

When Culture Meets Coverture: Utilizing Student Federal Aid to Help Indian H-4 Immigrants Escape Abuse

Maitri K. Patel*

ABSTRACT: This Note explores the intersection of American immigration law, gender dynamics, and access to higher education through federal student aid, focusing on Indian women who immigrate on an H-4 visa and suffer from domestic abuse at the hands of their H-1B sponsor. Specifically, this Note investigates how widening access to higher education through the expansion of qualifications for student federal aid can serve as a transformative tool in enabling these individuals to escape. With H-4 visa holders facing legal limitations, financial dependency on their H-1B spouses, and cultural barriers, this Note advocates for policy reform that extends federal student aid eligibility to H-4 visa holders. This nuanced policy reform is one of many necessary in dismantling the underlying coverture aspect of the H-1B/H-4 program.

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* J.D. Candidate, The University of Iowa College of Law, 2025; B.A. Political Science, B.A. Economics, The University of Georgia, 2022. This Note is dedicated to my mother and father, Gargi and Kamlesh, who immigrated to the United States in pursuit of a better life for themselves and their daughters. I would not be where I am today without their unconditional love, wisdom, and daringness to dream. I want to give a special thanks to my younger sister, Rashi, for her steadfast support during even the most challenging days of my law school career. I would also like to extend my thanks to my close friends and *Iowa Law Review* colleagues for their thoughtful feedback and constant encouragement throughout this process.

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INTRODUCTION

Amina.¹ Rashmi.² Dina.³ Smita.⁴ The harrowing stories of these four women emerge as poignant narratives, illuminating the challenges faced by countless Indian women who immigrate to the United States with an H-4 visa. Their testaments of strength echo the voices of thousands of women who are forced to navigate the complexity of the American immigration system on their own. Ironically, that same system that pays no mind to these women navigating a new country without support further exacerbates their vulnerability by denying them basic legal rights to work and receive government aid. These denials only increase female immigrants' dependency on their sponsors who also may be their abusers. When these anecdotes converge, a collective plea for change arises, demanding a safer future in pursuit of their American Dream.

Each year, over one million immigrants arrive on U.S. shores, seeking stability and better opportunities for themselves and their families.⁵ For those in pursuit of these opportunities, the H-1B/H-4 visa program has been a vital

1. "Amina knew her husband for two days before they married." While she had a college degree and "though she had her fears about leaving her country and her family, she hoped that she would find her dream job as well as marital happiness in the United States." When she moved to the United States, "she was dismayed to learn that her visa status did not grant her the right to work . . . [and] she was without any money of her own." The situation worsened as her husband "prohibited her from making weekly calls to her family[, and h]e began to call her names when she did not perform housework or cook meals to his liking." Eventually, "after their child was born, her husband filed a petition for divorce, telling Amina that not only would she lose her H-4 visa, but she would have to leave her newborn child—a U.S. citizen—in her husband's custody when she returned to India." Sabrina Balgamwalla, *Bride and Prejudice: How U.S. Immigration Law Discriminates Against Spousal Visa Holders*, 29 BERKELEY J. GENDER L. & JUST. 25, 28 (2014) (footnote omitted).

2. Rashmi, a mother of an eight-year-old girl, ended up calling the police on her abusive husband who broke her arm. After going to court, where "the judge granted her financial support from her husband . . . he vanished without a forwarding address." Because of that, she "could not pay rent [and had no] other financial options." After attempting to "petition for a 'U' visa" and failing, "[she] ultimately was deported to India." Annapurna Devi Pandey, *Living with the Enemy: Indian Women on H-4 Dependent Visa Are Defenseless Targets of Domestic Violence*, AM. KAHANI, (Oct. 20, 2020), <https://americankahani.com/lead-stories/living-with-the-enemy-indian-women-on-h-4-dependent-visa-are-defenseless-targets-of-domestic-violence> [<https://perma.cc/NF94-C3JM>].

3. Dina "endured an abusive relationship for . . . [twenty] years since she arrived in this country on H-4 visa." She had a degree, but because her husband "did not want her to become financially independent," he would not cooperate with her Employment Authorization Document application, which "requires [the] H-1B [sic] visa holder's I-140 approval letter in order to issue an H4 EAD." As a result, she could not work. *Id.*

4. For some women, being able to work is not enough. Smita "had a lucrative job at a leading technology company, [but] she did not know where her paycheck went after she handed it to her husband." For years she dealt with "physical and emotional abuse in the hands of her husband." "When asked what made her stay . . . for so many years, she sa[id] that 'no financial freedom, no family support, and the local Indian community who judges and gossips' [were] responsible." She pointed to cultural issues including the idea of "*Pati Parameswara*" or "husband is the god." She also testified to "stay[ing] in this marriage for the first ten years, [because] if [she] divorce[d], no one [would] marry [her] sisters." *Id.*

5. Abby Budiman, *Key Findings About U.S. Immigrants*, PEW RSCH. CTR. (Aug. 20, 2020), <http://www.pewresearch.org/short-reads/2020/08/20/key-findings-about-u-s-immigrants> [<https://perma.cc/5DRA-P8AZ>].

immigration route for thousands of skilled professionals from around the world, a significant portion of whom are Indian.⁶ And yet, beneath its surface, an unsettling reality often goes unnoticed: how vulnerable Indian immigrants on H-4 visas are to domestic abuse.⁷

H-4 visas are issued to spouses and children of H-1B visa holders. A substantial number of these visa holders are Indian women who find themselves in a uniquely challenging position.⁸ These spouses are legally bound to their H-1B sponsor, whose employment status directly affects the H-4 dependent's visa status and even chances for legal permanent residency.⁹ An H-4 dependent's lack of legal rights—namely her inability to work without applying for work authorization and her inability to request federal aid—fosters a toxic dependency on the H-1B visa holder.¹⁰ This dependence creates a power dynamic that is ripe for exploitation and abuse. Some Indian women on H-4 visas suffer from physical, emotional, and financial abuse, and they often feel trapped due to their dependence.¹¹ Remnants of the coverture doctrine in the immigration system,¹² conservative cultural constructs related to gender roles,¹³ and a lack of accessible pathways to economic independence¹⁴ further complicate things. The result is an epidemic of abuse within the H-1B sponsorship system,¹⁵ one that frequently goes unreported and unaddressed.¹⁶

There are several immigration reforms necessary to dismantle the toxic coverture foundation of the H-1B/H-4 program. This Note argues that the intersection of the underlying legal coverture doctrine in this visa program,

6. U.S. CITIZENSHIP & IMMIGR. SERVS., CHARACTERISTICS OF H-1B SPECIALTY OCCUPATION WORKERS 8 (2024), https://www.uscis.gov/sites/default/files/document/reports/OLA_Signed_H-1B_Characteristics_Congressional_Report_FY2023.pdf [<https://perma.cc/HGH9-5WGP>].

7. Balgamwalla, *supra* note 1, at 30–31.

8. *The H-4 Visa Classification*, AM. IMMIGR. COUNCIL (Mar. 26, 2018), <https://www.americanimmigrationcouncil.org/research/h-4-visa-classification> [<https://perma.cc/3ACP-3ASW>].

9. David J. Bier, *The Facts About H-4 Visas for Spouses of H-1B Workers*, CATO INST. (June 16, 2020, 10:28 AM), <https://www.cato.org/blog/facts-about-h-4-visas-spouses-h-1b-workers> [<https://perma.cc/R6UK-ZYDL>].

10. *See Employment Authorization for Certain H-4 Dependent Spouses*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Nov. 12, 2021), <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/employment-authorization-for-certain-h-4-dependent-spouses> [<https://perma.cc/NPT6-SRHZ>]; Rebecca Lake, *Student Loans for H4 Visa Holders*, LENDEDU (June 20, 2023), <https://lendedu.com/blog/student-loan-for-h4-visa-holders> [<https://perma.cc/A8YZ-SGYU>].

11. *See* Balgamwalla, *supra* note 1, at 29–31.

12. Janet M. Calvo, *Spouse-Based Immigration Laws: The Legacies of Coverture*, 28 SAN DIEGO L. REV. 593, 600–12 (1991).

13. JONATHAN EVANS, NEHA SAHGAL, ARIANA MONIQUE SALAZAR, KELSEY JO STARR & MANOLO CORICHI, PEW RSCH. CTR., HOW INDIANS VIEW GENDER ROLES IN FAMILIES AND SOCIETY 10 (2022), <https://www.pewresearch.org/religion/2022/03/02/how-indians-view-gender-roles-in-families-and-society> [<https://perma.cc/VVU6-NFJT>].

14. *See infra* Section II.B.

15. *See* Balgamwalla, *supra* note 1, at 29–31.

16. *See* Anita Raj & Jay Silverman, *Violence Against Immigrant Women: The Roles of Culture, Context, and Legal Immigrant Status on Intimate Partner Violence*, 8 VIOLENCE AGAINST WOMEN 367, 369 (2002).

and the viewpoint among Indian immigrants on gender roles, makes domestic violence in this community prevalent and the likelihood of escape nearly impossible. Part I of this Note delves into the history of the coverture doctrine in American immigration policy and introduces the H-1B/H-4 visa program. In addition, Part I discusses the unique immigrant perspective of “Log Kya Kahenge” and the conservative gender roles in Indian culture. Finally, that Part concludes with an overview of the current legal framework in place to help these women. Part II analyzes how coverture rooted in this visa program and the cultural perspective of most of these visa holders combine to create a catastrophic dilemma for H-4 women in abusive situations. Part III proposes that granting H-4 visa holders access to federal student aid would provide a pivotal step for these women to break free from their abusive spouses and achieve personal and financial autonomy through higher education. This proposal works towards a more humane and just immigration system that supports H-4 immigrants and their chances at a better life.

I. COVERTURE AND SPOUSE-BASED VISAS, INDIAN GENDER NORMS, AND ACCESS TO EDUCATION FOR DOMESTIC VIOLENCE SURVIVORS

The historical context of the H-1B and H-4 spousal visa program unveils a complicated evolution of spouse-based immigration laws in the United States. Tracing the legislative history from the 1924 National Origins Quota Act¹⁷ to the Immigration Act of 1990,¹⁸ a narrative emerges of shifting policies and entrenched gender dynamics. Transitioning to the present uncovers the demographic landscape of the program: Indian immigrants¹⁹ with educational backgrounds in science, technology, engineering, and math (“STEM”) fields.²⁰ Understanding the gender roles ingrained in Indian society is crucial, as these constructs contribute to the perpetuation of domestic violence within H-1B/H-4 relationships.²¹ The current legal framework for H-4 immigrants facing domestic violence includes the Violence Against Women Act (“VAWA”) and the U-Visa program; both paths present weaknesses that will be discussed in Section II.B.²²

Finally, this Section delves into the transformative impact of access to federal student aid and higher education on domestic violence victims. Broadening educational access through this method can empower individuals to break free from financial dependence and ultimately from their abuser.

17. Immigration Act of 1924, ch. 190, 43 Stat. 153, 153–69 (repealed 1952).

18. Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (current version at 8 U.S.C. § 1101 (2018)).

