enacted into law in preceding decades for other individuals. These special categories are generally found in the fourth employment preference or the “other” category (see table below) listed by the Department of Homeland Security. For instance:

- **Indochinese Parole Adjustment Act.** Enacted in 1975 at the end of America's involvement in the conflict in Vietnam, the Act permits “certain individuals from Vietnam, Kampuchea (Cambodia), and Laos to adjust their status to permanent resident and get their [sic] green card.”¹ It was intended to help aliens fleeing the communist takeovers of these countries. The Act was amended in 2000 to apply only to those physically present in the U.S. prior to October 1, 1997, and subsequently clarified in several areas by the Department of Justice.²
- **International Broadcaster.** Enacted in 2000, this provision allows individuals and their spouses and children to apply for permanent residence if they come to the U.S. to work for the International Broadcasting Bureau of the Broadcasting Board of Governors (BBG) or one of its grantees.³ The BBG is the federal agency that oversees media outlets such as the Voice of America, Radio Free Europe, and Radio Free Asia.⁴
- **Afghanistan or Iraq Nationals.** Enacted in several laws during the Iraq and Afghanistan conflicts, these provisions allow individuals who assisted the U.S. government in Afghanistan or Iraq or served as a translator in those countries to obtain a green card.⁵

This paper, in its entirety, can be found at <http://report.heritage.org/ib4818>

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

- **Persons Born in the United States to a Foreign Diplomat.** Foreign diplomats are not subject to U.S. law and are in the U.S. to represent the interests of a foreign power, but their children born in the U.S. may receive permanent residency at birth and receive a green card.⁶
- **International Organization Employees.** In 1986, retired employees of international organizations were made eligible for a green card if, while maintaining status as a non-immigrant, they apply within six months of retirement; have resided in the U.S. at least 15 years before retirement; and “have resided and been physically present in the U.S. for a total of at least half (50 percent) of the last seven years before [applying] for adjustment of status or for a visa.”⁷ Likewise, a spouse is eligible if the employee dies, and his/her unmarried children are eligible if they apply prior to their 25th birthday and meet similar residency requirements.

There may be good reasons to continue some of these specialized categories but not others. For example, the Vietnam War has been over for more than four decades, and there is no logical reason to continue providing special privileges to aliens from Vietnam, Cambodia, and Laos. Furthermore, if individuals eligible for the Indochinese Parole Adjust-

ment Act have not completed the application process during the past 20 years, it seems unlikely that they will do so in the future.

On the other hand, the Afghan and Iraqi translator exception rewards those who assisted U.S. efforts in Iraq and Afghanistan and ensures that, in future conflicts, individuals know that the U.S. will not abandon those who helped U.S. operations.

Some specialized exemptions should be scrutinized to determine if they merit special consideration. For instance, why is a special carve-out necessary for BBG broadcasters when far more people employed by U.S. businesses or the U.S. government are handled through normal green card processes for foreign employees?

Finally, Congress should examine some of the categories to determine if they truly serve U.S. interests. Granting permanent residency to the children of diplomats, particularly those from hostile nations, seems fraught with potential concerns and complications. Under an 1898 Supreme Court decision, the children of diplomats born in the U.S. are not citizens—so there is no legal requirement that they be provided residency.⁸

Similarly, the special category for employees of international organizations creates a strong incentive for United Nations employees to secure posts in New York for extended periods, especially towards the end of their careers. This runs counter to U.N.

1. U.S. Citizenship and Immigration Services, “Green Card Through the Indochinese Parole Adjustment Act,” <https://www.uscis.gov/greencard/indochinese-parole-adjustment-act> (accessed February 14, 2018).
2. Department of Justice, “Adjustment of Status for Certain Aliens From Vietnam, Cambodia, and Laos in the United States; Waiver of Criminal Grounds of Inadmissibility,” *Federal Register*, Vol. 67, No. 131, July 9, 2002, pp. 45402–45410, <https://www.justice.gov/sites/default/files/eoir/legacy/2003/07/09/fr09jy02-18.pdf> (accessed February 14, 2018).
3. U.S. Citizenship and Immigration Services, “Green Card for a Broadcaster,” <https://www.uscis.gov/greencard/international-broadcasters> (accessed February 14, 2018).
4. Broadcasting Board of Governors, “Who We Are,” <https://www.bbg.gov/who-we-are/> (accessed February 14, 2018).
5. U.S. Citizenship and Immigration Services, “Green Card for an Afghan or Iraqi Translator,” <https://www.uscis.gov/green-card/green-card-through-job/green-card-through-special-categories-jobs/green-card-afghan-or-iraqi-translator> (accessed February 14, 2018); U.S. Citizenship and Immigration Services, “Green Card for an Iraqi Who Assisted the U.S. Government,” <https://www.uscis.gov/green-card/green-card-through-job/green-card-through-special-categories-jobs/green-card-iraqi-who-assisted-us-government> (accessed February 14, 2018); and U.S. Citizenship and Immigration Services, “Green Card for an Afghan Who Assisted the U.S. Government,” <https://www.uscis.gov/green-card/green-card-through-job/green-card-through-special-categories-jobs/green-card-afghan-who-assisted-us-government> (accessed February 14, 2018).
6. U.S. Citizenship and Immigration Services, “Green Card for a Person Born in the United States to a Foreign Diplomat,” <https://www.uscis.gov/greencard/born-in-us-to-foreign-diplomat> (accessed February 14, 2018), and 8 C.F.R. § 101.3 (1982).
7. U.S. Citizenship and Immigration Services, “Green Card for International Organization Employees,” <https://www.uscis.gov/green-card/other-ways-get-green-card/green-card-international-organization-employees> (accessed February 14, 2018). See also U.S. Citizenship and Immigration Services, “USCIS Policy Manual,” August 23, 2017, <https://www.uscis.gov/policymanual/Print/PolicyManual-Volume7-PartF-Chapter6.html#footnote-3> (accessed February 14, 2018).
8. *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898).

