

REDEFINING “EXTRAORDINARY ABILITY”: HOW USCIS ADJUDICATION STANDARDS FOR EB-1A HAVE EVOLVED AND WHAT IT MEANS FOR STEM PROFESSIONALS

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ABSTRACT

The studied literature addresses recent developments to the legal definition of “extraordinary ability” that is relevant to the EB-1A visa category, in particular, by investigating the adjudication standards of the U.S. Citizenship and Immigration Services (USCIS). EB-1A visa assessment procedures have changed from their original checklist system which evaluated specific evidence requirements to a new system that operates through comprehensive evaluation of candidates' qualifications after the *Kazarian v. USCIS* court decision. Using policy changes and judicial decisions as well as the opinion from experts, the policy stance in the research paper illustrates how methods of evaluating the effectiveness of policies came to transition from numerical data on results collected to final decisions made from qualitative evaluations of results. The study attests to the growth of a range of acceptable evidence in recent policy language for the purpose of demonstrating eligibility in new and cross-disciplinary STEM fields. For the first time, the demands have been raised for the applicants, as they need to show their continued recognition in specific fields along with the work they have achieved. The review outlines common issues and fluctuations in the adjudication process, and assesses how these themes could affect those applying for EB-1A classification as STEM professionals. The research paper offers a thorough analysis of the methods used for filing EB-1A petitions, as adjudicatory processes evolve and inform a theoretical framework to assist in understanding existing EB-1A petitioning procedures.

Keywords: EB-1A, Extraordinary Ability, USCIS Policy, Immigration Law, STEM Talent, Adjudication Standards, Kazarian Framework, Evidence Evaluation

I. INTRODUCTION

The EB1A visa category is not only one of the most highly sought after but also highly coveted amongst all the visa categories within which people have to apply for permanent residency and their work authorization in the United States. The program designed by U.S. Citizenship and Immigration Services (USCIS) helps those who have already gained international and national recognition for their work to develop their skills, which will have beneficial effects throughout their careers [1]. The EB-1A visa is essentially a replacement for an H-1B visa, and allows highly skilled foreign employees to enter the United States without having to qualify for an H-1B failing country. In the EB1A, an applicant is given more freedom and flexibility since it does not require the employer to "petition" for their visa. This quality is similar to that of today's work places where being mobile, an entrepreneur, able to innovate and work collaboratively in interdisciplinary teams is a strong career asset particularly for careers in STEM, research, and emerging technologies [2]. The basis of the EB-1A category is found in the Immigration and Nationality Act, and under 8 CFR 204.5(h). Eligibility might be based on the following 10 conditions considered to be evidentiary requirements according to USCIS regulations [3-5] or a major award from a foreign government. However, how these criteria are interpreted and applied has since evolved over the years, especially since the ruling in *Kazarian's* case by USCIS. The case process established two steps; first, the evidence was assessed for sufficiency; second, a qualitative review of the applicant's overall evidence of achievement and impact was conducted. The case established two-stage means of adjudication: in the first stage, the evidentiary sufficiency was assessed and in the next one, the applicant's overall achievements and impact was assessed qualitatively. The change is driven by a more comprehensive change from a "rule-of-thumb" approach to assessing development projects to an approach that focuses

on assess through capacity and/or skills, and emphasizes multi-stakeholder relations, long-term impacts, innovation capacity, knowledge spillovers and value evolution.

An EB-1A applicant will clearly see aspects of signaling theory and human capital theory in an adjudication of their application. Scholarly publications, impact measures, peer review, awards, and recognition are sales signals that represent one's expertise, credibility and influence. The judges assess the presence of these signals, their extent, consistency, importance and relevance in the new global workforce in the final merits determination. It has given a new life to the immigration framework which has been rendered flexible to accommodate new domains of the interdisciplinary subjects like Artificial Intelligence, Biotechnology and Data Science where traditional measures of professional impact are not as salient in the real world scenarios [6]. Although the EB-1A framework is important, there is also a significant amount of ambiguity, subjectivity, and inconsistency with respect to its adjudication. While USCIS has made an effort to create guidelines for evidence, much of the evidence submitted is individualistic, requiring significant discretion for how to interpret how it will impact the case at hand and how applicable the case is in the field [7]. As a result, the decisions in the process of assessing evidence or answering method of the candidates who receive the same eligibility conditions can agreeably affect the applicants' outcome. For example, two scientists who have the same number of publications, citations, and a significance of their research, but whose research was described as a "significant contribution," versus "little or no contribution" would be treated differently [8]. These discrepancies grow even fiercer in such dynamic and interdisciplinary fields as artificial intelligence and data science. For anyone pursuing careers in these and similar occupations, the requirement to prove eligibility by using indicators, such as professional recognition in the form of professional association membership or prestigious awards, is challenging even when the work has a large impact or is a part of everyday experience. This has resulted in growing commonality of what kinds of evidence are claimed: from such as open-source contributions to interdisciplinary collaboration, industry innovation, and start-up leadership to peer review responsibilities and more. But the importance of the contributions will vary with knowledge about the field and the strength of the applicant to be able to present the contributions in an effective way [9]. Even as a judge, reviewing or appraising a case will be given varying weights in the interpretation [10]. In conclusion, these gaps indicate a bigger systemic issue, namely the absence of coordinated and modernized assessment system for the innovation-driven learning outcomes in the current knowledge-based global economy. Second, the application of business concepts that can complement the role of adjudicators' mechanisms, such as the concept of talent valuation, signalling concepts, concepts on innovation capacity, and concepts on competitive advantage still have huge potential to be developed.

- The review paper investigates how extraordinary ability developed into its current form through the EB-1A program while assessing its effects on STEM professionals who use the program. The study will achieve its goals through the following objectives:
- The study will track how EB-1A adjudication developed from a strict checklist system to a complete assessment system which evaluates all qualifications of applicants.
- The essential domains of policy and practice change should be identified through research that shows how EB-1A adjudication developed from its initial checklist system to its current complete Evaluation system.
- The *Kazarian v. USCIS* case demonstrates how judicial decisions affect current adjudication practices through their two-step process and evidence evaluation methods.
- The study examines problems which stem from inconsistent and biased existing adjudication processes that especially affect new interdisciplinary STEM research areas.

- The study aims to create a conceptual framework which will help applicants and policymakers understand the EB-1A process and develop better assessment systems.

II. METHODOLOGY

The study uses a narrative review, qualitative approach to explore how the EB-1A standards developed over time and the current interpretation and implementation of the standards, and the overall effect on STEM applicants from the extraordinary ability category. To advance in an understanding of the evolution of the "extraordinary ability" concept, the research aims at creating an analytical framework that combines immigration law, policy developments, administrative guidelines, judicial decisions and previous academic works. Qualitative approach by a review is deemed suitable as the field of immigration law does not depend on universally adopted quantitative measurements. EB-1A adjudication is, however, conducted in the context of doctrinal and interpretive concepts that call for specialized study of legislative language, rule of law, administrative discretion and case-handling practices. Thus, the use of narrative qualitative methodology will offer the flexibility needed to explore the legal, procedural, and conceptual dimensions influencing the evaluation process under the EB-1A.