19. U.S. CITIZENSHIP & IMMIGR. SERVS., *supra* note 6, at 8.

20. Ari Hoffman & Jeanne Batalova, *Indian Immigrants in the United States*, MIGRATION POL’Y INST. (Dec. 7, 2022), <https://www.migrationpolicy.org/article/indian-immigrants-united-states> [https://perma.cc/6YQX-FT42].

21. *See infra* Section I.B.

22. *See infra* Section II.B.

A. HISTORY OF H-1B & H-4 SPOUSAL VISAS AND INDIAN IMMIGRATION TO THE UNITED STATES

The inception of spousal-dependent visa programs dates to the coverture doctrine.²³ However, these programs have undergone significant transformations in response to the evolving immigration system, and the H-1B/H-4 visa worker program is just one among several dependent visa programs offered in the United States.

1. Coverture Doctrine

The origins of spousal-based immigration laws, which include the H-1B/H-4 visa program, can be traced back to the English coverture doctrine.²⁴ Although its roots date back to the eleventh century, the doctrine was formally articulated by English judge and legal scholar William Blackstone in his influential work, *Commentaries on the Laws of England*.²⁵ In this seminal text, Blackstone documented:

By marriage, the husband and wife are one person in law: that is, the . . . legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband [H]er condition during her marriage is called her *coverture*. Upon this principle, of an union [sic] of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage.²⁶

What Blackstone initially identified as the legal recognition of the union of husband and wife turned into something else entirely when it came to practice.

While the written doctrine originated in England, it found its way to the American colonies, where it functioned as a potent instrument for marital inequality for centuries.²⁷ Courts in the nineteenth century often found that a married woman's individual rights were entirely suspended because her legal identity was dependent on her husband.²⁸

23. Calvo, *supra* note 12, at 595.

24. *Id.*

25. Kelly Fleming, *Women's Legal Rights in UVA's First Law Library: Baron and Feme*, U. VA.: ARTHUR J. MORRIS L. LIBR. BLOG (Mar. 14, 2019), <https://lib.law.virginia.edu/blog/2019/03/14/womens-legal-rights-in-uvas-first-law-library-baron-and-feme> [<https://perma.cc/6ZE8-CM8D>]; Norman, BRITANNICA (Jan. 4, 2024), <https://www.britannica.com/topic/Norman-people> [<https://perma.cc/8VDQ-8XSC>].

26. 1 WILLIAM BLACKSTONE, COMMENTARIES *442.

27. Catherine Allgor, *Coverture: The Word You Probably Don't Know but Should*, NAT'L WOMEN'S HIST. MUSEUM (Sept. 4, 2012), <https://www.womenshistory.org/articles/coverture-word-you-probably-dont-know-should> [<https://perma.cc/A2TH-2V5A>] ("So what happened to coverture? The short answer is that it has been eroded bit by bit. But it has never been fully abolished. The ghost of coverture has always haunted women's lives and continues to do so. Coverture is why women weren't regularly allowed on juries until the 1960s, and marital rape wasn't a crime until the 1980s.").

28. See *Abbott v. Abbott*, 67 Me. 304, 308–09 (1877) ("She cannot, at common law, sue in her own name alone, nor in his without his consent. She cannot appoint an attorney, ordinarily, but he must do it for her. . . . He can release the cause of action and she cannot.").

Attempted dismantling of the coverture doctrine first began in 1837.²⁹ The Mississippi Supreme Court's ruling in *Fisher v. Allen* resulted in a domino effect, changing the standard for American women's control over their own property.³⁰ The case led to Mississippi passing the 1839 Married Women's Property Act, which broadened women's rights in numerous domains, including control of property, participation in legal proceedings and contracts, and retention of their own earnings.³¹ Other states followed Mississippi with similar legislation.³²

During this time, some courts played a pivotal role in deconstructing this doctrine by enforcing state privy examination laws, the legal practice of interviewing a married woman who wished to sell or mortgage her property to ensure her husband was not coercing her to go through with the transaction.³³ Despite the ongoing abolition, which continued into the twentieth century, remnants of the doctrine persist in various parts of the U.S. legal system. As Justice Hugo Black's 1966 dissent in *United States v. Yazell* acknowledged, the rule of coverture "has worked out in reality to mean that though the husband and wife are one, the one is [actually] the husband."³⁴ Decades later, his notable words still ring true regarding the modern-day immigration system.³⁵

2. Legislative History of Spouse-Based Immigration

Following the transatlantic slave trade, the United States experienced several decades of an "open door" policy for European immigration.³⁶ This approach shifted in the 1920s, when Congress started enacting extremely restrictive and discriminatory immigration laws.³⁷ One of these laws was the 1924 National Origins Quota Act which, in addition to establishing immigration quotas based on nationality, gave male citizens and legal permanent residents

29. *Fisher v. Allen*, 3 Miss. (2 Howard) 611, 614–16 (1837).

30. *Id.* Betsy Love, who the Mississippi State Supreme Court ruled in favor of, became known as the first married American woman to gain property rights. Unfortunately, the property in question was an enslaved person. *Betsy Love—The First Married American Woman to Gain Rights to Property*, NAT'L PARK SERV. (Oct. 8, 2021), <https://www.nps.gov/articles/000/betsy-love-the-first-american-woman-to-gain-rights-to-property.htm> [<https://perma.cc/H5XN-T24T>].

31. Married Women's Property Act, 1839 Miss. Laws 72.

32. *See Married Women's Property Acts*, BRITANNICA (Sept. 8, 2010), <https://www.britannica.com/event/Married-Womens-Property-Acts-United-States-1839> [<https://perma.cc/HNgW-5HS6>].

33. Stacy Lorraine Braukman & Michael A. Ross, *Married Women's Property and Male Coercion: United States' Courts and the Privy Examination, 1864–1887*, J. WOMEN'S HIST., Summer 2000, at 57, 58–60.

34. *United States v. Yazell*, 382 U.S. 341, 361 (1966) (Black, J., dissenting).

35. *See Calvo*, *supra* note 12, at 612–13 ("[T]he 1990 law continued the coverture-based control first incorporated into the . . . 1924 acts. . . . Thus, the immigration law still perpetuates a citizen or resident spouse's domination over his alien spouse.")

36. Ariside Zolberg, *Rethinking the Last 200 Years of U.S. Immigration Policy*, MIGRATION POL'Y INST. (June 1, 2006), <https://www.migrationpolicy.org/article/rethinking-last-200-years-us-immigration-policy> [<https://perma.cc/WQB3-BLHX>].

37. *The Immigration Act of 1924 (The Johnson-Reed Act)*, OFF. HISTORIAN, <https://history.state.gov/milestones/1921-1936/immigration-act> [<https://perma.cc/6RYD-YJ9W>].

authority over the immigration status of their immigrant wives.³⁸ These wives, often referred to as “[n]on-quota immigrants” due to the preference they received based on their marital status to a U.S. citizen, were required to have their husbands accompany them or submit a petition on their behalf.³⁹

In 1952, Congress passed the Immigration and Nationality Act (“INA”); a significant piece of legislation that laid the foundation for modern immigration law.⁴⁰ While the INA expanded upon the National Origins Quota Act by granting preference to spouses of legal permanent residents—not just wives—a husband still maintained control over his immigrant wife’s status.⁴¹

The 1965 amendment to the INA further solidified the concept of a dominant spouse in the spouse-based immigration system.⁴² This amendment replaced the original quota system with an arrangement that prioritized immigrants “based on their relationship to a [U.S.] citizen or lawful permanent resident family member.”⁴³ Marking a turning point in immigration law due to favor of familial relationships over nationality, relationships involving spouses and children were particularly prioritized. Citizen and legal permanent resident spouses continued to maintain “control over the immigration status of [the] alien spouse,” a provision that remains in effect today.⁴⁴ Even now, an “alien spouse cannot gain legal immigration status unless the citizen or resident spouse files a petition” for them.⁴⁵

In 1986, Congress passed the Immigration Marriage Fraud Amendments,⁴⁶ which “imposed a conditional status on any [immigrant spouse] whose immigration status was based on a marriage to a United States citizen or resident alien that was less than two years old.”⁴⁷ This meant that, in addition to the original petitioning power of the citizen or permanent resident, the citizen or permanent resident retained control even after the immigrant spouse became a permanent resident. The citizen or permanent resident’s control extends by requiring a joint petition submission “ninety days before the expiration of the [immigrant] spouse’s two year conditional status,” or else the immigrant spouse faces deportation.⁴⁸ Finally, in 1990, Congress

38. Immigration Act of 1924, ch. 190, § 4(a), 43 Stat. 153, 155 (repealed 1952).

39. Calvo, *supra* note 12, at 601–02 (noting, in addition, that female citizens with male immigrant spouses were barred from filing petitions on their behalf).

40. Immigration and Nationality Act, Pub. L. No. 414, ch. 477, 66 Stat. 163 (1952) (current version at 8 U.S.C. §§ 1101–1537).

41. Calvo, *supra* note 12, at 603–04.

42. Act of Oct. 3, 1965, Pub. L. No. 89-236, § 4, 79 Stat. 911, 915 (current version at 8 U.S.C. § 1154).

43. MIGRATION POL’Y INST, MAJOR US IMMIGRATION LAWS, 1790–PRESENT 4 (2013), <https://www.migrationpolicy.org/sites/default/files/publications/CIR-1790Timeline.pdf> [https://perma.cc/PT4Z-4HFB].

44. Calvo, *supra* note 12, at 606.

45. *Id.*; Act of Oct. 3, 1965 § 4.

46. Immigration Marriage Fraud Amendments of 1986, Pub. L. No. 99-639, § 1, 100 Stat. 3537 (current version at 8 U.S.C. § 1186a).

47. Calvo, *supra* note 12, at 607; Immigration Marriage Fraud Amendments of 1986 § 2(a).

48. Calvo, *supra* note 12, at 607; Immigration Marriage Fraud Amendments of 1986 § 2(a).

passed the Immigration Act, which created the H-1 visa program.⁴⁹ Subsequent amendments removed the requirement that H-1B visa holders have “no desire to relocate permanently to the United States,” and established the modern-day H-4 dependent visa program.⁵⁰

3. What Are the H-1B and H-4 Visa Programs?

The H-1B visa is a dual-intent program, enabling holders to pursue permanent residency and permit employers to hire foreign nationals as employees under the category of “nonimmigrant aliens,” the term used for foreign nationals who are temporarily immigrating to the United States.⁵¹ These nonimmigrants are individuals who come to the United States for a limited time and must work in “‘specialty occupations’ that require at least a bachelor’s degree or the equivalent.”⁵² A “specialty occupation” is defined by the U.S. Department of Labor as a job that demands both “theoretical and practical application of a body of specialized knowledge and a bachelor’s degree or the equivalent in the specific specialty”; many nonimmigrants in the H-1B visa program tend to work in STEM fields.⁵³

To understand the role domestic violence plays in relationships in this program, it is first important to understand the demographics associated with the visa program. Although the H-1B program employs a lottery-based system,⁵⁴ the majority of petitioners are typically of Indian origin,⁵⁵ resulting in a predominantly Indian cohort of H-1B recipients that bring over a predominantly Indian cohort of H-4 dependents.⁵⁶ In fact, in 2022, seventy-

49. Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978, 4978–5088 (current version at 8 U.S.C. § 1101).

