

Lynn Rosenthal
White House Advisor on Violence Against Women

Christina M. Tchen, Executive Director
White House Council on Women and Girls

November 2, 2009

Dear Ms. Rosenthal and Ms. Tchen:

As community-based organizations, including many anti-violence organizations that work with South Asian women in the United States, we are pleased that the White House has appointed an Advisor on Violence Against Women in recognition of the experiences and needs of battered women and survivors of violence. Given your clear and demonstrated commitment to combating domestic violence and your awareness of the impact on immigrant survivors, our organizations are encouraged by the Administration's dedication to this issue. Our organizations write to you to provide further information and resources about issues affecting South Asian women and families in the United States, and to request a meeting with you to follow up on our community's concerns on this vital issue.

Certainly, as you are well aware, various aspects of violence have a devastating impact on women regardless of their backgrounds. However, South Asian immigrants face unique concerns, ranging from linguistic and cultural barriers to immigration consequences to transnational factors that can exacerbate dangerous situations. As such, programs geared towards curbing violence against women must address such obstacles. Below are various issues that South Asian survivors of violence confront that we hope your office will consider as you develop initiatives and policies affecting women across the country. **We would welcome the opportunity to meet with you in order to brief you regarding these concerns and to offer recommendations that will ensure that all women are safe from violence.**

Violence Against Women and the South Asian Community

South Asians belong to a large and rapidly growing immigrant community in the United States. According to Census data, over 2.7 million South Asians currently live in the country and comprise the fastest-growing Asian American population between 1990 and 2000. South Asians include those from India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, and the Maldives, as well as those of South Asian descent immigrating from the diaspora, including various African nations, Canada, the Caribbean, Europe, the Middle East, and the Pacific Islands. South Asians are diverse in terms of religious affiliation, languages spoken and English proficiency, immigration status, and socioeconomic status.

Women comprise 46% of the South Asian population in the United States, and unfortunately, gender-based violence is a significant concern for many. While comprehensive national data on the incidences of domestic violence within the community does not exist, various surveys do provide evidence that South Asian women frequently encounter gender-based violence. For

example, a 2002 study of the South Asian community in the Boston area found that 40.8% of women surveyed in 1998 and 1999 reported experiencing physical or sexual abuse from their male partners.¹ In addition, between March 1990 and March 2007, at least 148 intimate partner violence-related fatalities or near-fatalities were reported in South Asian ethnic media.² Such violence can occur in a variety of contexts, including at the hands of an abusive spouse, partner, or extended family member. In fact, given that many South Asians live with relatives beyond the nuclear family, abuse is often perpetrated both by and against extended family members. On the one hand, many cases involve in-laws or other family members who instigate abuse or side with the abusive spouse; conversely, extended family members have also themselves become victims of abuse.

The impact of gender-based violence on South Asian families and the community at large cannot be overstated. Just over the past year, for example, several domestic violence incidents resulting in fatalities occurred within the South Asian community:

- In October 2009, 35-year-old **Abha Dev** of Santa Clara, California, was the sole survivor of a murder-suicide allegedly perpetrated by her husband, Devan Kalathat. The perpetrator allegedly had an argument with a family member and subsequently shot his wife, 11-year-old son, his 4-year-old daughter, his brother-in-law, his sister-in-law, his 11-month-old niece, and himself. All of the victims, except for Dev, were killed.
- In August 2009, **Pratixabehn Patel** of Pompton Lakes, New Jersey was stabbed to death by her estranged husband, Jitendrab Patel. The Patels had a 13-year marriage and police had previously been called to their home several times for domestic violence incidents.
- In February 2009, **Aasiya Hassan** was beheaded by her husband in Buffalo, New York. She had obtained an order of protection against her husband and filed for divorce prior to her murder.
- In November 2008, **Reshma James** was fatally shot by her estranged husband at the St. Thomas Syrian Orthodox Knanaya Church in Clifton, New Jersey. The shooting incident resulted in the death of an additional bystander. This act of violence followed a long history of abuse and affected individuals and justice systems in three states: California (where the abuse occurred); New Jersey (where the murder occurred); and Georgia (where the murderer was apprehended).
- In October 2008, **Jayalakshmi Rao**, along with her 14-year-old daughter and 12-year-old son, were fatally stabbed in Novi, Michigan by her husband, Lakshminivasa Rao Nerusu.
- In October 2008, **Subasri Rajaram**, along with her mother and three sons, were shot and killed by her husband, Karthik Rajaram in Sorrente Pointe, California. Following the murders, the husband committed suicide.