2.1 Research Design

The research is doctrinal and analytical research that combines the legal analysis, conceptual evaluation and policy research activities. The research method would give a clear perspective of the impact of all the existing regulations, administrative regulations and judicial rulings on the process of making an EB-1A Visa decision. The Study examines the historical evolution of the EB-1A system and the foundation of its current law, as well as the evolution of the system's methods of adjudicating applications, and its current effects on global talent mobility. The research adopts a conceptual synthesis approach to explore the evolution of an assessment framework for EAE, from a checklist-based assessment approach to a holistic (ongoing) effects and field contribution assessment approach. The study provides examples of how the qualitative effects are assessed over the paralysis of implementing a process while at the same time addressing the potential for achieving innovations and interdisciplinary learning products. Research design for the current research is suitable for the present study because research purposes are designed to build a theoretical frame that is structured to accommodate and capture the understanding of the EB-1A adjudication system and its implementation by individuals in a specific period.

2.2 Data Sources and Selection Criteria

The research study utilizes secondary data, a body of reliable data authority and peer-review sourced. The Immigration and Nationality Act (INA) and the Code of Federal Rules 8 CFR, created by the United States Citizenship and Immigration Services (USCIS), have official guidelines and policy manuals as well as instructions on the proper procedures. The research study includes important court decisions as well as the *Kazarian v USCIS* case that provided in-depth guidance into the EB-1A Visa category adjudications. This study uses academic publications from legal journals, policy reports and research regarding international mobility of talents and high-skilled immigration, to provide contextual and theoretical background to the research. The choice of sources was driven by several factors but the three basic characteristics were: the sources contained content that was relevant; the sources were credible; the sources contained up-to-date information. The study focused specifically upon publications within the years of 2020 through 2023, as these publications reflect the present legal criteria that incorporate recent policy changes and current adjudication practices that impact upon EB-1A assessment procedures. In order to guarantee constant historical and legal continuity the

investigators have applied the analysis of primary legal sources and doctrinal works. Practitioner knowledge is integrated into the study alongside policy discussions to draw on and enrich knowledge of adjudication standards that judges apply to their work. They are using various sources of information in a research study to examine the EB-1A adjudication system from different angles, to ensure that they have a comprehensive knowledge of the case under investigation.

2.3 Analytical Framework

The paper uses various research strategies to analyze the process of adjudicating EB-1A visas, the historical background, the legal definitions, research and patterns, and an analysis of international adjudication systems and processes.

- The historical perspective includes a discussion of the ramifications of the past on cases involving the EB-1A status since the Immigration Act of 1990, as well as recent court decisions, in which the definition of “extraordinary ability” has been evolving.
- The doctrinal analysis explores the legal, administrative guidelines and judicial decisions in order to gain insight into the required standards of proof and legal principles in adjudications.
- Thematic analysis is set to uncover themes such as: decision making being subjective; loose evidence use and loose impact of relevant professional activities.
- The legal element together with the policy component and academic expertise in conducting a system assessment can assess the effectiveness of the system, consistency of the system, adaptability, and fairness of the system. The EB-1A process works thanks to the existing array of laws for all aspects of discovery and multidisciplinary achievements.

2.4 Scope and Limitations

The category of visas in the U.S. immigration system known as the EB-1A visa are discussed in this paper. Only employment-based immigration pathways are discussed in the text, these pathways are necessary to provide context or to compare. Although the study is not an empirical study because here the results of the study did not depend on the survey, interview, or statistical results as a foundation or a basis for the data source, it's not an original data collecting work. In this way it can be called an “interpretation study.” The research method used is secondary research, which was carried out using sources such as documents related to the law, policies, administration guidelines or guidelines and case law. The findings are influenced by the selected sources; the scope results in specific findings which produce specific results that create a particular outcome. The study presents current data on the examined changes of policy and case law impacting the EB-1A framework, as well as a glimpse into academic studies. But because immigration law and immigration rulings are constantly in a state of flux what has turned up in this research will not be of any value in the future, nor will it be valid in future immigration regimes. The outcome of adjudication will change as officials will have a new perspective as to what they define as an “extraordinary ability” and how it will impact administrative decisions and policy implementation. Content of this research is succinctly presented using a lenses theory-based organization that provides a depth of understanding into the adjudication process and impacts of EB-1A on STEM professionals and international talent movement. The results of this study could be further confirmed by analyzing adjudication results or thorough case studies in future studies, and also elaborating on AI-based decision-making analysis, evidence analysis, and consistency models to evaluate individual decisions and adjudication results.

III. EVOLUTION OF USCIS ADJUDICATION STANDARDS

A historical understanding of the standards used in conducting the adjudication of EB-1A visa cases is illustrative of an overall institutional shift in the meaning of the phrase ‘extraordinary ability’ in U.S. immigration law [11]. The adjudication process has developed over time with a checklist-like evaluation scheme that had been used by the United States Citizenship and Immigration Services (a Service). In the initial stages of implementation, adjudicators' attention was primarily directed towards securing reach against the lowest rates to the ten regulatory criteria set as archetypes by the immigration regulations, rather than scrutinizing these achievements for qualitative significance or long-term impact [12][13]. This principle provided clarity and simplicity in procedure but was seldom successful in distinguishing the quality of exceptional individual(s) from the applicants that only met the minimum documentation requirements. It was after this significant doctrinal development in the judiciary that ruled on the case of *Kazarian v USCIS*, where a two-step rule-making system was implemented [14-17]. It was under this model that adjudicators also needed to make the ultimate judgment of whether the applicant merited election as a whole person, which focused on the applicant's performance, impact, and lasting recognition in his or her field. This judicial activity had to a large extent changed the evaluation paradigm from a quantitative assessment approach to a more qualitative and impact-based evaluation approach as depicted in figure 1.

In subsequent years, USCIS successfully refined its definition of the test in revised versions of its policy manuals, interpretive and administrative guidance, and the deference given to sustained criticism, originality and influence, and professional impact [18] but not in the definition of ‘continued criticism’. It was also a shift in the framework in the 2020s, as adjudicators witnessed an increasing number of applicants from groundbreaking fields such as AI, biotechnology, and Data Science. These developments were made easier by the wider acceptance of such evidence and interpretation of evidence expensively in cases in which lack of one or more of the recognition indications meant that the evidence was not otherwise available. In practice, the modern EB-1A adjudication process has used a “totality of circumstances” standard for impact; focusing on real-world contributions instead of the more typical checklist considerations for innovation and impact, in the case of EB-1A. During these changes, however, it is also plagued with many subjective, subjective or ambivalent issues on determining the adjudication outcomes in a discretionary way. Central to these concerns is a continuing one: that greater uniformity in standards, and in the adjudicatory practice that follows, and a more organized evaluation frameworks capable not only of providing the future of modern innovation-based professions, but better equipped.

