STUDY NOTES · BASIC CONCEPT

All about Green Card, H-1B and PERM and their differences

Indian Economy

20 Oct 2026

1. Introduction

The United States has long been the top destination for skilled Indian professionals, especially in information technology. A foreign professional usually enters the US on a temporary work visa and may later seek a Green Card, which gives permanent residence. The recent action against Cloudera and several IT majors targets a key step in this journey called PERM. To understand the news, an aspirant must know how these pieces fit together.

[Figure 1: Employment-Based Green Card Pathway (USA)]

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2. Temporary versus permanent: the two tracks of the US visas

US visas fall into two broad groups:

- **Non-immigrant visas:** For temporary stay with a specific purpose, such as work, study or tourism. Examples: H-1B (specialty workers), L-1 (intra-company transferees), F-1 (students), B-1/B-2 (business and tourism).
- **Immigrant visas (Green Card):** For permanent residence. The holder is called a Lawful Permanent Resident (LPR).
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Feature	H-1B Visa	Green Card
Nature	Temporary work visa	Permanent residence
Duration	3 years, extendable to 6 years	Card renewed every 10 years; status is permanent
Tied to employer	Yes, to the sponsoring employer	No, holder can change jobs freely

Feature	H-1B Visa	Green Card
Annual cap	65,000 + 20,000 for US master’s degree holders	About 1.4 lakh employment-based per year
Selection	Lottery when applications exceed cap	Queue based on priority date
Path to citizenship	No direct path	Can apply for citizenship after 5 years (3 years if married to a US citizen)
Key agency	USCIS	Department of Labor, USCIS, Department of State

3. What is the H-1B visa?

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The H-1B visa allows US employers to hire foreign professionals in “specialty occupations”, jobs that need at least a bachelor’s degree, such as software engineering, data science and medicine.

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Key features:

1. Employers must file a Labour Condition Application with the Department of Labor, promising to pay at least the prevailing wage.
2. It is a “dual intent” visa, meaning the holder can stay temporarily while also seeking a Green Card.
3. Indians have consistently received the largest share of H-1B approvals, usually more than 70%.
4. The US has now imposed a $100,000 fee on new H-1B petitions, raising costs for employers.

4. What is the Green Card?

A Green Card gives a foreign national the right to live and work permanently in the US. Green Cards are issued through family sponsorship, employment, refugee and asylum routes, and the Diversity Visa lottery.

Employment-based Green Cards are divided into five preference categories:

Category	Who qualifies	PERM needed?

EB-1	Persons of extraordinary ability, outstanding professors and researchers, multinational executives and managers	No
EB-2	Professionals with advanced degrees or exceptional ability	Yes, unless granted a National Interest Waiver
EB-3	Skilled workers, professionals with bachelor's degrees, other workers	Yes
EB-4	Special immigrants such as religious workers and certain international organisation employees	No
EB-5	Investors who invest a set amount in a US business creating jobs	No

Most Indian IT professionals fall under EB-2 and EB-3, which means PERM is essential for them.

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5. What is PERM?

PERM stands for Program Electronic Review Management. It is the labour certification process run by the US Department of Labor. Its purpose is to protect American workers by ensuring that a foreign worker is hired only when no able, willing, qualified and available US worker can be found, and that the foreign hire will not lower wages.

Steps in PERM:

Step	What happens
1. Prevailing Wage Determination	Department of Labor fixes the minimum wage for the job in that location
2. Mandatory recruitment	Employer advertises the job: state job order, two Sunday newspaper ads, internal notice, and additional methods for professional jobs
3. Review of applicants	Employer must genuinely consider US applicants and record lawful reasons for rejecting them
4. Filing Form ETA-9089	Employer applies for labour certification

Step	What happens
5. Certification	If approved, employer moves to the I-140 petition with USCIS

PERM versus H-1B versus Green Card

This is one of the most important factual distinctions for UPSC Prelims.

