
COMMENTS

BATTERED IRANIAN IMMIGRANT WOMEN AND THE INEFFECTIVENESS OF U.S. ANTIVIOLENCE REMEDIES*

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I. INTRODUCTION

Violence against women plagues millions of women and children around the world every year.¹ Studies have shown that up to seventy percent of women are victims in their lifetimes.² The United Nations Declaration on the Elimination of Violence Against Women defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”³ The most prevalent form of violence is abuse perpetrated by an intimate partner.⁴

Although violence against women occurs around the globe, it is even worse in societies that have entrenched structural discrimination against women.⁵ Sex

1. *Ending Violence Against Women and Girls, Overview*, UNITED NATIONS, <http://www.un.org/en/globalissues/briefingpapers/endviol/index.shtml> (last visited Feb. 1, 2016).

2. *Id.*

3. G.A. Res. 48/104, Declaration on the Elimination of Violence Against Women, art. 1 (Dec. 20, 1993).

4. *Ending Violence Against Women and Girls*, *supra* note 1.

5. See, e.g., Julie Goldscheid, *Domestic and Sexual Violence as Sex Discrimination: Comparing*

stereotypes that portray men as “strong, independent, reasonable, and aggressive,” and women as “weak, dependent, emotional, and passive,” are used to justify male violence.⁶

Iran is one such country where “[t]he patriarchal structure, cultural traditions and religious edicts . . . create a climate in which women are seen as men’s property and domestic violence thus becomes an accepted expression of male dominance.”⁷ Accordingly, most victims are forced to endure the abuse and live in silence.⁸ While an increasing number of countries are implementing laws combating violence against women,⁹ Iran refuses to join their ranks.¹⁰

In contrast, the United States (U.S.) is one country that has implemented laws against domestic violence. Not only is domestic violence a chargeable offense, but federal and local governments have also enacted legislation to ban violence, and antiviolence advocates have created institutions to support victims.¹¹ The U.S. has gone so far as to extend these remedies, such as the U Nonimmigrant Visa (U Visa) and the Violence Against Women Act self-petition (VAWA self-petition), to protect battered immigrant and nonimmigrant women who come to the U.S.¹²

This Comment focuses on whether these U.S.-created remedies for noncitizen women¹³ protect Iranian victims who immigrate to the U.S. More specifically, this Comment explores the following questions: What happens to battered Iranian women who immigrate to the U.S. with their abusive partners? Do these women know they are victims of a crime? Do they know of the legal resources available in the U.S. that can protect them from abuse? Are the legal antiviolence resources in the U.S. reaching these victims?

American and International Approaches, 28 T. JEFFERSON L. REV. 355, 378–84 (2006).

6. Sally F. Goldfarb, *Reconceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship?*, 29 CARDOZO L. REV. 1487, 1493 (2008).

7. CLARE PALMER & KATHRYN RAMSAY, REFUGEE WOMEN AND DOMESTIC VIOLENCE: COUNTRY STUDIES, IRAN 9 (2002), <http://www.refworld.org/docid/478e3c9b13.html>.

8. See *infra* Part II.A for a discussion on the impact of culture, the law, and the judiciary on domestic violence matters in Iran.

9. *More Countries Have Laws Banning Domestic Violence, Says UN Women’s Rights Official*, UN NEWS CTR. (Nov. 22, 2006), <http://www.un.org/apps/news/story.asp?NewsID=20703&Cr=unifem&CrI>.

10. Charlotte Alfred, *These 20 Countries Have No Law Against Domestic Violence*, HUFFINGTON POST (Mar. 8, 2014, 11:23 AM), http://www.huffingtonpost.com/2014/03/08/countries-no-domestic-violence-law_n_4918784.html.

11. See *History of Battered Women’s Movement*, IND. COALITION AGAINST DOMESTIC VIOLENCE, <http://www.icadvinc.org/what-is-domestic-violence/history-of-battered-womens-movement> (last updated Mar. 25, 2009) (providing a history of the U.S. response to domestic violence).

12. See *infra* Part II.C for a more detailed analysis of the U Visa and the VAWA self-petition. Immigrants are individuals who are living permanently and lawfully in the U.S. Univ. of Cal., *Nonimmigrant v. Immigrant Status*, BERKELEY INT’L OFF., http://internationaloffice.berkeley.edu/nonimmigrant_vs_immigrant (last visited Feb. 1, 2016). Nonimmigrants are individuals who enter the U.S. on a temporary basis (e.g., tourism, business, temporary work, or study). *Id.*

13. I will use the term “noncitizen” to encompass both nonimmigrants and immigrants.

Section II provides an overview of domestic violence in Iran, an overview of the Iranian population that has immigrated to the U.S., and an overview of the U Visa and VAWA self-petition as remedies for battered noncitizen women in the U.S. Section III, drawing upon information gleaned from legal grassroots organizations throughout the U.S. that provide services to battered Iranian noncitizen women,¹⁴ discusses the lack of use of the U Visa and VAWA self-petition by this population of women. Section III also proposes solutions to connect these resources to battered Iranian noncitizen women in the U.S. Ultimately, this Comment argues that the U Visa and VAWA self-petition are inaccessible to Iranian victims in the U.S. and proposes solutions to address this problem. Without a substantial change to the current system, many Iranian noncitizen victims will continue suffering in silence.

II. OVERVIEW

To understand the current situation facing battered Iranian noncitizen women in the U.S., it is critical to have an understanding of the tolerance of domestic violence in Iran, how this tolerance persists when Iranian families immigrate to the U.S., and the resources that are available to assist these women in the U.S.

Part II.A focuses on (1) domestic violence under the Islamic Penal Code and judicial system in Iran; (2) domestic violence in marriage, divorce, and custody in Iran; and (3) the lack of resources to assist victims of violence in Iran. Part II.B generally discusses the Iranian population that has immigrated to the U.S. and, more specifically, focuses on battered Iranian noncitizen women in the U.S. Part II.C provides information about the U Visa and VAWA self-petition as avenues of protection for battered noncitizen women. Part II.D discusses available resources in the U.S. for battered Iranian noncitizen women.

A. *Domestic Violence in Iran*

I was married at the age of 12, and I had my first child when I was 13. My husband was unemployed and we fought all the time. We never applied for a divorce because I was afraid of losing my child. . . . [O]ne night, he poured a bucket of acid over my body and I was completely burned. When I rushed to the sink to flush my face and body[,] I realized that he had shut off the main water supply. I was taken to the hospital. My operation was held up pending advance money for the surgery, and permission from my husband to operate on my face. My mother sold all of her valuables and provided the money. My husband said he would only permit my operation if I consented to not seeing my children for the rest of my life.¹⁵

14. While this Comment refers to “battered Iranian noncitizen women” as a general population, these findings are not true or relevant for all battered Iranian noncitizen women. Rather, it is a reflection of the obstacles facing a number of these women.

15. NAT’L COMM. OF WOMEN FOR A DEMOCRATIC IRAN, ALTERNATIVE REPORT ON IRAN (2000), <http://www.womenaction.org/global/ncwdi.htm> (quoting 42 ZANON MAG.).

This chilling account of one victim's¹⁶ experience is common for many women in Iran. In 2004, the Ministry of Internal Affairs conducted a study of twenty-eight provinces in Iran, which concluded that over 66% of women in Iran have experienced at least one instance of abuse since the beginning of their marriages.¹⁷ A study of 1,800 pregnant Iranian women found that 60% were victims of domestic violence during their pregnancies.¹⁸ Among this group, women suffered from psychological violence (60.5%), physical violence (14.6%), and sexual violence (23.5%).¹⁹ Further, 53% of female homicide victims in Iran were killed by their husbands or boyfriends.²⁰ Such violence remains an unfortunate reality for many Iranian women because there are *no* laws criminalizing domestic violence in Iran.²¹

1. Domestic Violence Under the Islamic Penal Code and Judicial System in Iran

The Islamic Penal Code (formally, The Islamic Penal Code of the Islamic Republic of Iran) and the Iranian judicial system tolerate violence against women.²² After Iran became the Islamic Republic in 1979, the laws of the country became centered on Shari'a law, which some scholars have argued not only disfavors women, but is also "arguably one of the causes for the establishment of gender inequality leading to a 'gender apartheid' in Iran."²³ The Islamic Penal Code enforces a patriarchal system that justifies the oppression of women and fails to punish perpetrators of abuse, even when such violence ends in severe injury or death.²⁴ While the code criminalizes assault and battery,²⁵

16. The victim's name has not been provided in order to maintain confidentiality.

17. ZAHRA TIZRO, DOMESTIC VIOLENCE IN IRAN: WOMEN, MARRIAGE AND ISLAM 16 (2011).

18. Shayesteh Jahanfar & Zahra Malekzadegan, *The Prevalence of Domestic Violence Among Pregnant Women Who Were Attended in Iran University of Medical Science Hospitals*, 22 J. FAM. VIOLENCE 643, 645 (2007).

19. *Id.*

20. Ehsan Zar Rokh, *Injunctions in Domestic Violence: Case Study in Iran 2* (July 15, 2011) (unpublished manuscript), http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=ehsan_zarrokh.

21. See Alfred, *supra* note 10 (stating that Iran is one of twenty countries that have no laws criminalizing domestic violence); see also TIZRO, *supra* note 17, at 18 (explaining that there are no domestic violence laws in Iran because domestic violence has not been acknowledged in the criminal code).

22. See Golnaz Esfandiari, *Violence Against Women—In Iran, Abuse Is Part of the Culture* (Part 2), PARS TIMES (Nov. 25, 2003), http://www.parstimes.com/women/violence_culture.html.

23. See Susan W. Tiefenbrun, *The Semiotics of Women's Human Rights in Iran*, 23 CONN. J. INT'L L. 1, 59–60 (2007) (footnote omitted). Professor Tiefenbrun's article discusses the "historical, political, cultural, economic, social and legal factors" that impact women's rights in Iran. *Id.* at 4.

24. Michael Azad Moradian, *Domestic Violence Against Single and Married Women in Iranian Society 3* (Aug. 2009) (unpublished manuscript), https://www.academia.edu/2435646/Domestic_Violence_against_Single_and_Married_Women_in_Iranian_Society.

25. Article 614 of Book Five of the Islamic Penal Code imposes a two to five year imprisonment punishment for assault and battery. Majmua-hi Qava'nini Jaza'i [CODE OF CRIMINAL LAWS] [Islamic Penal Code of the Islamic Republic of Iran] Tehran 1996, art. 614 (Iran), IRAN HUM. RTS.

victims of domestic violence rarely prevail on these claims in court²⁶ due to cultural and social norms that recognize a husband's role as the head of the family,²⁷ and as having the "managerial duty" to punish his wife when he sees fit.²⁸ Because Iran's legal system ignores claims of domestic violence, women have no redress and the problem continues.²⁹

Even if a woman could get her case to a court, the Islamic Penal Code assigns a woman's testimony half the worth of a man's testimony, requiring corroboration by at least one *male* witness to the alleged crime.³⁰ The rationale behind this requirement is the belief that women are emotional and forgetful.³¹ An Iranian victim of abuse who resorts to family court is actually condemned for causing her husband's abusive behavior and is expected to understand that the violence is for the ultimate good of the family.³²

The Islamic Penal Code further discriminates against women by affording greater value to a man's life than to a woman's life.³³ Under Article 300 of the Islamic Penal Code, the family of a female murder victim can receive only half the "blood money" (compensation from the perpetrator in lieu of an execution) that a male victim's family would have received.³⁴ Further, the penal code explicitly grants men the privilege to be violent towards their wives. Article 630

DOCUMENTATION CTR., <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html> [hereinafter ISLAMIC PENAL CODE]. Assault and battery occurs when a perpetrator acts in a way "against someone else that results in damaging or breaking or disabling a victim's limb or causes him a permanent illness or defect or loss of a sense or ability or loss of mind." *Id.* If the injury, as defined, does not result, but the means of committing the assault was a gun, knife, or something similar, the sentence is reduced from two to five years to three months to one year. *Id.*

26. TIZRO, *supra* note 17, at 18.

27. See AMNESTY INT'L ET AL., JOINT STATEMENT ON THE STATUS OF VIOLENCE AGAINST WOMEN IN THE ISLAMIC REPUBLIC OF IRAN 2 (2012), <https://www.amnesty.org/en/documents/MDE13/074/2012/en/> (explaining that Article 1105 of the Iranian Civil Code recognizes a man as the head of the household).

28. TIZRO, *supra* note 17, at 18.

29. Shireen A. Soltani, Domestic Violence in Iran 30 (May 3, 2005) (unpublished M.A. thesis, Oregon State University), <http://ir.library.oregonstate.edu/xmlui/bitstream/handle/1957/13372/SoltaniShireenA2006.pdf?sequence=1>.

30. Mohammad Hossein Nayyeri, *Gender Inequality and Discrimination: The Case of Iranian Women*, IRAN HUM. RTS. DOCUMENTATION CTR. § 1.5 (Mar. 8, 2013), <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html>.

31. *Id.* ("According to this traditional perception, women are not reasonable beings but rather consumed with emotion and with a tendency for forgetfulness.")

32. PALMER & RAMSAY, *supra* note 7, at 18.

33. Noreen Malone, *How Does Blood Money Work?*, SLATE (Mar. 20, 2009, 3:07 PM), http://www.slate.com/articles/news_and_politics/explainer/2009/03/how_does_blood_money_work.html (explaining that under Iranian laws, the lives of women "are typically appraised at lower amounts" than those of men).

34. *Id.*; see also *Islamic Republic of Iran Islamic Penal Code: Excerpts Relating to Women*, FOUND. FOR IRANIAN STUD., <http://fis-iran.org/en/women/laws/penalcode> (last visited Feb. 1, 2016) (providing that Article 300 of the Islamic Penal Code states: "The blood money for the first- or second-degree murder of a Muslim woman is half of that of a murdered Muslim man").

of the penal code allows a husband to kill his wife if he finds her engaging in adulterous conduct.³⁵ The same right is not given to the wife.³⁶

2. Domestic Violence in Marriage, Divorce, and Custody

In addition to judicial practices and the Islamic Penal Code, the laws in the Iranian Civil Code (formally, the Civil Code of the Islamic Republic of Iran) regarding marriage, divorce, and custody matters encourage domestic violence under certain circumstances. In the realm of marriage, girls as young as thirteen years old are permitted to marry.³⁷ For most women, the marriage contract consists of an offer from the woman or her parents for marriage, an acceptance from the man, and the payment of a dower (“*mahr*”) to the woman.³⁸ Under the Iranian Civil Code, women have certain duties to their husbands. These duties include a range of obligations, such as the duty to sexually submit to a husband’s desires (“*tamkin*”),³⁹ or obtain permission to leave the house or travel.⁴⁰ This forced dependency increases women’s exposure to domestic violence.⁴¹ *Tamkin* condones marital rape by treating it as part of a wife’s duty to satisfy her husband’s sexual wishes.⁴² When wives violate these obedience duties, their husbands will typically “turn to the judicial system, stop financially supporting [them], or hurt [them] physically with little constraint.”⁴³ At times, husbands will even deprive women of shelter, food, or clothing.⁴⁴

Iranian victims of domestic abuse often have no choice but to remain in abusive marriages for a number of reasons. First, police typically will either not respond to domestic violence complaints or will send women back to their abusive homes.⁴⁵ One Iranian woman endured repeated episodes of abuse by her

35. ISLAMIC PENAL CODE, *supra* note 25, art. 630; Judith Armatta, *Getting Beyond the Law’s Complicity in Intimate Violence Against Women*, 33 WILLAMETTE L. REV. 773, 785–86 (1997) (explaining that some laws in Iran permit the killing of wives for certain behavior like adultery).