Figure 1: Evolution of EB-1A Adjudication Standards (1990-Present)



3.1 Phase I: Early Checklist-Based Adjudication (1990-2010)

The immigration process was carried out for the first few years of the Immigration Act of 1990 using checklists to appraise applications under the EB-1A program [11]. The system imposes ten assessment criteria for candidates and they must complete three or more of these criteria to be eligible for evaluation [3]. In this case the adjudicators considered it a critical test and chose to overlook evidence of a qualitative or contextual nature which had been presented. The assessment system is rooted in administrative needs where they seek the normalisation of evaluation tasks and ends up with an evaluation system where students with exceptional abilities which are required by law are not detected [13]. The first lets the first cohort grad up through the first phase if they satisfy 3 of the conditions, where the other portion of high impact performers has challenges because there are no shifting evidentiary standards. There was a lack of a comprehensive assessment system which resulted in inconsistent adjudication and contradictory outcomes. Academic differences were not considered because they did not recognize the different challenges of emerging recognition systems, such as awards and membership, which were not in place for these fields. The early adjudication approach was designed to be simple, but it did not evaluate extra-judicial efforts adopted for persons equipping them for basic qualifications and who fell short in acquiring exceptional capabilities, and this resulted in reform of the system, both judicially and through policy [19-21].

3.2 Phase II: Judicial Transformation and the Kazarian Framework (2010-2015)

In *Kazarian v USCIS*, the court provided an important shift in how EB-1A Visa petitions are adjudicated and discussed a two-part test for extraordinary ability. The first phase of this approach involves ensuring that applicants are compliant with the regulatory requirements, having the necessary supporting documentation completed, and then the second phase, where the overall achievement and quality and/or significance of the applicants is analyzed [14]. The judicial reinterpretation was the result of the adoption of the shorter checklist-based system of adjudication, the approval of which was perceived as being on hold if the applicant applied to the fewest items of evidence. The *Kazarian* indicates that these standards were removed from the "buckets of compliance" and that adjudicators must engage in a last evaluation of an applicant's overall portfolio of achievements, recognition, and impact in the profession to evaluate the applicant's stature. As a result the adjudication process expanded into more of a qualitative and impact-based assessment model which met the statutory requirements of selecting top professionals. The improvement of evaluation procedure for the EB-1A was made with added practical burdens being added, however, to the new *Kazarian* model. The guidelines created a theoretical approach towards evaluating if a student has earned the label of 'extraordinary ability', but failed to offer definitive criteria or quantifiable benchmarks to gauge ideas of 'impact', 'influence', 'originality', or 'sustained acclaim'. This was in the final merits determination stage (FMD) where adjudicators were given very broad power and thus had the potential to interpret the law and introduce issues of consistency and an issue of interpretation. The *Kazarian* decision did, however, do a bit more to provide clarity to the EB-1A motions for adjudication, which must now be more carefully analyzed and must not be granted on a "furnishes min notice" or "motivation" test. In the same decision it established foundations for further investigation and consideration of issues of transparency, consistency and the creation of more formal evaluative criteria in determining if someone has extraordinary abilities [20].

3.3 Phase III: Policy Consolidation and Interpretive Clarification (2015-2020)

The USCIS took great pains to enhance the uniformity and transparency of EB-1A case processing from 2015 to 2020, by providing policy guidance and introducing procedural changes. An important change that occurred in this time was the increasing influence of the

USCIS Policy Manual, especially for evidentiary standards and the two-step evaluation process set out in *Kazarian v USCIS* [18]. USCIS clarified definitions of common terms like “important original contributions” and “sustained national or international acclaim,” and asked judges to consider the applicant's evidence in the context of the applicant's field of work. The Standards of achievement are recognized as varying by subject and within the crossover disciplines where research, innovation, and technology are developing topics. Consequently, adherence to benchmarks was not the sole tool used in adjudications anymore; they were now more context-based and evidence-based. The broad policy guidance resulted in less subjectivity and more streamlined decision-making process in the legal framework, though there was no substantive change of the legal framework itself. But there remained disparities between various adjudicators and service centers in interpreting and using discretion in cases where applicants have nontraditional career histories or are employed in constantly changing industries. Notwithstanding these obstacles, the 2015-2020 period was an important period of institutional development to make EB-1A adjudications more adaptive, transparent, and professionally nuanced.

3.4 Phase IV: Policy Expansion and Modern Holistic Evaluation (2020–Present)

The recent adjudication of EB-1A cases reveal a trend towards more flexible, encompassing, and contextual examination of professional accomplishment in today's technologically advanced world. The USCIS has broadened the definition of “comparable evidence” especially for workers in new, or more cross-disciplinary, roles like, for example, artificial intelligence, biotechnology, and data science [15]. In these fields, academic degrees are not a requirement, instead, professional success and success in industry, or contributions to some open source projects, startup innovations or developments related to technological implementation, research commercialization and patents can serve as markers of professional success. So, its evidence is gathered more broadly for adjudicators to consider when deciding on an extraordinary ability petition. At this time, the adjudication process has shifted away from the assessment of professional influence and toward what contributions have been made in the field over time and the overall involvement in that field. For the most recent step in merits determinations, adjudicators start to consider the applicant's entire career, not just the least stringent regulatory standard for the minimum number of years [8]. For originality, for example, a holistic assessment recognizes the influences on and the recognition by fellow scholars as well as the impact on the society or profession. So the paradigm that many practitioners of the adjudication of EB-1A cases have known is now transformed into more adaptive and impact-oriented, while more responsive to current innovations, inter-disciplinary gains and international recognition of the talent and remarkable accomplishments of the professionals, yet maintaining the mandate of the EB-1A as a means to recognize persons with extraordinary ability in their field [22].

IV. LEGAL FOUNDATION OF EB-1A

The EB-1A Visa category is for all those who have attained special qualifications, recognition, and professional success in their fields as defined by the statutes and regulations. The basis for the program is U.S. immigration preference classification of those persons who have exceptional ability in fields like science, education, business, athletics and the arts through any other activity that is expected to positively contribute to the best interest of the United States, as outlined in Section 203(b)(1)(A) of the U.S. Immigration and Nationality Act (INA). Enforcement and enforcement of this category is directed and governed by regulatory provisions found at 8 CFR 204.5(h) [3]. These regulations refer to a person who has achieved a degree of skill that allows him to be one of the few members of the club to have accomplished that exceptional level of skill. Eligibility will be determined based on sustained national and/or

international recognition provided by extensive documentation and evidentiary support. The above characteristic is the EB-1A self-petitioning process whereby the applicant may file the petition without the assistance of an employer and the employer is neither involved in the process nor required. This aspect is particularly beneficial for individuals of great talent compared to numerous other employment-based immigration categories, and provides them with autonomy and flexibility in entering and promoting their careers [17]. The statute and formal regulations do not limit the scope of the legal regime of the EB-1A. It has also undergone interpretations over the years, such as from judges, policy manuals and administrative interpretations. These mechanisms are structured at both the process and substance levels, providing an underlying basis for some moderation in how standards of achievement are applied across various disciplines and professional contexts by professionals calling themselves adjuncts. All of these create a legal structure, a series of questions that can be interpreted in light of the new context of professional accomplishment, and new professions, industries and spaces of work, in a way that keeps the adjudication system as a yardstick of consistent regulation.