TABLE 1

Breakdown of Lawful Permanent Residence Admissions, FY 2016

Type and Class of Admission	Number	Percentage
TOTAL	1,183,505	100.00%
Family-Sponsored Preferences	238,087	20.12%
First: Unmarried sons/daughters of U.S. citizens and their children	22,072	1.86%
Second: Spouses, children, and unmarried sons/daughters of alien residents	121,267	10.25%
Third: Married sons/daughters of U.S. citizens and their spouses and children	27,392	2.31%
Fourth: Brothers/sisters of U.S. citizens (at least 21 years of age) and their spouses and children	67,356	5.69%
Immediate Relatives of U.S. Citizens	566,706	47.88%
Spouses	304,358	25.72%
Children	88,494	7.48%
Parents	173,854	14.69%
FAMILY AND RELATIVES SUBTOTAL	804,793	68.00%
Employment-Based Preferences	137,893	11.65%
First: Priority workers	42,862	3.62%
Second: Professionals with advanced degrees or aliens of exceptional ability	38,858	3.28%
Third: Skilled workers, professionals, and unskilled workers	35,933	3.04%
Fourth: Certain special immigrants	10,377	0.88%
Fifth: Employment creation (investors)	9,863	0.83%
Diversity	49,865	4.21%
Refugees	120,216	10.16%
Asylees	37,209	3.14%
Other	33,529	2.83%

SOURCE: U.S. Department of Homeland Security, *2016 Yearbook of Immigration Statistics*, "Table 6. Persons Obtaining Lawful Permanent Resident Status by Type and Major Class of Admission: Fiscal Years 2014 to 2016," <https://www.dhs.gov/immigration-statistics/yearbook/2016/table6> (accessed January 24, 2018).

IB4818 ■ heritage.org

reform efforts to "promote greater mobility of staff members between Headquarters, offices away from Headquarters, including regional commissions, and

field duty stations, and greater movement of staff among functions and job families, across organizational units of the Secretariat."⁹ To the extent that

9. United Nations, "Introduction of a New Staff Selection and Managed Mobility System," Secretary-General's *Bulletin* ST/SGB/2016/2/Rev.1, December 26, 2017, <https://undocs.org/ST/SGB/2016/2/Rev.1> (accessed February 14, 2018). See also United Nations, "Towards a Global, Dynamic and Adaptable Workforce: Mobility," Report of the Secretary-General, A/68/358, September 3, 2013, <https://undocs.org/A/68/358> (accessed February 14, 2018); and United Nations General Assembly, "Mobility Framework," A/RES/68/265, April 28, 2014, http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/68/265 (accessed February 14, 2018).

this exemption hinders efforts to shift U.N. posts from New York to the field, it also raises costs for the U.N.—of which the U.S. pays 22 percent—since New York is one of its more expensive duty stations.

Including these categories, there are more than a dozen specialized and “other” categories for green card eligibility. As a matter of due diligence, all categories of U.S. immigration policy should be reexamined to affirm that they remain current, relevant, and in the national interest of the United States.

Immigration That Benefits America

Congress and the Administration are currently considering reform of the U.S. immigration system. While broader reform of the legal immigration system is necessary, the U.S. should also examine

special immigration categories. These categories can serve various U.S. foreign policy objectives, but should draw periodic scrutiny to determine if they remain current, necessary, and in the national interest. Congress should carefully review these categories and adjust or eliminate them as appropriate as part of broader immigration reform deliberations.

—*Brett D. Schaefer is Jay Kingham Senior Research Fellow in International Regulatory Affairs in the Margaret Thatcher Center for Freedom, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. James Jay Carafano, PhD, is Vice President of the Davis Institute and E. W. Richardson Fellow at The Heritage Foundation.*