36. Nina Kristiansen, *Spouse Killings in Iran*, IRAN CHAMBER SOC’Y (Aug. 2003), http://www.iranchamber.com/society/articles/spouse_killings_iran.php.

37. Vivian Tsai, *Child Bride Practice Rising in Iran, Parliament Seeks to Lower Girl’s Legal Marriage Age to 9*, INT’L BUS. TIMES (Aug. 30, 2012, 4:30 PM), <http://www.ibtimes.com/child-bride-practice-rising-iran-parliament-seeks-lower-girls-legal-marriage-age-9-760263>.

38. Tiefenbrun, *supra* note 23, at 63.

39. *Id.*; see also Rouhi Shafii, *Islamic Republic of Iran: Promoting Violence Against Women*, IRAN HUM. RTS. REV., Jan. 2014, at 1, 2, http://www.ihrr.org/wp-content/uploads/ihrr/articles/2014/1//674_violence-en_islamic-republic-of-iran-promoting-violence-against-women1.pdf (explaining that Article 1108 of the Iranian Civil Code states that it is the woman’s duty to sexually submit to her husband).

40. See AMNESTY INT’L ET AL., *supra* note 27, at 2 (explaining that a woman’s duty to submit includes obtaining permission to leave the house and that violence is an accepted response to a woman’s unwillingness to submit).

41. *Id.*

42. Esfandiari, *supra* note 22.

43. Adrien K. Wing & Peter P. Nadimi, *Women’s Rights in the Muslim World and the Age of Obama*, 20 TRANSNAT’L L. & CONTEMP. PROBS. 431, 438 (2011).

44. Armatta, *supra* note 35, at 790.

45. Esfandiari, *supra* note 22.

husband in which he would burn her with cigarettes, sear her with skewers, and beat her with a cable.⁴⁶ On one occasion, he locked her in a shed for twelve days.⁴⁷ When the woman turned to her father for help, he rejected her: “You went to your husband’s home with a bridal gown. You should leave that home with a white burial shroud.”⁴⁸ As a last resort, she attempted to report the beating and burning to the police but was turned away.⁴⁹ Shortly thereafter, her husband murdered her.⁵⁰

Second, victims of domestic abuse cannot find protection in the Iranian judicial system. Women rarely utilize the court system to punish or leave their abusers, as courts tend to recognize the right of husbands to punish their wives.⁵¹ Further, even if a woman can get her claim to court, she faces great difficulty in trying to convince the court that she is in danger.⁵² For instance, “prior history of abuse is considered evidence of danger only if the battery has caused *major injury*,” which suggests that violence is tolerated until it results in a permanent injury.⁵³

Third, cultural and societal pressures demand that women remain quiet about the abuse, as some violence is considered a socially acceptable form of “educating” women.⁵⁴ In a male-dominated country, like Iran, women stay in abusive marriages because “the actions of a woman who leaves her husband, reports [him] to the authorities, or disobeys [him] in the home, can constitute violations of deeply rooted beliefs in the sacredness of the family and the subordinate position of women.”⁵⁵ The violent subjugation of women by their husbands has become so engrained in Iranian custom that most women are unaware they are victims of a crime.⁵⁶ Instead, they consider the physical and verbal abuse to be normal, as opposed to a form of subordination and oppression.⁵⁷ When incidents of violence become very severe, they are dealt with in the private realm.⁵⁸ The issue is typically taken to an elderly family member,

46. PALMER & RAMSAY, *supra* note 7, at 15.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. Esfandiari, *supra* note 22.

52. PALMER & RAMSAY, *supra* note 7, at 19.

53. *Id.* (explaining that the level of abuse must be severe to even be considered in battery cases).

54. See Soltani, *supra* note 29, at 28 (explaining that “[i]n Iran . . . years of cultural pressure mandates a woman to remain silent about her experiences of violence”).

55. Mahsa Aliaskari, Comment, *U.S. Asylum Law Applied to Battered Women Fleeing Islamic Countries*, 8 AM. U. J. GENDER SOC. POL’Y & L. 231, 245 (2000).

56. Ava Homa, *In Iran, Violence Against Women Highest Among Kurds*, RUDAW (May 1, 2014), <http://rudaw.net/english/middleeast/iran/050120141> (citing Jafar Bolhari, a psychologist and expert in violence against women).

57. *Id.*

58. See NAT’L COMM. OF WOMEN FOR A DEMOCRATIC IRAN, *supra* note 15 (noting that Iranian law fails to consider domestic violence and “prosecutors often overlook violence in the family”).

who then mediates with the end goal of reconciliation.⁵⁹ Victims are often blamed for the violence,⁶⁰ and frequently, members of the extended family pressure the victim to maintain a positive family image at all costs.⁶¹

Fourth, women often stay with their abusers out of fear for their children's safety.⁶² One survivor explained: "During our life together, I allowed him to beat me [because] I knew it would stop him from torturing the child. . . . I still have nightmares about those days and nights" ⁶³ Finally, financial dependency can deter women from leaving their abusers. Since women do not have ownership of anything more than a dower and their personal wealth in marriage,⁶⁴ most women are unable to survive financially outside of their toxic relationships.

In addition to these pressures, the difficulty for women in obtaining a divorce, and the social stigma attached, forces Iranian women to stay in abusive marriages. Under the Islamic Civil Code, men and women do not hold equal rights to obtain a divorce.⁶⁵ A woman is permitted to request a divorce only if she obtains the consent of her husband or if she can prove that the marriage presents an extremely difficult hardship.⁶⁶ While domestic violence is at times grounds for a divorce, the Islamic Civil Code states that the violence must reach the point where it is "intolerable."⁶⁷ "Of course the courts do not consider every sort of violence as being maltreatment and causing hardship since rows, rough treatment and beating are current in many Iranian families. . . . [T]he judge uses his own criteria to define violence."⁶⁸ One woman, who petitioned the court for a divorce on the grounds of domestic violence, argued that she lost her hearing due to her husband repeatedly striking her head.⁶⁹ Although she provided medical evidence of her hearing loss and witnesses who testified to seeing bruise marks on her body, the court denied the petition because no witness had seen her husband actually hit her.⁷⁰

59. Soltani, *supra* note 29, at 5; *see also* TIZRO, *supra* note 17, at 18 (explaining that domestic violence is typically confined to the private realm).

60. Aliaskari, *supra* note 55, at 244–46.

61. Soltani, *supra* note 29, at 6.

62. *See* Esfandiari, *supra* note 22.

63. *Id.*

64. Tiefenbrun, *supra* note 23, at 63.

65. Nayyeri, *supra* note 30, § 2.2.

66. *Id.*; *see also* S.I. Strong, *Law and Religion in Israel and Iran: How the Integration of Secular and Spiritual Laws Affects Human Rights and the Potential for Violence*, 19 MICH. J. INT'L L. 109, 169 (1997) ("Women . . . find it much more difficult to extricate themselves from a troubled marriage and can obtain a divorce only with their husband's consent or, in limited circumstances, through a court order.").

67. *See* Nayyeri, *supra* note 30, § 2.2 (providing that a wife could claim battery as grounds for a divorce, but even then the abuse must be "intolerable").

68. PALMER & RAMSAY, *supra* note 7, at 21; *see also* Kristen Cherry, Comment, *Marriage and Divorce Law in Pakistan and Iran: The Problem of Recognition*, 9 TULSA J. COMP. & INT'L L. 319, 341 (2001) (explaining that "[a]lthough a woman may get a . . . divorce if she can prove physical or mental cruelty, it is in the judge's discretion to determine whether such cruelty is actually harmful").

69. Cherry, *supra* note 68, at 341.

70. *Id.*

Even when a divorce is granted, there are still many repercussions for the woman. First, there is social stigma associated with divorce that arises from the scripture of the Quran, on which the Islamic Civil Code is based.⁷¹ The Quran declares divorce “an abomination in the sight of God.”⁷² Second, while a recent law permits women to own half the marital property, this is not the case if the woman petitions for divorce or was at fault when the husband petitioned for divorce.⁷³ Third, the woman does not have the legal right to custody over her children.⁷⁴ The woman maintains custody only until the child is seven years old and after that, the child goes to the father.⁷⁵ Where the child is younger than seven but the wife remarries, she loses custody altogether.⁷⁶ The possibility of the woman receiving custody of her child depends primarily on her husband’s agreement to waive his right to custody.⁷⁷ In one case, a husband had a long history of domestic violence but the court granted him custody because the children were above the age requirement.⁷⁸ Shortly after, he killed all three children.⁷⁹

3. Lack of Resources in Iran to Assist Victims of Domestic Violence

Iran provides little to no protection for victims of domestic violence. There are no safe shelters for women who choose to leave their husbands.⁸⁰ Victims will use the homes of their relatives for refuge,⁸¹ but only on the rare occasion where they have not been sent back to their homes.⁸² Women activists in Iran urge the creation of women’s shelters and health centers for victims of violence because there are currently no rehabilitation centers for victims of violence.⁸³ While restraining orders are an option for victims, women who are living with their abusers can rarely obtain them.⁸⁴ Further, because judges are generally unsympathetic toward abused women, some women are denied petitions.⁸⁵ As such, women are forced to stay in abusive marriages because the legal system, state religion, and customs provide no avenues of protection or escape from their abusers.⁸⁶

71. Soltani, *supra* note 29, at 27–29.

72. Cherry, *supra* note 68, at 343.

73. *Id.*

74. *Id.*

75. PALMER & RAMSAY, *supra* note 7, at 24.

76. Nayyeri, *supra* note 30, § 2.3.

77. PALMER & RAMSAY, *supra* note 7, at 25.

78. *Id.*

79. *Id.*

80. Soltani, *supra* note 29, at 6.

81. *Id.*

82. *See, e.g.,* PALMER & RAMSAY, *supra* note 7, at 15 (describing one instance where a father returned his daughter to her abusive home where she was eventually murdered).

83. Soltani, *supra* note 29, at 40–41.

84. PALMER & RAMSAY, *supra* note 7, at 19.

85. Zar Rokh, *supra* note 20, at 6.

86. *See* Wing & Nadimi, *supra* note 43, at 438.

B. *Battered Iranian Noncitizen Women in the U.S.*

Domestic violence statistics in the U.S. illustrate the severity of violence inflicted against women. Every year, 4,774,000 women experience domestic violence by a partner.⁸⁷ Every day, three women are murdered by a violent male partner.⁸⁸ The experience and effect of domestic violence on immigrant women in the U.S. is grave. In the U.S., approximately 30% to 50% of immigrant women are victims of domestic violence.⁸⁹ Immigrant victims of violence face a number of barriers: “lack of knowledge of legal protections, language barriers, fear or misperception of law enforcement, cultural pressures, and social isolation.”⁹⁰ Battered immigrant women also have a “fear of deportation, fear of retribution by abusers, fear of being . . . arrested and separated from children, and fear of future economic, social and/or employability repercussions.”⁹¹

A large number of Iranians come to the U.S. each year as immigrants and nonimmigrants.⁹² In 2013 alone, 39,007 Iranians came to the U.S.⁹³ Overall, the Iranian population in the U.S. is estimated to be between 500,000 and one million individuals.⁹⁴ Iranians are spread throughout the U.S., with high concentrations in California, New York, New Jersey, Washington, D.C., and Texas.⁹⁵ Statistics on the number of Iranian noncitizen women in the U.S. are

87. Alanna Vagianos, *30 Shocking Domestic Violence Statistics that Remind Us It's an Epidemic*, HUFFPOST WOMEN (Oct. 23, 2014, 9:25 AM), http://www.huffingtonpost.com/2014/10/23/domestic-violence-statistics_n_5959776.html.

88. *Id.*

89. *Refugee and Immigrant Community*, WASH. COALITION SEXUAL ASSAULT PROGRAMS (Oct. 8, 2015), <http://www.wcsap.org/refugee-and-immigrant-community>. “The actual incidence of intimate partner violence is difficult to verify because it varies widely among communities, many incidents are unreported, and there is little specific data.” *Id.*

90. Laura Carothers Graham, *Relief for Battered Immigrants Under the Violence Against Women Act*, 10 DEL. L. REV. 263, 263 (2008).

91. Leslye E. Orloff, Mary Ann Dutton, Giselle Aguilar Hass & Nawal Ammar, *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA WOMEN'S L.J. 43, 55 (2003).

92. See OFFICE OF IMMIGRATION STATISTICS, U.S. DEP'T OF HOMELAND SECURITY, 2013 YEARBOOK OF IMMIGRATION STATISTICS 12 tbl.3 (2014), https://www.dhs.gov/sites/default/files/publications/ois_yb_2013_0.pdf (providing statistics that show 14,822 Iranians entered as immigrants in 2011, 12,916 Iranians entered in 2012, and 12,863 Iranians entered in 2013); *id.* at 71 tbl.26 (providing statistics that show 21,027 Iranians entered the U.S. as nonimmigrants in 2011, 24,290 Iranians entered in 2012, and 26,144 Iranians entered in 2013).

93. 12,863 Iranians arrived as immigrants whereas 26,144 Iranians arrived as nonimmigrants. *Id.* at 12 tbl.3 (showing that 12,863 Iranian immigrants came to the U.S. in 2013); *id.* at 71 tbl.26 (showing 26,144 Iranians arrived as nonimmigrants in the U.S. in 2013).

94. *Demographics & Statistics*, PUB. AFF. ALLIANCE IRANIAN AM., <http://www.paaia.org/CMS/demographics—statistics.aspx> (last visited Feb. 1, 2016); see also Shirin Hakimzadeh, *Iran: A Vast Diaspora Abroad and Millions of Refugees at Home*, MIGRATION POL'Y INST. (Sept. 1, 2006), <http://www.migrationpolicy.org/article/iran-vast-diaspora-abroad-and-millions-refugees-home> (explaining that statistical studies have estimated the population of Iranian Americans in the U.S. to be between 691,000 to 1.2 million).