4.1 Statutory Basis and Definition of Extraordinary Ability

Section 203(b)(1)(A) of the Immigration and Nationality Act (INA) creates the EB-1A Visa category for individuals having extraordinary ability in science, arts, education, business or athletics [2]. The statute stipulates that an applicant has to prove that the work has already received "sustained national or international acclaim, and that the applicant has substantial documentation of professional achievement" [16]. The EB-1A immigration visa category had been established with flexible, albeit statutory, language to allow for the widest possible application of its definition to the most varied and developing of fields. One of the key provisions of law is that the applicant will need to be a member of a "small percentage" of "the men that are the very best in their profession. The law, however, doesn't establish specific explicit quantitative criteria for meeting the test of extraordinary ability; that leaves room for divergent interpretation and extensive discretionary review at adjudication time. This system allows flexibility and responsiveness to various areas of employment and new areas of subject study, but it also makes the process of decision making less consistent. The law's purpose for the EB-1A is to "discover" people whose impact and influence exceed their typical professional achievements [17]. As a consequence, the latter form is inherently subjective and the former is high aspirational, and this is to be observed in the statutory structure.

4.2 Regulatory Criteria and Evidentiary Framework

The legal basis for the EB-1A Visa category comes from 8 CFR 204.5(h) [3]. Applicants should demonstrate one of the following; 1) receipt of a major internationally recognized award, or 2) three of the following evidence types. The definition of achievements is scholarly article authorship, award of a national or international medal or prize, membership in a distinguished organization, service as an academic judge, and showing original research of great significance to the field [18]. The first part of the requirements sets forth initial processes for the adjudication process, since it sets the ground rules for evaluating applications for eligibility. The regulations take the following into account: that for a variety of professions, traditional achievement paths do not hold; that different professions require different paths to demonstrate achievement. It provides for the adoption of "comparable evidence" even if the criteria are not specified especially in the case of emerging areas of expertise, where interdisciplinary or innovative approaches are needed [19]. This adaptability is particularly crucial in STEM, where employment success in artificial intelligence, biotechnology, and data science can be accomplished in a number of ways to be recognized. Regulations set out formal processes to

follow but the way evidence is to be assessed will vary according to the circumstances. Adjudicators need to decide whether there is evidence, and considering its trustworthiness and how it relates to important elements that demonstrate exceptional ability. If your work has been performed successfully, the EB-1A regulatory structure is a rigid law with clearly enumerated criteria but it is also flexible to allow for a range of different successful achievements.

4.3 Judicial Interpretation and the Two-Step Framework

Recently, judges have had significant impact on how EB-1A Visa standards are implemented and interpreted, and the increase of judicial rulings is something that has proven to be an influence in the history of EB-1A Visa adjudications [4]. The case established the two-step adjudication system that is still employed in assessing complaints today. In this model, first the adjudicator has to ensure that the applicant fulfils the regulatory requirements and provide evidence documents that are sufficient to give support to such determination. Once through this phase, adjudicators enter a final merits phase to consider and grade the quality, significance and impact of the respondent's achievements to determine if the applicant has truly established extraordinary abilities [15]. This would constitute a significant change from a previous adjudication system that relied on checklists and delivering the minimum number of evidentiary elements was often deemed to be enough to approve. The court limited the admissibility of an opinion concerning “being of outstanding merit” to situations where a party complies with basic immigration requirements. Rather, adjudicators are required to look at all the evidence, and decide whether it is the applicant who has more than earned their place at the top of the profession, as measured by the high statutory standard of ‘extraordinary ability’ [20]. The Kazarian decision upheld qualitative consideration and provided caution in overly strictly enforcing immigration laws. For this reason, the Kazarian framework has proven an integral part of the adjudication of protections under EB-1A and remains part of administrative policies, assessment of the evidence, and interpretation of the procedures.

4.4 Administrative Guidance and Policy Evolution

In the United States Citizenship and Immigration Services (USCIS), all administrative needs are managed for EB-1A Visa applications, including petition evaluation and formulation of policy and procedural guidance for all adjudicators. Consider the USCIS Policy Manual and policy memoranda as the sources for interpreting how to apply evidentiary standards. Definitions are included for "original contribution of major significance" and "national or international acclaim," and some examples show that emerging and interdisciplinary professions are now more critical than ever before. These are steps the USCIS took to make the EB-1A adjudication processes more uniform and to make clearer the procedures. The recent policy changes made it possible to consider a broader range of evidence types due to the introduction of the ability to assess professional achievement with non-standard or situational evidence. Nowadays an in-depth Career Assessment process is used by an adjudicator to assess the professional effects that occur in the life of a person rather than relying on a checklist-based assessment method. In several service centers, adjudicators decide case outcomes without rescripts, based on policy guidance that may be interpreted differently, resulting in significant discrepancies in case outcomes across centers. Administrative guidance serves as a conduit and helps to transform legislative text into actual judicial decision making. The institution continues to work on the framework for EB-1A to meet new standards of professional achievement as they develop through the use of technology and international practices where they are practiced.

V. INTERPRETING “EXTRAORDINARY ABILITY”: DOCTRINAL AND PRACTICAL PERSPECTIVES

The term “extraordinary ability” in the EB-1A Visa classification has been greatly broadened from the words that were inscribed in the law. But the law does not present a clear operational definition of extraordinary ability, which gives wide discretion to the government, specifically the United States Citizenship and Immigration Services (USCIS) and the courts [16][23]. The basic premise of the standard is that the applicant is among those who have managed to climb the ladder of the profession, that is, who are among the minority of the profession who excelled in the practice. The determination of extraordinary ability, however, relies a great deal on how the evidence is presented, interpreted, and/or contained. This distinction has grown sharper after *Kazarian v USCIS*, which adopted the dualistic approach of legal compliance (formal) and substance (qualitative) of the evidentiary process. These elements of professional impact, influence, originality, recognition and more qualify for adjudication in the modern era, and have increasingly been factored in with attention paid above and beyond mere procedural evidentiary demands [24]. More emphasis has been placed, then, in the construction of the story, on writing the recommendation letter, benchmarking the subject's work against others in the profession, and being explanatory about the subject's accomplishments relative to the professional context. In addition, the interdisciplinary and new subjects like data science, biotechnology, and artificial intelligence have been demanding a more flexible perspective on interpretation. Likely, the increasing acceptance of similar evidence also has contributed to the gray area between doctrine and practice [25]. In consequence, extraordinarily able has become a flexible and evolving concept in the law that arises out of professional norms, adjudicative practice and broader immigration goals.

