



# PROMOTE GENDER EQUITY WITHIN SOUTH ASIAN COMMUNITIES.

Gender equity is a critical goal within all communities. Issues surrounding women’s rights are of particular concern to the South Asian community, given that women comprise nearly half of the total South Asian population.<sup>i</sup> Significant **disparities among men and women of South Asian descent are evident along several different variables, including education, presence in the workforce, annual income, and limited English proficiency.** For example, among most South Asian communities, the percentage of men earning more than \$57,000 annually is more than double the percentage of women earning the same.<sup>ii</sup> In contrast, twice as many South Asian women than men earn less than \$12,500 annually.<sup>iii</sup> South Asian women are also not equally represented in the labor force – for example, among Indians, 80% of men are employed, compared to 54% of women; and for Pakistanis, 76% of men are employed, compared to 34% of women.<sup>iv</sup> Language is also a factor contributing to disempowerment as 28% of South Asian women are limited English proficient.<sup>v</sup>

**Among the most important issues facing South Asian women are domestic violence, trafficking, limited access to reproductive and mental health services, and economic disempowerment.**

Moreover, many South Asian women experience these issues encounter even greater **challenges due to their dependent immigrant or undocumented status.** Policies and programs must be implemented to address these systemic inequalities and provide pathways to attain true gender equity.

## Violence and Exploitation

***Gender-Based Violence within the South Asian Community*** While comprehensive data is unavailable, there is strong evidence indicating that many South Asians, particularly women, continually encounter gender-based violence in the United States. Such violence can occur in a variety of contexts, including at the hands of an abusive spouse, partner, or extended family member; in the form of a hate crime based on gender; or as a result of trafficking. It can result in physical, emotional, or psychological harm.

Domestic violence, in particular, is a major concern for South Asian women. In fact, a recent study about the South Asian community in the Boston area found that 40.8% of women surveyed in 1998 and 1999 had reported experiencing physical abuse or sexual abuse from their current male partners or

injury/need for medical services due to that abuse.<sup>vi</sup> Often domestic violence results in life-threatening situations for many South Asian women. Between March 1990 and March 2007, at least 148 intimate violence-related fatalities or near-fatalities were reported in South Asian community newspapers.<sup>vii</sup> In addition, violence in same-sex relationships also affects many South Asians yet often goes unreported. These statistics show that anti-violence programs and support services for survivors are critically needed.

***Access to Linguistically Accessible and Culturally Appropriate Services for South Asian Domestic Violence Survivors*** Many South Asian women of all economic backgrounds and immigration statuses can encounter violence. Yet some of these women are unable to access the legal and social services needed for their safety. Often South Asian women are unable to avail themselves of services at

mainstream service agency shelters due to linguistic and cultural barriers. The legal system also presents additional obstacles to limited-English proficient (LEP) women, who may be unable to navigate complex legal procedures due to language barriers, particularly when there are insufficient court interpreters trained in South Asian languages. As a result, LEP domestic violence survivors can become hesitant to leave their batterers or report a crime, forcing them to avoid the justice system altogether.

***Immigration Concerns for Survivors of Domestic Violence*** For those women trapped in abusive marriages, securing their stay in the United States can be challenging because maintaining lawful immigration status sometimes requires cooperation from the abusive spouse. This forces many women to choose between two equally disempowering options: remaining in a violent marriage or losing their immigration status. In addition, for immigrant women with children, escaping an abusive marriage becomes even more complicated due to child custody concerns. Women who have to choose between keeping their children and reporting their abusive situations may often choose the former.

***The Violence Against Women Act*** The process of self-petitioning under the *Violence Against Women Act (VAWA)* helps many abused spouses of U.S. citizens or green card holders to obtain immigration status without the assistance of the abusive spouse. However, VAWA regulations are limited for battered spouses on dependent visas, such as the H-4, F-2, and L-2 visas.<sup>viii</sup> Women on such dependent visas cannot receive permanent immigration status even if they successfully self-petition under VAWA. Furthermore, additional obstacles can include the abuser's attempt to exert control over an abused spouse by threatening to withdraw immigration sponsorship; destroying or hiding immigration documents; withholding information about the immigration process; or allowing the dependent's visa status to expire.<sup>ix</sup>