50. Bier, *supra* note 9.

51. Nita Nicole Upadhye, *H1B Visa Permanent Residency: Are You Eligible?*, NNU IMMIGR. (Apr. 6, 2024), <https://www.nnuimmigration.com/h1b-visa-permanent-residency> [<https://perma.cc/5T8S-HKNM>]; 8 U.S.C. § 1184(n)(2); *Requirements for Immigrant and Nonimmigrant Visas*, U.S. CUSTOMS & BORDER PROT. (Aug. 8, 2023), <https://www.cbp.gov/travel/international-visitors/visa-waiver-program/requirements-immigrant-and-nonimmigrant-visas> [<https://perma.cc/BPQ6-H6NP>].

52. *The H-1B Visa Program and Its Impact on the U.S. Economy*, AM. IMMIGR. COUNCIL (Aug. 18, 2023), <https://www.americanimmigrationcouncil.org/research/h1b-visa-program-fact-sheet> [<https://perma.cc/R69F-EJX4>].

53. *H-1B, H-1B1 and E-3 Specialty (Professional) Workers*, U.S. DEP’T LAB., <https://www.dol.gov/agencies/eta/foreign-labor/programs/h-1b> [<https://perma.cc/ZK6A-8HPB>].

54. *H-1B Electronic Registration Process*, U.S. CITIZENSHIP & IMMIGR. SERVS. (July 31, 2023), <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process> [<https://perma.cc/P7RV-YK7K>].

55. Hoffman & Batalova, *supra* note 20.

56. Sumitra Badrinathan, Devesh Kapur, Jonathan Kay & Milan Vaishnav, *Social Realities of Indian Americans: Results from the 2020 Indian American Attitudes Survey*, CARNEGIE ENDOWMENT FOR INT’L PEACE (June 9, 2021), <https://carnegieendowment.org/2021/06/09/social-realities-of-indian-americans-results-from-2020-indian-american-attitudes-survey-pub-84667> [<https://perma.cc/CR4Q-Q9R5>] (“Existing research has found that among major Asian American communities, Indian Americans—both men and women—have the highest rate of endogamy (the custom of marrying within one’s community) in both the first and second generations . . .”).

two percent of approved H-1B petitions were for individuals born in India.⁵⁷ Unlike earlier waves of “low-skilled Indian migrant workers,” who immigrated in the nineteenth and early twentieth centuries,⁵⁸ Indians immigrating in the last thirty years primarily possess bachelor’s degrees and are “much more likely [than U.S. citizens or other immigrant groups] to be employed in the management, business, science, and arts occupations.”⁵⁹ This educational background qualifies them for the H-1B program, which enables them to secure sponsorship from American companies for professional positions.⁶⁰

The H-4 visa classification is available to H-1B visa holders’ spouses and unmarried children under the age of twenty-one, who are considered dependents of the H-1B visa holder.⁶¹ As dependents, those on H-4 status face certain limitations in terms of their legal rights.⁶² For example, if an H-4 holder wants to work, they must apply for a work permit through an Employment Authorization Document (“EAD”); however, approval tends to be contingent on the H-1B visa holder, who must be listed as the “principal beneficiary of an approved Form I-140,” the document used “to petition for a noncitizen worker to become a permanent resident.”⁶³ Additionally, while H-4 dependents are permitted to study, full-time or part-time, in the United States, they are ineligible for federal student aid.⁶⁴ Finally, both H-1B and H-4 visa holders have the option to apply for lawful permanent residency through the Green Card process, which would allow them to live and work permanently in the United States; however, as dependents, H-4 visa holders cannot apply for a Green Card without an H-1B visa holder.⁶⁵

*B. “LOG KYA KAHENGE”: PERPETUATING ABUSE THROUGH INDIAN
ATTITUDES ON GENDER ROLES*

An H-4 visa holder’s narrow legal rights need significant attention in abusive contexts when considering the prevalent cultural constructs in India

57. U.S. CITIZENSHIP & IMMIGR. SERVS., *supra* note 6, at 8.

58. Hoffman & Batalova, *supra* note 20; Mary Hanna & Jeanne Batalova, *Indian Immigrants in the United States*, MIGRATION POL’Y INST. (Oct. 16, 2020), <https://www.migrationpolicy.org/article/indian-immigrants-united-states-2019> [<https://perma.cc/3VSS-HDV4>] (“The first wave of Indian immigrants found work mainly in the agriculture, lumber, and railroad industries.”).

59. Hoffman & Batalova, *supra* note 20.

60. *Id.*

61. *H-4 Dependents*, UCI INT’L CTR. (2024), <https://ic.uci.edu/scholar-home-page/h-1-b-specialty-occupation/h-4-dependents> [<https://perma.cc/853V-K223>].

62. See *Employment Authorization for Certain H-4 Dependent Spouses*, *supra* note 10; Lake, *supra* note 10.

63. *Employment Authorization for Certain H-4 Dependent Spouses*, *supra* note 10; *I-140, Immigrant Petition for Alien Workers*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Aug. 2, 2023), <https://www.uscis.gov/i-140> [<https://perma.cc/9GAV-CJ4F>].

64. See *Eligibility Requirements*, FED. STUDENT AID, <https://studentaid.gov/understand-aid/eligibility/requirements> [<https://perma.cc/EG2T-D8R8>].

65. Balgamwalla, *supra* note 1, at 39–40.

that shape perceptions regarding domestic abuse.⁶⁶ After entering marriage, conventional gender roles become entrenched. Despite India's dynamic nature and the ongoing evolution of gender norms due to women's pursuit of higher education and stronger participation in the workforce, certain customs continue to be influential.⁶⁷ While Indian customs revering mothers⁶⁸ are held in high regard, the same societal doctrine disempowers and marginalizes women through culturally rooted traditional gender roles that tend to increase the risk of experiencing domestic violence.⁶⁹

Throughout its history, Indian society has maintained a patriarchal structure. For example, women are often expected to undertake familial responsibilities like cooking and caregiving, while men are the primary earners and authority figures.⁷⁰ These gender roles are rooted in the principle of collectivism.⁷¹ In a collectivist society, individuals make decisions based on their role in a family—a "son is a son" and "a daughter is [a] daughter."⁷² Their roles influence the decisions they make and how they affect their family.⁷³ Collectivism highlights responsibility and interdependence, and it prioritizes the idea of closeness and being more "there" for family and friends compared to an individualist culture.⁷⁴ The latter philosophy, which is common in western countries like the United States, centers on prioritizing each individual's personal interests regardless of how that interest impacts others.⁷⁵ For example, in the United States, "[p]eople . . . move out of their parent's house at an early age . . . , marry[] anyone irrespective of caste . . . , race, religion, and even

66. Dionne Stephens & Asia Eaton, *Cultural Factors Influencing Young Adult Indian Women's Beliefs About Disclosing Domestic Violence Victimization*, 76 J. SOC. ISSUES 416, 418 (2020).

67. EVANS ET AL., *supra* note 13, at 6 ("More than half a century ago, India was one of the first countries in the world to elect a woman as prime minister . . ." And according to a survey of 30,000 adults in India, a majority say "women and men make equally good political leaders" with "one-in-ten feel[ing] that women generally make *better* political leaders than men Yet, in domestic settings, Indians tend to say men should have more prominent roles than women. About nine-in-ten Indians agree with the notion that a wife must always obey her husband . . .").

68. Zairu Nisha, *Woman, Mother, and the Other: Unraveling the Matrix of Feminine Self*, 45 SOC. DEV. ISSUES 44, 44-45 (2023) ("A woman as a mother in Indian society is a subject of great reverence. . . . In [] ancient religious scriptures . . . and culture, women are highly glorified as the personification of the divine mother goddess Goddesses are regarded as the universal feminine energy and latent power (Goddess Shakti) through whom God creates, preserves, and destroys the universe. . . . [The] Indian national identity was [also] gendered [during the Indian independence movement] by using a new multifarious maternal metaphor in the form of 'Mother India' to reaffirm the adoration of motherhood . . .").

69. Raj & Silverman, *supra* note 16, at 369.

70. *See id.* at 376-77.

71. Stephens & Eaton, *supra* note 66, at 418-19.

72. Mohit Sarohi, *An Individualistic America*, MEDIUM (Aug. 2, 2020) (emphasis omitted), <https://medium.com/illumination/an-individualistic-america-583b32901860> [<https://perma.cc/F4DE-T8LQ>].

73. *Id.*

74. *Id.*

75. *Id.*

nationality”; they also “have full authority of choosing the profession they want to follow.”⁷⁶

In a collectivist society where interests of the family unit hold significant importance, family members play a pivotal role in individuals’ lives, including their decisions regarding relationships.⁷⁷ Specifically, in cases of domestic violence, women often consult their support system within the family before taking any action, but this can lead to family members victim-blaming, isolation, and discouraging the victim from seeking help outside the family unit.⁷⁸

This situation tends to be the case because victims and their family members often worry more about the family’s reputation and relationships with the rest of the community than the victim’s well-being.⁷⁹ Along with the intimacy of social circles comes the fear of judgment in the context of family dynamics and relationships. This apprehension is best encapsulated by the question “log kya kahenge” or “what will people say[?]”⁸⁰ The rhetorical question, so frequently uttered, has transformed into an emblematic Hindi slogan in popular culture, shedding light on the pervasive judgmental attitude prevailing in Indian and other South Asian societies.⁸¹ Comedian Hasan Minhaj, famous for “us[ing] message-driven comedy to shift perspectives” in the political sphere,⁸² explored the theme of “log kya kahenge” in his 2017 Netflix Special, *Homecoming King*, where he pointedly ridicules the phrase:

“What will people think?” . . . “I don’t want to be a doctor!” “Log kya kahenge!” No! “I don’t want to marry!” “Log kya kahenge!” Why? I bet you, when Mahatma Gandhi told his parents he was going to liberate India, even they were like, “Log kya kahenge!” “Stop marching. The British are going to talk shit about us.”⁸³

This concept underscores the importance of societal opinions and expectations in people’s daily lives.⁸⁴ “Log kya kahenge” can have a positive impact because it gets individuals to think about the consequences of their actions on their community and family before they act, but in terms of the negative, it often “can be a source of stress and restrict[s] personal freedom . . . [by] lead[ing]

76. *Id.*

77. Rakesh K. Chadda & Koushik Sinha Deb, *Indian Family Systems, Collectivistic Society and Psychotherapy*, 55 INDIAN J. PSYCHIATRY S299, S301 (2013).

78. Stephens & Eaton, *supra* note 66, at 429–31.

79. *Id.* at 427.

80. See Afrin Naz Rahman, *Log Kya Kahenge (What Will People Say): Honour-Based Violence as a Response to Community Influenced Control and the Fear of Ostracization* 5 (Jan. 29, 2021) (Master’s thesis, University of Calgary).