Table 1. Doctrinal vs Practical Interpretation of “Extraordinary Ability”

Dimension	Doctrinal Interpretation (Legal Framework)	Adjudication Reality (USCIS Practice)	Decision-Maker Perspective	Implication for Applicant Strategy
Definition Standard	“Small percentage at the top of the field” [16]	Relative standing assessed through peer comparison	“Market-leading talent with measurable competitive advantage”	Position yourself as indispensable, not just qualified
Evaluation Method	3/10 criteria or major award [3]	Two-step framework + final merits [4][14]	Multi-factor decision: impact, ROI, differentiation	Focus beyond criteria → build a compelling impact story
Nature of Evidence	Objective documentation (awards, papers)	Contextual + interpreted evidence	Proof of value creation (innovation, revenue, influence)	Translate achievements into real-world outcomes
Role of Criteria	Minimum eligibility threshold	Baseline filter only	Screening mechanism, not decision factor	Don’t rely on criteria, build

				dominance narrative
Comparable Evidence	Alternative when criteria not applicable [19]	Increasingly accepted in modern fields	Recognition of non-traditional excellence (startups, AI, product impact)	Use unconventional achievements strategically
Assessment Focus	Regulatory compliance	Holistic profile evaluation	Strategic fit + long-term contribution potential	Show future impact, not just past achievements
Decision Drivers	Legal sufficiency	Narrative + evidence strength	Risk vs return (Is this person worth “betting on”?)	Build credibility, authority, and trust signals
Consistency	Intended uniformity	Variable across adjudicators [24]	Subjective decision-making is normal in high-stakes hiring	Optimize for clarity and persuasion
Impact Measurement	Implicit in criteria	Explicit in final merits stage	Quantifiable + scalable impact (citations, users, adoption)	Use metrics wherever possible
Recognition	Awards, memberships	Prestige + relevance evaluated	Brand/value signaling (top institutions, media, influence)	Strengthen external validation signals

The views expressed in the strategic perspectives outlined in Table 1 are the result of a mix of doctrinal interpretation, adjudicatory practice, and executive level decision-making perspectives applied in the EB-1A Visa evaluation process. In practice, however, adjudication relies on a filter of unauthorised criteria, flexible and informal frameworks, and criteria beyond the static confines of the checkbox, and is typically based on an executive-style evaluation process designed to look past the statutory and regulatory requirements to assess the importance of the impact, whether for the school, for the parents or community, or for the learner themselves, the quality of the school differentiation, the leadership role, and the long-term value of the school work to the child. The evaluation for EB-1A will be like high-level talent acquisition processes in a corporate leadership context in which the applicant's potential contributions to his or her field and thereof the changes or influence is measured. In line with the findings presented in Table 1, the narrative strength, indicators of credibility, professional

positioning, and measurable outcomes have emerged as significant factors that influence adjudicators' decisions, which surmount formal regulatory standards. This trend is being reinforced by the tendency to accept similar evidence as a means of assessing achievements, and to help adjudicators consider achievements in ways that are more aligned to the modern conception of what constitutes evidence of professional achievement, such as using contemporary methods of talent assessment, where appropriate, and those that are more closely related to professional achievement where such evidence is accepted as being comparable. The multistakeholder analysis shows that to be successful in EB-1A cases, you need to more than just meet the legal thresholds, you need to communicate professional significance and strategic value. Applicants should therefore include a clear and organized narrative, explanation of context, and presentation with a purpose or impact to the score to demonstrate an extraordinary ability that is meaningful and competitive in the modern professional work world [23].

VI. IMPLICATIONS FOR STEM PROFESSIONALS

Adjudication of learning visas, there's a radical shift in the visa process to STEM rather than extraordinary ability. This change suggests an increasing backsliding (a shift away from) the idea of a system of credentials for assessment, towards a more effective and value-related assessment system. Outside of the written publications, references, awards, and academic accolades, which Dominick Rocchi of the United States Citizenship and Immigration Services states are all elements in today's adjudication process, measurable impact, scalability, innovation and practical contribution are emerging factors of the modern assessment in the adjudication process [22,24]. It is also similar to the signaling theory, in which applicants are urged to list in large numbers their professional accomplishments, including, for instance, the number of citations they have received, technology transfer, successful commercialization, impact of research on the field or industry as a whole, etc. It's better articulated for newer subjects like interdisciplinary subjects and emerging disciplines where the standard frameworks of establishing impact and contribution of the applicants may not be able to account for impact, say in Artificial Intelligence, Biotechnology and Data Science. This is a lot harder in emerging fields and interdisciplinary courses (like that of artificial Intelligence, biotechnology, data science etc) where the traditional academic requirements may not reflect the skills of the candidate and his impact and innovativeness. When assessing the candidate's proficiency in cutting-edge disciplines or any interdisciplinary courses (e.g. Artificial Intelligence, Biotechnology, Data Science etc.), this involves being able to evaluate the fields of study and the effect of the candidate's skills or innovations on real life situations will not be fully understood by traditional academic measures. This has been substantiated using two steps outlined in Kazarian: First, USCIS must uphold the application to make sure that all procedural steps are followed in respect to the presentation of evidence; and second, USCIS must make the final merits decision once the process concludes which must be made based on the person's profile, credibility, and continued impact in the field. The evolving adjudication environment is a challenge, yet additionally an opportunity, for those experts in education, science, technology, and mathematics (STEM). Similarly, the more the burden was on it, whether it involved pitting an industry product against an industry start-up, industry vs. patent, or open source, the more of the kind of success, whether the interdisciplinary type, including product innovation, product commercialization, technological implementation, or patents, or of the industry type, and starts, was recognized for extraordinary ability. It is a relatively new "evolved" point of view that recognizes its value in addition to in publications and citations for the skills of a professional worker. At the same time, the increasing importance of using narrative framing, providing an explanation based on context and using corresponding

discretionary interpretation introduces more subjectivity into the adjudication procedure that may cause inaccuracies in the adjudication proceedings.

That is not to mention several different effects on the STEM fields. In academic research, the publication and citation are common while product adoption, markets, start-up advancement, technological viability and fruition are common metrics used by industry experts as indicators of expertise. Given this, the EB-1A adjudication program is gradually shifting away from past considerations of “work product and more” and towards a higher level characterizing a talent that can be evaluated against the criteria for future promise: success in the past, novel contribution, strategic contribution and market impact. This change in the government appraisal puts emphasis on impact components that are hoops applicants have to leap over to be successful and has macro-economic consequences. The EB-1A mechanism could be a way to establish a vehicle to acquire "high skilled human capital" by investing in a person who will bring "such scalable innovation and impact in the ‘real world’". These are critical enablers of knowledge spillovers, technological progress, new companies, technological innovations, innovation transfer and long-term productive capacity, which are closely related to national competitiveness and economic growth. In that background, this vision is not inappropriate to the endogenous growth theory in which the innovation and technology and human capital are the main forces in attaining sustainable economic development.

The chart pictured above depicting the government's rate of grant of EB-1A petitions comes from a reflection on how the cases have been handled over time, and the common trends that have emerged in the years that the EB-1A has been granted at an increasing rate (impact; some of the expectations listed in the table above are really lived impacts; interdisciplinary impact; scalability; Leadership & Innovation diffusion). It also highlights the need for adopting a strategic profile approach where quantitative benchmark (citations, patents, product adoption, etc.) and qualitative profile (professional impact, societal impact, innovation impact, leadership influence, etc.) are all taken into account. Hence, Table 2 is not just a snapshot of changing foci on adjudication, but it can be also helpful in strategic decision making. It empowers STEM professionals with insights on the changes USCIS will make to its evaluation process, and helps them position themselves on a dynamic international talent evaluation system aiming to secure preference in applying for U.S. admission.