Feature	H-1B visa	PERM labour certification	Employment-based Green Card
Nature	Temporary, non-immigrant work visa	Labour-certification process	Permanent resident status
Main purpose	Allow qualifying employers to employ eligible foreign professionals temporarily	Protect the domestic labour market in relevant permanent-job sponsorship cases	Allow eligible individuals to reside permanently in the US
Main actors	Employer, worker and immigration authorities	Employer and US Department of Labor	Employer/worker and relevant US immigration authorities
Is it itself permanent residence?	No	No	Yes
Applies to every employment-based Green Card case?	No	No; requirements depend on category	It is the final status sought in qualifying cases

Why the Cloudera case matters: The heart of PERM is genuine recruitment. If jobs are hidden from the public or applications cannot reach the employer, the recruitment becomes a formality, and US workers are effectively excluded. That is why the US treated it as discrimination against US workers.

[Figure 2: Cloudera PERM Settlement (October 2026) at a Glance]

6. Who enforces these rules?

Agency	Department	Role
Office of Foreign Labor Certification	Department of Labor	Runs PERM, can suspend or debar employers
Wage and Hour Division	Department of Labor	Investigates wage violations under H-1B
Immigrant and Employee Rights Section, Civil Rights Division	Department of Justice	Enforces anti-discrimination rules of the Immigration and Nationality Act
US Citizenship and Immigration Services (USCIS)	Department of Homeland Security	Decides visa petitions and Green Card applications
National Visa Center and consulates	Department of State	Allocates visa numbers, publishes monthly Visa Bulletin

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The legal foundation is the **Immigration and Nationality Act, 1952**, amended several times, notably in 1965 (abolished national-origin quotas) and 1990 (created the H-1B and current employment-based categories).

7. Suspension versus debarment

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- **Suspension:** A temporary halt on processing an employer's PERM cases while an investigation is underway.
- **Debarment:** A formal penalty that bars an employer from the programme for a fixed period, usually up to two to five years under US rules.

In Cloudera's case, the Department of Labor first suspended and then debarred the company for two years.

8. The per-country cap and the Indian backlog

US law says no single country can get more than 7% of the combined family and employment preference Green Cards in a year. This rule treats India, with a huge number of applicants, the same as a small country.

Consequences:

1. Indians in EB-2 and EB-3 face waiting periods estimated at several decades.
2. Children of H-1B holders who turn 21 may “age out” and lose dependent status.
3. Professionals remain tied to employers for years, limiting career mobility.
4. Proposals to remove the per-country cap have been debated in the US Congress but not enacted.

9. Why the US is tightening rules

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- Political concern that foreign workers replace American workers or lower wages.
- Allegations that some employers use outsourcing and visa programmes to cut costs.
- Large tech layoffs in the US, which intensified scrutiny.
- A broader policy shift towards “hire American” and restricted immigration.

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10. Implications for India

Area	Likely impact
Indian professionals	Longer uncertainty, reduced Green Card prospects
Indian IT industry	Higher costs of onsite delivery, more local hiring in the US, shift to offshore work
Remittances	India is the world’s largest recipient; the US is its biggest source, so slower migration may affect inflows
Higher education	Fewer students may prefer the US, shifting to Canada, Germany, Australia or staying in India
Global Capability Centres (GCCs)	More multinational work may move to India, boosting GCC growth
Brain gain	Returning talent can strengthen startups, research and innovation in India

11. India’s policy response options

- **Diplomacy:** Raise skilled mobility in India–US dialogues; push for a Social Security Totalisation Agreement so Indian workers do not lose US social security contributions.
- **Diversification:** Use Migration and Mobility Partnership Agreements with countries such as Germany, France, Japan and others.
- **Domestic strength:** Expand research funding, deep-tech startups and quality jobs so talent finds opportunity at home.
- **Skilling:** Align skills with global demand in AI, semiconductors and cybersecurity.

12. Key terms for revision

- **Green Card:** US permanent resident card
- **H-1B:** Temporary US work visa for specialty occupations
- **PERM:** Labour certification by the US Department of Labor, first step for most employment-based Green Cards
- **Prevailing wage:** Minimum wage set for a job in a particular area
- **Priority date:** Date that fixes a person’s place in the Green Card queue
- **Visa Bulletin:** Monthly Department of State publication showing which priority dates can proceed
- **Per-country cap:** 7% limit on Green Cards to any one country
- **Debarment:** Formal ban on an employer from a programme for a fixed period
- **Dual intent:** Ability to hold a temporary visa while seeking permanent residence

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