



PBS' "TO THE CONTRARY"

The Controversy Over H-B1 Visas

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Host: Bonnie Erbe

Interviewees: Dina Moore, Leo Pereira, Ron Hira, Sarah Blackwell, Jelger Kalmijn, Hank Yen, Dick Durbin, Janet Napolitano, Zoe Lofgren, Aman Kapoor, Bill Gates, Roy Beck

Dina Moore: This was a total shock because they were actually bringing people to physically take our desks, take our computers, and remain on site.

Leo Pereira: No they were not skilled labor at all. If these people that came in were geniuses I would not be even bringing this up to anybody.

Ron Hira: Lots of businesses are bringing in H-1b's, not because I can't find American workers but because the h-1B workers are both cheaper and their indentured.

Sarah Blackwell: So the end game of this business model is to offshore all the jobs overseas so that they can pay six to twelve thousand dollars a year for a job your paying sixty to eighty thousand dollars a year in the US.

Bonnie: Orlando Florida with its warm weather and popular theme parks is the most visited destination in the US. For most children and many adults it's a magical place, that was how Dina Moore felt about living in Orlando and working at Disney I the point of sale office. But after working for the company more than ten years she and fifteen other employees in her department were told there was reorganization and they would no longer have jobs.

Dina Moore: It was very quick and sweet, it was in 90 days you're going to be let go.

Bonnie: Dina was devastated when she found out she was losing her job but then she got another shock. She says she learned that lower paid foreign workers were coming in and taking over the jobs.

Dina Moore: they said that we were being outsourced and we had thirty days train our replacements that they would be on-site within three days and then for the next thirty days we were gonna be shadowed and then the last thirty days we were the observers while people sat in our chairs and did our job. People got sick from the stress a couple of my friends were hospitalized, one of my friends died. Simply because and you knew he wouldn't have been in that situation. My friend wouldn't have a heart condition had this not happened and those are lifelong things that you carry with you now, that have scarred your soul.

Bonnie: Those replacing Dina and her co-workers are in the US on H-1B visas it's a program congress set up in 1990 as a temporary non-immigration worker program to help American companies. It allowed them to hire foreigners with

specialized skills when they couldn't find American workers for the job at least that was the original thinking. But the program has been abused. Each year the US Citizenship and Immigration service offers 65,000 h-1B visas and 20,000 student visas through a lottery system. The visas allow workers to stay in the U.S. for three years but can be renewed. The U.S. Citizenship and Immigration service receives nearly twice as many applications as the cap provides and the visas are usually taken within a few days. Since the h-1b program started critics say jobs at companies such as; Abbot Labs, IBM, Disney, Toys-R-Us and Pfizer are or were outsourced to large global consulting firms mostly from India and China. These firms in turn apply for most of the visas bringing in cheap lower skilled labor taking away American jobs and eventually offshoring the work. Ron Hira is an associate professor of public policy at Howard University and author of "Outsourcing America", which examines the economic and policy implications of offshoring highly skilled jobs.

Ron Hira: So out of the 85,000, more than half of the visas now go to these firms that are bringing in workers because they are cheaper and they're also tied to the employer. And what they do is they'll go to a company and say they'll look you've 300 people or 500 people working in IT. We can do those jobs cheaper we can bring in cheaper workers and if you outsource the job to those that work your IT department basically to us we'll do it a lot cheaper, we'll save you money and we'll make a lot of profit off of it.

Bonnie: Sara Blackwell represents workers who have been replaced by H-1B foreign workers. She says there's a clear-cut business model for companies that use the H-1b visas.

Sara Blackwell: Usually there is a new CIO that comes in, wants to innovate talks some really great talk about changes in the company and then the American company contracts with an Indian-based company. So the Americans are told that they are being terminated in 90 day, which has to do with the H-1B visa. They're being terminated in 90 days but during those 90 days they're going to train foreigners to do their job. The next day all of these foreigners are brought in and the Americans are told you get a severance if you stay for the 90 days and if you successfully train the foreigners. And if you don't, then you are fired and you don't get your severance. Once the American trains the foreigners which sit at their desk and takeover their work and also it's being recorded on the computer and there are people in India and Mexico and Philippines, wherever the people are so they are training people overseas and training people in their chair. After the 90 days all of the Americans are fired. What happens next is the foreigners continue

to train the people overseas until the jobs can be eliminated completely out of the U.S. The end game is to eliminate the jobs and send all the work overseas.