Table 2. Evolving EB-1A Expectations and Strategic Implications for STEM Professionals

Dimension	Traditional EB-1A Expectation	Modern Adjudication Expectation	STEM-Specific Reality	Strategic Positioning Required
Publications	Quantity of papers	Citation impact and influence	High-impact work over volume	Emphasize citations, h-index, and influence
Awards	Mandatory strong awards	Prestige and selectivity matter	Fewer awards in emerging fields	Highlight selective recognition and credibility

Contributions	Academic novelty	Real-world and applied significance	Industry + research integration	Show applications, deployments, and outcomes
Evidence Type	Fixed criteria-based	Flexible, includes comparable evidence	Startups, patents, open-source valid	Leverage diverse and unconventional evidence
Impact Measurement	Implicit	Explicit and quantifiable	Metrics like users, adoption, funding	Quantify achievements with data
Field Definition	Narrow discipline	Interdisciplinary acceptance	Overlapping domains (AI, biotech)	Clearly define and justify field scope
Recognition	Memberships, reviews	Influence and authority signals	Speaking, collaboration, media	Build strong external validation
Evaluation Focus	Criteria satisfaction	Holistic assessment	Career trajectory matters	Present cohesive professional narrative
Future Potential	Minimal role	Increasing importance	Innovation pipeline valued	Demonstrate scalability and future impact

The table shows a change in shape to a multi-dimensional assessment model which is based on influence, impact and strategic positioning rather than the existing compliance-based model. When focused on the list of publications, awards and others as the fixed sign of the professionalism in the old practice of EB-1A, the contemporary adjudication is focused on the meaning and ability to extrapolate the contributions in the bigger professional and social setting [25]. It could be mentioned that the increasing application of the similar evidence belongs to an adaptation process, which can cope with the discrepancies between the achievements of rapidly evolving STEM fields [26][27]. Nevertheless, this flexibility also makes it more subjective as the adjudicators will have to judge what kind of evidence is right without some particular guidelines. Hence, the applicants not only are expected to conform to formal requirements but also they should be able to state the applicability and the scope of their contribution. Surprisingly, the dimensions listed in Table 2 directly correspond to the framework of the proposed evaluation model, based on which the different elements of the evidence can be turned into a stratified decision-making process.

Figure 2. Impact-Centric EB-1A Evaluation Model for STEM Professionals



The adjudication process to consider applying for an EB-1A visa would be an ongoing process that would not be a purely legalistic one, but would consider the professional ability of the applicant(s) and their potential impact on the field as well as their ongoing service. The model proposed would permit for the continuous adjudication of EB-1A Visa cases and would not merely be a 'legalistic endorsement' (but rather an evaluation of both the professional abilities of the applicant(s), as well as the impact and long-term service etc. they demonstrate in their field of practice). This path to the foundation is the simplest one, which simply involves a determination by an adjudicator of eligibility for immigration status based on statutory and regulatory criteria being met in the context of immigration law. The assessment starts to get more critical and burdensome at the higher tiers in the evaluation, beginning to pay more attention to the quality, significance and sustainability of the professional achievement of the applicant. This two-step adjudication system first created in *Kazarian v USCIS* is the foundation of the framework [28]. The structure of the model itself encompasses similar features, but with additional factors such as impact assessment, story validation, contextual understanding and future potential assessment added as well. The rest of this comes from reflecting and applying the focus of work today in measuring real-world influence, innovation, leadership and scalability [29]. Yes, as a matter of fact incorporation of future-oriented assessment mechanisms is even a reflection of the increasing convergence of the EB-1A process with the executive level talent evaluation mechanisms of certain high impact industries, and in innovative sectors. The model opens the door to such concepts and methods from doctrinal law and empirically based talent assessment, to partial measure of how extraordinary ability is being (or not) deployed in the "real" adjudicatory landscape. In order to be eligible for the EB-1A classification, STEM professionals need to satisfy formal evidentiary requirements and demonstrate a capability to bring about continuous innovation, "substantial contribution and future benefit" to the international professional and technical communities [30].

VII. CHALLENGES, INCONSISTENCIES, AND BIAS IN EB-1A ADJUDICATION

While the adjudication process for the EB-1A Visa undergone important changes towards a more flexible and purposeful adjudication system, many challenges exist for consistency, transparency and fairness in the decision-making process. The final merits determination step of the current framework of the United States Citizenship and Immigration Services is actually quite subjective because adjudicators have to evaluate the entire picture of the applicant's standing, influence, and reputation on a subjective basis and "feel their way," rather than have a specific quantitative standard by which to measure them [31]. This flexibility also means that the system acknowledges other types of achievement that fall outside of the more traditional scenarios like academic streams or coursework, and there is some variance in its adjudicatory outcomes, from a similar professional profile, similar proposals may get varying evaluation outcomes through different ways of presenting evidence and/or feeding into and telling the narrative [32].

This challenge has grown in intensity since the two-step adjudication system set into place by *Kazarian v. USCIS* was adopted, especially due to the second step of qualification involving qualitative assessment, where the criteria for determining qualifications are not standardized, and are reliant on adjudicatory discretion. This lack of consistent evaluative standards then leads to some worry over EB-1A adjudication practice being inconsistent and unpredictable. Structural inequality also prevails among various sectors of the professional ranks. In addition, while there are well-accepted quantitative indicators (such as citations, scholarly publications, and research awards) for academic applicants, quantitative arguments may pose an issue when industry professionals, entrepreneurs, and professionals with emerging interdisciplinary fields attempt to communicate their accomplishments in traditional categories of evidence [33]. While the stage has been made somewhat easier for acceptance of similar evidence and some confusion has been alleviated about the evidentiary value and meaning to be given to non-traditional evidence forms, confusion clearly still exists in this area.

Also, there is growing significance in the construction of the narrative and in the strategy of presenting a petition, which may further create disparities those who have the legal resources and advisory support will likely be better equipped to communicate professionally about the significance of their narrative. Also, the scoring and benchmarking are not consistent, which can result in different scoring across cases and treatments, including the interpretation of what is helpful or harmful. Moreover, there is not the same standardization in the scoring and benchmarking system; this can lead to differences in how cases are scored and treated, including the understanding of what is helpful and what is harmful. The challenges faced arise from an ongoing dilemma between maintaining flexibility to capture the diversity of professional achievements, and ensuring that it is closely assessed in an objective and direct and reliable way. Having the ability to correct these problems is essential to the efficient, honest and accurate identification of individuals with genuine extraordinary ability to which the goal of the adjudication system is directed.

Table 3. Sources of Challenges and Variability in EB-1A Adjudication

Challenge Dimension	Description	Impact on Adjudication	Affected Applicant Groups	Implication for System Reliability