81. Joe Berkowitz, *Hasan Minhaj and the Art of Persuasion*, FAST CO. (Sept. 25, 2018), <https://www.fastcompany.com/90227535/hasan-minhaj-and-the-art-of-persuasion> [https://perma.cc/3QE6-JC25].

82. *Id.*

83. *Hasan Minhaj: Homecoming King (2017) – Transcript*, SCRAP FROM LOFT (May 21, 2020), <https://scrapsfromtheloft.com/comedy/hasan-minhaj-homecoming-king-transcript> [https://perma.cc/PLS9-WSSB].

84. See Berkowitz, *supra* note 81.

to conformity, suppression of individuality, and [] compromise on personal happiness to meet societal expectations.”⁸⁵ And it is that very mindset that can exert tremendous pressure on women to maintain the facade of a harmonious family, even in cases of domestic violence.⁸⁶ Fear can discourage victims from speaking out, reporting abuse, or seeking assistance from the legal system.⁸⁷ In essence, this issue with the collectivist ideology can be distilled to the conflict between personal desires and familial obligations.⁸⁸

C. CURRENT LEGAL FRAMEWORK FOR H-4 IMMIGRANT ABUSE VICTIMS

Two forms of legal recourse are available to abuse victims who identify as immigrants on H-4 status. However, the issues associated with both forms of recourse and why they are ineffective for the Indian immigrant community are further discussed in Section II.B.⁸⁹

1. Violence Against Women Act

In 1994, VAWA introduced a process that allows abused spouses of U.S. citizens and legal permanent residents to independently petition for a Green Card.⁹⁰ Congress used the legislation to acknowledge the power imbalance in immigrant marriages. As a result, one of VAWA’s objectives was to provide “battered immigrant women” with a method “to leave their batterers without fearing deportation.”⁹¹ The statute even has a “comprehensive definition of abuse,” which extends to physical, psychological, and economic abuse.⁹² Subsequent amendments have created a two-year application window for those who lose their permanent resident status or divorce due to abuse.⁹³

As thorough as the statute seems, H-4 visa holders do not qualify under these provisions as they are “Americans-in-waiting,” a term used to describe those immigrants “who w[ill] eventually become citizens of the United

85. Salma Javed, *Joyland: A Story of Unquenchable Desires*, J. INT’L WOMEN’S STUD. 3 n.2 (Oct. 2023), <https://vc.bridgew.edu/cgi/viewcontent.cgi?article=3153&context=jiws> [<https://perma.cc/XF3D-2ZCJ>].

86. See Neeta Lal, *Shocking Delhi Murder Bares India’s Problem with Intimate Partner Violence*, DIPLOMAT (Dec. 3, 2022), <https://thediplomat.com/2022/12/shocking-delhi-murder-bares-indias-problem-with-intimate-partner-violence> [<https://perma.cc/D74V-49WH>] (“The stigma of being a ‘divorcee’ . . . and concern about the impact of divorce on young kids deter many women from leaving abusive marriages. The . . . fear of social judgment . . . makes them feel trapped.”).

87. Stephens & Eaton, *supra* note 66, at 431 (“Taking the situation beyond familial boundaries—approaching the police, a social service organization or other space outside private spheres—could be interpreted as lack of respect for one’s family.”).

88. *Id.* at 432 (“Rather than rejecting cultural values, families, or norms, they sought to negotiate and survive within these frameworks.”).

89. See *infra* Section II.B.

90. Balgamwalla, *supra* note 1, at 56.

91. *Id.* (quoting H.R. REP. NO. 103-395, at 26–37 (1993)).

92. *Id.*

93. *Id.* at 34.

States.”⁹⁴ As they have not yet obtained citizenship or even permanent residency and neither have their H-1B spouses, they cannot use VAWA’s process, as it exclusively applies to abused spouses of U.S. citizens and legal permanent residents.⁹⁵

The only potential solution for women in this situation comes from the 2005 Violence Against Women Reauthorization Act’s INA § 106, which allows H-4 visa holders who “have been subjected to battery or extreme cruelty to apply for an EAD and earn an income that is separate from the H-1B holder’s.”⁹⁶ The application process involves completing a Form I-765V, which is an application for employment authorization for an abused nonimmigrant spouse.⁹⁷ This form has multiple requirements: providing proof of immigration status using documents and demonstrating instances of abuse, such as restraining orders, police reports, or affidavits from witnesses;⁹⁸ attending a biometrics appointment (providing “fingerprints, photograph, and/or signature”⁹⁹); or undergoing an interview after mailing in an application.¹⁰⁰

2. U-Visa

The U-Visa, established by the Victims of Trafficking and Violence Protection Act of 2000, “provides a path to citizenship for victims of certain crimes” who cooperate with “law enforcement in the investigation or prosecution of the crime.”¹⁰¹ The visa provides “interim immigration status and work authorization for four years,” and grants the visa holder the ability to apply for

94. *Id.*; HIROSHI MOTOMURA, AMERICANS IN WAITING: THE LOST STORY OF IMMIGRATION AND CITIZENSHIP IN THE UNITED STATES 9 (2006).

95. Balgamwalla, *supra* note 1, at 34–35.

96. SELENA AMURGIS, MARY FATA, MARIAN LEE & ANDREW CRAYCROFT, IMMIGRANT LEGAL RES. CTR., H-4 DOMESTIC VIOLENCE SURVIVORS AND INA § 106 EMPLOYMENT AUTHORIZATION 4 (2021), https://www.ilrc.org/sites/default/files/resources/h-visa_practice_advisory-ac-dg_1.pdf [<https://perma.cc/P3SB-D49L>].

97. *See generally* U.S. CITIZENSHIP & IMMIGR. SERVS., OMB NO. 1615-0137, I-765V, APPLICATION FOR EMPLOYMENT AUTHORIZATION FOR ABUSED NONIMMIGRANT SPOUSE (2024) (hereinafter “FORM I-765V”). The Form I-765V is an application that, if approved, allows abused spouses under various visas, including the H-4 visa, to work in the United States, without approval from the H-1B sponsor. *I-765V, Application for Employment Authorization for Abused Nonimmigrant Spouse*, U.S. CITIZENSHIP & IMMIGR. SERVS., <https://www.uscis.gov/i-765v> [<https://perma.cc/QH6X-ZS4N>]. Initial evidence along with the form requires “[e]vidence of [the filer’s] qualifying nonimmigrant status; [a] copy of any documentation establishing [the filer’s] identity and current nationality; [e]vidence of [the filer’s] spouse’s qualifying nonimmigrant status; [e]vidence of [the filer’s] qualifying relationship to [their] spouse; [e]vidence of the abuse; and [t]wo identical color passport-style photographs.” *Id.* The difficulty of meeting the required initial evidence is discussed *infra* Section II.B.

98. AMURGIS ET AL., *supra* note 96, at 6.

99. U.S. CITIZENSHIP & IMMIGR. SERVS., OMB NO. 1615-0137, INSTRUCTIONS FOR APPLICATION FOR EMPLOYMENT AUTHORIZATION FOR ABUSED NONIMMIGRANT SPOUSE 2 (2024) (hereinafter “I-765V INSTRUCTIONS”).

100. *Id.* at 9.

101. Balgamwalla, *supra* note 1, at 58. *See generally* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464.

status adjustment “after three years, thereby creating a path to citizenship.”¹⁰² This form of legal recourse is especially significant because it provides a pathway to legal permanent residency for those who are “not eligible to self-petition based on their marital relationships,” as granted by VAWA.¹⁰³ Those on H-4 status are eligible for a U-Visa; however, this form of legal recourse, as well as the aforementioned INA §106 process, is not sensitive to the realities of abuse victims on H-4 status as will be later discussed.

D. *FEDERAL STUDENT AID ACCESS FOR HIGHER EDUCATION AND THE IMPORTANCE OF HIGHER EDUCATION FOR DOMESTIC VIOLENCE VICTIMS*

Research has repeatedly demonstrated higher education’s substantial benefits for individuals and their economic mobility in society.¹⁰⁴ However, in recent years, availability of federal aid has emerged as an essential support structure for students seeking a college degree.¹⁰⁵ This Section briefly delves into the impact of pursuing higher education on abuse victims, a subject that will be further explored in Part III.¹⁰⁶

1. *Effects of Federal Student Aid on Accessing Higher Education*

Since the 1950s and 1960s, the pursuit of higher education had been viewed as a “human investment” due to “below-cost tuition” that was exchanged for “[t]he economic benefits of a college education.”¹⁰⁷ These economic benefits included “enhance[ed] . . . earning power . . . [and] widen[ed] . . . intellectual and social horizons.”¹⁰⁸ Policymakers on federal and state levels created student financial aid programs to address students unable to pursue a degree due to financial aid reasons.¹⁰⁹ Today, modern scholars still emphasize that the economic benefits of obtaining a college degree—

102. Balgamwalla, *supra* note 1, at 58.

103. *Id.*

104. Edward Conroy, *How Does Increasing Financial Aid Promote Student Economic Success?*, FORBES (June 30, 2023, 6:00 AM), <https://www.forbes.com/sites/edwardconroy/2023/06/30/how-does-increasing-financial-aid-promote-student-economic-success> (on file with the *Iowa Law Review*); *New IHEP Analysis Explores How to Increase Equitable Postsecondary Value for More Students*, INST. FOR HIGHER EDUC. POL’Y (June 21, 2023), <https://www.ihep.org/press/risingabovethethreshold> [<https://perma.cc/2KAV-PXRU>].

105. Conroy, *supra* note 104; *New IHEP Analysis Explores How to Increase Equitable Postsecondary Value for More Students*, *supra* note 104.

106. *See infra* Part III.

107. W. Lee Hansen, *Impact of Student Financial Aid on Access*, 35 PROC. ACAD. POL. SCI. 84, 85 (1983).

108. *Id.*

109. *Id.* at 86.

“higher income, lower unemployment rates, . . . and better health”¹¹⁰—still outweigh mounting tuition costs.¹¹¹

Access to student federal aid is crucial to broaden access to higher education because financial aid provides support for costs such as student living expenses and tuition, enabling students from diverse backgrounds to pursue higher education.¹¹² With lower interest rates than private loans, federal student loans make education more affordable and reduce the financial barrier to higher education.¹¹³ Income-driven repayment plans and flexible deferment options offer students a safety net, allowing them to manage their loan payments based on their income and personal circumstances.¹¹⁴ Federal loans do not require a co-signer or a credit check for most borrowers, ensuring those with limited or no credit history can still access financial assistance; as a result, federal aid removes the obstacle for students who are truly on their own.¹¹⁵

Another form of available federal student aid is federal grants, which serve the same purpose of helping pay for college; however, they typically do not require repayment like loans.¹¹⁶ Grant and loan distribution depends on the eligible applicant’s “Expected Family Contribution . . . , [their] year in school, [their] enrollment status, and the cost of attendance at the school [they] will be attending,” which is just some of the information that will go into their Federal Application for Student Aid (“FAFSA”).¹¹⁷

2. Effects of Receiving a Higher Education on Abuse Victims

Studies across the world demonstrate that higher education can decrease the risk of domestic violence.¹¹⁸ Research in India shows that education acts

110. Amanda R. Baker, Benjamin D. Andrews & Anne McDaniel, *The Impact of Student Loans on College Access, Completion, and Returns*, SOCIO. COMPASS 2 (June 1, 2017), <https://doi.org/10.1111/soc4.12480> [<https://perma.cc/BHP8-LKZS>].

