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Trapped, on a 'H-4'

By Shivali Shah

Well qualified, English-speaking Indian women come to the U.S. to join their husbands who are H-1B visa holders. What follows next, for some, is a cycle of extreme abuse, says SHIVALI SHAH.

LIFE for Ritu will never be the same again. Ever since coming to the United States to join her husband, a software engineer, she has been abused by the man, his mother and his brother; a cycle of physical, psychological, sexual, and financial abuse. She is not allowed to leave their one-bedroom apartment in New York without a family member in tow. Most days are spent cooking, cleaning, and wondering whether her husband will give her money to buy a course of antibiotics for their eight-month-old son. "I do not ask for anything for myself, not even a pair of *chappals*," she told me when I met her in connection with a survey of women on the H-4 visa. "But this is our baby, his baby. I need only \$7 for Sarthik, for ear medicine."

For the past nine days Sarthik has been crying incessantly. The most surprising element of her story is that Ritu is a doctor.

Educated yet vulnerable

Well qualified, English-speaking Indian women come to the U.S. to join their equally well educated H-1B husbands, but are not allowed to work under the provisions of the H-4 spouse visa. Unable to be independent, H-4 wives, as they are called, are peculiarly vulnerable to becoming victims of domestic violence. My survey of U.S. South Asian domestic violence organisations has revealed a shocking 20 to 50 per cent of their clients to be H-4 visa holders.

Since 1990, the United States Citizenship and Immigration Services (USCIS) (formerly the Immigration and Naturalization Service (INS)) granted H-4 spouse visas to thousands of women with H-1B visa holding husbands who are professionals — engineers, doctors, and research scientists. The annual number of new H-1Bs granted has ranged from 1,95,000 in 2001 to 65,000 in 2004. According to the USCIS (www.uscis.gov/graphics/), approximately 42 per cent to 47 per cent of the H-1B visas are granted to Indians. Any problem with the H visa is a problem for Indians. The USCIS does not give H-4 dependent spouses authorisation to work until well into the green card process. Therefore, these women are financially dependent on their husbands for anywhere from two to nine years. H-4 women are middle class and have status in the U.S., but immigration laws can make them indigent and undocumented at the whims of their husbands.

Most women are Indian

In my study of current and former H-4 visa holders, most women are Indian by birth or descent. Most are college educated, upper-middle class, English speakers with ambitions of having a career. Most women had arranged or semi-arranged marriages. Their husbands earned between \$50,000 to \$110,000. None of the women I interviewed had their own assets or income source. One woman had Rs. 30,000 saved from earlier work in India — a pittance in dollars.

Come December every year, and there's an exodus of H-1B men back to India. They telephone their immigration lawyers to tell them that they are travelling back to India for a month to get married and need the requisite papers to bring their brides back with them. When told: "Congratulations! What's her name? I'll put it on your documents," the reply is usually: "I don't know, I have not met her as yet."

Back in India, there are numerous families who are keen to find their daughters a match among these men during their whirlwind marriage tours. A boy in the U.S. and his H-1B status makes him more eligible a bachelor than a green card holder because his bride can join him in the U.S. right away with a H-4 visa instead of waiting in India for two to three years for her own green card. It also means that he has at least a bachelor's degree, a good job with prospects of green card sponsorship, and can offer their daughter a life in the U.S. Decisions are made rapidly. Often the bride's family doesn't have time to explore the groom's background or personality during these quick trips.

Immigration laws an obstacle

Once married, the immigration laws work against these women. Coercion can begin right after the wedding. The husband can keep her in India until certain dowry or other demands are met. Societal pressure to join the husband encourages women into compliance.

A H-4 visa holder is dependent for renewal and maintenance of her status. Even if the husband maintains his status, the wife can find herself undocumented. If she wants to convert to another status, she must prove that his H-1B is valid and that he is still employed. For this, she must also go through him. An example is Maya, 24, a computer engineer from Bangalore — on a H-4 visa and now in California and who has a job offer, but cannot convert to a H-1B visa without proof of her husband's H-1B visa and his most recent pay stubs.

Once the green card process begins, the husband may tell his immigration lawyer that documents should not be submitted for his wife or that she wants to withdraw her application and his lawyer has no reason to act otherwise.

Access to documents is a huge barrier for H-4 wives. The immigration lawyer represents the H-1B employee and the employer. The lawyer has no obligation towards the H-4 wife. Tanvi Tripathi, advocate for Sakhi, NY, recalls an incident where a client was forced to trade custody of her children to get her immigration documents back from her husband. "Even then, when he gave the passport back, the page with the H-4 stamp was ripped out," Tanvi said.

In interviews, several immigration attorneys reported fielding irate calls from H-1B clients forbidding them from further contact with their wives. One attorney tells me that she has received files at her firm with covers stating: “DO NOT TALK TO WIFE”.