***Undocumented Survivors of Domestic Violence*** The path to legal status becomes especially difficult for undocumented survivors of domestic violence. If a

woman is placed in deportation proceedings, in order to qualify for cancellation of removal (a form of relief from deportation available in immigration courts) and stay in the country, she must demonstrate an "exceptional and extremely unusual hardship" to herself or to her U.S. citizen or lawful permanent resident child or parent if she were deported. However, many undocumented South Asian women do not have relatives in order to be eligible for such relief. Furthermore, to satisfy this threshold, some applicants may have to obtain documentation that is within an abusive spouse's sole control, including a social security number, birth certificate, and proof that the marriage was entered into good faith. These requirements impose a serious burden on these South Asian women and prevent many from winning their deportation cases.

***The U-Visa*** The U-visa is a form of relief that allows immigrant survivors of mental and physical abuse to stay in the United States regardless of immigration status; however, there are requirements that prevent many women from seeking it. Specifically, a U-visa is only granted to those able to provide information useful to certain criminal prosecutions. Such requirements make it difficult for many women to acquire this visa, particularly if they are hesitant to pursue prosecution or work with law enforcement.

### **DID YOU KNOW?**

There are various reasons for domestic violence survivors to be reluctant to work with law enforcement ranging from the trauma of retelling to a stranger the abuse suffered; mistrust of police; and fear of incarcerating or deporting the primary earner in the family. For example, if a woman reports her non-citizen abusive spouse to law enforcement, and the abuser is convicted of an "aggravated felony", he may be deported, rendering the survivor and her children without financial support. In fact, since 9/11, many South Asian women have become extremely hesitant to contact police, given the increased detention of male immigrants from South Asia who were often the sole breadwinners for their families.

***Trafficking*** Several South Asian countries (including Bangladesh, India, Nepal, and Pakistan), are source countries of trafficking worldwide.<sup>x</sup> Various forms of trafficking affect South Asians, including labor and sex trafficking. Specifically regarding labor trafficking, many South Asian women who are employed as domestic workers for diplomats and staff of international and foreign government entities enter the country on temporary A-3, B-1, and G-5 visas.<sup>xi</sup> Numerous cases have revealed that South Asian domestic workers endure harsh conditions amounting to force, fraud, and coercion, including being confined in the home where they work, being physically assaulted by their employer, and receiving no pay for work.<sup>xii</sup> Many are hesitant to seek recourse because their ability to stay legally in the United States hinges upon their relationship

with their employer. Some fear reprisal from their employers including isolating them from the outside world and threatening them with deportation. This is often exacerbated for those employed by senior diplomats who are protected by diplomatic immunity.

Existing legislation allows trafficking survivors to receive certain benefits, including immigration status through the *Trafficking Victims Protection Act (TVPA)* which allows them to stay in the United States on a T-visa. In order to qualify for such relief, trafficking victims must prove that they came to the United States as a direct result of trafficking and must cooperate in the prosecution of their traffickers. Even if survivors choose to cooperate with prosecution, their safety is not guaranteed as information can be turned over to opposing counsel and there is currently no witness protection program for such survivors. Eligibility for T-visas is also limited to survivors of “severe trafficking” which requires meeting stringent standards that leave many unprotected and force others to endure lengthy separations from family members abroad. Moreover, because immigrant children are not protected under the *TVPA*, trafficking survivors may be reluctant to come forward and seek such relief.

### **Immigration Issues**

***Transnational Abandonment of Spouses*** Spousal abandonment is a phenomenon that increasingly affects South Asian women. In fact, according to the Ministry of Overseas Indian Affairs, over 30,000 women in India alone have been abandoned by their husbands living abroad.<sup>xiii</sup> While statistics are currently unavailable for other nations, abandonment also affects women from Bangladesh, Pakistan and other South Asian countries. In cases of abandonment, wives are left in South Asia waiting for their husbands to initiate the immigration process to bring them to the United States. These women remain without any communication from their husbands, receive no immigration benefits, and are often divorced under U.S. law without their knowledge.