95. Hossein Hosseini, *Iranian-Americans and the 2010 Census: Did We Shrink?*, PAYVAND IRAN NEWS (May 16, 2012), <http://www.payvand.com/news/12/may/1170.html>.

not available,⁹⁶ but experts in the U.S. “confirm that many victims of domestic abuse are of Iranian descent.”⁹⁷

Studies have found that noncitizen women, as compared to women who are citizens, are at a higher risk of being victims of violence.⁹⁸ After emigrating from their home countries, the struggle to maintain their “native culture and identity manifests itself” in the preservation of “culturally acceptable masculine-feminine values and roles.”⁹⁹ The preservation of such gender roles becomes difficult as Iranian women enter the workforce to contribute money to the household.¹⁰⁰ Some Iranian men feel threatened by the upset in these traditional gender roles.¹⁰¹ One Iranian American woman’s account explained that the more money she would contribute, the more aggressive her husband would become towards her.¹⁰²

Domestic violence is “a silent epidemic” for battered Iranian women who come to the U.S.¹⁰³ Victims who benefited from the support of all-female networks during times of marital hardship in Iran experience a loss of security and support when uprooted to the U.S.¹⁰⁴ Further, some victims are not aware that domestic violence is a crime in the U.S., and “[a]busers may play upon this ignorance to isolate, further abuse, and prevent the victim . . . from seeking help from the authorities.”¹⁰⁵

96. Ali Akbar Mahdi, *Perceptions of Gender Roles Among Female Iranian Immigrants in the United States*, in *WOMEN, RELIGION AND CULTURE IN IRAN* 185, 185–86 (Sarah Ansari & Vanessa Martin eds., 2001), <http://go.owu.edu/~aamahdi/Perception.htm>; *NIAC Offers Resources on Its Website to Help Battered Immigrant Women*, NAT’L IRANIAN AM. COUNCIL (Sept. 19, 2005), <http://www.niacouncil.org/niac-offers-resources-on-its-website-to-help-battered-immigrant-women/>. No explanation is provided as to why these statistics are unavailable, but both sources confirm the absence of such figures.

97. *NIAC Offers Resources on Its Website to Help Battered Immigrant Women*, *supra* note 96.

98. *Id.*

99. See Haideh Moghissi, *Away from Home: Iranian Women, Displacement, Cultural Resistance, and Change*, 30 J. COMP. FAM. STUD. 207, 209 (1999) (“[S]ustaining the native culture and identity manifests itself in maintaining beliefs and practices pertaining to men-women relationships within the family and to culturally acceptable masculine-feminine values and roles.”).

100. *Id.* at 210–11.

101. See *id.* (explaining that women entering the workforce in the U.S. causes uneasiness in the gender power dynamic).

102. Interview by Haideh Moghissi with Minoos, in Toronto, Ont. (Mar. 2006), in Moghissi, *supra* note 99, at 211 (“[T]he more dependent he becomes on me and the money I bring home, the more aggressive his behaviour becomes.”).

103. *NIAC Offers Resources on Its Website to Help Battered Immigrant Women*, *supra* note 96.

104. Moghissi, *supra* note 99, at 209. Some Iranian women benefited from the support of all-female networks during marital hardships in Iran. *Id.*

105. See Moira Fisher Preda, Cecilia Olavarria, Janice Kaguyutan & Alicia Carra, *Preparing the VAWA Self-Petition and Applying for Residence*, in NAT’L WOMEN’S ADVOCACY PROJECT, *BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS* ch. 3.3, at 2–3 (Kathleen Sullivan & Leslye Orloff eds., 2013), <http://library.niwap.org/wp-content/uploads/2015/pdf/FAM-Manual-Full-BreakingBarriers07.13.pdf> (highlighting that immigrant women from various countries do not know that domestic violence constitutes a crime in the U.S.).

Even if these Iranian women were able to escape abuse in the U.S., many women are afraid to try.¹⁰⁶ Soraya Fata, an Iranian American attorney, explained, “Their vulnerability is rooted in their immigration status, language barriers, religious and cultural beliefs, and most importantly, their fear of coming forward.”¹⁰⁷ Further, since the police in Iran rarely respond to domestic violence matters and police intervention is viewed negatively in Iran,¹⁰⁸ battered Iranian women are unlikely to utilize the police in the U.S. Finally, for some battered noncitizen women, a divorce will not always mark an end to the patriarchal power; given that a divorce granted in the U.S. will not always be recognized in Iran, this can be problematic for women who still have family there. One Iranian woman was married and moved to the U.S. with her husband, who began beating her after they arrived.¹⁰⁹ At the end of a long battle, she was eventually granted a divorce in the U.S. and remarried.¹¹⁰ She started making plans to visit her parents in Iran but was informed that her divorce was not valid in Iran.¹¹¹ Further, she learned that if she made it back to Iran, she would not only return to the control of her ex-husband’s family, but since she had remarried in America, “her ex-husband’s family could accuse her of adultery and have her stoned.”¹¹² Thus, domestic violence remains a harsh reality for many immigrant Iranian women who come to the U.S.

C. *The U Visa and the Violence Against Women Act Self-Petition as Avenues of Protection in the U.S.*

As a response to the needs of battered noncitizen women in the U.S., Congress created a number of protections.¹¹³ Among these protections are the U Visa and the VAWA self-petition.¹¹⁴

106. See NIAC Offers Resources on Its Website to Help Battered Immigrant Women, *supra* note 96 (“For the Iranian-American community in the US, the problem may represent a silent epidemic because the fear of coming forward prevents women from reporting abuse.”).

107. *Id.*

108. See Soltani, *supra* note 29, at 22 (discussing how police intervention is viewed negatively in Iran); see also Leslye Orloff & Olivia Garcia, *Dynamics of Domestic Violence Experienced by Immigrant Victims*, in NAT’L IMMIGR. WOMEN’S ADVOCACY PROJECT ch. 1.1, at 18 (stating that research has found the reporting rate for immigrant victims to be particularly low, suggesting that police are not sources of help).

109. Cherry, *supra* note 68, at 319.

110. *Id.*

111. *Id.*

112. *Id.*

113. See, e.g., Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, § 102(a), 114 Stat. 1464, 1466 (codified at 22 U.S.C. § 7101(a) (2012)) (“The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.”).

114. AM. IMMIGRATION CTR., VIOLENCE AGAINST WOMEN ACT (VAWA) PROVIDES PROTECTIONS FOR IMMIGRANT WOMEN AND VICTIMS OF CRIME 2 (2012), <http://www.immigrationpolicy.org/sites/default/files/docs/vawa.pdf>.

1. Process, Requirements, and Pitfalls of the U Visa

Congress created the U Visa under the Violence Against Women Act in 2000¹¹⁵ to ensure the protection of victims of violent crimes, regardless of immigration status.¹¹⁶ The U Visa encourages victims to report violent crimes against them, as well as to assist with the investigation and prosecution of the crime.¹¹⁷ The U Visa confers nonimmigrant status on eligible victims, allowing individuals to temporarily remain in the U.S.¹¹⁸ and to apply for work authorization.¹¹⁹ It lasts for four years, but after three years the holder may apply for permanent residency on humanitarian grounds.¹²⁰ The U Visa therefore addresses the understandable hesitancy of undocumented victims to report abusive crimes¹²¹ by “strengthen[ing] the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault[,] . . . and other crimes while offering protection to victims of such crimes without the immediate risk of being removed from the country.”¹²² Criminal activity covered by the U Visa includes a broad array of crimes, such as rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, and prostitution.¹²³

Congress has limited the number of U Visas to 10,000 per year.¹²⁴ This cap applies to only “principal aliens” and does not include derivative relatives.¹²⁵ Family members eligible to be derivative U Visa recipients include (1) unmarried children under the age of twenty-one, (2) spouses, (3) parents if the U

115. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464.

116. See AM. IMMIGRATION CTR., *supra* note 114, at 2; Tahja L. Jensen, Comment, *U Visa “Certification”: Overcoming the Local Hurdle in Response to A Federal Statute*, 45 IDAHO L. REV. 691, 691 (2009). U Visas are not limited to women or victims of domestic violence, but rather are available to immigrant victims of various crimes—including extortion, false imprisonment, manslaughter, perjury, blackmail, felonious assault, and torture. *Victims of Criminal Activity: U Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status> (last updated Nov. 12, 2015).

117. U.S. DEP’T OF HOMELAND SEC., U VISA LAW ENFORCEMENT CERTIFICATION RESOURCE GUIDE FOR FEDERAL, STATE, LOCAL, TRIBAL AND TERRITORIAL LAW ENFORCEMENT 1–2 (2015), http://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf [hereinafter U VISA RESOURCE GUIDE].

118. *Id.* at 2.

119. Jensen, *supra* note 116, at 695 (citing 8 C.F.R. § 214.14(c)(7) (2009)).

120. Mark Shmueli, *Protecting Immigrant Women: Benefits for Abuse Victims*, 41 MD. B.J. 21, 25 (2008) (quoting 8 U.S.C. § 1255(m)(1)(B) (2006)).

121. Jensen, *supra* note 116, at 694.

122. U VISA RESOURCE GUIDE, *supra* note 117, at 2.

123. 8 U.S.C. § 1101(a)(15)(U)(iii) (2012). For a full list of the qualifying crimes, see U VISA RESOURCE GUIDE, *supra* note 117, at 3.

124. 8 U.S.C. § 1184(p)(2)(A).

125. *Id.* § 1184(p)(2)(B). A “principal alien” is “[t]he alien who applies for immigrant status and from whom another alien may derive lawful status under immigration law or regulations (usually spouses and minor unmarried children).” *Definition of Terms*, U.S. DEP’T HOMELAND SECURITY, <http://www.dhs.gov/definition-terms#15> (last visited Feb. 1, 2016).

Visa holder is under twenty-one years of age, and (4) unmarried siblings (under eighteen years of age) of U Visa recipients who are under twenty-one.¹²⁶ Accepted derivative relatives have the right to both live and work in the U.S.¹²⁷

The petition process for a U Visa begins with filing both an I-918 Petition for U Nonimmigrant Status and an I-918 Supplement B Form (Supplement B Form)¹²⁸ with United States Citizenship and Immigration Services (USCIS).¹²⁹ This process requires the applicant to establish the following statutory requirements: (1) the immigrant victim has “suffered substantial physical or mental abuse resulting from having been the victim of [criminal activity]”; (2) the immigrant victim possesses information regarding that criminal activity; (3) the immigrant victim “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of the corresponding criminal activity; and (4) the criminal activity “violated the laws of the United States . . . or occurred in the United States or the territories and possessions of the United States.”¹³⁰

The Supplement B Form must be signed by an authorized certifying official of a law enforcement agency and confirm that the victim was helpful, is helpful, or will be helpful in the investigation or prosecution of the criminal case.¹³¹ At times, a victim is required to assist with an investigation or prosecution even after the U Visa is granted.¹³² If a victim “unreasonab[ly] refus[es]” to help, USCIS has the authority to revoke her U Visa.¹³³ Because there is no statute of limitations on signing and submitting this form, a certification can be submitted for an applicant in a closed case.¹³⁴ Since a victim will not be eligible for a U Visa without a certification form, certifying agencies have significant discretion over whether an applicant has the ability to obtain a U Visa.¹³⁵ Further, if an applicant is not an authorized immigrant, she must also file a Form I-192,

126. U VISA RESOURCE GUIDE, *supra* note 117, at 5.

127. *Id.*

128. See DEP’T OF HOMELAND SEC., FORM 918, PETITION FOR U NONIMMIGRANT STATUS (expired Jan. 31, 2016), <http://www.uscis.gov/sites/default/files/files/form/i-918.pdf>; DEP’T OF HOMELAND SEC., FORM 918 SUPPLEMENT B, U NONIMMIGRANT STATUS CERTIFICATION (expired Jan. 31, 2016), <http://www.uscis.gov/sites/default/files/files/form/i-918supb.pdf>.

129. *Victims of Criminal Activity: U Nonimmigrant Status*, *supra* note 116. USCIS is a federal branch of the Department of Homeland Security (DHS) that is responsible for the approval and denial of immigration benefits, including the U Visa. U VISA RESOURCE GUIDE, *supra* note 117, at 4.

130. 8 U.S.C. § 1101(a)(15)(U)(i). For requirements two and three, if the alien is a child under the age of sixteen, the parent, guardian, or next friend of the alien would fulfill the alien’s duty. *Id.* § 1101(a)(15)(U)(i)(II)–(III).

131. 8 C.F.R. § 214.14(c)(2)(i) (2016). A certifying official is “the head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or a Federal, State, or local judge.” *Id.* § 214.14(a)(3)(i)–(ii).

132. U VISA RESOURCE GUIDE, *supra* note 117, at 4.

133. *Id.*

134. *Id.*

135. Amanda M. Kjar, Comment, *U-Visa Certification Requirement Is Blocking Congressional Intent Creating the Need for a Writ of Mandate and Training—Undocumented Immigrant Female Farmworkers Remain Hiding in the Fields of Sexual Violence and Sexual Harassment*, 22 SAN JOAQUIN AGRIC. L. REV. 141, 152–53 (2012–2013).

Application for Advance Permission to Enter as Nonimmigrant.¹³⁶

Once the forms have been submitted to USCIS, it is in USCIS's discretion to decide if the victim qualifies for a U Visa.¹³⁷ In deciding the merit of the application, USCIS reviews inadmissibility issues such as criminal history, immigration violations, and security concerns.¹³⁸ If an inadmissibility issue arises, this will likely bar admission into the U.S.¹³⁹ and void an individual's qualification for a U Visa. Evidence from law enforcement and immigration authorities can be used to determine eligibility for a U Visa.¹⁴⁰

The U Visa has significant limitations. First, as noted earlier, only certified law enforcement agencies retain the discretion to submit a Supplement B Form, without which a victim is not eligible to apply for a U Visa.¹⁴¹ A U Visa applicant must have a certification to be considered, which means that law enforcement agencies, that may not be versed in working with victims of violence, have a great deal of power in deciding the victim's fate.

Second, as more than 10,000 immigrant victims apply for U Visas each year, eligible victims are forced to wait months before receiving the visa.¹⁴² The American Immigration Council reported that USCIS filled the 10,000 cap for 2014 after only two months.¹⁴³ Those who qualify in the remaining months of the year will receive conditional approvals.¹⁴⁴ Conditional approvals grant victims employment authorization and protection from deportation.¹⁴⁵ However, victims receiving conditional approvals must wait longer to apply for permanent residency.¹⁴⁶ Moreover, their children and families are not permitted to join them yet, and their work authorization is for a shorter period of time.¹⁴⁷ Congress has thus far rejected proposals to increase the number of U Visas.¹⁴⁸

136. 8 C.F.R. § 214.14(c)(2)(iv) (2016).

137. *See id.* § 214.14(c)(4)–(5).

138. U VISA RESOURCE GUIDE, *supra* note 117, at 5.

139. To be “admissible,” for purposes of visa eligibility or admission in the U.S., a foreign national must meet certain statutory requirements demonstrating he or she is not “inadmissible.” 8 U.S.C. § 1182(a) (2012).