111. Lisa Barrow & Ofer Malamud, *Is College a Worthwhile Investment?*, 7 ANN. REV. ECON. 519, 520 (2015); see Conroy, *supra* note 104.

112. See Conroy, *supra* note 104.

113. *When It Comes to Paying for College, Career School, or Graduate School, Federal Student Loans Can Offer Several Advantages over Private Student Loans.*, FED. STUDENT AID, <https://studentaid.gov/understand-aid/types/loans/federal-vs-private> (on file with the *Iowa Law Review*).

114. *Id.*

115. *Id.*

116. *Federal Grants for College or Career/Trade School*, FED. STUDENT AID, <https://studentaid.gov/understand-aid/types/grants> (on file with the *Iowa Law Review*).

117. *How Financial Aid Is Calculated*, FED. STUDENT AID, <https://studentaid.gov/complete-aid-process/how-calculated> (on file with the *Iowa Law Review*).

118. See Tanya Abramsky et al., *What Factors Are Associated with Recent Intimate Partner Violence? Findings from the WHO Multi-Country Study on Women’s Health and Domestic Violence*, BMC PUB. HEALTH 4 (Feb. 16, 2011), <https://bmcpubhealth.biomedcentral.com/articles/10.1186/1471-2458-11-109> [<https://perma.cc/73N6-985K>]; see also Abigail Weitzman, *Does Increasing Women’s Education Reduce Their Risk of Intimate Partner Violence? Evidence from an Education Policy Reform*, 56 CRIMINOLOGY 574, 576–77 (2018); Dinabandhu Mondal & Pintu Paul, *Associations of Power Relations, Wife-Beating Attitudes, and Controlling Behavior of Husband with Domestic Violence Against*

as a “buffer” against violence, revealing that “[w]omen with a secondary . . . and higher level of education ha[ve] a lower likelihood of experiencing domestic violence compared with uneducated women.”¹¹⁹ In the United States, scholars have found that one of the common risk factors for women to fall victim to domestic violence is “hav[ing] less than a high-school education.”¹²⁰ Why may this be the case? A college degree can “expand [a woman’s] personal resource base[, including [facets like] cognitive skills, employment opportunities, and occupational status,” which encourages an individual’s financial independence and reduces reliance on the partner.¹²¹ In turn, these resources can enhance individuals’ ability to interact with others, understand social dynamics, and manage negative emotions in nonviolent ways.¹²² Additionally, universities tend to advocate “public health campaigns, information dissemination, and socialization,” focusing on exposing women to “anti-violence messaging”; this all boils down to letting people know help is available, and this can affect a woman’s mindset on tolerance of domestic violence.¹²³ As will be discussed in Part III, federal student aid can be a lifeline for H-4 immigrant victims of domestic abuse.

II. THE INTERSECTION OF COVERTURE, CULTURE, AND CURRENT LEGAL RECOURSES

A gender disparity exists within the Indian community of H-1B and H-4 petitioners because men account for the majority of H-1B petitions, and women account for a majority of H-4 petitions.¹²⁴ As a result, women in the H-4 program are known as “involuntary housewives,” a concept stemming from their lack of legal rights, including their inability to work and their financial dependence on their husbands.¹²⁵ This disparity is influenced by

Women in India: Insights from the National Family Health Survey-4, 27 VIOLENCE AGAINST WOMEN 2530, 2542 (2021); Demetrios N. Kyriacou et al., *Risk Factors for Injury to Women from Domestic Violence*, 341 NEW ENG. J. MED. 1892, 1892 (1999).

119. See Mondal & Paul, *supra* note 118, at 2542; see also Daniel Rapp, Beate Zoch, M. Mobarak H. Khan, Thorsten Pollmann & Alexander Krämer, *Association Between Gap in Spousal Education and Domestic Violence in India and Bangladesh*, BMC PUB. HEALTH 1–2 (June 21, 2012), <https://bmcpubhealth.biomedcentral.com/articles/10.1186/1471-2458-12-467> [<https://pe.rma.cc/Y7PZ-965A>]; Koustuv Dalal & Kent Lindqvist, *A National Study of the Prevalence and Correlates of Domestic Violence Among Women in India*, 24 ASIA PAC. J. PUB. HEALTH 265, 269 (2012).

120. Kyriacou et al., *supra* note 118, at 1892.

121. Weitzman, *supra* note 118, at 577; Dana Harrington Conner, *Financial Freedom: Women, Money, and Domestic Abuse*, 20 WM. & MARY J. WOMEN & L. 339, 358 (2014).

122. Weitzman, *supra* note 118, at 577; see also Karen Schucan Bird et al., *Training Informal Supporters to Improve Responses to Victim-Survivors of Domestic Violence and Abuse: A Systematic Review*, 25 TRAUMA VIOLENCE & ABUSE 1568, 1568 (2023) (“Friends, family, colleagues, and community members play an important role in supporting victim-survivors during and after experiences of domestic violence and abuse . . .”).

123. Weitzman, *supra* note 118, at 577.

124. U.S. CITIZENSHIP & IMMIGR. SERVS, *supra* note 6, at 9, 26 (H-1B petitions by gender); *The H-4 Visa Classification*, *supra* note 8 (H-4 petitions by gender).

125. Magdalena Bragun, Comment, *The Golden Cage: How Immigration Law Turns Foreign Women into Involuntary Housewives*, 31 SEATTLE U. L. REV. 937, 938 (2008).

various factors including societal perceptions of gender roles in the Indian community and the historical rooting of spousal-based immigration programs in the English coverture doctrine.¹²⁶

A. *HOW THE COVERTURE DOCTRINE & CULTURAL NORMS EXACERBATE DOMESTIC VIOLENCE IN H-1B/H-4 RELATIONSHIPS*

The synthesis of the underlying philosophy of coverture in the American immigration system, along with unique cultural characteristics within the Indian immigrant community, creates a significant challenge in facilitating the freedom of Indian women on H-4 status who are trapped in abusive relationships.

The coverture doctrine, historically associated with marriage and property rights in western legal systems, can aggravate domestic violence for Indian immigrant women and their experience in a foreign country.¹²⁷ Coverture legally regarded married women as extensions of their husbands; the subsidiary Blackstonian principle of chastisement further served this doctrine, noting that the husband can “give his wife moderate correction” because “he is to answer for her misbehavior, [so] the law thought it reasonable to intrust [sic] him with this power of restraining her, by domestic chastisement.”¹²⁸

In the context of immigration law, immigrant women on H-4 status are dependent on their husbands, the H-1B immigrants.¹²⁹ The authority of the H-1B to petition for the immigration status of their H-4 spouse and control any possibility of legal permanent residency reinforces the long-standing notion that wives are their husband’s property and therefore subject to lawful chastisement.¹³⁰ This authority becomes increasingly problematic when the marriage is experiencing difficulties, as it makes the H-4 visa holder more susceptible to domestic violence. When their spouse is their sponsor, these women have reason to fear deportation or loss of legal status if they seek help.¹³¹ This dependence on immigration status gives abusive partners a powerful tool to control their spouses.¹³² Immigrant women may also become isolated from their support networks due to the immigration experience,¹³³ and being in a new country, they may lack friends or family members who could help.¹³⁴ Without work authorization, “an H-4 visa holder cannot obtain a social security number” which makes it harder to “obtain a driver [sic] license, open

126. EVANS ET AL., *supra* note 13, at 6, 10; see Calvo, *supra* note 12, at 595–97.

127. See, e.g., Balgamwalla, *supra* note 1, at 29, 35 (“The H-1B visa holder, in a sense, exercises his right to work at the expense of his spouse. The spousal visa holder is ‘covered’ by her husband’s exercise of these rights, and is forced to relinquish her own opportunities for broader social and economic participation.”).

128. See BLACKSTONE, *supra* note 26, at *444.

129. Balgamwalla, *supra* note 1, at 38.

130. *Id.* at 49; Calvo, *supra* note 12, at 597–600.

131. See Calvo, *supra* note 12, at 593–94.

132. See *id.*

133. See *id.* at 619.

134. See *id.*

a bank account, and establish credit history.”¹³⁵ Additionally, while the H-4 visa holder can acquire an individual tax identification number to file joint taxes, her reported income is legally attributed to her spouse.¹³⁶ The inability to have such freedoms “makes it difficult for her to prove her identity, her net worth, and the nature of her status within the United States beyond her role as a wife.”¹³⁷

Coverture’s limited autonomy loudly echoes fears experienced by Indian immigrant women in their apprehensions of deportation and family reputation.¹³⁸ When Indian immigrant women face domestic violence, the combination of collectivist inclinations within the Indian community and their isolation as immigrants can create a particularly challenging situation. These women may feel trapped in abusive relationships, fearing the loss of community support back home and the severance of cultural ties if they seek legal help or leave the marriage.¹³⁹ Strict cultural values emphasize the importance of family and marriage and take priority, so even if Indian women confide in their family about their situation, they tend to be “dissuaded from taking steps to leav[e] the . . . relationship.”¹⁴⁰ It should not be misunderstood. These women are not uneducated or “helpless and . . . in need of rescuing.”¹⁴¹ Rather, there are cultural and legal challenges to asking for help in a foreign country. These barriers include:

unfamiliarity with the law of the land, lack of knowledge about police interventions and other support services available in the community, fear of escalation of abuse and exposure of private problems to outsiders leading to stigma from family members and community, and financial dependence on the husband, [especially] when with children.¹⁴²

These structural barriers place Indian H-4 immigrants at a disadvantage.¹⁴³

Because the immigration system was founded on the premise that women are subservient to men,¹⁴⁴ this, combined with the prevailing cultural

135. Balgamwalla, *supra* note 1, at 42.

136. *Id.*

137. *Id.*

138. Stephens & Eaton, *supra* note 66, at 427.

139. *Id.* at 429–32.

140. Neely Mahapatra & Abha Rai, *Every Cloud Has a Silver Lining but... “Pathways to Seeking Formal-Help and South-Asian Immigrant Women Survivors of Intimate Partner Violence,”* 40 HEALTH CARE FOR WOMEN INT’L 1170, 1188 (2019).

141. Meeta Mehrotra, *The Social Construction of Wife Abuse: Experiences of Asian Indian Women in the United States*, 5 VIOLENCE AGAINST WOMEN 619, 637 (1999). Indian women stuck in this situation still resist in their own manners. The idea that abuse victims are passive victims is “problematic” and “misleading.” *Id.* at 631. Instead of outward resistance, resistance strategies can be indirect, such as refusal to cook or taking small sums of money from the husband’s wallet. *Id.* at 632–35.

142. Mahapatra & Rai, *supra* note 140, at 1188 (citations omitted).

143. *Id.* at 1181.