***Obstacles to Employment Authorization for H-4 Visa Holders*** The H-1B visa program for workers employed in “specialty occupations” is heavily used by South Asians entering the United States. In fact,

over 130,000 South Asian H-1B workers and their dependents came to the country in 2006.<sup>xiv</sup> Yet spouses of H-1B workers who enter the United States on H-4 visas suffer from various immigration restrictions under immigration law. Under the terms of their visas, many dependents are currently unable to work, gain public benefits, or receive a social security number; in some states, it is difficult to even obtain a driver’s license without spousal consent. As a result, many women are prevented from progressing in their careers and becoming self-sufficient as they await their green cards.

These problems are magnified for H-4 visa holders in abusive marriages. Due to their inability to work and become financially independent, many of these women are reluctant to leave these relationships.<sup>xv</sup> While some provisions are in place to allow abused H-4 visaholders to self-petition and gain work authorization under *VAWA* when it was reauthorized in 2005, only interim regulations have been passed. Because final regulations have yet to be implemented, many South Asian H-4 visaholders are reluctant to step forward as survivors of violence without the assurance that they will be able to work.

### **Access to Services and Benefits**

***Availability of Linguistically Accessible and Culturally Competent Health Care*** For many South Asian women new to the United States, access to health information can often be limited or nonexistent. These challenges often arise due to different cultural perceptions about health care and health

service provision and language barriers on the part of many immigrants.<sup>xvi</sup> Linguistic barriers can prevent individuals from being able to adequately communicate with health care providers. As a result, South Asian immigrants may be erroneously denied services, improperly use family members to translate with service providers, or fail to seek medical attention at all.

Misinterpretation and miscommunication caused by linguistic and cultural differences can completely block vital assistance that South Asian women need. Programs designed to raise awareness, provide treatment, and promote prevention in a linguistically and culturally appropriate manner

### **DID YOU KNOW?**

Many survivors of domestic violence, who confront its psychological and psychiatric consequences, need adequate and compassionate mental health support. Yet, due to the social stigma and silence surrounding mental health within the South Asian community, it is difficult for many survivors to obtain necessary mental health support that is not only linguistically appropriate but also culturally sensitive. Similar obstacles also exist for women seeking reproductive and sexual health care.

must be instituted by government agencies and health care providers.

***Availability of Reproductive and Sexual Health Services for South Asian Women***

While not often publicly addressed, reproductive and sexual health are growing concerns within the South Asian community. Many young South Asians refrain from seeking appropriate health services regarding sexuality and relationships due to cultural perceptions within the South Asian community. In fact, South Asian women often express difficulty communicating with their families or doctors about issues related to sex, sexuality, relationships, and marriage.<sup>xvii</sup>

This is particularly a concern for those who endure sexual abuse or are sexually assaulted, either as adults or as children. In fact, a study conducted between 1998 and 1999 of South Asian women in Boston revealed that 65% of women surveyed who reported physical abuse also reported sexual abuse.<sup>xviii</sup> Silence in the South Asian community surrounding these issues prevents many survivors from being able to obtain help and reach a safe space, while suffering through the trauma of abuse and dealing with its consequences.

In addition to sexual health, accurate education and information specifically regarding reproductive health is needed. In particular, due to unequal power dynamics between men and women in some South Asian families, South Asian women are often unable to exercise complete control over their reproductive health needs.

***Access to the Legal System for Limited English Proficient Women***

South Asians, like many other immigrants, face obstacles when accessing the American legal system due to linguistic barriers. This can be especially problematic in situations where LEP survivors of abuse are attempting to use court systems. Many South Asian women who speak limited English require interpretation in the courtroom, yet various jurisdictions do not provide adequately trained interpreters fluent in South Asian languages. In some states, the standards used by courts to hire qualified interpreters vary depending upon the language being spoken. For example, in New Jersey, interpreters in South Asian languages seeking to work in the courts are not required to undergo interpreter screening tests, unlike interpreters in certain non-South Asian languages. As a result, many South Asian women cannot properly use the legal system and domestic violence survivors are unable to effectively bring forth complaints against their abusers.

***Economic Empowerment*** An integral part of advancing gender equity within the South Asian community is the promotion of economic empowerment and self-sufficiency of immigrant women in the United States. Yet many disparities exist between South Asian women and men when it comes to employment, education, and annual income.