Bonnie: That is what Leo Pereira who also worked at Disney says happened to him.

Leo Pereira: I get this meeting invitation and when I walked into this room and this meeting there was two dozen people there. And these people were all high achievers. They were all experienced, all the people that had great reputations. We were told that we had 90 days to train our foreign replacements that were coming in. And if we didn't do it we wouldn't be eligible to receive our severance and bonuses that were being given to us.

Bonnie: According to Blackwell the outsourcing business model is designed to give the impression that other jobs will be available for American workers.

Sarah Blackwell: One of the other things that the American company does is say stay, apply were gonna have other job openings that you're gonna qualify to do and apply for them. Which they do, the Americans apply for them. They don't exist. It's just a trick to keep them there to motivate them to continue to train.

Dina Moore: Supposedly there were going to be jobs opening up and I did apply in the course of six to nine months I applied for 150 jobs at Disney.

Leo Pereira: We were also told at this meeting that there are new more exciting jobs that were going to be created so we were optimistic and hopeful that something would work out well in that sense.

Bonnie: Dina says was offered a contract part-time position at significantly lower pay than their previous job but declined it since she says she no longer had faith in the company. To The Contrary, contacted Disney's communications department. It says Ms. Moore was offered a position at comparable pay and turned it down. Disney also says the company hired a third party vendor and had no role in selecting that vendor's employees. Since that time, Disney says it has placed more than 100 workers affected by the reorganization back into jobs at Disney. In hindsight Disney says quote "it wishes it had not asked people to help in the transition of work to the outside vendor." While this is a common and legal practice, people expect more from Disney and it regrets falling short. Although federal law requires global companies employing large numbers of H-b1 workers to sign a declaration saying they will not displace Americans there is a loophole

an exemption cancels that requirement if employers pay h-1b workers at least \$60,000 per year which is significantly less than an experienced IT worker earns.

Ron Hira: The reality is because there are loopholes in the way the laws were written and they were purposely written that way, the companies are instead able to bring in people with ordinary skills, skills that are already available widely here. And pay them a lot lower wages and keep them indentured and so it's extraordinarily profitable to bring in a guest worker instead of hiring an American and it's extraordinarily profitable to replace an American with one of these h1b guest workers.

Bonnie: Outsourcing and using h-1b visas to replace American workers isn't just happening in the corporate world, it's starting to spread into medical and educational institutions. At a recent University of California San Francisco regents meeting, workers and representatives spoke up to the board about layoffs of IT workers. They say they are being replaced with workers from an Indian staffing company.

Jelger Kalmijn: People in the United States are sick and tired of us losing our decent jobs. We are not going to participate in a race to the bottom where working people are fighting each other all across the world to see who can be exploited the most. I urge you to take leadership and stop this outrageous outsourcing it's gonna save you a couple pennies for massive political costs, for massive financial cost in the long-run and massive security costs. This makes absolutely no sense.

Bonnie: Hank Yen is a systems administrator who lost his job after six years. He told the regents board how he learned of his loss of the job.

Hank Yen: Last July I got two notices from UC one is a bill for my daughter to go to UC Santa Cruz for \$35,000 and the other notice was a layoff notice. And my daughter asked me, can I go, dad? Or should I continue my education? I could not -- I did not know how to respond to that.

Bonnie: This is the third time Hank has lost his job to outsourcing. He says he's having a hard time finding a new job because he's over 40. University of California San Francisco President is former secretary of the Department of Homeland Security, Janet Napolitano. During hearings on oversight of the Department of Homeland security, she expressed a different view of outsourcing jobs to H-1b visa holders.

Dick Durbin: We feel, we hope you share that our first obligation is to American workers and to encourage if not hold accountable those firms that are looking to fill spots to first turn to the talent pool in America particularly those who lost a job. Do you have any opinions on the h1b visa program?

Janet Napolitano: Yes, senator. First, I agree with you. Our top obligations are to American workers making sure that American workers have jobs. From an enforcement standpoint my priority is to make sure that there's not fraud occurring within the H-1B program at all. Of the last months we've added tools and we've added fraud prevention tactics and we've begun looking at other more standard fraud investigatory techniques that weren't being used in H-1b that we are now going to employ including things like site visits and work site visits we are going to keep at to make sure that the intent of the program is fulfilled.