144. See Balgamwalla, *supra* note 1, 42–44.

perspectives regarding domestic violence, creates a complex challenge for seeking legal assistance. Lack of awareness regarding available support is one issue. However, having knowledge of existing avenues of help and consciously choosing not to pursue those avenues due to cultural stigma and fear, is an even larger problem. This highlights how culturally unaware the current legal framework is, underscoring its ineffectiveness within the H-4 Indian immigrant community.

B. INEFFECTIVENESS OF THE CURRENT LEGAL FRAMEWORK

The current methods of legal remedies in place for confronting domestic violence are not effective for H-4 visa holders because of the cultural realities within the Indian community. These legal reforms designed for H-4 abuse victims display a lack of understanding to the situation many abuse victims find themselves in and more specifically, lack of cultural sensitivity to the Indian H-4 community. The remedies impose red tape, requiring comprehensive documentation and stringent reporting criteria that do not account for the conservative realities of many Indian women's lives. Familial and societal pressures deter Indians from reporting domestic abuse. The existing system often fails to consider these cultural and emotional complexities, making it difficult for victims to come forward. By adopting approaches that accommodate cultural nuances and the realities of abuse victims, better support and protection can be offered to these women.

Members of the Indian community believe in a collectivist ideology; families tend not to publicize their family problems to the outside world, and the community itself ostracizes those who speak out.¹⁴⁵ Because western culture is individualistic and self-centered, the United States focuses more on one's legal inalienable rights and the cultural importance of choice; these ideas underlie many of the existing laws and can contradict an H-4 dependent's own view about herself and her family, especially when she does not have another support network that can provide further explanation. As discussed, members of Indian society view their identity in terms of being part of their community and their family, not as an individual.¹⁴⁶ Their choices are made based on how they will affect their family.¹⁴⁷ Because current legal remedies are insensitive to the cultural norms of most of this visa group, it makes it nearly impossible to seek assistance from the justice system for several different reasons.

The only solution VAWA provides for H-4 holders is the ability to apply for separate work authorization.¹⁴⁸ While Form I-765 would authorize the H-4 visa holder to work, it requires additional documents involving information about the H-1B visa holder, including proof of his approved Form I-140, which is a petition for him to become a permanent resident in the United

145. See *supra* Section I.B.

146. See *supra* Section I.B.

147. See *supra* Section I.B.

148. AMURGIS ET AL., *supra* note 96, at 4.

States, or proof of his H-1B status.¹⁴⁹ Because the documentation requirement was so heavy, VAWA introduced Form I-765V, a method for abused nonimmigrant visa holders to apply for work authorization independently. While Form I-765V requires less documentation than Form I-765, it still has a comprehensive set of requirements that make it nearly as difficult to fill out.¹⁵⁰ Even when filling out the less-complex-yet-still-comprehensive Form I-765V, the H-4 dependent needs to provide information like a safe mailing address, her passport number, evidence of her qualifying nonimmigrant status, proof of her marriage to the qualifying immigrant spouse, copy of documentation establishing her identity and current nationality, evidence of her spouse's nonimmigrant status, and evidence of the abuse itself.¹⁵¹ These requirements necessitate access to documents that are likely inaccessible to H-4 holders. Spousal visas create a sense of dependency because abusers often use tactics of coercion and control to maintain power over their victims, and this can include control over immigration documents.¹⁵² They may verbally threaten to send

149. Proof of an approved Form I-140 can include a copy of the H-1B's Form I-797B Notice for Form I-140. I-765V INSTRUCTIONS, *supra* note 99, at 7. Evidence the spouse has received his H-1B status "under AC21 sections 106(a) and (b)" includes copies of the "spouse's passports, prior Form I-94s [arrival/departure record], and current and prior Form I-797 Notices for Form I-129," a petition that is usually filed by the employer for a nonimmigrant worker to come to the United States to work. *Id.*; *see also* U.S. CITIZENSHIP & IMMIGR. SERVS., OMB NO. 1615-0040, INSTRUCTIONS FOR APPLICATION FOR EMPLOYMENT AUTHORIZATION 6, 8 (2024) (hereinafter "I-765 INSTRUCTIONS"). In addition, other evidence may be necessary to establish the H-1B's extension of stay. I-765V INSTRUCTIONS, *supra* note 99, at 2. It is unlikely that an abuse victim who is entirely dependent legally and financially on her husband could have access to these documents.

150. *See* I-765V INSTRUCTIONS, *supra* note 99, at 2; I-765 INSTRUCTIONS, *supra* note 149, at 6, 8.

151. I-765V INSTRUCTIONS, *supra* note 99, at 2. Evidence of qualifying immigration status involves access to the H-4's Form I-94 (Arrival/Departure Record), passport, or immigration documents issued by the USCIS proving she was "admitted under INA section 101(a)(15) subparagraph (A), (E)(iii), (G), or (H)." *Id.* at 5, 8. Evidence of her marriage involves access to her marriage certificate or affidavits from others with knowledge of the relationship. *Id.* Proving the spouse's qualifying nonimmigrant status can occur through providing his passport information or I-94 number, but that involves access to his documents as well. *Id.* If the victim does not have access, she must provide information about him, such as name, place of birth, date of birth, date of entry, employer, etc., and the USCIS can attempt to verify his status by conducting a search. *Id.* Finally, providing evidence of abuse involves protection orders, police reports, court records, medical records, reports from social services agencies, signed statements from the victim detailing the abuse she suffered and/or affidavits from third parties who can attest to the abuse she experienced. *Id.*

152. Mehrotra, *supra* note 141, at 634 ("Many Asian Indian immigrant men attempt to control their wives by hiding or destroying things, especially important documents . . ."). Other scholars have discussed stories of immigrant women who have conditional residency due to their marriage to show their struggle of combatting their abuser's control in a foreign country. Michelle J. Anderson, Note, *A License to Abuse: The Impact of Conditional Status on Female Immigrants*, 102 YALE L.J. 1401, 1401-02 (1993).

After [one woman] finally fled, her spouse demanded that she return to his apartment for her immigration documents. . . . [S]he realized that she had to go because she needed [her immigration] papers. She described the consequences: "He beat me on the head. He sat on my stomach. He put a knife to my throat and raped me. Then he threw me naked on the street."

the victim back to her home country—a pressing fear for those H-4 dependents who have children with their H-1B sponsor—or further isolate her.¹⁵³

Evidence of abuse is also required. “Any credible evidence”¹⁵⁴ is considered to be any available information that can corroborate abuse; this evidence can include the victim’s “own affidavit . . . describing the circumstances of the abuse, and the benefit provider has the discretion to conclude that the affidavit is credible . . . by itself or in conjunction with other evidence.”¹⁵⁵ However, the issue that comes with this evidentiary standard is a language barrier, as formal networks “cannot ensure that non-English speaking domestic violence victims can report their complaints effectively, nor can they assure that battered immigrants learn about their rights as . . . victims,” due to the barrier.¹⁵⁶

The availability of the U-Visa is another alternative that provides a more direct route for H-4 visa holders trying to escape the abuser. While H-4 visa holders are eligible to receive a separate “interim immigration status and work authorization,” no longer making the H-4 dependent on the H-1B visa holder, this would involve direct cooperation with law enforcement to investigate and prosecute the abuser.¹⁵⁷ Due to the stigma surrounding abuse, Indian immigrant women tend to be more hesitant to report the abuse, making it less likely they would aid law enforcement.¹⁵⁸ This hesitancy, combined with the aforementioned cultural factors, tends to “dissuade H-4 visa holders from involving law enforcement.”¹⁵⁹ Moreover, the definition of abuse in the U-Visa law requires more substantive evidence of abuse than what VAWA requires, making it less likely that those experiencing economic or psychological abuse are able to pursue a case against their abuser as opposed to someone who has documented physical abuse.¹⁶⁰ While the U-Visa remedy provided can

Id. at 1401. Another woman testified about a similar situation where she “had to remain married to maintain her legal immigration status” and deal with her “husband repeatedly beat[ing] her” while threatening that she would have to do what he said or he would call immigration authorities. *Id.* at 1402.

Taking a narrower focus, marriage in South Asian culture is considered “an alliance between two families, where . . . due to the patrilocal nature of marriage . . . the woman after marriage moves into the husband’s household. The household may include parents-in-law besides other family members.” Mahapatra & Rai, *supra* note 140, at 1185. Because family reputation is important and it is expected for the daughter-in-law to respect the husband’s family’s decisions, she can also face abuse from her in-laws. In one case study, an individual reported that her “immigration documents including her passport remained with her father-in-law.” *Id.* at 1186.

153. Anderson, *supra* note 152, at 1401–02.

154. 8 C.F.R. §§ 204.2(c)(2)(i), (iii), (v)–(vii), 244.9(a) (2024).

155. Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61370 (Nov. 17, 1997).

156. Leslye E. Orloff, Deecana Jang & Catherine F. Klein, *With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women*, 29 FAM. L.Q. 313, 316 (1995).

157. Balgamwalla, *supra* note 1, at 58.

158. *See id.* at 58–59.

159. *Id.* at 59.

160. *See id.* at 57–59.

adjust the immigration status of the victim, at its core, the U-Visa does not accommodate different cultural perspectives of Indian H-4 immigrants.¹⁶¹

Generally, while VAWA and U-Visa are “formal” methods of legal recourse—methods that involve use of the official legal framework—women of color facing abusive situations tend to avoid relying on formal support systems like domestic violence shelters, legal services, and law enforcement.¹⁶² This avoidance stems from several factors like limited access to such formal resources due to financial constraints, a lack of knowledge about the law, concern about family honor, and feelings of shame.¹⁶³ Furthermore, the use of formal networks and resources presents its own set of obstacles, such as a lack of cultural sensitivity and structural issues like racism and stereotyping by service providers, which deter survivors from seeking help through these “formal” channels.¹⁶⁴

Instead, research indicates that the majority of minority women initially turn to informal support systems as their primary means of escaping abusive situations.¹⁶⁵ These informal resources typically consist of social networks, such as family, friends, and colleagues.¹⁶⁶ These informal sources can offer emotional support and, when the time comes, support pursuing formal assistance.¹⁶⁷ Notably, for Indian immigrant women, who often experience isolation due to new cultural dynamics, informal resources are particularly vital, as they may not have a substantial informal support network when first arriving in the country, as will be explored in Part III.¹⁶⁸

C. THE NECESSITY OF IMMEDIATE ACTION

Concerns regarding parts of the toxic dependency in the H-1B/H-4 visa program have recently come into the spotlight. Dependency has created many issues in the program, affecting everyone on H-4 status, including children¹⁶⁹

161. *See id.*

162. Joanne Hulley et al., *Intimate Partner Violence and Barriers to Help-Seeking Among Black, Asian, Minority Ethnic and Immigrant Women: A Qualitative Metasynthesis of Global Research*, 24 TRAUMA VIOLENCE & ABUSE 1001, 1005–11 (2023).

163. *Id.* at 1005–08.

164. LETI VOLPP, FAM. VIOLENCE PREVENTION FUND, WORKING WITH BATTERED IMMIGRANT WOMEN: A HANDBOOK TO MAKE SERVICES ACCESSIBLE 7–8 (Leni Marin ed., 1995).