140. U VISA RESOURCE GUIDE, *supra* note 117, at 5.

141. *Id.* at 5–6.

142. Amy Grenier, *Immigrant Victims Left Waiting After U.S. Reaches U Visa Cap*, AM. IMMIGR. COUNCIL (Dec. 16, 2013), <http://immigrationimpact.com/2013/12/16/immigrant-victims-left-waiting-after-u-s-reaches-u-visa-cap/> (citing attorney Lauren Joyner).

143. *USCIS Approves 10,000 U Visas for 5th Straight Fiscal Year*, U.S. DEP'T CITIZENSHIP & IMMGR. SERVS. (Dec. 11, 2013), <http://www.uscis.gov/news/alerts/uscis-approves-10000-u-visas-5th-straight-fiscal-year> (reporting that USCIS had approved the maximum number of U Visas for the fiscal year and would not resume issuing U Visas until the next fiscal year beginning on Oct. 1, 2014).

144. Jennifer Scarborough & Lisa Koop, *U.S. Reaches U Visa Cap in Less than 3 Months; Immigrant Victims Left in Limbo*, NAT'L IMMIGRANT JUST. CTR. (Dec. 18, 2013, 1:50 PM), <http://www.immigrantjustice.org/staff/blog/us-reaches-u-visa-cap-less-3-months-immigrant-victims-left-limbo#.VBsILVagQtY>.

145. *Id.*

146. *Id.*

147. *Id.*

148. Editorial, *U Visas Hit a Ceiling*, N.Y. TIMES, Sept. 4, 2012, at A26; *see* Kate Linthicum,

Third, even if applicants have certifications, if they fail to meet any of the requirements for the U Visa, they could still be denied.¹⁴⁹ And, if denied a U Visa, they may be deported.¹⁵⁰

Finally, until 2007 a prolonged absence of regulations created a large backlog of U Visa applications that prevented adjudications of U Visa applications.¹⁵¹ It was not until 2007, seven years after the creation of the U Visa, that the Department of Homeland Security (DHS) finally issued regulations on the issuance of U Visas.¹⁵² USCIS could not approve or issue U Visas before the regulations were published.¹⁵³ Prior to 2007, victims who cooperated with law enforcement were granted only “interim relief” or “deferred action,” which required renewals every year and failed to provide victims with permanent legal status.¹⁵⁴ USCIS still has the option of using deferred action today.¹⁵⁵

2. Process, Requirements, and Pitfalls of the VAWA Self-Petition

VAWA was the first piece of federal legislation specifically designed to tackle issues of domestic violence.¹⁵⁶ VAWA’s goal was “to enhance justice system protection for battered women,” as well as “to expand collaboration . . . between . . . supportive services and the criminal and civil justice systems.”¹⁵⁷ Congress created the immigration provisions in VAWA to ensure that battered immigrant women would have an avenue through which to access lawful immigration status, without their abuser’s help or knowledge.¹⁵⁸ Once approved for a VAWA self-petition, an immigrant victim may file to become a lawful permanent resident directly.¹⁵⁹ The reauthorization of VAWA in 2005 “also

Safety for Immigrant Victims Put on Hold by U-Visa Delay, L.A. TIMES (Feb. 1, 2015, 7:26 AM), <http://www.latimes.com/local/california/la-me-u-visa-20150202-story.html> (explaining that the Senate proposal to increase the annual U Visa cap to 15,000 died when the Republican-controlled Congress refused to take it up).

149. See 8 C.F.R. § 214.14(c)(5) (2016) (providing that once the forms have been submitted to USCIS, it is in USCIS’s discretion to decide if the victim qualifies for a U Visa).

150. Llezlie Green Coleman, *Procedural Hurdles and Thwarted Efficiency: Immigration Relief in Wage and Hour Collective Actions*, 16 HARV. LATINO L. REV. 1, 12 (2013).

151. Joey Hipolito, *Illegal Aliens or Deserving Victims?: The Ambivalent Implementation of the U Visa Program*, 17 ASIAN AM. L.J. 153, 163 (2010).

152. *Id.*

153. *The U Visa: Protecting Victims of Crime*, TAHIRIH JUST. CTR. (May 29, 2009), http://www.archive-org-2014.com/org/t/2014-01-10_3507894_7/Rights-of-Immigrant-Survivors-of-Violence-Tahirih-Justice-Center/.

154. *Id.*

155. *Id.*

156. See Leslye E. Orloff & Janice v. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, 10 AM. U. J. GENDER SOC. POL’Y & L. 95, 108 (2002). The protections offered by the VAWA included new judicial and law enforcement tools to combat violence and improved services for victims. *Id.*

157. *Id.*

158. *Id.* at 113.

159. *Fact Sheet: USCIS Issues Guidance for Approved Violence Against Women Act (VAWA) Self-Petitioners*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Apr. 11, 2008), <http://www.uscis.gov/archive/archive-news/fact-sheet-uscis-issues-guidance-approved-violence-against-women-act-vawa-self->

grants access to legal services for immigrant battered women by authorizing any Legal Services Corporation funded program to represent any victim of domestic abuse, regardless of the victim's immigration or marital status."¹⁶⁰

To be eligible to apply for a VAWA self-petition, a petitioner must be a covered individual, which includes (1) a spouse or former spouse of a U.S. citizen or lawful permanent resident, (2) a child of a U.S. citizen or lawful permanent resident, or (3) parents who are victims of elder abuse by a U.S. citizen child over twenty-one.¹⁶¹ Unlike the U Visa, there is no cap on VAWA self-petitions.¹⁶² Further, the petitioner's children under twenty-one years of age at the time of filing can qualify as derivatives.¹⁶³

In order to file a self-petition, the immigrant self-petitioner must establish eight factors.¹⁶⁴ First, the abusive spouse must be a U.S. citizen or lawful permanent resident of the U.S.¹⁶⁵ If the spouse lost his citizenship or lawful permanent resident status within the past two years, the petitioner must establish this loss of status.¹⁶⁶ Second, the petitioner must show that she is eligible for immigrant classification as either an immediate relative (e.g., spouse, parent of a U.S. citizen who is at least twenty-one years old, or child under twenty-one) of the citizen-perpetrator, or a spouse of a lawful permanent resident in the U.S.¹⁶⁷ Typically, a petitioner can prove marriage by a valid marriage certificate.¹⁶⁸

Third, the self-petitioner must currently reside in the U.S.¹⁶⁹ Fourth, the self-petitioner must have resided in the U.S. with the abusive spouse.¹⁷⁰ The petitioner need establish only that, at one point, she resided with the spouse—she does not have to be living with the spouse at the time of filing the petition.¹⁷¹ Fifth, the petitioner must show that she was battered or subjected to “extreme

petitioners [hereinafter *Fact Sheet*].

160. Katerina Shaw, Note, *Barriers to Freedom: Continued Failure of U.S. Immigration Laws to Offer Equal Protection to Immigrant Battered Women*, 15 CARDOZO J.L. & GENDER 663, 673 (2009).

161. Preda et al., *supra* note 105, at 4.

162. AM. IMMIGRATION CTR., *supra* note 114, at 3.

163. Amy M. Wax, *Relief Under the Violence Against Women Act*, in 1 IMMIGRATION PRACTICE MANUAL § 9.2.9 (2012).

164. See 8 C.F.R. § 204.2(c)(1)(i)(A)–(H) (2016) (listing the requirements to file a VAWA self-petition).

165. *Id.* § 204.2(c)(1)(i)(A).

166. Preda et al., *supra* note 105, at 5.

167. 8 C.F.R. § 204.2(c)(1)(i)(B).

168. Preda et al., *supra* note 105, at 4. If the petitioner is not currently married to the abusive spouse because of bigamy, death, or divorce, the petitioner can still qualify if she proves that (1) she genuinely believed she was married to the abuser (but the marriage was not legal due to the abuser's bigamy), (2) her U.S. citizen spouse died within the past two years, or (3) she was divorced from the abusive spouse within the past two years. *Id.* at 4–5.

169. 8 C.F.R. § 204.2(c)(1)(i)(C). However, the petitioner can file from abroad if the abusive spouse (1) is an employee of the U.S. government, (2) is in the uniformed services, or (3) has subjected the immigrant spouse to battery or extreme cruelty while in the U.S. Preda et al., *supra* note 105, at 5. In regards to the first two exceptions, the abuse can take place either in the U.S. or abroad. *Id.*

170. 8 C.F.R. § 204.2(c)(1)(i)(D).

171. Preda et al., *supra* note 105, at 5.

cruelty” at the hands of the citizen or lawful permanent resident husband during the marriage.¹⁷² The regulations governing immigrant petitions provide that extreme cruelty includes threats or acts of violence that result in physical or mental injury, such as forceful detention, psychological or sexual abuse, and forced prostitution.¹⁷³ Evidence of battery or cruelty includes “civil protection orders, police and court records, medical reports, and affidavits of school officials, social workers, and shelter workers.”¹⁷⁴

Sixth, the petitioner must establish that she has “good moral character.”¹⁷⁵ A petitioner’s good moral character is established by submitting a local police clearance or state-issued criminal background checks for each place the petitioner has lived for more than six months during the three years preceding the application date.¹⁷⁶ If the petitioner has any criminal convictions, USCIS will evaluate them on a “case-by-case basis,” as some acts of violence, such as those connected to the battering or extreme cruelty, will be waived.¹⁷⁷ Seventh, the petitioner must establish that “deportation would result in extreme hardship to . . . herself . . . or her child.”¹⁷⁸ Finally, the petitioner must show that she entered into the marriage in good faith,¹⁷⁹ (i.e., not for the purpose of circumventing immigration laws).¹⁸⁰

Self-petitioners must file a petition with DHS¹⁸¹ establishing each of the above elements.¹⁸² If DHS approves the petition, the petitioner then applies for an “adjustment of status” to gain lawful permanent residency in the U.S. by filing the appropriate application.¹⁸³ If DHS denies the petition, the petitioner is

172. 8 C.F.R. § 204.2(c)(1)(i)(E).

173. *See id.* § 204.2(c)(1)(i)(vi) (“For the purpose of this chapter, the phrase ‘was battered by or was the subject of extreme cruelty,’ includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation[,] . . . or forced prostitution . . .”).

174. Preda et al., *supra* note 105, at 5.

175. 8 C.F.R. § 204.2(c)(1)(i)(F).

176. Preda et al., *supra* note 105, at 6.

177. Interoffice Memorandum on Determinations of Good Moral Character in VAWA-Based Self-Petitions from William R. Yates, Assoc. Dir. of Operations, U.S. Citizenship & Immigr. Servs., to Paul E. Novak, Dir., Vt. Serv. Ctr., U.S. Citizenship & Immigr. Servs. 2 (Jan. 19, 2005), http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2005/gmc_011905.pdf.

178. 8 C.F.R. § 204.2(c)(1)(i)(G).

179. *Id.* § 204.2(c)(1)(i)(H).

180. Preda, *supra* note 105, at 6. Evidence of this could be proof that one spouse has the other listed on his insurance policy, income tax forms, or bank accounts. 8 C.F.R. § 204.2(c)(2)(vii).

181. The specific form is the I-360, Petition for Amerasian, Widow(er), or Special Immigrant. DEP’T OF HOMELAND SEC., FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT (expired Mar. 31, 2015), <http://www.uscis.gov/sites/default/files/files/form/i-360.pdf>.

182. Preda et al., *supra* note 105, at 3.

183. *Id.* The specific form is the I-485, Application to Register Permanent Residence or Adjust Status. DEP’T OF HOMELAND SEC., FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE OR ADJUST STATUS, <http://www.uscis.gov/sites/default/files/files/form/i-485.pdf> (expires Oct. 31, 2017).

notified in writing and is given a chance to appeal.¹⁸⁴ Once the petition has been filed, the petitioner likely receives a notice of “prima facie eligibility,” which allows her to apply for different federal benefits.¹⁸⁵ This eligibility is “valid for six months, and may be renewed throughout the time that the [petition] is being adjudicated.”¹⁸⁶ Once the petition is approved and the adjustment of status form has been submitted, the petitioner is interviewed by USCIS for a green card.¹⁸⁷ USCIS then either accepts or denies the application.

While the VAWA self-petition is a valuable tool for empowering victims to leave their abusers and to lead independent lives, it has some drawbacks. First, victims whose spouses are on a nonimmigrant or temporary visa are ineligible for the VAWA self-petition.¹⁸⁸ Second, the evidentiary burden on victims is heavy. For instance, a battered immigrant woman is required to prove her husband’s status through the relevant documentation,¹⁸⁹ which is especially difficult when the woman has already left the home.¹⁹⁰ A victim risks experiencing additional harm by attempting to go back to the abusive house for the relevant documentation.¹⁹¹ Finally, proving the abuse may be insurmountable for victims, especially in cases of emotional abuse: “[T]he self-petitioner is often forced to rely on affidavits from acquaintances and social services practitioners. However, affidavits alone are often deemed insufficient by the immigration service.”¹⁹²

D. Resources for Battered Iranian Immigrant Women in the U.S.

There are a significant number of victims of violence¹⁹³ among the thousands of Iranians who immigrate to the U.S. each year. Providing access to legal protections such as the U Visa and VAWA self-petition is therefore vital for this population. USCIS does not release statistics on the number of U Visas issued and VAWA self-petitions granted in the U.S. to Iranian women due to the sensitive nature of the matter.¹⁹⁴ The only statistics available are the number of

184. 8 C.F.R. § 204.2(c)(3)(ii).

185. Shmueli, *supra* note 120, at 22.

186. *Id.*

187. *Id.*

188. Shaw, *supra* note 160, at 674.

189. Deanna Kwong, Recent Developments, *Removing Barriers for Battered Immigrant Women: A Comparison of Immigrant Protections Under VAWA I & II*, 17 BERKELEY WOMEN’S L.J. 137, 152 (2002).

190. Shaw, *supra* note 160, at 674.

191. *See id.*

192. *Id.* at 676.

193. NIAC Offers Resources on Its Website to Help Battered Immigrant Women, *supra* note 96.

194. I spoke with a representative from USCIS, who told me that USCIS does not release statistics on U Visas or VAWA self-petitions issued in the U.S. due to the sensitive nature of the topic.