Under the post-9/11 Patriot Act, H-4 visa holders can't get a social security number. This means that she cannot get a separate bank account or credit card without it. Soniya Munshi, Director of Manavi, NJ, discusses the difficulty battered H-4 women face when trying to rent an apartment: “You need a social security number to run a credit check. Because a H-4 doesn't have a financial presence in the U.S., she won't have a credit history.”

Some states require the H-1B husband's consent to get a driver's license. Another example is of Alpa whose husband would not let her get her own driver's license for years saying that it would increase his insurance rate. She depended on him to take her around.

Most women interviewed were surprised that they ended up this way because they thought they have married men who seemed to be “good boys from good families”. Take the case of Maya whose family was shocked when there were demands for dowry. “We thought because he is from U.S., he won't demand a dowry.”

Often H-4 women and their families are under the mistaken notion that coercion and violence are endemic only to the lower classes. The belief is that since their daughter has a bachelor's degree and the groom a good job in the U.S., the marriage will be peaceful. Here is another example. Jaspreet told me how that before marriage there was an incident that should have alerted her to Jasvinder's temper, but she ignored the signs: “Because we thought he was from a good family and had good job in U.S., plus he had his Master's degree,” Jaspreet explains apologetically. “Even that thought is probably wrong that people being educated would make a difference in their thinking. Nothing changes with education — the wife is someone who cooks, cleans, and gets things ready.”

Options for victims

For H-4 women who do not want to or cannot return to India, immigration options are limited. A battered immigrant woman married to a U.S. citizen or green card holder can self-petition for a green card under the Violence Against Women Act (VAWA). As the spouse of a temporary visa holder, the H-4 wife has no such recourse. If she has the requisite education and training, she may try to get H-1B sponsorship. H1-B visas have been harder to obtain after the technology bubble burst. Getting a student visa is often difficult because universities are expensive and only citizens and permanent residents are eligible for government grants and loans. If she files a case of domestic violence with the police, she may explore the U visa meant for crime victims. This is sometimes not an attractive option since an immigrant woman will be reluctant to make her husband vulnerable to deportation.

Political asylum is, in theory, another possibility, but is only applicable in limited situations and the standard of proof is often too difficult to meet.

Through research, writing, and lobbying, I hope to get some relief for H-4 spouses. Work authorisation and social security numbers for H-4s is a must. Spouses in abusive relationships should be able to self-petition for a green card under VAWA. VAWA is up for reauthorisation in 2005. There needs to be a

push from the community and businesses which employ H-1B visa holders to allow H-4 visa holders to work and self-petition.

Little awareness in the U.S.

Unfortunately, outside of South Asian domestic violence organisations, there is little awareness and no advocacy. Mainstream domestic violence organisations are unaware of the intricacies of the immigration issues and can sometimes jeopardise a H-4 woman's status by pressuring her to get a job. Business immigration lobbyists don't have H-4 issues on their radar. Immigrant advocacy groups focus their efforts on those that are overtly undocumented and poor. They often don't have the knowledge of employment-based visas to give even basic advice. Because H-4 visa holders appear to be middle class and have legal status, their plight is not seen as pressing. The sad reality is that they enjoy these two privileges only so long as their husbands will allow them to.

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AYESHA, 22, a Gujarati Ismaili, just completed her undergraduate degree in English and aspires to be a writer and teacher. When she came to the U.S. on her H-4 visa, she found that her husband, a hardware engineer, has been seeing another woman for the past two years, and continues to sleep over in the girlfriend's apartment. "I am just his housemaid," she says with a quiver in her voice, "but what can I do? I cannot go back to India now that I am married and I cannot leave him because I will become without status." In addition to feeling as if she is his maid she feels like a prostitute: the sexual relationship with him is painful and violent, she said; in return, he lets her live in his house.

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WHEN I met Yamini, 26, she had just learned from a mutual friend that her husband, Yogesh, a H-1B visa holder, had purchased a one-way ticket for her and their son back to India. She was a year away from completing her LLB in Delhi when she got married and went to the U.S. to join her husband, a systems analyst. Yogesh had an extreme temper and beat her without reason, Yamini said. She hoped that the birth of their son would improve his behaviour, but it got worse and he even abused the son. He sees to it that she gets a strict weekly cash allowance, where each week, she must submit receipts and return the change. Sometimes when Yogesh is out on business trips, he does not even leave her money for food. She depends on the goodwill of her neighbours. Last year, Yogesh did not pay the utilities and there was no central heating in the house for three weeks in the middle of a New England winter. She does not understand why he behaves this way or why he wants to get rid of her. She said she will return to India because her only other choice is to leave his house with a child to look after and no money in hand.

Shivali Shah is a NY based lawyer and Co-Founder of Kiran: Domestic Violence and Crisis Services for South Asians in North Carolina (www.kiraninc.org). To learn more about or participate in the H visa survey, visit www.hvisasurvey.org

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