¹ Raj, A. and Silverman, J., "Intimate Partner Violence Against South Asian Women in Greater Boston" in *Journal of American Medical Women's Association* (2002).

² Dasgupta, S.D., *Manavi Occasional Paper No. 3: Communicating with Faith: Anti-Domestic Violence Advocacy in Religious Communities* (2007).

- In July 2008, **Sandela Kewal** was strangled by her father, Chaudhry Rashad in Atlanta, Georgia following an argument about her arranged marriage. Following the incident, police indicated that language barriers had slowed their investigation of the case.

In addition, violence in same-sex relationships also affects many South Asians but often goes unreported. One survey of lesbian, gay, bisexual, transgender, intersex, and queer and questioning (LGBTIQ) South Asians in Southern California found that of those who experienced abuse in intimate relationships, individuals with lower education levels were far less likely to seek assistance.³ Such disparities demonstrate the need for greater awareness regarding access to resources across socioeconomic levels and within LGBTIQ communities.

Violence prevention programs and support services for survivors are of critical importance to the South Asian community. Yet, as outlined below, there are often gaps in the existing system that result in many women failing to obtain crucial assistance they need.

Need for Linguistically Accessible and Culturally Appropriate Services for Survivors of Violence

Many South Asian survivors of violence seek assistance from various agencies and shelters run by the government and non-profit organizations. Yet many women are often hesitant or unable to avail themselves of such services due to linguistic and cultural barriers as well as mistrust of government agencies, particularly in the wake of the post-September 11th environment. In addition, many women with limited English proficiency find that service providers, government agencies, courts, and shelters do not provide appropriate linguistic or culturally sensitive services, information, or resources.

With respect to mainstream shelters, South Asian survivors of violence often find that they cannot access trained staff members who have an understanding of their cultural and linguistic needs. Many South Asian women report challenges in discussing gendered power dynamics within South Asian families or obtaining necessary dietary and religious accommodations. Shortages in qualified interpreters also prevent many limited English proficient (LEP) survivors of violence from effectively communicating with shelter staff and counselors. In addition, many mainstream shelters and agencies often do not understand the role that extended family members can play as perpetrators and, consequently, can be unfamiliar with the unique challenges that arise for survivors of violence.

Similarly, the legal system also presents obstacles for South Asian survivors of violence. These women often rely upon courts in order to obtain protection and support orders, custody and visitation rights, as well as immigration relief. LEP survivors depend upon court interpreters to allow them to understand proceedings and navigate the judicial system. Yet, as a recent survey in New York City shows, many courts do not currently have sufficient numbers of court

³ Satrang and South Asian Network, *No More Denial! Giving Visibility to the Needs of the South Asian LGBTIQ Community in Southern California* (2007). Available at <http://www.satrang.org/NeedsAssesmentReport.pdf>.

interpreters to assist court users, including immigrant women.⁴ Even when interpreters are available, they are often men who are not trained to handle domestic violence cases; they do not speak the language adequately; and some have even spoken to abusers in court waiting rooms.⁵ In addition, monitoring mechanisms allowing survivors to file complaints, when egregious misinterpretation and breaches of confidentiality occur, do not exist in many state court systems.⁶

Another barrier facing many South Asian survivors of violence is the hesitancy to contact police when abuse occurs in light of various post-September 11th immigration and law enforcement initiatives that disproportionately affected South Asians and led to a deep mistrust of government authorities. Such initiatives, including “special registration” where certain male nationals of predominantly Muslim-majority countries (including Bangladesh and Pakistan) were required to report to immigration authorities, resulted in detention and deportation of the primary breadwinners of many South Asian households. Similarly, current immigration law classifies many types of domestic violence convictions as “aggravated felonies”, a deportable offense. In fact, the likelihood of detention and deportation is often a tool of control that many abusers use against South Asian women to prevent them from seeking assistance.

Such challenges underscore the need for services and responses outside of the criminal justice system that are linguistically and culturally sensitive to address and prevent violence occurring within immigrant communities. Increased support for community-based solutions, such as violence prevention programs that engage with men and youth, can help current and potential perpetrators unlearn abusive patterns. Expanding the focus of federal government funding initiatives, such as the Office on Violence Against Women’s (OVW) “Grants to Enhance Culturally and Linguistically Specific Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking,” has been a crucial resource for many South Asian women’s organizations to better assist immigrant and LEP survivors of violence. We congratulate OVW on their increased efforts and strongly support similar measures in the future.