U Visas issued to Iranians who applied *outside* the U.S.¹⁹⁵ According to those statistics, since the creation of the U Visa in 2000, only *one* has been issued to an Iranian.¹⁹⁶

While U Visas and VAWA self-petitions exist to protect battered noncitizen women, they are ineffective if they do not reach this population. Because Iranian society deals with matters of violence in the private realm, internal forces prevent Iranian noncitizen women from knowing what resources are available to them and seeking outside help.¹⁹⁷ Most times, the only relationships that battered noncitizen victims have in the U.S. are with their abusers.¹⁹⁸ Scholars have explained, “Battered immigrant women often feel isolated from their communities, both domestically and internationally. Moreover, foreign-born women are frequently uninformed, unfamiliar with or simply confused about, their legal rights and the social services available to them in the United States.”¹⁹⁹ To add to this problem, “governmental and nongovernmental agencies that help to redress domestic violence are not always prepared to meet the diverse needs of battered immigrant women.”²⁰⁰

This Comment’s Discussion shows that Iranian victims in the U.S. are neither receiving information about nor utilizing the U Visa and VAWA self-petition. There are a limited number of grassroots organizations that offer tailored services to assist Iranian noncitizen victims in obtaining these resources. Furthermore, there are many formidable access barriers between Iranian women and the U Visa and VAWA self-petition that stop victims from accessing these resources. As such, this Comment offers proposals to connect these resources to Iranian victims.

III. DISCUSSION

The U Visa and the VAWA self-petition have assisted over thousands of noncitizen victims in the U.S., but at least one population remains underrepresented in these figures—Iranian women. The U Visa and the VAWA self-petition were created to help noncitizen women gain immigration independence without their abusive spouses. The success of the U Visa and VAWA self-petition has been greatly limited for Iranian women due to “deeply entrenched cultural factors.”²⁰¹ An understanding and recognition of these

195. I received no information from the representative on why these statistics were offered, but no statistics were offered on U Visas or VAWA self-petitions issued *in* the U.S.

196. *Nonimmigrant Visa Statistics, Nonimmigrant Visa Issuances by Visa Class and by Nationality*, U.S. DEP’T STATE, BUREAU CONSULAR AFF., <http://travel.state.gov/content/visas/english/law-and-policy/statistics/non-immigrant-visas.html> (follow: “FY1997-2014 NIV Detail Table”).

197. See *supra* Part II.A for a discussion of how matters of domestic violence are dealt with in the private realm in Iran.

198. See *supra* Part II.A for a discussion of the complications and dangers inherent in this kind of relationship.

199. Orloff & Garcia, *supra* note 108, at 1–2 (footnote omitted).

200. *Id.* at 2.

201. See Sally F. Goldfarb, *A Clash of Cultures: Women, Domestic Violence, and Law in the United States*, in *GENDER AND CULTURE AT THE LIMIT OF RIGHTS* 55, 62 (Dorothy L. Hodgson ed.,

cultural factors by lawmakers can break down the legal barriers that keep these victims silent.

As statistics and research on this matter are lacking, this Comment turned to legal grassroots organizations and service providers throughout the U.S. to grasp the current use of legal protections by Iranian noncitizen women.²⁰² This Comment lays the foundation for future substantive research and concludes, through interviews with these organizations, that there is a gap between battered Iranian women and the legal protections available to assist them. Ultimately, this Comment proposes statutory changes, as well as greater outreach and education efforts to close this gap.

Part III.A discusses grassroots organizations found across the U.S. that assist battered Iranian women with procuring U Visas and VAWA self-petitions. Part III.B discusses the reasons why a gap exists between Iranian women and the U Visa and VAWA self-petition. Part III.C proposes remedies to connect these legal protections to Iranian victims in the U.S.

A. *Organizations in the U.S. Qualified to Assist Battered Iranian Noncitizen Women*

Because there are no statistics or published research on the adequacy of the U Visa and VAWA self-petition as legal protections for battered Iranian women in the U.S.,²⁰³ I turned to grassroots organizations for information on the current state of battered Iranian women.

I turned to grassroots organizations because such entities are specifically tailored to identify and address the needs of particular communities, such as noncitizen victims. Accordingly, these organizations are best equipped to provide firsthand information about the problems facing a certain community and for offering proposals to assist victims.

In order to identify organizations nationwide that have the capacity and resources to assist Iranian noncitizen women, I searched the National Immigration Legal Services Directory (NILSD), compiled by the Immigration Advocates Network.²⁰⁴ I also searched the Directory of Domestic Violence

2011) (arguing that “the success of domestic violence legal reform has been limited by deeply entrenched cultural factors”).

202. Please note that the findings in this Section are based on my understanding of the information gained in the organizational interviews conducted for this Comment. Further, the proposals and discussion in this Comment are not necessarily representative of the beliefs of any of the organizations or individuals cited in this Comment. The organizational interviews were used only to gain an understanding of the possible reasons why the U Visa and VAWA self-petition are underused by many Iranian noncitizen victims.

203. See *supra* Part II.D for a discussion of the lack of publicly available statistics or data relating to the adequacy of the U Visa and VAWA self-petition as legal protections for battered Iranian women in the U.S.

204. See *National Immigration Legal Services Directory*, IMMIGR. ADVOC. NETWORK, <http://www.immigrationadvocates.org/nonprofit/legaldirectory/> (last visited Feb. 1, 2016) [hereinafter *NILSD Directory*]. The directory is online and allows for searches by state, zip code, and detention facility. *Id.*

Programs Serving Asians, Native Hawaiians, and Pacific Islanders (DDVP), compiled by the Asian and Pacific Islander Institute on Domestic Violence.²⁰⁵ I filtered the search for organizations nationwide that offered the following services: (1) preparation and filing assistance for U Visas, (2) preparation and filing assistance for VAWA self-petitions, and (3) services in Farsi.²⁰⁶ This last element is crucial because linguistic limitations can affect a woman's ability to seek help.²⁰⁷ If services in Farsi are not offered, Iranian women often rely on family members or friends to translate. Yet, relying on friends and family to interpret may prove dangerous because it is difficult to determine whether the interpreter is allied with or is likely to be contacted by the perpetrator.²⁰⁸

A search of organizations across the U.S. uncovered only *forty* that offer both assistance in preparing and filing U Visas or VAWA self-petitions and assistance in Farsi.²⁰⁹ This total includes (1) organizations found on the NILSD and DDVP databases, and (2) other agencies that I learned about from speaking with the aforementioned organizations. While there are likely organizations not captured in this search, the interviews reveal a common theme, suggesting that the conditions described below explain the legal protection gap. I randomly selected thirty-one organizations²¹⁰ from the list of forty to contact via email or telephone, and ultimately connected with eleven of them.

B. The Legal Gap Between Iranian Victims and Legal Protections in the U.S.

Domestic violence laws in the U.S. assume all battered women fit into one mold and that one standard of legal measure will work for all cases.²¹¹ Uniform laws, such as the U Visa and VAWA self-petition, that require victims to leave their abusers and that mandate arrests,²¹² ignore several types of cultural barriers

205. See ASIAN & PAC. ISLANDER INST. ON DOMESTIC VIOLENCE, DIRECTORY OF DOMESTIC VIOLENCE PROGRAMS SERVING ASIANS, NATIVE HAWAIIANS, & PACIFIC ISLANDERS (2011), <http://www.api-gbv.org/files/API-ServiceProgramsDirectory-3.2011.pdf> (last updated Mar. 2011) [hereinafter DDVP DIRECTORY].

206. The NILSD is an online database searchable by state, zip code, or detention facility. *NILSD Directory*, *supra* note 204. I conducted a search using the "state" function, which allowed me to search through a list of organizations in each state. Within each state listing, I first filtered the "languages spoken" to Farsi and refined the "areas of immigration legal assistance" to U Visas and VAWA self-petitions. The DDVP has a list of nationwide organizations listed alphabetically with specific information about each organization. See DDVP DIRECTORY, *supra* note 205. In this search, I filtered the results by first narrowing the "language capacity" to Farsi and then narrowing the "legal services" to "immigration law assistance (VAWA petitions, U-Visas, etc.)."

207. Orloff & Garcia, *supra* note 108, at 15–16.

208. *Id.* at 16.

209. See *infra* Appendix for a list of the organizations. One limitation is that there may be other organizations that were not included in these databases. Nonetheless, these directories were the largest to which I had access online, and other smaller directories included the same organizations.

210. See *infra* Appendix. The organizations I contacted have the symbol "Φ" next to their names.

211. Goldfarb, *supra* note 201, at 67.

212. See *id.* (explaining that the U.S. has uniform laws that mandate arrests and require women to leave their abusers).

to legal protection.²¹³ These barriers include the sanctity of the family, loyalty to one's marital relationship, and cultural pressures to tolerate violence as the right of a husband over his wife.²¹⁴ Thus, U.S. immigration laws centered on domestic violence are inaccessible and ineffective.

The interviews I conducted with organizations across the nation reveal a "clash of cultures"²¹⁵ between U.S. domestic violence laws and Iranian culture. Only *one* Iranian woman had ever completed the VAWA self-petition process among all of the organizations interviewed. Further, most organizations have only helped very few, if any, Iranian women.²¹⁶ These findings alone demonstrate the dire situation facing Iranian women in the U.S.—there are legal protections available but no one is using them. Accordingly, this Part explores the cultural and legal obstacles facing Iranian noncitizen women in the U.S., as revealed in the interviews. Examining the influence of cultural norms on the effectiveness of existing laws is vital, as "[a]n awareness of the role of culture in shaping the legal response to domestic violence can help point the way to effective future reforms."²¹⁷

The ultimate question is: If the U Visa and VAWA self-petition have proven to be effective tools for other noncitizen women, then why not for Iranian women?

1. Iranian Women Are Unaware of or Misinformed About the U Visa and the VAWA Self-Petition

The organizational interviews suggest that one possible reason why the U Visa and VAWA self-petition are not reaching battered Iranian women is because many battered Iranian women are unaware that the U Visa and the VAWA self-petition even exist.²¹⁸ Most Iranian women either have never heard of these options or are misinformed about their rights in the U.S.²¹⁹ Commentators suggest that one reason many Iranian women are uninformed is

213. *Id.*

214. See *supra* Part II.A for a discussion on the sanctity of family, the importance of loyalty to one's marital relationship, and cultural pressures to tolerate violence in Iranian culture.

215. Goldfarb, *supra* note 201, at 55. A clash of cultures arises because Iranian culture heavily values loyalty to one's family, whereas U.S. domestic violence laws are heavily separation-based, leaving Iranian women with an option that not only fails to offer family reunification, but also clashes with inherent beliefs surrounding family.

216. See Email Interview with Erika Gonzalez, Program Manager, Opening Doors, Inc. (Oct. 13, 2014) (on file with author); Email Interview with Brynne L. Howard, Reg'l Att'y and Church and Cmty. Worker, Iowa Justice for Our Neighbors (Oct. 20, 2014) (on file with author).

217. Goldfarb, *supra* note 201, at 77.

218. See, e.g., Telephone Interview with Sima Alizadeh, Immigration Att'y, PARS Equal. Ctr. (Oct. 15, 2014); Telephone Interview with Mojdeh Rohani, Exec. Dir., Cmty. Legal Servs. & Counseling Ctr. (Oct. 18, 2014).

219. E.g., Telephone Interview with Fiona Oliphant, Survivor Servs. Program Manager, Asian/Pac. Islander Domestic Violence Res. Project (Oct. 27, 2014); Elahe Amani, *Silence Did Not Make Sanaz Nezami Strong: Facing Lethal Immigrant Domestic Violence*, WOMEN NEWS NETWORK, <http://womennewsnetwork.net/2014/02/18/silence-did-not-make-sanaz-nezami-strong-facing-immigrant-domestic-violence/> (last visited Feb. 1, 2016).

because they do not recognize they have suffered a crime.²²⁰ Considering there are no laws criminalizing domestic violence in Iran and police enforcement fails to respond to abuse reports,²²¹ many battered Iranian women do not view violence as a punishable crime.²²² As such, Iranian noncitizen women hesitate to report violence because they are unaware of their legal rights.²²³ Instead, they believe they just have to endure the violence against them.²²⁴

Take the case of Sanaz Nezami, an Iranian woman who came to the U.S. after marrying her Iranian–U.S. citizen husband.²²⁵ Instead of coming on an immigrant visa as the spouse of a U.S. citizen, Sanaz came on a student visa.²²⁶ Whereas an immigrant visa provides permanent status, a student visa provides only temporary immigration status.²²⁷ Because she came to the U.S. on a temporary visa, Sanaz needed her husband’s assistance to gain future permanent status in the U.S.²²⁸ After they arrived, Sanaz became isolated, having little to no contact with anyone except her husband.²²⁹ On various occasions he would beat her, but no one knew because he was the only family she had in the U.S.²³⁰ One fateful night, he tortured her until she was unresponsive and had to be taken to the hospital.²³¹ Sanaz suffered severe brain injuries and died shortly thereafter.²³² The U Visa and VAWA self-petition were created to prevent such tragedies,²³³ and Sanaz could have been eligible for both. She was never given a chance to escape because she did not know she had any protections available to her.²³⁴

The organizational interviews also suggest that another reason many Iranian women are uninformed about the U Visa and VAWA self-petition is the

220. Telephone Interview with Stacey Vu, Program Coordinator, Immigrant & Refugee Cmty. Org. (Oct. 13, 2014); Amani, *supra* note 219.

221. See *supra* Part II.A for a discussion of the absence of domestic violence laws in Iran and the failure of law enforcement to address domestic violence complaints.

222. See, e.g., Telephone Interview with Mojdeh Rohani, *supra* note 218.

223. See *supra* notes 45–64 and accompanying text for a discussion of the circumstances that contribute to the reluctance of Iranian women to report domestic violence.

224. *Id.*

225. Amani, *supra* note 219.

226. *Id.*

227. *Nonimmigrant v. Immigrant Status*, *supra* note 12.

228. Sanaz’s husband would have had to file a green card petition on her behalf. See *Green Card for an Immediate Relative of a U.S. Citizen*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/green-card/green-card-through-family/green-card-immediate-relative-us-citizen> (last updated Mar. 30, 2011) (explaining that a U.S. citizen may apply for his noncitizen relative to gain permanent status in the U.S.). The U.S. allows a U.S. citizen to apply for a noncitizen relative (e.g., a spouse) to gain permanent status in the U.S. via her immediate relation. *Id.* As such, Sanaz’s husband had complete control over her immigration status as the U.S. citizen spouse.

229. Amani, *supra* note 219.

230. *Id.*

231. *Id.*

232. *Id.*

233. See *supra* Part II.C for an explanation of the ways in which the U Visa and VAWA self-petition were designed to avoid such tragedies.