In addition, due to unequal power dynamics within many South Asian families, these disparities are magnified by economic abuse that occurs in relationships. For example, an abusive husband may take out mortgages or other loans in his wife's name. If the husband ends up defaulting on the loan, it is reflected upon the wife's credit report and can have long-lasting economic consequences, including the inability to obtain future loans or qualify for Section 8 subsidized housing.

## **KEY RECOMMENDATIONS**

### ***Support programs aimed to address and prevent gender-based violence within the South Asian community.***

- Legislative bodies and administrative agencies should establish policies at the federal, state, and local levels to address gender-based violence with an understanding of cultural and immigration contexts affecting the South Asian community.
- Government agencies providing legal resources for survivors of gender-based violence should ensure its availability in South Asian languages.
- Federal and state agencies should increase the creation of violence prevention programs geared towards the South Asian community by funding and supporting their expansion.
- Federal and state agencies overseeing violence against women initiatives should fund and support programs that promote mutual respect and cooperation between men and women in South Asian communities.
- Federal and state public health agencies should disaggregate data by national origin on the incidences of gender-based violence within South Asian communities.

### ***Support programs that provide linguistically accessible and culturally appropriate services for South Asian domestic violence survivors.***

- Federal, state and local agencies charged with administering violence against women programs should increase awareness and provision of linguistically and culturally appropriate resources for trauma survivors, including shelters, hotlines, and mental health resources.
- Mainstream organizations providing services to domestic violence survivors should train their staff on the customs and religious practices of South Asian clients.
- State and local law enforcement agencies should mandate telephonic interpreter services in South Asian languages for responses to domestic violence calls.

### ***Support policies that protect and empower immigrant domestic violence survivors.***

- Congress should amend immigration law to allow domestic violence survivors who are undocumented or on dependent visas to be eligible for permanent legal status through the self-petitioning process under the VAWA.
- Congress should study the impact of the requirement for applicants of U-visas to cooperate with the arrest and prosecution of an abusive spouse.

- State and local governments should provide immediate financial support or vocational training to domestic violence survivors and their families.
- Family courts should not allow a domestic violence survivor's immigration status or financial situation to prevent her from maintaining custody over her children.
- The Department of Justice should increase funding for all VAWA-funded organizations to provide assistance for domestic violence survivors with the self-petitioning process.
- The Department of Justice should increase funding for organizations serving South Asian women to receive training on forms of relief for survivors of abuse and trafficking.

### ***Support immigration policies that protect and empower dependent visa holders.***

- The Department of Homeland Security should implement final regulations allowing all dependent visaholders to gain employment authorization.
- The Department of Homeland Security should not require dependent visa holders seeking to change their status to submit any documents that only a spouse can access.
- Government and private funders should increase funding for organizations serving South Asian women to receive training on dependent visa issues.

### ***Strengthen policies aimed to prevent all forms of trafficking and provide meaningful resources to survivors.***

- Congress should ensure that anti-trafficking initiatives address the root causes of trafficking in a global context.
- Law enforcement and immigration officials should implement training initiatives to identify trafficking survivors, including the establishment of immediate health care, immigration assistance, and social service referrals.
- The U.S. State Department should seek waivers of immunity for foreign diplomats who abuse immigrant workers they bring into the country so survivors can seek redress in court.
- Congress should study the impact eliminate the requirement for applicants of T-visas to cooperate with the arrest and prosecution of their trafficker in order to obtain such relief.
- Government agencies and private funders should increase funding to community-based organizations providing protection and services for South Asian trafficking survivors regardless of their cooperation in the prosecution of traffickers.

- Congress should enact policies that provide labor protections to all immigrant workers, including trafficking survivors, regardless of their status.
- Federal, state, and local civil rights agencies should publish and disseminate *Know Your Rights* guides for workers suffering employer abuse in South Asian languages.
- Law enforcement and data collection agencies should increase disaggregated data about the gender, country of origin, and language of trafficking survivors.

***Develop policies aimed at curbing transnational abandonment of spouses.***

- Congress should conduct an extensive and comprehensive examination of bilateral treaties between the United States and South Asian nations related to transnational abandonment.