Bonnie: At least eight lawmakers including Senator Diane Feinstein, minority leader Nancy Pelosi, and Representative Zoe Lofgren have written to UC President Napolitano opposing the outsourcing of the university's jobs.

Zoe Lofgren: What they are doing violates the intent of the H-1b law and that we expect public institutions to live up to the law and to the intent of the law. It's very disappointing what they've done.

Bonnie: To The Contrary, contacted the University of California at San Francisco which in turn issued a statement. It says in part... Faced with increased demand for information technology and escalating costs, UCSF has entered into contracts with outside vendors for specified IT services this move will save the university more than \$30 million over five years while enabling increased IT capacity and improved cybersecurity. The vast majority of the IT services will remain in house. Security and privacy are integral to UCFS's outsourcing. As outsourcing expands into different sectors such as public institutions, finance, and medicine many critics of the H-1b visas are concerned about breaches in security and privacy.

Sarah Blackwell: When we are putting all of our private data in the hands of India and Mexico and Philippines we don't have their private data. It is not a two-way street. They can use that data if they want whether it is a government or a person or a terrorist or Russia. I mean anybody can use that data, because they are not bound by our federal laws.

Leo Pereira: I felt like a prostitute in a sense because I am a very patriotic person. And I felt like I was betraying my country. I felt like I was betraying my company that I worked for and my family I could be turning my back on. It was such a hard decision. And to have somebody sitting next to you and repeats everything that you do and put that into a big manual and then thinking that manual being shipped to some other country.

Bonnie: Most critics of the visas do not blame foreigners but the loopholes in the system.

Aman Kapoor: Nobody wakes up in the morning and says today I'm going to steal somebody else's job. And nobody gets up in the morning and says today I'm going to drive down wages.

Bonnie: Aman Kapoor, founder of immigration voice a nonprofit helping h-1b visa holders to secure green cards says the visa loopholes not only cause companies to hire lower wage workers but allows some companies to take advantage of the foreign visa holders.

Aman Kapoor: The worst abusers come in the form of the quality of life. When your life is controlled by your employer to an extent that you cannot travel outside of your country, you can't even go to your parents' funeral, you can't change jobs, and you are sometimes even forced to work overtime 16 hours but you will only be paid for eight hours. In other cases when companies will make you sign contracts either here or they will make signed contracts outside of the jurisdiction in the home country by parents or grandparents that that if you leave an employer your property will be confiscated or if you leave your employer you will have to pay \$30,000 in damages.

Bonnie: The abuse by global consulting firms in the H-1b visa program hasn't gone completely unnoticed. The justice department fined Infosys an India-known IT consulting company and one of the largest employers of H-1b visa holders \$34 million in 2013 for systemic fraud and abuse of the immigration process. But the loopholes in the law are not being closed, either. The labor department's investigation at Southern California Edison for replacing workers ended with the consulting firm being cleared of all charges of discrimination and displacement of American workers. Despite the loss and offshoring of American jobs many in technology companies argue there is an American worker shortage. That of workers with skills in science, technology, engineering, and mathematics or stem jobs and the cap on the visas should be lifted.

Bill Gates: An infinite number of people coming who are taking jobs that pay over \$100,000 a year, they will pay taxes we create lots of other jobs around those people. My basic use of the country should welcome as many as those people as we can get because people of those great talents particularly in engineering areas the jobs are going to exist somewhere. And the jobs around them are going to be created whatever those uniquely talented people are. So even though it may not be realistic I don't think there should be a limit. These people would not have difficulty getting into other rich countries. In fact, countries like Canada and Australia who have been beneficiaries of our system discouraging these people with both the limits and the long waits and what the process feels like as they go through the security checks.

Bonnie: New American economy is an organization of political and business leaders who support immigration reforms that will help create jobs for Americans. Their website says: For America to compete in the 21st century we need a robust innovation economy which requires a workforce skilled in the science, technology, engineering, and math fields. Yet, American students are not entering the industries in sufficient numbers and the U.S. is projected to face a shortage of 1 million stem workers by the year 2020. Our broken visa system makes it difficult for many of them to stay after graduation, a reality that hurts the ability of our employers to expand and create more opportunity for American workers. Others disagree.

Sarah Blackwell: I am completely opposed and appalled by the idea that we don't have enough qualified Americans. Number one because I talk to several a days that are being fired and are training. I have never once heard an American person who is training whether the person is in or outside the country saying the person is more qualified or even half as qualified as they are.