234. Amani, *supra* note 219.

lack of resources connecting Iranian women to these resources. The low number of battered Iranian noncitizen women who have sought legal assistance through grassroots organizations suggests that this population is unaware and misinformed about their rights in terms of the U Visa and VAWA self-petition. While a number of the organizations interviewed for this study have yet to help an Iranian woman with either resource,²³⁵ others have helped only a handful.²³⁶ Even among this handful, the interviews suggest that most Iranian women either had never heard of these resources or were hesitant to use them because no one in their communities had ever received one.²³⁷

A majority of states do not have organizations that are able to assist Iranian victims of abuse. Thirty-five states in the U.S. have *no* organizations that both (1) provide U Visa and VAWA self-petition assistance, and (2) have the capacity to speak to clients in Farsi. Even among the areas in the U.S. with the highest concentrations of Iranians,²³⁸ the number of organizations that meet these criteria is extremely small. The study revealed the following figures: (1) California has ten organizations, (2) New York has six organizations, (3) New Jersey has zero organizations, (4) Washington, D.C. has one organization, and (5) Texas has three organizations.²³⁹ Of these organizations, a number of them have yet to help an Iranian victim. While some of these organizations target specific communities, such as the South Asian community or Muslim community,²⁴⁰ *only one* focuses outreach primarily on Iranian populations in the U.S.²⁴¹ Absent legal organizations or service providers with the capabilities and initiative to do outreach to Iranian women in their communities, many battered Iranian women will remain uninformed about their rights in the U.S.

Commentators have suggested that because most battered Iranian women are misinformed about the U Visa or VAWA self-petition process, many are afraid that these options may lead to deportation.²⁴² This fear is common among battered immigrant women, causing them to remain silent.²⁴³ A lack of information counteracts the U Visa's intended purpose to expel such fears of deportation.²⁴⁴

One organization found that some battered Iranian women seek help from

235. *E.g.*, Email Interview with Erika Gonzalez, *supra* note 216; Email Interview with Brynne Howard, *supra* note 216.

236. *E.g.*, Telephone Interview with Stacey Vu, *supra* note 220.

237. *See e.g.*, Telephone Interview with Sima Alizadeh, *supra* note 218.

238. *See supra* Part II.B for statistical data on the areas in the U.S. with the highest concentrations of Iranians.

239. *See infra* Appendix for a list of these organizations.

240. For example, Domestic Harmony Foundation serves primarily the Muslim and South Asian communities, and Hamdard Center serves primarily the Muslim community. *See infra* Appendix.

241. PARS Equality Center, in California, provides social and legal services to Iranians and Persian speaking communities.

242. *See, e.g.*, Telephone Interview with Mojdeh Rohani, *supra* note 218.

243. Cristina Costantini, *The Problem with the 'Victim Visa,'* ABC NEWS (Jan. 31, 2013), http://abcnews.go.com/ABC_Univision/visas-problem-victim-visa/story?id=18357347.

244. *Id.*

private attorneys who themselves are uninformed about the U Visa or VAWA self-petition.²⁴⁵ Private attorneys, unfamiliar with the U Visa and VAWA self-petition processes, are typically willing to assist with only asylum claims,²⁴⁶ which generate more profit. This presents another obstacle, as Iranian women are not getting information about their rights from the one person they *should* be getting it—their immigration attorney.

Altogether, these obstacles contribute to a lack of information for the Iranian immigrant community, which in turn creates an access gap between Iranian women and the U Visa and VAWA self-petition remedies. Without this information, eligible battered Iranian women are left to suffer in silence. As it stands, the purpose of the U Visa and the VAWA self-petition—to help battered immigrant women gain security and independence—remains unfulfilled.

2. Iranian Women Do Not Utilize the U Visa or the VAWA Self-Petition Due to Safety Concerns

The organizational interviews in this study also suggest that most Iranian women, even if they do know about or qualify for either a U Visa or VAWA self-petition, hesitate to pursue either option. One organization, which has assisted hundreds of individuals at its multiple clinics, reported that many of the Iranian women who contacted it were eligible for the U Visa or VAWA self-petition.²⁴⁷ However, none had been willing to pursue either option.²⁴⁸ The organizational interviews suggest safety concerns as one possible reason for this reluctance.²⁴⁹ Some commentators have found that many Iranian women in the U.S. are afraid that if they attempt to pursue such options, and their husbands find out, this could lead to further abuse.²⁵⁰

This fear closes the U Visa door for many battered Iranian women as the U Visa requires victims to obtain a certification form stating that they have, are, or will be working with law enforcement to prosecute their cases.²⁵¹ As the court in *Mondragon v. United States*²⁵² explained, “A petition for a U visa must include a certification from a certifying agency . . . stating that the alien meets each of [the] eligibility criteria.”²⁵³ Advocates for battered immigrant women have explained that participation in the prosecutorial effort, as required by the U Visa, “can make immigrant women less safe.”²⁵⁴ As Leslye Orloff, former director of the

245. Telephone Interview with Sima Alizadeh, *supra* note 218.

246. *Id.*

247. *Id.*

248. *Id.*

249. *Id.*; see also Telephone Interview with Stacey Vu, *supra* note 220.

250. See, e.g., Telephone Interview with Stacey Vu, *supra* note 220.

251. U VISA RESOURCE GUIDE, *supra* note 117, at 1–2.

252. 839 F. Supp. 2d 827 (W.D.N.C. 2012).

253. *Mondragon*, 839 F. Supp. 2d at 828–29 (citing 8 U.S.C. §§ 1101(a)(15)(U)(iii), 1184(p)(i) (2012); 8 C.F.R. § 214.14(c)(2)(i) (2012)). In *Mondragon*, the court held that while the plaintiff victim had obtained a certification from law enforcement, it could not review the U Visa denial because it lacked subject matter jurisdiction over U Visa denials.

254. LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL

Immigrant Women Program at Legal Momentum, explained to Congress, “[L]ots of times you have women who . . . are legitimately terrified that if in fact they cooperate with law enforcement they will get killed.”²⁵⁵

This fear is real for Iranian women and is rooted in a cultural upbringing where the community, government, and legal system all tolerate domestic violence.²⁵⁶ An illustrative case is that of Golnaz,²⁵⁷ a bride sent from Iran to marry an Iranian man she barely knew.²⁵⁸ The man “slapped her, stripped her of her money, cell phone and other possessions, and locked her inside their house.”²⁵⁹ On top of all of this, Golnaz was pregnant.²⁶⁰ Months later, Golnaz courageously escaped her house and ended up in a battered women’s shelter.²⁶¹ Eventually, a family took her in and cared for her.²⁶² During this time, her husband called her family in Iran and demanded they deliver her the following message: “I know where you live. I can make your life miserable. I can even kill you.”²⁶³ Only after receiving help and guidance through the process did Golnaz finally work with the legal system to obtain a restraining order.²⁶⁴

Fulfilling the certification requirement of the U Visa proves unfeasible for many who fear the consequences of pursuing this avenue of protection.²⁶⁵ This reluctance to seek legal protection is exacerbated when fear of retribution is compounded with traditional Iranian views of domestic violence.²⁶⁶ In this way, the U Visa fails to take into consideration the unique needs of the Iranian immigrant community.

Commentators have explained that the U Visa door is also closed for many Iranian victims because fear prevents them from reporting.²⁶⁷ Without reporting a crime of domestic violence, a victim will not receive a certification form, and without a certification form, a victim is not eligible to apply for a U Visa.²⁶⁸ One

SYSTEM 102 (2012).

255. *Id.* (quoting Karyl Alice Davis, Comment, *Unlocking the Door by Giving Her the Key: A Comment on the Adequacy of the U-Visa as a Remedy*, 56 ALA. L. REV. 557, 569 (2004)).

256. *See id.* at 103 (explaining that some immigrant women hesitate to work with police and prosecutors because of distrust in the legal system and fear of being deported). *See also supra* Part II.A for a discussion of how Iranian authorities address domestic violence.

257. In order to maintain the victim’s safety, the victim’s real name was not revealed in the article.

258. Gwendolyn Driscoll, *Iranian-Americans Tackle Domestic-Violence Secret*, ORANGE COUNTY REG. (July 25, 2007), <http://www.ocregister.com/articles/says-62060-mohsen-don.html>.

259. *Id.*

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.*

264. *Id.*

265. *See supra* notes 247–74 and accompanying text for a discussion of the safety risks associated with U Visa certification.

266. *See supra* Part II.A for a discussion on how Iranian authorities address instances of domestic violence.

267. *See, e.g.*, Telephone Interview with Sima Alizadeh, *supra* note 218.

268. 8 U.S.C. § 1101(a)(15)(U) (2012).

commentator suggested that the problem of unreported crimes is one of the biggest issues facing many battered Iranian women in the U.S.²⁶⁹ While the U Visa allows retroactive application, where victims can apply for the U Visa for past crimes, the victim often still has to show some sort of assistance with an investigation into the crime.²⁷⁰ As such, Iranian women are at a disadvantage in the U Visa process.

Even if a battered Iranian woman were to report the crime and assist with the prosecution of the case, receipt of a U Visa is not guaranteed.²⁷¹ The federal government establishes U Visa law, but local law enforcement's role in its implementation has led to nationwide inconsistencies in its application.²⁷² Given local law enforcement's ultimate discretion in granting or denying requests for U Visa certification, scholars have argued that the potential for abuse of power is tremendous: "Especially in jurisdictions where law enforcement may be skeptical about doing anything to support an unauthorized immigrant victim's access to legal immigration status, any statutory or regulatory language that is less than clear on this issue may very well be interpreted to the detriment of the immigrant victim."²⁷³ As the U Visa is still a somewhat new remedy, and because of this discretionary element, it remains unclear to both legal professionals and immigrants as to how to construct a successful U Visa application.²⁷⁴

On the other hand, the VAWA self-petition actually avoids a great deal of the safety concerns of Iranian women. The VAWA self-petition tends to promote safe reporting by allowing immigrant victims to file the petition confidentially without separating from or notifying the perpetrator.²⁷⁵ This allows the victim to plan and assess how and whether she can safely leave.²⁷⁶ The drawback of the VAWA self-petition, however, is that it does not apply to Iranian women whose spouses do not have immigrant status, as the statute mandates the victim be "the spouse of a citizen or lawful permanent resident of

269. Telephone Interview with Sima Alizadeh, *supra* note 218.

270. See U VISA RESOURCE GUIDE, *supra* note 117, at 10.

271. See 8 C.F.R. § 214.14(c)(5) (2016) (providing that once the forms have been submitted to USCIS, it is in USCIS's discretion to decide if the victim qualifies for a U Visa).

272. Costantini, *supra* note 243.

273. Elizabeth M. McCormick, *Rethinking Indirect Victim Eligibility for U Non-Immigrant Visas to Better Protect Immigrant Families and Communities*, 22 STAN. L. & POL'Y REV. 587, 622 (2011). Professor McCormick further argued that "[b]ecause the law enforcement agency ultimately has complete discretion to grant or deny requests for U visa certification, the potential for abuse of power is tremendous." *Id.*

274. Sarah Morando Lakhani, *From Problems of Living to Problems of Law: The Legal Translation and Documentation of Immigrant Abuse and Helpfulness*, 39 LAW & SOC. INQUIRY 643, 644 (2014).

275. Leslye E. Orloff, Rebecca Story, Joanne Lin, Carole Angel & Deborah Birnbaum, *Introduction to Immigration Relief for Immigrant Victims of Sexual Assault and Glossary Terms*, in NAT'L WOMEN'S ADVOC. PROJECT, EMPOWERING SURVIVORS: LEGAL RIGHTS OF IMMIGRANT VICTIMS OF SEXUAL ASSAULT ch. 6, at 7 (Leslye Orloff ed., 2013), <http://iwp.legalmomentum.org/cultural-competency/Empowering-Survivors-MANUAL-SA.pdf>.

276. *Id.*

the United States.”²⁷⁷ Women who are not married to U.S. citizens are left with only the U Visa, and the safety concerns that accompany it.

3. Iranian Women Do Not Utilize the U Visa or the VAWA Self-Petition for Fear of Ostracization

The organizational interviews also suggest that another possible reason why battered Iranian noncitizen women hesitate to pursue a U Visa or VAWA self-petition is that they fear being ostracized from the Iranian community.²⁷⁸ Studies have shown that fear of ostracization by a battered woman’s ethnic community is a significant barrier to reporting domestic violence.²⁷⁹ In Iranian culture, simply discussing domestic violence could result in family or community ostracization,²⁸⁰ as the culture places a high value on marriage and the victim is seen as destroying the sanctity of the family by trying to leave her abuser.²⁸¹ Seeking outside assistance for domestic violence is highly unacceptable because the culture mandates that such matters be dealt with in private.²⁸² This fear of ostracization is worse for battered Iranian noncitizen women who are linguistically and culturally isolated from the dominant culture.²⁸³ As a result of this fear, most Iranian battered women remain silent about domestic violence.

Take the case of one young Iranian woman who suffered severe abuse by her U.S. citizen boyfriend.²⁸⁴ There were times when he would put a gun to her head and threaten to pull the trigger. After years of abuse, the victim finally went to a legal clinic and learned that she was eligible for a U Visa. The organization referred her to free counseling services provided to victims of rape and violence before moving forward with the U Visa. The victim chose not to get the U Visa, though, because she feared that the Iranian community would find out and ostracize her for reporting the abuse.

Experts in this field have also heard that on the rare occurrence that an Iranian woman did come to discuss her legal options, some translators employed by the service provider would breach the confidentiality of that session by informing the Iranian community about her visit.²⁸⁵ It is highly likely that an

277. See 8 C.F.R. § 204.2(c)(1)(i)(A) (2016).

278. See, e.g., Telephone Interview with Sima Alizadeh, *supra* note 218; Telephone Interview with Mojdeh Rohani, *supra* note 218; Telephone Interview with Stacey Vu, *supra* note 220.

279. Sonia Parras Konrad & Leslye E. Orloff, *The U-Visa Remedy for Immigrant Victims of Sexual Assault and the Need For Multidimensional Collaboration*, in NAT’L WOMEN’S ADVOC. PROJECT, *supra* note 275, ch. 4, at 2.

280. See Amani, *supra* note 219 (noting that “women in Iran continue to be ostracized, blamed and re-victimized whenever they choose to leave, not stay in, abusive relationships”).

281. *Id.*

282. See *supra* Part II.A for a discussion on how matters of domestic violence are dealt with in the private realm in Iran.

283. See Goldfarb, *supra* note 201, at 68 for the contention that immigrant women will find it difficult to leave abusers in a community where they are in the minority linguistically and culturally.

284. The organization that provided this information asked to remain anonymous in order to maintain client confidentiality.

285. The organizations providing this information asked to remain anonymous.

Iranian woman in this position would stop pursuing the U Visa or VAWA self-petition out of fear of ostracization from her community. This community reaction reflects the traditional way that matters of abuse are dealt with in Iran—“maintain[ing] a positive family image at all costs.”²⁸⁶ As the U Visa requires an immigrant woman to report domestic violence and assist with the prosecution, it is inevitable that the community will discover that she spoke about the violence outside of the private realm. As such, the U Visa is not truly accessible to many battered Iranian women.

By contrast, the VAWA self-petition avoids this likelihood of ostracization. Because the VAWA self-petition’s process is more confidential and can be completed without even notifying the husband,²⁸⁷ the process is quicker and more discreet. Yet, there remains a real possibility that the Iranian community will discover what happened after a VAWA self-petition is issued.