Need to Address Immigration-Related Challenges Facing South Asian Domestic Violence Survivors

With over 75% of South Asians born abroad, the community is predominantly foreign-born and possesses a range of immigration statuses. Various immigration consequences can jeopardize the safety of many immigrant survivors of violence. For women trapped in abusive marriages, securing their stay in the United States can be challenging because maintaining legal status sometimes requires cooperation from the abusive spouse. This forces many women to choose between two equally disempowering options: remaining in a violent situation or losing their immigration status. Immigration concerns for South Asian women include the inability of battered H-4 visaholders to work due to restrictions under immigration law; limitations on the

⁴ Shah, P., *Justice Speaks 2007 Convenient Sample Preliminary Findings: Developing the Case for Enhanced Interpretation Services* (May 2007). Available at <http://www.sakhi.org/learn/documents/JusticeSpeaks2007ConvenientSamplePreliminaryFindings.pdf>.

⁵ *Id.*

⁶ *Id.*

ability of many from self-petitioning for immigration relief under the *Violence Against Women Act (VAWA)*; and challenges faced by undocumented survivors of violence.

Immigration Challenges and Self-Petitioning under VAWA

The process of self-petitioning under VAWA helps many abused spouses of U.S. citizens and green card holders to obtain lawful immigration status without the assistance an abusive spouse. However, VAWA regulations are limited for battered spouses on dependent visas, such as the H-4, F-2, and L-2 visas.⁷ Many South Asian women enter this country on such temporary visas and cannot receive permanent immigration status even if they successfully self-petition through VAWA provisions. Furthermore, additional obstacles can arise, including 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.⁸ In addition, given that marriages between same-sex partners are not recognized for immigration purposes, with the exception of qualifying for a U-visa, there are no avenues for self-petitioning for survivors of domestic violence within same-sex relationships, regardless of immigration status.

Immigration Challenges Faced by Undocumented Survivors of Violence

A significant segment of the South Asian population lacks lawful immigration status. In fact, in 2008, Indians alone comprised the tenth largest undocumented population in the United States.⁹ The path to legal status becomes especially difficult for undocumented survivors of violence. If a woman is placed in deportation proceedings, in order to qualify for certain forms of relief, such as cancellation of removal, 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 her marriage was entered into in good faith. These requirements impose a serious burden and prevent many South Asian women from winning their deportation cases.

Obstacles Securing Gender-Based Asylum Claims

Many South Asian women suffer domestic abuse and other forms of gender-based violence back in their home countries. While these women often endure severe physical harm and face the possibility of death at the hands of their spouse or extended family members, it is virtually

⁷ The H-4 visa covers dependents of H-1B visaholders, who are "specialty occupation" workers. The F-2 visa covers dependents of F-1 student visaholders. The L-2 visa covers dependents of L-1 intracompany transfer visaholders.

⁸ Bhuyan, R. "Navigating Gender, Immigration, and Domestic Violence: Advocacy with Work Visa Holders" in *Body Evidence* (2007).

⁹ Hofer, M., Rytina, N., and Baker, B., U.S. Department of Homeland Security, Office of Immigration Statistics, "Estimates of the Unauthorized Population Residing in the United States: January 2008" (February 2009). Available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf.

impossible to flee such dangerous situations and seek asylum in the United States. Under current immigration law in the United States, in order to be eligible for asylum relief, applicants must prove that they would not be safe in their home country as well as demonstrate that they suffered persecution on account of their race, religion, nationality, political opinion, or “membership in a particular social group.” Many survivors of domestic violence apply for asylum based upon their “membership in a particular social group” (such as women in a country where state systems condone gender-based violence), but often such claims are unsuccessful given the lack of clarity within immigration laws, regulations, and case law on the issue. Earlier this year, positive steps were taken by the Department of Homeland Security when it filed an appellate brief before the Board of Immigration Appeals in an asylum case based in California stating that a woman who had been abused by her husband in Mexico should be considered eligible for asylum. While this is a positive development, it continues to underscore the need for policies that allow gender-based persecution and domestic violence to be considered as grounds for asylum in a uniform manner.