Ron Hira: There is no broad-based shortage of American IT workers. We can look at all of the labor market indicators from employment levels to unemployment rates and the most obvious one would be to look at wages and wages have been flat for about 15 years or so. So there isn't any shortage.

Bonnie: Those training their replacements also say that the trainees were not highly skilled.

Dina Moore: Some of them had gotten Microsoft credentials and they had been just fresh out of college or studied for Microsoft exam and had never been in a real world position.

Leo Pereira: If these people that came in were geniuses I would not be even bringing this up to anybody because I would have questioned hey wouldn't it be better for the country if I was replaced by somebody that was just phenomenal and amazing at what they did.

Bonnie: Members of congress want President Trump to deliver on his campaign promises to reform the visa program. The Trump Administration so far has temporarily halted the expedition of visas. In the meantime, bills are being introduced in Congress to stop the abuses and one of those bills was written by representative Lofgren who represents Silicon Valley in California.

Zoe Lofgren: We are not going to get more H-1b visas all my bill does reforms the system so that the visas that exist are going to highly skilled people who are going to grow our economy not to entry level or run of the mill people who are undercutting American wages. In the bill, I've introduced if you want to pay 200% more than the highest wage then you get first crack at an H-1B visa for the person you are trying to hire, and then 150% of the highest wage and so forth. What are we doing here?

Bonnie: Lofgren's bill adds protections against scamming and calls for the elimination of caps on permanent visas. Lofgren and others say having caps on green cards allow consulting firms mainly from India and China to bring in lower skilled labor. The workers are then indebted to employers and can't change jobs while they wait for their green cards.

Zoe Lofgren: We allocate visas that are supposed to be merit-based on your skills by where you are born. And so for example, India with the population of over a billion people has the same number of visas as Iceland with a population of 350,000.

Bonnie: Experts say there is a reason the vast majority of foreign workers come from India. There are quotas on how many people from each country can become citizens. For Indians there is a 70-year wait. So employers know any foreign worker brought in from India will never become a U.S. Citizen and will be essentially be indentured to the company for life.

Aman Kapoor: So no all the people, what has happened is backlog for people of India, green card has now mushroomed or 1.5 million people. So ow employers have more incentive to hire more people from India because they know there is a

green card backlog O F 70 years and once employers will hire those employees cannot change out for that many years.

Bonnie: There are not any solid numbers on how many IT jobs have been taken by foreigners or outsourced. But Ron Hira estimates it's as many as 1.5 million. Two of those jobs belonged to Dina and Leo. They both left careers in technology as a result. Leo now works in his family's real estate business and Dina works in three home-based businesses with her husband, Eric.

Dina Moore: I have made the decision not to go back into IT and I made that decision when I was keeping the tally by all the IT recruiters who called me and when 75% of them are H-1b visa holders calling me because I ask, I decided it was not a world I was willing to go back to.

Roy Beck: It's difficult to say how the Trump Administration can that change that in terms of the outsourcing. What they can change is the extent to which jobs in America are filled by foreign workers. They've got great control over that.

Bonnie: Both Dina and Leo filed class action lawsuits against Disney. The first time Americans have gone to federal court to sue both outsourcing companies and American companies.

Leo Pereira: I don't want other people to go through what I went through. That is my goal. I cannot see this happen anymore. It is tearing families apart.

Bonnie: Their lawsuits were dismissed but both sides agree something must be done to stop the flow of American jobs overseas.

Roy Beck: You have to get the salary, the criteria up so that h-1b visa cannot be used to undercut the salaries of American workers. But you also got to do it so it cannot be used to keep from hiring under represented Americans in the field.

Ron Hira: You can't rely on moral suasion and shaming as a substitute for regulation and law. You have to fix the program, because these CEOs are benefiting from this by cutting costs by bringing in cheaper workers and taking advantage of that. They are not villains they are doing what they are paid to do. Right which is maximize profits. You have the government has to go in and fix these things.

Bonnie: Everyone agrees since the visas are a creation of the government it's the government that needs to go in and fix these abuses. Thanks for watching. I'm Bonnie Erbe. Please join us next week on to the contrary. [♪♪] For a transcript or to see an on-line version of this episode of to the contrary visit our PBS website at pbs.Org/tothecontrary. [♪♪]