165. Hulley et al., *supra* note 162, at 1004.

166. *Id.* at 1011–12.

167. *See id.* at 1011 (“An offer of emotional help and support by someone recognising the impact of the abuse was an important trigger to enable women to leave.”).

168. *See infra* Part III.

169. The H-1B/H-4 dependent-visa program presents an additional challenge related to the “aging out” of H-4 dependent children. *Child Status Protection Act (CSPA)*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Feb. 14, 2023), <https://www.uscis.gov/green-card/green-card-processes-and-procedures/child-status-protection-act-cspa> [https://perma.cc/HU5W-VHKY]. When H-1B and H-4 parents apply for their Green Cards, seeking legal permanent residency, they also petition on behalf of their H-4 children. *See id.* The extensive backlog in Green Card processing results in a significant delay, often spanning years before H-1B and H-4 spouses can obtain their Green Cards. David J. Bier, *1.8 Million in Employment-Based Green Card Backlog*, CATO INST.: CATO LIBERTY

and spouses. Even though the program enables a family to immigrate together, the issues resulting from this antiquated dependency structure have only recently started to receive attention from Congress.

In 2022, Georgia Representative Carolyn Bordeaux and Florida Representative Maria Salazar introduced bipartisan bill H.R. 7442, known as the H-4 Work Authorization Act.¹⁷⁰ If it had been passed, this legislation would have amended section 214(e) of the INA,¹⁷¹ providing automatic work authorization to H-4 visa holders.¹⁷² While the bill did not receive any attention from Congress, essentially being a dead bill, President Joe Biden has called on Congress to pass the Bipartisan National Security Agreement, which would provide work authorization to “about 100,000 H-4 spouses and

(Aug. 29, 2023, 4:28 PM), <https://www.cato.org/blog/18-million-employment-based-green-card-backlog> [<https://perma.cc/B6YB-3ERZ>]. The Green Card backlog has grown so large that “[f]or new applicants from India, the backlog . . . is effectively a life sentence: 134 years.” *Id.* As of 2023, “[a]bout 424,000 employment-based applicants will die waiting, and over [ninety] percent of them will be Indians. Given that Indians are currently half of all new employer-sponsored applicants, roughly half of all newly sponsored immigrants will die before they receive a green card.” *Id.* If an H-4 child reaches the age of twenty-one before their parents’ Green Card is granted, they lose their dependent H-4 status, a situation commonly referred to as “aging out.” Sakshi Venkatraman, *Young Indian Americans, Aged Out of Parents’ Visas, Appeal for a Path to Citizenship*, NBC NEWS (July 1, 2021, 10:53 AM), <https://www.nbcnews.com/news/asian-america/young-indian-americans-aged-out-parents-visas-appeal-path-citizenship-n1272817> [<https://perma.cc/PN4P-ASH4>]. Consequently, these documented dreamers must make a challenging decision: seek an alternative visa status or self-deport to what the government considers their “home” country.” *Id.* In both scenarios, they are forced to start over as they are removed from the Green Card queue since they are no longer considered dependents of their parents. See *Child Status Protection Act (CSPA)*, *supra*. In addition to the tedious process of starting from scratch, self-deportation is often not a feasible option for these children who consider the United States their home, having spent majority of their lives assimilating here. See Venkatraman, *supra*. Self-deportation involves relocating to a country that is essentially foreign to them. *Id.* What the law considers their “home country” is not truly home in the eyes of these dreamers. *Id.* Pursuing another visa would involve “attempting to re-enter the labyrinthine, high-stakes immigration system for a different visa where options are extremely limited.” Lauren Feiner, *Tech Companies Urge U.S. to Let the Kids of Visa Holders Stay Past the Age of 21*, CNBC (June 7, 2022, 6:00 AM), <https://www.cnbc.com/2022/06/07/tech-companies-urge-us-to-let-the-kids-of-visa-holders-stay-past-21.html> [<https://perma.cc/YBR7-MAGA>] (quoting Letter from American Companies, to Alejandro Mayorkas, Sec’y of Homeland Sec., https://www.wsj.com/public/resources/documents/Letter.pdf?mod=article_relatedinline [<https://perma.cc/MA97-PCSR>]). There has been a growing bipartisan call for immigration reform, including legislative policy that establishes a separate “pathway to citizenship” for these children so they do not “fall[] through the cracks of the immigration system.” *Id.* Technology giants such as Amazon and Google have also championed for these rights as these dreamers can aid “employers [who are looking to fill vacancies for high-skilled positions] at a time of widespread labor shortages in the U.S.” *Id.* This is a pressing issue that has garnered attention on both sides of the aisle, but Congress has yet to enact legislation enforcing reform.

170. H.R. 7442, 117th Cong. (2022); see also Andrew Moriarty, *H-4 Work Authorization Act: Priority Bill Spotlight*, FWD.US (Apr. 26, 2022), <https://www.fwd.us/news/h-4-work-authorization> [<https://perma.cc/V5AT-EL38>].

171. 8 U.S.C. § 1184(e).

172. H.R. 7442.

children of certain H-1B nonimmigrant visa holders . . . so they no longer have to apply and wait for approval.”¹⁷³

According to pre-pandemic data, “H-4 workers contribute an estimated \$12.9 billion to the U.S. economy each year, and if every eligible H-4 visa holder were to obtain employment authorization, their economic contributions could increase to roughly \$41 billion per year.”¹⁷⁴ If the Bipartisan National Security Agreement becomes law, it would mark a significant immigration reform by dismantling part of the underlying legal coverture policy. Passage would benefit H-4 women, as they would not need to go through the process of applying for separate employment authorization.

Nevertheless, even if the agreement successfully passes, it will not offer an all-encompassing solution for abused women on H-4 status. Studies show that domestic violence often extends into the workplace; abusive partners frequently resent their partners’ work life, viewing it as an area they cannot control, and, as a result, they may create problems for their partners at their workplaces.¹⁷⁵ Some abused women frequently “miss . . . days of work due to both physical and emotional consequences of the abuse,” arrive late when they do come to work, and experience distractions “due to harassment from their abusers.”¹⁷⁶ Statistics show that this harassment has its own issues for employers; in fact, domestic violence costs employers an estimated “\$100 million annually in lost wages, sick leave, absenteeism, and non-productivity.”¹⁷⁷ And for the victims of this harassment, joining the workforce may present a slower economic solution for some women seeking to break free from dependency by accumulating savings in secret because they are forced to return home to their abuser. This Note is not diminishing the need for immediate work authorization. It is advocating for both automatic work authorization *and* access to federal aid; both reforms are essential to dismantling what has been a broken part of the immigration program for decades, and certainly, more reform will be essential to provide full recourse for H-4 immigrant women in the future.

For those women who cannot find an immediate safe haven in the workplace, an alternative for a more independent pathway is to consider pursuing education by granting them access to the federal student aid application. This route would provide them with the opportunity to immediately escape, establish a stable life while pursuing education, and plan how they

173. Press Release, White House, Fact Sheet: Biden-Harris Administration Calls on Congress to Immediately Pass the Bipartisan National Security Agreement (Feb. 4, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/02/04/fact-sheet-biden-harris-administration-calls-on-congress-to-immediately-pass-the-bipartisan-national-security-agreement> [<https://perma.cc/FFG4-L3FF>].

174. Jacqueline Varas, *The Economic Value of Work Permits for H-4 Visa Holders*, AM. ACTION F. (Mar. 20, 2019), <https://www.americanactionforum.org/research/the-economic-value-work-permits-for-h-4-visa-holders> [<https://perma.cc/LX7Z-W64X>].

175. Nicole Buonocore Porter, *Victimizing the Abused?: Is Termination the Solution When Domestic Violence Comes to Work?*, 12 MICH. J. GENDER & L. 275, 287 (2006).

176. *Id.*

177. *Id.*

want to move forward in the future including entering the workforce with a strong foundation. This approach can be a more viable option for Indian H-4 abuse victims who need to escape and cannot afford to work while dealing with their abuser at home and at the workplace.

III. A REMEDY: STUDENT FEDERAL AID FOR HIGHER EDUCATION

Federal student aid can provide crucial support for immigrant survivors of domestic abuse, offering solutions to several different challenges they encounter, such as minimizing financial dependency and creating an informal support network that is an absolute necessity for H-4 Indian women.

A. MINIMIZING FINANCIAL DEPENDENCY THROUGH FEDERAL STUDENT AID

Federal student aid would provide an avenue to financial independence, reducing reliance on abusers and facilitating access to education and career opportunities that were previously out of reach. For example, student federal aid can be used for college fees and essential living expenses, increasing financial independence.¹⁷⁸ Loan forgiveness and repayment assistance programs can also ease the financial burden.¹⁷⁹ Educational institutions often offer support services tailored to the survivors' unique needs,¹⁸⁰ further helping them break free from the cycle of abuse while pursuing educational and career goals.

Abuse victims may have limited access to family resources, or their abuser may exert economic control. A common way to finance an education is through private loans, which usually require co-signers.¹⁸¹ The situation becomes more challenging for H-4 visa holders; their inability to pursue employment without work authorization leaves them with limited options when it comes to securing a loan, especially since there is insufficient justification for approval without a co-signer.¹⁸² As a result, the only available co-signer is an H-1B spouse.¹⁸³

Secured loans, or putting a property up as collateral, is another avenue; however, this "catch-22" makes it impossible as "possessions typically used as collateral are the ones the borrower is looking to get the loan to buy" such as

178. Kat Tretina & Caroline Basile, *Can You Use Student Loans for Living Expenses?*, FORBES ADVISOR (Oct. 13, 2023, 7:25 AM), <https://www.forbes.com/advisor/student-loans/using-student-loans-for-living-expenses> (on file with the *Iowa Law Review*).

179. Jill A. Chafin & Andrew Pentis, *Student Loan Forgiveness: Programs for Relief as Repayment Restarts*, LENDINGTREE (Dec. 6, 2023), <https://www.lendingtree.com/student/student-loan-forgiveness> [<https://perma.cc/SFB4-9C6W>].

180. See Claudia Boyd-Barrett, *How Colleges Are Supporting Students Leaving Abusive Relationships*, CAL. HEALTH REP. (July 27, 2020), <https://www.calhealthreport.org/2020/07/27/how-colleges-are-supporting-students-leaving-abusive-relationships> [<https://perma.cc/U96S-U9TS>].

181. Stilt Inc., *The Guide to Funding Your Spouse's Education Who Is On H-4 Visa*, MEDIUM (Aug. 14, 2017), <https://medium.com/stilt/the-guide-to-funding-your-spouses-education-who-is-on-h-4-visa-da9955ab47b3> [<https://perma.cc/XL4K-QDGV>].

182. *Id.*

183. *Id.*

“homes and vehicles.”¹⁸⁴ Federal student aid is a viable alternative, offering a pathway for survivors to finance their education and living expenses without the constraints of credit score, co-signers, or employment history.¹⁸⁵ Beyond covering tuition fees and purchasing textbooks, federal student aid provides a safe haven in terms of addressing essential living expenses. For instance, it enables survivors to afford groceries and rent while pursuing their degrees, providing both financial stability and the opportunity for educational advancement.¹⁸⁶ Aid can also be used for other related expenses like transportation and dependent care, which is especially important when considering that some of these battered women are also mothers.¹⁸⁷ At its core, this form of aid opens doors for victims to pursue their educational goals without facing immediate financial burdens.