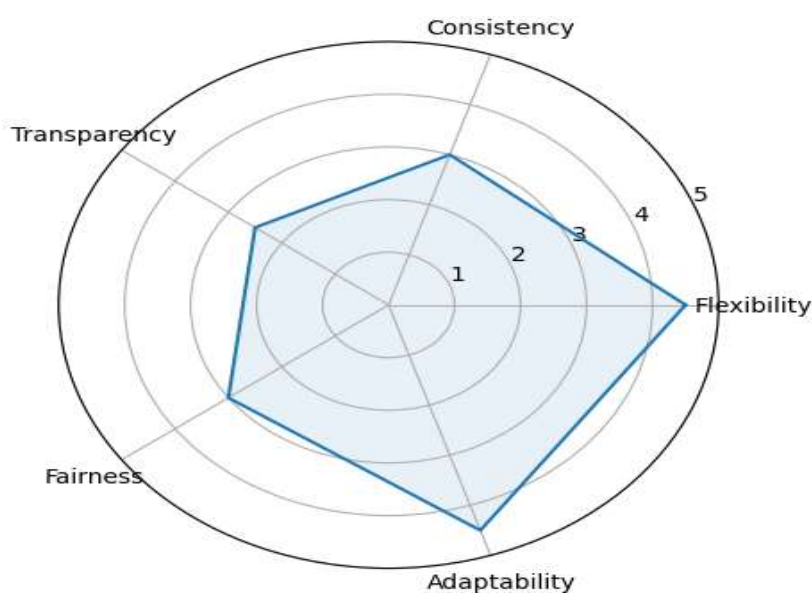
Subjectivity in Final Merits	Lack of clear standards for qualitative evaluation	Inconsistent decisions across cases	All applicants	Reduces predictability and transparency [31]
Adjudicator Variability	Different officers interpret evidence differently	Same profile → different outcomes	All applicants	Weakens uniform application of law [32]
Field-Based Bias	Traditional metrics favor academia	Industry/startup contributions undervalued	Entrepreneurs, engineers, AI professionals	Creates inequity across disciplines [25]
Narrative Dependence	Strong petition framing influences outcomes	Presentation may outweigh substance	Applicants with limited legal support	Introduces systemic bias [33]
Lack of Quantitative Benchmarks	No fixed thresholds (citations, impact, etc.)	Ambiguity in evaluation standards	All applicants	Limits objectivity in decision-making [18]
Comparable Evidence Ambiguity	No clear equivalence standards	Difficulty in evaluating non-traditional achievements	Emerging field professionals	Increases interpretive uncertainty [34]
Interdisciplinary Complexity	Overlapping fields lack clear evaluation norms	Difficulty in defining “top of field”	AI, biotech, data science professionals	Complicates assessment consistency [26]
Policy-Practice Gap	Guidance exists but uneven implementation	Misalignment between policy and decisions	All applicants	Undermines policy effectiveness [24]

VIII. EVALUATION AND SYNTHESIS OF EB-1A ADJUDICATION FRAMEWORK

The EB-1A Visa adjudication system now consists of both structured legal processes and flexible approaches to interpretation, offering both its pros and cons. The model used by United States Citizenship and Immigration Services allows assessment of professional achievements for all professional achievements but provides more flexible ways of assessing two fields which include STEM and interdisciplinary fields with both standard and non-standard innovative contributions. This freedom has a direct connection to the current innovation ecosystems since

all innovation outcomes derive from non-linear professional experiences, in which groups of individuals with different academic backgrounds and professional experiences collaborate by sharing knowledge with one another, and this collaboration takes place on a cross-disciplinary level, as academic vocabulary and measurement systems are not sufficient to explain. This two-step evaluation system introduced in the *Kazarian v. USCIS* case brought significant changes in the USCIS adjudication process. The model improvements resulted in analytical rigor in the two stages of evaluating eligibility and assessing merits prior to the final decision being made. In a dual-tracking approach, an applicant is expected to submit robust content that fulfills all of the regulatory criteria and the adjudicator will make a comprehensive assessment of the likelihood of its important merits and its overall impact by applying three criteria. These different theories make the process more comprehensible as they make all the assessment procedures easier, while they eliminate all the random elements in the first evaluation phase. However, the flexibility also implies a lot of complexity and inconsistency [33]. Terms, such as sustained acclaim, national or international significance, long term impact, and/or professional influence, however, have broad scope for adjudicators' interpretation in the final merits determination. The results of the application process may thus vary across several sets of applicants who are similarly qualified in various ways due to a variety of interpretations of the evidence, frames of interpretation, and perspectives of the ad hoc fact finder. This is not consistent, and may create a problem of inconsistent, transparent and fair adjudication. However, it can be life-staking since it isn't always clear what kinds of evidence need to be developed and when. This does not preclude a qualitative-based approach to evaluation grounded in a “big picture” perspective of assessments of qualifications under the EB-1A framework that will further drive a trend of reducing use of quantitative thresholds. Although this new approach reflects a talent selection process that is embraced worldwide and a more dynamic concept of professional achievement, at this current time, it does not standardize the process of advisory procedures which can be unpredictable for the applicants as well as the adjudicators.

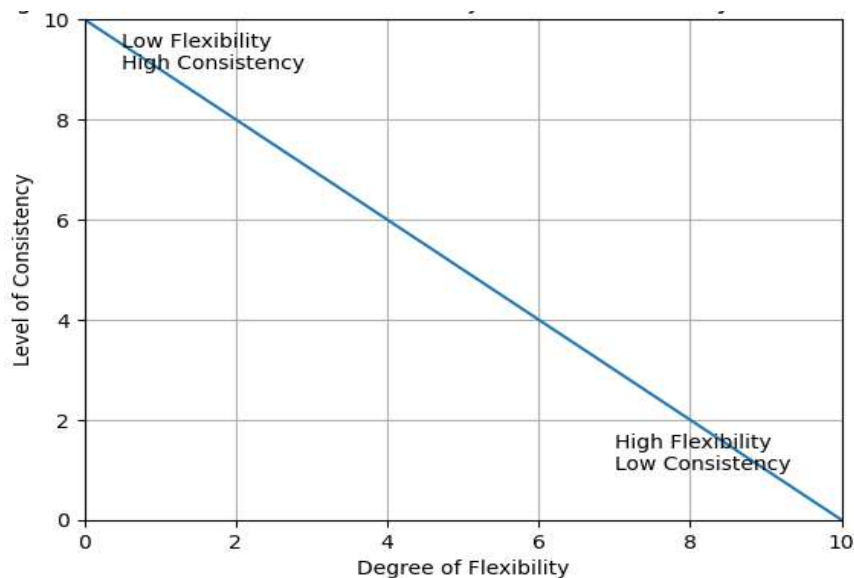
Figure 3. Multi-Dimensional Evaluation of EB-1A Adjudication Framework



The radar graph provides a representation of the performance of the EB-1A Visa adjudication system, depending on the areas of scrutiny. Direct visualization shows that the framework is well represented in terms of flexibility and adaptability, that it can include a variety of

professional accomplishments from various STEM and interdisciplinary fields. These are assets that will inform the system's capacity to show how it maintains the definition/evaluation of excellence in the face of innovative, knowledge-based economies where traditional means of evaluating are not always effective in capturing impact and contribution. In the interim, the chart shows aspects of the adjudication processes that are particularly strong and others that are particularly weak. Scores in the fields that address transparency and consistency are generally lower, because there are strong subjective aspects of interpretation and merit evaluation in the final step of the scores' calculation [31]. The framework can be interpreted in a variety of ways in practice by different adjudicators, at different presentations of evidence and in different professional settings, and can be general and inclusive in nature to accommodate context. There are also moderate conceptual weaknesses for the fairness dimension, with some differences likely to occur in the results of the evaluations among the applicants, due to difference in academic levels, and/or difference of industry, based on the evidence provided. In summary, flexibility and adaptability seemingly have been at the expense of consistency, predictability and uniformity of rulings in the EB-1A adjudication system.