***Increase culturally and linguistically appropriate health services for South Asian women.***

- Government health agencies and private funders should increase funding to mental health care providers (including mainstream organizations and South Asian community-based groups) that offer services in a culturally and linguistically appropriate context to South Asians women.
- Government health agencies and private funders should increase funding to support mental, reproductive, and sexual health research on women within the South Asian community.
- The Office of Minority Health (OMH) within the Department of Health and Human Services, the Center for Disease Control (CDC) through the Health Resources and Services Administration, as well as state and local health agencies should collect and disaggregate data by gender, ethnicity, primary language, and country of origin on mental, sexual, and reproductive health issues affecting women within different South Asian communities.

***Promote programs and policies that foster the economic empowerment of South Asian women.***

- Federal, state, and local government agencies should expand programs that provide South Asian women with the tools needed for personal and professional development, including English classes, financial planning, and job training skills.
- Government agencies and private funders should increase funding for and support local organizations that promote the economic empowerment of South Asian women.

<sup>i</sup> U.S. Census 2000, Summary Files 1 through 4. See also *Demographic Characteristics of South Asians in the United States: Emphasis on Poverty, Gender, Language Ability, and Immigration Status*, South Asian Americans Leading Together (2007).

<sup>ii</sup> *Id.*

<sup>iii</sup> *Id.*

<sup>iv</sup> *Id.*

<sup>v</sup> *Id.*

<sup>vi</sup> Raj, A. and Silverman, J. *Intimate Partner Violence Against South Asian Women in Greater Boston* in *Journal of the American Medical Women's Association* (2002).

<sup>vii</sup> Dasgupta, S.D. *Manavi Occasional Paper No. 3: Communicating with Faith: Anti-Domestic Violence Advocacy in Religious Communities* (2007).

<sup>viii</sup> The H-4 visa covers dependents of H-1B visa holders, who are "specialty occupation" workers. The F-2 visa covers dependents of F-1 student visa holders. The L-2 visa covers dependents of L-1 intracompany transfer visa holders.

<sup>ix</sup> Bhuyan, R. *Navigating Gender, Immigration, and Domestic Violence: Advocacy with Work Visa Holders* in *Body Evidence* (2007).

<sup>x</sup> Ribando, Claire M. *Trafficking in Persons: U.S. Policy and Issues for Congress*, Congressional Research Service (June 20, 2007).

<sup>xi</sup> The A-3 visa covers domestic workers and personal attendants of foreign diplomats. The G-5 visa is for domestic workers and personal attendants of representatives of international civil servants. The B-1 visa covers domestic workers and personal attendants of other foreigners or U.S. citizens.

<sup>xii</sup> *Sabbithi, et al. v. Al Saleh, et al.* (U.S. District Court of the District of Columbia 2007); *U.S. v. Alzanki*, 54 F.3d 994, 999 (1st Cir. 1995); *Stories Break the Chain Campaign: Assisting the Enslaved in the Land of the Free.; Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*, Human Rights Watch (2001).

<sup>xiii</sup> Karim, R., "Spouse abandonment reaches epidemic proportions" *India Post* (2007).

<sup>xiv</sup> *2005 Yearbook of Immigration Statistics*, U.S. Department of Homeland Security, Office of Immigration Statistics (2007).

<sup>xv</sup> Shah, S., *Middle Class, Documented, and Helpless* in *Body Evidence* (2007).

<sup>xvi</sup> In fact, one-half of all Bangladeshis are LEP, while almost one-third of Pakistanis and nearly one-quarter of Indians are LEP. U.S. Census 2000, Summary Files 1 through 4. See also *Demographic Characteristics of South Asians in the United States: Emphasis on Poverty, Gender, Language Ability, and Immigration Status*, South Asian Americans Leading Together (2007).

<sup>xvii</sup> Rao, S., Akram, S. Ivey, S., and Bhattacharya B., *A Brown Paper: The Health of South Asians in the United States: Women's Health, South Asian Public Health Association* (2002).

<sup>xviii</sup> Raj, A., Silverman, J. *Intimate Partner Violence against South Asian Women in Greater Boston*, *Journal of American Medical Women's Association* (2002).