B. THE “SNOWBALL EFFECT” AND THE MOUNTING STUDENT DEBT CRISIS

A common point of critique, which I call the “snowball effect,” argues that expanding access to federal benefits may lead to increased demands on other federal resources and could increase spending on immigrants instead of legal permanent residents and U.S. citizens.¹⁸⁸ In reality, striking the right balance requires a nuanced approach that considers economic, social, and political implications of expanding access to federal benefits for H-4 spouses—all while keeping the overarching goal of equality in mind.

While this Note provides one solution that addresses parts of the current coverture doctrine in immigration and domestic violence, removing coverture from spouse-based visas in the current immigration system is a significant step towards promoting gender equality and individual rights. The idea that a centuries-old doctrine still dictates the modern immigration system—while perpetuating inequality and limiting the autonomy of women who immigrate here simply based on their position as the wife—is ridiculous. The debate over giving H-4 immigrants access to federal aid or automatic work authorization is important, but it should be secondary to the fundamental principles of individual rights. The aforementioned solutions align with the broader modern values of gender equality, empowerment, and self-determination. The removal of coverture and the extension of spouse-based immigration rights represent an essential step toward an immigration system that values the autonomy

184. Frank Gogol, *H4 Visa Loan: What Is an H4 Visa, and How Do You Get a Loan on One?*, STILT (Jan. 4, 2024), <https://www.stilt.com/blog/2018/05/h4-visa-loan> [<https://perma.cc/C8JM-HRX2>].

185. Kristen Kuchar, *What Credit Score Do I Need for Federal Student Loans?*, SAVING FOR COLL. (Apr. 26, 2021), <https://www.savingforcollege.com/article/what-credit-score-do-i-need-for-federal-student-loans> [<https://perma.cc/2MXZ-2PMX>]; see Conner, *supra* note 121, at 358 (“[A]busers spend years restricting their partner’s access to education, employment, . . . and resources, thereby limiting her ability to secure financial freedom once the abuse begins.”).

186. Tretina & Basile, *supra* note 178.

187. *Types of Financial Aid: Loans, Grants, and Work-Study Programs*, FED. STUDENT AID, <https://studentaid.gov/understand-aid/types> (on file with the *Iowa Law Review*).

188. See Gary Reich & Alvar Ayala Mendoza, ‘Educating Kids’ Versus ‘Coddling Criminals’: Framing the Debate over In-State Tuition for Undocumented Students in Kansas, 8 ST. POL. & POL’Y Q. 177, 185–86 (2008).

and individuality of all immigrants who are pursuing their American dream, irrespective of gender.

With a recent study indicating that student loan programs enable colleges to artificially raise tuition prices to unaffordable costs,¹⁸⁹ a question often arises: Is access to student federal loans for another demographic something the United States can afford right now? In a country where a college degree is the “highest-return investment most Americans will make,” removing “higher-education finance” for anyone will never be the solution.¹⁹⁰ While this Note does not aim to resolve the nearly \$1.8 trillion student debt crisis,¹⁹¹ this systemic issue, where institutions like loan servicers and universities play the largest hand, is not a burden the people should shoulder alone. Whether it be widespread student-debt forgiveness,¹⁹² reforming income-driven repayment,¹⁹³ ordering tuition caps,¹⁹⁴ or one of the many other proposed solutions, one thing remains true: “Federal student loans [will remain] an important part of college financing and intergenerational mobility.”¹⁹⁵ Federal student aid *is not* going anywhere, and it *should not* go anywhere.

In a country that prides itself on its opportunities, federal student loans are a prime example of providing a means to higher education for those who cannot afford the crushing costs of a college degree. A degree remains a golden ticket for millions of Americans when it comes to socioeconomic movement,¹⁹⁶ and it would offer abused immigrant women the opportunity to escape and start anew. Yes, reform to the current lending system is necessary, and a discussion about the cost and scope of federal benefits is imperative, but these conversations—adjacent to immigration reform—should prioritize

189. David Boaz, *Federal Student Loans and Rising Tuition Costs: An Insider Speaks Up*, CATO INST. (July 28, 2021, 10:58 AM), <https://www.cato.org/blog/federal-student-loans-rising-tuition-costs-insider-speaks> [<https://perma.cc/HGZ7-6W9S>].

190. Constantine Yannelis, *A Smarter Way to Solve the Student Debt Problem*, UCHI. NEWS (June 22, 2021), <https://news.uchicago.edu/story/research-suggests-smarter-way-solve-student-debt-problem> [<https://perma.cc/UNB9-FAJ3>].

191. See, e.g., Matt Schulz, *Student Loan Debt Statistics*, LENDINGTREE (Aug. 10, 2023), <https://www.lendingtree.com/student/student-loan-debt-statistics> [<https://perma.cc/HQZ2-NVXU>].

192. Annie Nova, *Despite Supreme Court Ruling, Biden Has Forgiven Student Debt for Millions. Is It Enough for Voters?*, CNBC (Jan. 24, 2024, 12:09 PM), <https://www.cnbc.com/2024/01/24/despite-supreme-court-ruling-biden-has-forgiven-student-debt-for-millions.html> [<https://perma.cc/E5JF-M6K3>].

193. Natalie Butler & Tristan Stein, *Reforming Income-Driven Repayment: A Path to Bipartisan Student Loan Relief*, BIPARTISAN POL'Y CTR. (Sept. 21, 2023), <https://bipartisanpolicy.org/blog/reforming-income-driven-repayment-a-path-to-bipartisan-student-loan-relief> [<https://perma.cc/5VLY-4JWV>].

194. Carolyn Fast, Robert Shireman & Alex Edwards, *College Tuition Is Out of Control. Voters Want Government to Do Something.*, CENTURY FOUND. (July 26, 2023), <https://tcf.org/content/commentary/college-tuition-is-out-of-control-voters-want-government-to-do-something> [<https://perma.cc/c/2C3R-J96C>].

195. Yannelis, *supra* note 190.

196. Anthony P. Carnevale & Nicole Smith, *A College Education Is Still the Most Reliable Pathway to the Middle Class*, GEO. UNIV.: FEED (Dec. 9, 2022), <https://feed.georgetown.edu/access-affordability/a-collar-education-is-still-the-most-reliable-pathway-to-the-middle-class> [<https://perma.cc/R7KZ-JRZC>].

the principles of fairness, equality, and opportunity. Access to student federal lending emphasizes those principles for these women.

C. HIGHER EDUCATION AS A STEPPING STONE

Section II.B discussed the difference between formal and informal resources for abuse victims and how women of color turn to informal resources as a means of escape.¹⁹⁷ While higher education institutions provide formal resources, such as Title IX, and informal resources, like connections with classmates and professors, the informal resources provide a stepping stone for Indian immigrant women looking to break free from their abusers but who cannot do so immediately through use of formal legal recourse.¹⁹⁸

When these women face abusive situations, they tend to avoid formal support systems.¹⁹⁹ These obstacles can make it challenging for victims to access the help they need to escape their abusers. Informal support systems, like coworkers and friends, can help to overcome these challenges by offering emotional support and practical assistance.²⁰⁰ These systems provide a supportive environment where the H-4 holder may feel safe discussing her concerns, feelings, and experiences.²⁰¹ In addition to emotional support, universities can educate survivors on their formal legal rights, like the U-Visa status and Form I-765V, through informal means such as counseling services and support groups.²⁰²

Many times, immigrants who are not familiar with the system may not be aware of the resources at their disposal. Due to the fear in place as victims of abuse and as members of a conservative society, Indian women on H-4 status are often not ready to leave their abusers or charge their abusers, so they need time and emotional support to decide their next steps. These informal resources provide a stepping stone for these women, who may experience isolation due to the collectivist cultural dynamics, to expand their social network outside their abusive household. The shift in environment by attending university and learning diverse perspectives outside of what an H-4 immigrant is accustomed to can encourage her to use those formal resources and gain financial independence, since she is not confined to her cultural expectations in this environment; this can ultimately offer a way out from an abusive situation.

Higher education can serve as a powerful catalyst for an H-4 abuse victims to thrive in a new country, offering them the tools, resources, and support

197. See *supra* Section II.B.

198. See Boyd-Barrett, *supra* note 180; Hulley et al., *supra* note 162, at 1011.

199. See *supra* Section II.B.

200. See Kateryna M. Sylaska & Katie M. Edwards, *Disclosure of Intimate Partner Violence to Informal Social Support Network Members: A Review of the Literature*, 15 *TRAUMA VIOLENCE & ABUSE* 3, 3 (2014) (“The majority of victims of [intimate partner violence] disclose to at least one informal support (e.g., friend, family member, classmate, coworker, and neighbor).”).

201. See *supra* Section II.B.

202. See Adolfo Guzman-Lopez, *How Students Stuck in Domestic Abuse Can Get Help from University Advocates—Even When Not on Campus*, LAIST (Mar. 2, 2021, 2:02 PM), <https://laist.com/news/domestic-relationship-violence-rising-pandemic-college-university-advocates-students-help> [<https://perma.cc/GA2U-3VYY>]; *supra* Sections I.C.1–2.

they need to escape their abusers and regain control of their lives in a new country. It provides an opportunity for these women to become self-reliant, access informal and formal support systems at their own pace, and build stronger social networks, ultimately facilitating their path towards safety, recovery, and independence.

CONCLUSION

Domestic violence occurs in all communities. It is a pervasive issue that crosses racial, socioeconomic, educational, and language barriers. For assistance to be effective, policymakers and advocates must understand that battered immigrant women have individual needs depending on their community. These women need creative legal solutions crafted by their cultural experiences and their experiences as abuse victims. If proper reform will not be introduced to address destructive dependency in the H-1B/H-4 relationship, coverture will live on, and more immigrant women will pay the price every day. This necessary reform should include broadening access to higher education for Indian H-4 immigrant women by allowing H-4 visa holders to qualify for federal student aid. Education is transformative; it offers a path to economic and social independence. For Indian immigrant women, this solution addresses the shame and unease surrounding escaping abusive relationships and allows them to branch out in a country still foreign to them.

A powerful mosaic of resilience emerges through the intertwined narratives of Amina,²⁰³ Rashmi,²⁰⁴ Dina,²⁰⁵ and Smita,²⁰⁶ demonstrating the harsh realities faced by a number of Indian immigrant women. Their narratives are a call to action, urging society to acknowledge and rectify the systemic challenges these women endure. This would foster an environment where these women can flourish without constraints put in place by their abusive partners and by the system. A pathway to change comes to light through the shared realities of these women, and this is a path towards a more compassionate and empowering experience for all the women who dare to dream across borders.

203. See Balgamwalla, *supra* note 1, at 28.

204. See *supra* note 2 and accompanying text.

205. See *supra* note 3 and accompanying text.

206. See *supra* note 4 and accompanying text.