Obstacles to Employment Authorization for Battered H-4 Visaholders

The H-1B visa program for workers employed in “specialty occupations” is heavily used by South Asians entering the United States. Yet spouses of H-1B workers who enter the United States on H-4 visas suffer from various immigration restrictions. Under the terms of their visas, many dependents are currently unable to work, gain public benefits, or receive a Social Security number, and in some states, it is difficult to even obtain a driver’s license without spousal consent. 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. 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, regulations have yet to be promulgated. Since 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. This gap in administrative policy underscores the need for the Department of Homeland Security to issue regulations that will allow many battered H-4 visaholders to be placed on the path towards economic self-sufficiency.

Immigration-Related Obstacles to Safety Net Services and Benefits

Many South Asian immigrants, including survivors of violence, are in need of essential safety-net services that can ease their flight from abusive relationships. As a result of various changes in immigration and welfare reform policies enacted in 1996, immigrant survivors of violence encounter numerous immigration eligibility restrictions preventing access to programs such as Medicare, Medicaid, Children’s Health Insurance Program (CHIP), and food stamps. Some battered immigrant women may receive certain public benefits as “qualified immigrants.”¹⁰

¹⁰ “Qualified immigrants” include lawful permanent residents, refugees, asylees, individuals granted cancellation of removal, individuals subjected to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent with approved or pending VAWA cases or family-based petitions before DHS

However, even qualified immigrants, particularly those who arrived after August 22, 1996, must wait five years before being eligible for various “federal means-tested benefits.”¹¹ South Asian survivors of violence are often in need of vital safety-net resources and such restrictions prevent many from being able to access them and become independent.

Need to Address Violence Against Women’s Issues with a Transnational Approach

Spousal abandonment is a phenomenon that affects many South Asian women. In cases of abandonment, individuals are “deserted with limited or no resources by another individual upon whom s/he is dependent for social and financial survival.”¹² Wives are often left alone waiting for their husbands indefinitely in South Asia or the United States. These women often receive neither communication nor financial support from their husbands.

Women abandoned in South Asia often return under deceptive or coercive circumstances and are unable to immigrate to the United States as their husbands must initiate the immigration process. In addition, many find themselves divorced from their husbands under U.S. law without their knowledge. According to the Ministry of Overseas Indian Affairs, over 30,000 women in India alone have been abandoned by their husbands living abroad. While statistics are currently unavailable for other nations, abandonment also affects women from Bangladesh, Pakistan, and other South Asians countries.

We believe that the Obama Administration can play a vital role in highlighting and elevating the concerns faced by immigrant women who are in abusive situations or who are survivors of violence. **We would welcome the opportunity to meet with you in order to brief you on our concerns and to offer recommendations that will ensure that all women are safe from violence.** Please feel free to contact Priya Murthy, Policy Director at **South Asian Americans Leading Together**, via phone (301-270-1855) or email (priya@saalt.org) for further information. We look forward to engaging in a dialogue with you.

Sincerely,

Adhikaar for Human Rights and Social Justice (New York)
Apna Ghar (Illinois)
ASHA for Women (Maryland)
Chhaya CDC (New York)
Council of Peoples Organization (New York)
Counselors Helping (South) Asians/Indians, Inc. (Maryland)

¹¹ Such benefits include Temporary Assistance for Needy Families (TANF), Medicaid and Medicare, food stamps, Social Security Income (SSI), public housing, and Section 8 subsidized housing.

¹² Dasgupta, S.D. and Rudra, U., “Transnational Abandonment of South Asian Women: Building a Transnational Response” Presentation for Aarohan Conference (September 2008). Available at <http://www.manavi.org/documents/Transnational%20Abandonment%20Presentation%20Aarohan%202008.pdf>.

Daya, Inc. (Texas)
Maitri (California)
Manavi (New Jersey)
Michigan Asian Indian Family Services (Michigan)
Narika (California)
Raksha (Georgia)
Sakhi for South Asian Women (New York)
Sahara of South Florida (Florida)
Satrang (California)
SEVA – Immigrant Community Advocacy Project, Desis Vote (New York)
Sneha, Inc. (Connecticut)
South Asian Americans Leading Together (National)
South Asian Council for Social Services (New York)
South Asian Health Initiative (New York)
South Asian Mental Health Awareness in Jersey (New Jersey)
South Asian Progressive Action Collective (Illinois)
South Asian Network (California)
South Asian Youth Action (New York)
Trikone – NW (Washington)
Turning Point for Women and Families (New York)
UNITED SIKHS (National)

cc: Catherine Pierce, Director
U.S. Department of Justice, Office on Violence Against Women

Kalpen Modi, Associate Director
White House Office of Public Engagement