In the end, laws in the U.S. reflect the dominant culture that fosters a supportive community for women who leave their abusers,²⁸⁸ which clashes with the legitimate fear of ostracization in Iranian culture. This clash creates an insurmountable obstacle for many battered Iranian women to access these resources.

4. The Separation-Based U Visa and VAWA Self-Petition Models Deter Iranian Women

Finally, the organizational interviews also suggest that another possible reason why Iranian women are unlikely to pursue U Visas or the VAWA self-petition is because the Western model of intervention focuses heavily on separation,²⁸⁹ whereas Iranian culture values the sanctity of the family. The U Visa and VAWA self-petition are legal remedies that follow the Western model of intervention because they promote separation of victims from abusers. While the dominant culture in the U.S. is supportive and accepting of battered women leaving their abusers, many cultures see this action as “immoral” or “selfish.”²⁹⁰

This is especially evident in Iranian culture where domestic violence is seen as a private matter and women are punished for speaking out.²⁹¹ For Iranians, the “sanctity of the family” is embedded in the culture,²⁹² and the specific role of women as mothers, daughters, and wives is highly respected. Further, marriage is considered permanent and sacred in Iranian culture, while divorce is considered taboo.²⁹³

Some commentators have suggested that U.S. separation-based remedies

286. Soltani, *supra* note 29, at 6.

287. Orloff et al., *supra* note 275, at 6–7.

288. Goldfarb, *supra* note 201, at 68.

289. See, e.g., Telephone Interview with Mojdeh Rohani, *supra* note 218.

290. Goldfarb, *supra* note 201, at 68.

291. See Anne-Marie O’Connor, *New Lives for Women from Iran*, L.A. TIMES, Dec. 10, 1998, at A1.

292. See *id.*

293. See *supra* Part II.A.2 for a discussion of marriage and divorce in Iranian culture.

are undesirable for Iranian women because Iranian culture often punishes women who break up a family based on allegations of abuse,²⁹⁴ and the remedies are not guaranteed to succeed.²⁹⁵ Thus, the law's focus on separation is one of the principal reasons women are reluctant to utilize available domestic violence legal remedies.²⁹⁶

C. *Proposals to Close the Gap Between Iranian Victims and the U Visa and VAWA Self-Petition*

This Comment argues in favor of immigration reform to assist battered Iranian women. As it stands, current legal protections are out of reach for many battered Iranian women in the U.S. who desperately need those resources. Moreover, reform will ultimately help not only Iranian victims but also other immigrant communities that maintain similar beliefs surrounding domestic violence.

The preceding critique of the U Visa and VAWA self-petition suggests a few directions for future immigration reform efforts. Although further research is needed to fully develop each proposal, the following suggestions provide a groundwork for such research.

1. *Antiviolence Legislation Should Be Enacted to Shift Cultural Views on Domestic Violence*

A country's laws can effect a change in broader cultural norms in that country.²⁹⁷ "The law's symbolic function in distinguishing right from wrong, as well as its ability to impose punishment and allocate resources, contribute to its power to create standards and categories that come to seem normal and inevitable."²⁹⁸ As such, laws in the U.S. can address and shift opposing attitudes to undercut the acceptance of Iranian domestic violence in the U.S.

In the U.S., the dominant culture holds that women have a right to be free from domestic violence. Laws such as VAWA, which created both the U Visa and the VAWA self-petition, are manifestations of this national nonacceptance of violence against women.²⁹⁹ Congress created the original VAWA with the specific intent to change attitudes toward domestic violence by creating awareness of the issue, improving services for victims, and instructing the

294. See, e.g., Telephone Interview with Mojdeh Rohani, *supra* note 218.

295. GOODMARK, *supra* note 254, at 103. For instance, the U Visa is not guaranteed even if a battered Iranian woman were to report the crime and assist with the prosecution of the case. See 8 C.F.R. § 214.14(c)(5) (2016) (providing that once the forms have been submitted to USCIS, it is in USCIS's discretion to decide if the victim qualifies for a U Visa).

296. Goldfarb, *supra* note 201, at 67.

297. *Id.* at 61.

298. *Id.* at 62.

299. The Family Violence Prevention and Services Act is another example of a U.S. federal law combatting domestic violence. See 42 U.S.C. § 10401(b)(1)–(4) (2012) (delineating the purposes of the Act). This Act serves as the main source for federal funding to help victims of violence and their dependents. *Laws on Violence Against Women*, OFF. ON WOMEN'S HEALTH, <http://womenshealth.gov/violence-against-women/laws-on-violence-against-women/#b> (last updated Sept. 30, 2015).

criminal justice system to respond to domestic violence and sex crimes.³⁰⁰ Effective enforcement and broad accessibility establish and spread the culture of nonacceptance for all who live in the U.S.

It was not long ago that the dominant culture in the U.S. tolerated some form of abuse against women as a way of “keeping [women] in line.”³⁰¹ Gradually, through activism in the 1970s, laws began to reflect a disdain towards violence against women.³⁰² Over time, more laws, like VAWA, came into effect. Thus, whereas the dominant culture once tolerated some form of violence, antiviolence laws today send the message that domestic violence will not be accepted.

Accordingly, there is the possibility that individuals from immigrant cultures that do tolerate domestic violence will shift their perception of the acceptability of violence against women while in the U.S. The Keyholders, a group of Iranian American businessmen and male community leaders in California, reflects the possibility of this shift. The group was created to raise awareness about domestic violence in the Iranian community.³⁰³ One of the members explained that only men are allowed in this group as “[n]inety-four percent of domestic violence is done from men to women . . . (Men) are the ones who have to learn to face the fact, to control, and don’t be abusive.”³⁰⁴ Because domestic violence is not discussed in Iranian communities, a requirement of membership in the group is that members *must* discuss matters of domestic violence with family, friends, and colleagues.³⁰⁵ One of the members of this group went as far as assisting an Iranian woman with procuring a restraining order against her abusive husband.³⁰⁶ Comprised of individuals who lived in a country tolerant of domestic violence, but who now live in a nation whose laws reject domestic violence, the Keyholders reflect the positive effect that the law itself can have on changing cultural norms. In this case, these men have not only collaborated to combat a culture acceptant of domestic violence, but they have also proactively used U.S. legal resources to stop abuse by other Iranian men.

Effective implementation of the U Visa and the VAWA self-petition can provide resources to unreached populations and also foster a cultural shift towards antiviolence in the U.S. Accomplishing this implementation involves spreading information about the U Visa and VAWA self-petition to those who are in need,³⁰⁷ especially those whose cultures and communities traditionally

300. See LISA N. SACCO, CONG. RESEARCH SERV., R42499, THE VIOLENCE AGAINST WOMEN ACT: OVERVIEW, LEGISLATION, AND FEDERAL FUNDING 1–10 (2015), <https://www.fas.org/sgp/crs/misc/R42499.pdf>.

301. Goldscheid, *supra* note 5, at 359.

302. See *id.*

303. Driscoll, *supra* note 258 (quoting Mohsen Alinaghian, a member of the Keyholders).

304. *Id.*

305. *Id.*

306. *Id.*

307. See *infra* Part III.C.4 for proposals to better disseminate information about the U Visa and VAWA self-petition.

force women to stay private about abuse.³⁰⁸

2. The U Visa Must Be Made More Accessible to Battered Noncitizen Iranian Women

The organizational interviews in this study strongly suggest that the U Visa's certification requirement deters many Iranian women, as well as other immigrants, from considering this option.³⁰⁹ This deficiency points to a need for immigration reform in terms of the structure and implementation of the U Visa. This reform can begin to take place by making the U Visa more accessible to Iranian noncitizen women in the U.S.

a. *The U Visa Certification Requirement Should Be Eliminated*

Scholars have argued the U Visa certification requirement discourages battered immigrant women from using this remedy.³¹⁰ One scholar has argued, "Both victim safety and the safety of our communities are being jeopardized by the U-visa's mandatory certification requirement. Certification should be a form of evidence victims can present to prove helpfulness, but must no longer be a prerequisite that blocks immigrant victim access to U-visa protections."³¹¹

Specifically, scholars have argued against the requirement that the only way to prove helpfulness is through a law enforcement certification.³¹² Rather, these scholars have argued that, instead of a law enforcement certification, "any credible evidence" should be acceptable to prove the victim has been helpful, is helpful, or will be helpful with prosecuting the crime suffered.³¹³ This would be a liberal evidentiary standard, meaning that victims could provide the best evidence they could muster up to prove helpfulness.³¹⁴ A law enforcement certification could be used as primary evidence of helpfulness but, alternatively, the U Visa victim should be allowed to provide "any credible evidence" to prove helpfulness.³¹⁵ The reasoning behind this is twofold. First, attorneys and service providers have reported on the reluctance of law enforcement officials to certify victims due to the extensive and complex certification process.³¹⁶ This, in turn, has caused some law enforcement agencies to cease U Visa certifications

308. See *infra* Part III.C.2 for a discussion of proposals to effectively implement the U Visa and VAWA self-petition.

309. E.g., Telephone Interview with Sima Alizadeh, *supra* note 218; Telephone Interview with Stacey Vu, *supra* note 220.

310. E.g., Leslye E. Orloff, Kathryn C. Isom & Edmundo Saballos, *Mandatory U-Visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act's Immigration Protections and Its "Any Credible Evidence" Rules—A Call for Consistency*, 11 GEO. J. GENDER & L. 619, 620–22 (2010) (denoting the U Visa certification as an additional obstacle for immigrant women and proposing its removal). See *supra* Part II.C.1 for the U Visa requirements.

311. Orloff et al., *supra* note 310, at 632.

312. *Id.* at 646–47.

313. *Id.* at 621.

314. *Id.* at 626.

315. *Id.* at 646.

316. *Id.* at 637.

altogether.³¹⁷ Second, the process discourages victims who were already hesitant to work with law enforcement.³¹⁸

Further, these scholars have argued that the VAWA Unit of DHS should be responsible for determining the “helpfulness” element, as they are qualified experts familiar with abuse matters.³¹⁹ The VAWA Unit already determines whether a trafficking victim applying for a T Visa,³²⁰ through “any credible evidence” provided, has been helpful or will be helpful to prosecuting the case.³²¹ Accordingly, instead of requiring a separate certification for U Visa applicants, the VAWA Unit should use the same process used for T Visa applicants.³²² In this way, control over whether battered immigrant women receive a U Visa would be in the hands of trained professionals who deal with such issues on a daily basis. This change is preferable because certifying agencies, such as law enforcement, are not fully versed in the process or knowledgeable about what is at stake for victims. Further, for those that have argued the certification protects against fraudulent claims, “[r]equiring mandatory certification is unnecessary as a fraud check when U-visa cases are adjudicated by the same division of DHS, the VAWA Unit, that has years of expertise making similar adjudicatory decisions based on ‘any credible evidence’ in T-visa cases.”³²³

This proposal can preserve the U Visa’s purpose of prosecuting crimes of abuse while breaking down the barriers that kept this resource from certain immigrant communities. First, if victims were able to provide evidence that they previously assisted law enforcement or are currently helping law enforcement prosecute the crime, then they would meet the helpfulness prong. Second, for women from cultural communities that have a great deal of unreported crimes, a different route should be used. In this alternate route, the victim would present credible and reliable evidence showing that a crime of violence had been committed against her. Once the VAWA Unit found the evidence to be credible, the unit could require that, in exchange for being given a U Visa, the victim must agree to assist law enforcement in the future prosecution of this crime. At this point, the VAWA Unit or a legal organization could educate the victim on the role of law enforcement in the U.S., as this would help to alleviate victim distrust of the legal system.

In a case where the abuse was unreported and was too far-gone to be properly prosecuted, the VAWA Unit could then educate the victim on the

317. *Id.*

318. *Id.*

319. *Id.* at 646.

320. The T Visa provides nonimmigrant status to a victim of human trafficking, allowing her to remain in the U.S. to assist in the investigation and prosecution of the crime committed against her. *Victims of Human Trafficking: T Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-nonimmigrant-status> (last updated Oct. 3, 2011).

321. Orloff et al, *supra* note 310, at 646.

322. *Id.* at 646–47.

323. *Id.*

VAWA self-petition process. In the end, allowing the VAWA Unit to decide the merits of a victim's case would make the U Visa more accessible to Iranian women.

One drawback to this proposal is the additional workload it would impose on the VAWA Unit. This increased workload, in turn, could also require an increase in the VAWA Unit staff. However, an increase in both these areas could still be more efficient than the alternative of training all legal service agencies throughout the U.S. to *proficiently* carry out the certification process. Even if the latter were to be accomplished, this would do nothing to remedy the fears and resistance of immigrant women who are already hesitant to work with law enforcement. Allowing trained professionals to handle such a sensitive and life-altering matter would save more lives and protect more immigrant women. In *Oropeza-Wong v. Gonzales*,³²⁴ the Ninth Circuit explained that through VAWA, Congress intended “to require that immigration officials consider all of the available evidence and cease dismissing claims for lack of credible evidence whenever battered women had difficulty corroborating the facts of their abuse.”³²⁵ Law enforcement agencies are not necessarily reviewing cases with this standard in mind, especially since some certifying agencies are confused about the process.³²⁶

The U Visa will “never fully achieve its dual goal of enhancing public safety and protecting immigrant crime victims and their families, unless all immigrant families feel confident that they will be protected if they come forward and cooperate with law enforcement.”³²⁷ Without such a certainty, many immigrant victims will be forced to remain silent in their abusive homes, and law enforcement agencies will not have the chance to prosecute these crimes.³²⁸

b. The Number of U Visas Issued per Year Should Be Increased

Congress has capped the number of U Visas issued at 10,000 per year.³²⁹ Last year alone, issuance reached the cap within a matter of weeks.³³⁰ Individuals who qualify for the U Visa, but who do not receive one of the 10,000 granted, receive conditional approvals.³³¹ USCIS reported that the number of U Visa applicants has grown extensively every year: in 2011, there were 16,768 individuals; in 2012, there were 24,768 individuals; in 2013, there were 25,432 individuals; in 2014 there were 26,039 individuals; and in 2015 there were 30,106 individuals.³³² These large numbers do not include the countless women who did

324. 406 F.3d 1135 (9th Cir. 2005).

325. *Oropeza-Wong*, 406 F.3d at 1145.

326. See *supra* Part II.C.1 for a discussion on certifying agencies and their review of certification requests.

327. McCormick, *supra* note 273, at 632.

328. *Id.*

329. 8 U.S.C. § 1184(p)(2)(A) (2012).

330. See *supra* notes 142–48 and accompanying text for a brief summary of this phenomenon.

331. *Id.*

332. U.S. CITIZENSHIP & IMMIGRATION SERVS., NUMBER OF 1-918 PETITIONS FOR U

not apply out of fear or who were unable to get a certification form.