Figure 4. Trade-Off Curve in EB-1A Adjudication: Flexibility vs Consistency



One of the major tensions in the EB-1A Visa adjudication system is between flexibility and consistency in the evaluation process as shown in the trade-off curve in Figure 4 above. Variance in the outcome of adjudications will increase as it becomes more flexible (more evidence is received as comparable, and more acceptance within it of interdisciplinarity as evidence of success). The more flexible the framework the more inclusive it is, and as such, the more space there is for new industries and emerging work and/or as for other definitions of excellence, and this is reflected on the graph with a negative slope. The visualization opens up a major policy question that the EB-1A system faces: can it be both adaptable and work flow efficient? But flexibility is needed to evaluate impact and contribution of professions focused on innovation and rapidly evolving STEM disciplines that are not typically evaluated using other measures. Excessive interpretative flexibility can lead to reduced predictability, and result in varying decisions in similar circumstances. From Figure 4 it would appear that a more moderate standardization is required as per the structured assessment model, benchmark assessment model and a semi-quantitative assessment model with score per the shape outlined earlier.

IX. FUTURE RESEARCH DIRECTIONS

Since its creation, the procedure for adjudicating EB-1A Visa applications has changed, and it now validates the international norms and embraces contemporary technologies and institutional changes, but also introduces novel research opportunities. The study shows that now the impact-driven assessment is becoming the major criterion of assessment as opposed to the credential-based assessment system existing earlier for EA professionals. Along with the development of educational fields, educational scientific researches were also developing to meet demands and challenges for the increased focus on education. As education fields expanded their research focus, new challenges arose that need new ways to assess evidence in the field of education analytics [35]. Research needs to go further, including by utilizing international legal examination to quantify fully the EB-1A adjudication systems by means of real-world, and theoretical, evidence. Research should establish data-driven and theory-based models which will boost EB-1A adjudication processes through better understanding and decision-making. Study about the utilization of computational methods and artificial intelligence (AI) technologies to facilitate organizations to achieve their goals in a systematic manner without compromising on transparency and understandability of their decision making process. Integrating the AI tool into the assessment system as well as using benchmarking tools and structured assessment models assists organizations in reducing assessment differences and ensuring the ability to evaluate a range of work achievements. Elucidation of existing talent visa programs in various countries along with international talent assessment practices will be used to identify best practices to identify exemplary talent and capacity for innovation.

9.1 AI-Driven and Data-Centric Adjudication Models

Research should investigate AIs and data analysis to enhance interview evaluations for EB-1A Visa applications with regard to accuracy in assessment, efficiency of the assessment process, and consistency of the assessment result. The systems mentioned above incorporate machine learning to help deal with complicated evidentiary material esteems and advance benchmarks for the candidates and to track down adjudication designs. There are five primary factors that machine learning models must be taught about from history of adjudications to predict petition rejections and success: citation impact; research influence; professional recognition; innovation contribution; and field achievements. The systems would operate mostly in a background system to help with inconsistencies in the decision-making process and let the professionals interpret the contextual information. Data can be gathered from recommendation letter, petition stories and from media content and supporting documents using Natural Language Processing (NLP) techniques which can showcase that the organization is being influenced or whether it is original and further being acclaimed by the leadership [35]. The technologies enable better organization and assessment of large amounts of evidence, which can have cost benefits for adjudicators in processing evidence in an efficient fashion. While AI technologies in immigration justice systems bring fundamental change, they also present new questions that hold major implications for immigration justice, such as how to establish ethical governance processes. Situations need to be appraised for subjective components such as algorithmic misspellings, transparency and accountability, explainability and fairness, to ensure that discriminatory impacts do not arise.

9.2 Comparative Analysis of Global Talent Visa Systems

In addition, a comparative study of other high-skilled immigration programs of other countries with the EB-1A Visa program is of interest. There are other options that can be considered for the identification and selection of very talented individuals, such as the United Kingdom Global Talent Visa, Express Entry (Canada and Australia) and the Distinguished Talent Visa [36]. The

systems of this kind can be assessed and judged comparatively in terms of mechanisms of assessment, flexibility, transparency, consistency, capability of formation of new professions, interdisciplinary professions. In some countries, point based systems, or quota driven frameworks are used, which offer more clarity and standardized criterion to be evaluated. In contrast, the EB-1A process is far more of an individualized and discretionary process, and can be as flexible as it is, and, no less, as subjective and uncertain. Such comparisons could facilitate the investigation of the merit and demerit of the two assessments: structured and flexible. Studies like this might be used to help develop hybrid forms of adjudication that have the flexibility of qualitative assessment combined with the consistency and transparency of standardized scoring systems. This type of research may be very beneficial in the current global economy as countries across the globe are seeking to attract and retain increasingly skilled individuals, scientists, entrepreneurs and innovators. A comparative study might also help to illuminate what can be done for a fairer, more effective and more strategic EB-1A adjudication mechanism.

9.3 Development of Standardized Evaluation Metrics

Research is needed on the development of an adjudicatory system for extraordinary ability petitions, in order to create common evaluation criteria and assessment procedures that can be used to assess the type of petition. Increased uniformity, transparency, and reliability in decision making processes and decreased interpretation bias may benefit by using a standardized assessment model and lessen the need for integrating human judgment into service delivery. A multi-dimensional measure system, using both quantitative and qualitative indicators of professional success, could be used to explore in future study. A series of factors in the framework should include citations, patents, industry influence, innovation, leadership, professional recognition, commercialization success, and society. The evaluation model must provide design features that enable evaluation of various skills needed in various professions. Academic publications, citations, startup success, market uptake, product innovation, company valuation, and company impact on industry might be good indicators for industry/or academic success, depending on the industry or the academic discipline. Future systems may be able to consider thresholds and profession specific benchmarks to facilitate more agreeable system adjudication and change the nature of 'high risk'. This kind of model would first need to be fully qualified using various empirical evidence, academically rigorously discussed by specialists and be mindful of the contribution of multi-disciplinary stakeholders in order to attain quantitative validity as well as qualitative justice. The adoption of a harmonized adjudicatory system, grounded in evidence, would increase to create more credibility and introduce uniformity in practice and assessments. This would help increase the reliability of employment-based evaluations of immigrants.

Conclusion

This study examines how the EB-1A Visa process has evolved beyond its inflexible legal structure to one that uses evaluations as an iterative process that builds its standards out of current law and judicial rulings, and administrative precedent. The United States Citizenship and Immigration Services has designed its current system of case-by-case merits determination policy and proceedings with a set of standards via the legal case of *Kazarian v. USCIS*. The study showed that USCIS now considers S. STEM fields as a whole as STEM fields, as professional engagement in these fields cannot be judged by traditional metrics as academic awards and professional organization membership. EB-1A evaluations now prioritize measurement of achievement and innovation and its impact on the real world. The research illustrated to the researchers the importance of evaluation procedures that are flexible, and

measure the success or failure of professional performances in multiple domains. The EB-1A system needs to provide its decision makers with flexible options which maintain fairness and uniformity in displaying results and protecting their decision-making process. The paper showed that the running systems for evaluation of the EB-1A are now in place as talent measurement systems examining superior past performance and prospectivity of applicants. The study revealed that the assessment frameworks needed to include both a common part of the assessment and customize assessment part, which can improve transparency of the assessment, reduce the evaluation bias and provide consistent evaluation standards among different fields of profession.

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