This finding alone shows the dire need to expand the number of U Visas issued per year. While raising the cap has been a topic of immigration debates,³³³ and while bills have been proposed to expand the U Visa cap, the most recent reauthorization of the VAWA failed to address the shortage of U Visas.³³⁴ Though the Senate approved the increase in yearly U Visa cap from 10,000 to 15,000, House Republicans denied such a proposal.³³⁵ Republican Senator Chuck Grassley from Iowa noted, “We have caps for a reason. The US can’t take everybody who comes to our shores . . . [Caps] are a stop-gap measure against fraud.”³³⁶ The U Visa evidentiary burden on victims is already a safeguard against false claims of violence. Supporters of increasing the cap say that reaching the U Visa limit shows how effective it is in combating violent crimes, rather than demonstrating fraud.³³⁷

To be an accessible and effective resource for battered immigrant women, especially Iranian women who are underrepresented in the recipient group, USCIS should grant more U Visas. If the statutory cap is not raised, USCIS risks running out of U Visas for 2015 before the end of 2014.³³⁸ U Visa applicants cannot afford to wait years for their U Visa to be adjudicated. The dual purpose of the U Visa cannot be achieved if victims are unable to use the one resource that was made for them.

3. Congress Should Lessen the High Evidentiary Burden of the VAWA Self-Petition

Between the U Visa and the VAWA self-petition models, the VAWA self-petition seems to be the more accessible tool to address violence in the Iranian community. The VAWA self-petition’s discreet process provides a safer route than the U Visa and counters Iranian women’s fear of safety and ostracization. Congress created the immigration provisions in VAWA specifically to ensure that battered immigrant women would have an avenue through which to access lawful status, *without* their abusers’ help or knowledge.³³⁹ A further advantage of

NONIMMIGRANT STATUS (VICTIMS OF CERTAIN CRIMINAL ACTIVITIES AND FAMILY MEMBERS) BY FISCAL YEAR, QUARTER, AND CASE STATUS 2009–2015 (2015), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_v_isastatistics_fy2015_qtr4.pdf.

333. See *Advocate for Change: Tell Congress to Raise the U-Visa Cap*, IMMIGRANT L. GROUP PC, <http://www.ilgrp.com/advocate-for-change-tell-congress-to-raise-the-u-visa-cap/> (last visited Feb. 1, 2016).

334. Grenier, *supra* note 142.

335. *U Visas Hit a Ceiling*, *supra* note 148, at A26.

336. Adam Serwer, *Republicans Are Blocking the Violence Against Women Act*, MOTHER JONES (Mar. 20, 2012, 5:00 AM), <http://www.motherjones.com/politics/2012/03/republicans-violence-against-women-act> (quoting Senator Chuck Grassley of Iowa).

337. *Id.*

338. *Advocate for Change: Tell Congress to Raise the U-Visa Cap*, *supra* note 333. As a note, this Comment was written between 2014 and 2015, before any further U Visa information became available.

339. Orloff & Kaguyutan, *supra* note 156, at 113.

the VAWA self-petition model is that there is no cap on the number of individuals who can receive it.³⁴⁰

One major drawback to the VAWA self-petition is the high evidentiary burden it imposes on petitioners. Specifically, the requirement that a woman must prove her husband's status through relevant documentation can be dangerous for victims.³⁴¹ This is especially true for women who have already left their homes.³⁴² Since U.S. citizens and legal permanent residents usually have social security numbers,³⁴³ instead of asking the victim to prove the status of the perpetrator, USCIS should request information from the Social Security Administration to see whether the spouse has a U.S. citizen or legal permanent resident social security number. This process would model the E-Verify system used by employers to determine if a new employee is lawfully authorized to work in the U.S.³⁴⁴ Only as a last resort should a victim be asked to find relevant documentation proving a spouse's immigration status.

4. Outreach Efforts to Iranian Communities Should Be Increased Throughout the U.S.

Organizations and service providers must identify barriers and connect themselves with women in the Iranian community to counteract the obstacles blocking women from leaving their abusers and pursuing the U Visa and the VAWA self-petition.³⁴⁵ Given that there are currently thirty-five states with no organizations that both speak Farsi and provide assistance with the U Visa or VAWA self-petition, along with the cultural factors already discouraging many Iranians from reaching out to existing organizations, Iranian women are not receiving the information they need. Accordingly, this Comment urges the following changes to outreach efforts.

First, organizations throughout the nation that offer VAWA self-petition and U Visa assistance should expand their outreach into the Iranian communities within their respective areas. Outreach efforts do not necessarily need to be costly. For instance, agencies could provide informational flyers³⁴⁶ to

340. AM. IMMIGRATION CTR., *supra* note 114, at 4-5.

341. See Preda et al., *supra* note 105, at 4-5 (noting that documentation of the residency status of an abusive spouse or parent is required to file a VAWA self-petition, thereby requiring the victim to potentially confront her abuser and subject herself to further violence). See also Section II.C.2 for further analysis of the pitfalls of the VAWA self-petition.

342. *Id.*

343. See *Social Security Numbers for U.S. Permanent Residents*, U.S. SOC. SECURITY ADMIN., https://www.socialsecurity.gov/ssnvisa/Handout_11_1.html (last visited Feb. 1, 2016) (explaining that each legal permanent resident needs a social security number in the U.S.).

344. See *What is E-Verify?*, U.S. CITIZENSHIP & IMMIGR. SERVS., <http://www.uscis.gov/e-verify/what-e-verify> (last visited Feb. 1, 2016). "E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility." *Id.*

345. See Orloff & Garcia, *supra* note 108, at 20-21 (discussing how service providers must break the isolation by identifying and connecting with women's groups in their own cultural community).

346. Some outreach organizations use informational flyers to reach victims of domestic violence

emergency rooms and doctors' offices where battered women seek medical assistance. Doctors could inform their battered patients of the resources available to them and provide them with a list of organizations in the area. These flyers could also be placed in highly frequented areas such as grocery stores and pharmacies. Further, organizations could choose to advertise information sessions on those flyers for victims and friends of victims to attend. This way the information is accessible to victims who are not aware of these remedies and who are initially hesitant about seeking help.

For localities with the highest population of Iranians, organizations should do on-air advertisements or hire a staff member focused on outreach to the Iranian community. For these larger outreach projects, organizations can seek any necessary additional funding through project grants. Further, if future research establishes that there are many unreached women from cultural groups that hold similar beliefs about domestic violence as Iranians, local governments should consider creating task forces or designating a certain amount of funds toward spreading information to these noncitizen women.

Second, these organizations should expand their language capacities to include Farsi. While this may not be financially feasible for all organizations, those in the areas with the highest concentration of Iranians should consider bringing on a staff member designated to working with this community. For other organizations near smaller Iranian communities, an agency could make clear on its website that assistance can be offered in Farsi and then provide such service through a translation company.

Third, organizations in this study have suggested that more direct efforts should be made to reach Iranian women in the U.S., such as making the U Visa and VAWA self-petition available in Farsi online.³⁴⁷ While a battered noncitizen Iranian woman may be unable to complete the petitions by herself, online availability would inform her of available resources and assist those individuals (perhaps family members, friends, or attorneys) who would be willing to complete the process with her.

Fourth, USCIS should have information on both remedies in Farsi on its website.³⁴⁸ Finally, translators should be required to respect confidentiality when translating for Iranian clients.³⁴⁹ Confidentiality is especially crucial to both quenching fears and reducing instances of retribution and ostracization for the Iranian women who do seek help. Organizations could require that translators undergo confidentiality training to emphasize and instill the need for confidentiality, and demand they sign confidentiality agreements.

These steps for outreach are necessary to link Iranian victims to service providers and to provide accurate information about their rights in the U.S. With

and apprise them of their services. See, e.g., *The National Domestic Violence Hotline Number*, GRIEF SPEAKS, <http://www.griefspeaks.com/id79.html> (last visited Feb. 1, 2016).

347. E.g., Telephone Interview with Sima Alizadeh, *supra* note 218.

348. *Id.*

349. See *supra* Part III.B.3 for a discussion of translators violating confidentiality in sessions with Iranian victims.

accurate information about the process and resources available, Iranian women could feel more empowered to pursue the U Visa or VAWA self-petition.

5. There Should Be Greater Access to National Domestic Violence Statistics

Finally, this Comment urges the publication of statistics regarding the number of U Visas and VAWA self-petitions filed and granted, according to nationality. As explained earlier, USCIS does not release statistics evidencing the number of U Visas issued and VAWA self-petitions granted in the U.S. to Iranian women due to the sensitive nature of the matter.³⁵⁰ U Visas and VAWA self-petitions do concern a sensitive topic, but publicizing these statistics by nationality does not reveal any identifying information about the individuals who applied for these legal protections.

Without such statistics, policymakers and lawmakers cannot tell whether the current VAWA remedies are accessible to battered immigrant women. These statistics could reveal which immigrant women are suffering in silence. This revelation would trigger further research into why these populations do not utilize the VAWA resources and, in turn, create an effective avenue for comprehensive immigration reform. Successful reform requires that the obstacles facing battered immigrant women be defined and addressed.

As Sally Goldfarb wrote, “Listening to battered women is a source of . . . information for people and institutions that seek to meet their needs. Accordingly, women’s voices must be given primacy in the development and application of legal remedies.”³⁵¹ Legislative advocacy and change will not happen unless we identify and address the needs of women who are without access to available resources. The publication and release of national statistics would help identify these women.

IV. CONCLUSION

In his acceptance speech for the Nobel Peace Prize, Elie Wiesel said, “We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented.”³⁵² By remaining silent when it comes to their protection, we allow the abuse of battered Iranian women to

350. When speaking with a representative from USCIS, I was told it does not release statistics on U Visas or VAWA self-petitions issued in the U.S. due to the sensitive nature of the topic. No further explanation was given as to why these statistics are unavailable. The only statistics available are the number of U Visas issued to Iranians who applied outside the U.S. According to those statistics, since the creation of the U Visa in 2000, only one U Visa has been issued to an Iranian. *Nonimmigrant Visa Statistics*, *supra* note 196.

351. Goldfarb, *supra* note 201, at 70.

352. Elie Wiesel, Nobel Peace Prize Acceptance Speech (Dec. 10, 1986), http://www.nobelprize.org/nobel_prizes/peace/laureates/1986/wiesel-acceptance_en.html. Mr. Wiesel survived the Nazi death camps during World War II. He is an activist and a teacher, has authored many books on his experiences, and continues to fight against persecution across the world. *Ellie Wiesel*, ELIE WIESEL FOUND. FOR HUMAN., <http://www.eliewiesel.org/eliewiesel.aspx> (last visited Feb. 1, 2016).

continue, and we justify and encourage the actions of male perpetrators. In a country that has taken a strong stance against violence and has specifically enacted legislation to assist immigrant women, silence cannot be the answer. The U Visa and VAWA self-petition were specifically created to help victims of violence, but they are inaccessible to many Iranian women.

This Comment has shown that the U Visa and the VAWA self-petition are inaccessible to battered Iranian noncitizen women for many reasons: (1) lack of information, (2) safety concerns, (3) fear of ostracization, and (4) the separation-based U Visa and VAWA self-petition clash with Iranian ideals of family loyalty. As such, the U Visa and the VAWA self-petition fail to accomplish the government's goal of assisting battered immigrant women, leaving Iranian victims feeling devalued as they suffer in silence.

This conclusion rings true for other noncitizen women whose cultures hold similar beliefs surrounding domestic violence. The implication of this conclusion is that, in the U.S., many noncitizen women suffer in this painful, silent existence. By declining to sufficiently assess the extent of this problem, the U.S. government and organizations, specifically established to help such groups, have taken a neutral stance. As Mr. Wiesel explained, "Neutrality helps [only] the oppressor, never the victim."³⁵³

353. Elie Wiesel, Nobel Peace Prize Acceptance Speech, *supra* note 352.

APPENDIX
 U.S. ORGANIZATIONS OFFERING VAWA SELF-PETITION
 AND U VISA ASSISTANCE IN FARSI³⁵⁴

LOCATION	ORGANIZATION NAME
Alabama	None
Alaska	None
Arizona	None
Arkansas	None
California	1) Access California Services 2) Asian Pacific Islander Legal Outreach 3) Human Rights Project 4) Legal Aid Foundation ³⁵⁵ Φ 5) Legal Aid Society ³⁵⁶ 6) Neighborhood Legal Services of Los Angeles County Φ 7) PARS Equality Center Φ 8) Opening Doors, Inc. Φ 9) Pangea Legal Services Φ 10) Interval House Φ
Colorado	1) Mi Gente – VAWA Legal Solutions Φ
Connecticut	None
Delaware	None
Florida	None
Georgia	1) Refugee Resettlement and Immigration Services of Atlanta Φ
Hawaii	1) Domestic Violence Action Center Φ
Idaho	None
Illinois	1) RefugeeOne Φ 2) Apna Ghar Φ 3) Asian Human Services Φ 4) Hamdard Center Φ
Indiana	None
Iowa	1) Iowa Justice for Our Neighbors Φ
Kansas	None
Kentucky	None
Louisiana	1) Diocese of Lafayette – Migration and Refugee Services
Maine	None

354. The “Φ” symbol signifies the organizations I reached out to for an interview. I ultimately connected with eleven of these organizations.

355. This organization has a few branches.

356. This organization has a few branches.

Maryland	None
Massachusetts	1) Community Legal Services and Counseling Center Φ 2) Lutheran Social Services of New England Φ
Michigan	None
Minnesota	None
Mississippi	None
Missouri	None
Montana	None
Nebraska	None
Nevada	None
New Hampshire	None
New Jersey	None
New Mexico	None
New York	1) Catholic Family Center 2) Legal Services NYC Φ 3) Safe Horizon–Immigration Law Project Φ 4) Domestic Harmony Foundation Φ 5) International Institute of Buffalo Φ 6) Mohawk Valley Resource Center for Refugees
North Carolina	None
North Dakota	None
Ohio	1) Cleveland Catholic Charities: Migration & Refugee Services Φ 2) Asian American Community Services
Oklahoma	None
Oregon	1) Catholic Charities of Portland – Immigration Legal Services 2) Immigrant and Refugee Community Organization Φ
Pennsylvania	1) International Service Center – Immigration Services Φ
Rhode Island	None
South Carolina	None
South Dakota	None
Tennessee	None
Texas	1) Catholic Charities – Immigration Services ³⁵⁷ Φ 2) Chetna Φ 3) Mosaic Family Services, Inc. Φ
Utah	None

357. This organization has a few branches.

Vermont	None
Virginia	1) Northern Virginia Family Service Φ
Washington	1) Chaya Φ 2) Refugee Women's Alliance Φ
Washington, D.C.	1) Asian/Pacific Islander Domestic Violence Resource Project Φ
West Virginia	None
Wisconsin	1) Catholic Charities of Milwaukee – Legal Services for Immigrants Φ
Wyoming	None