

8 February 2019



Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Dear Committee Members,

Re: Inquiry into the practice of dowry and the incidence of dowry abuse in Australia

The Brotherhood of St Laurence is an independent, non-government organisation with strong community links that has been working to reduce poverty in Australia since the 1930s. The Brotherhood has maintained a focus on supporting people from migrant and refugee backgrounds—particularly those facing disadvantage—for over 60 years. Our Multicultural Communities Team (formerly the Ecumenical Migration Centre) delivers a broad range of tailored programs to culturally and linguistically diverse communities; and across the organisation we run many programs fostering economic participation, in recognition of its preventative and recovery value for women in family violence situations. The Brotherhood has also recently been chosen as one of five pilot sites for the Victorian Government’s *Safer and Stronger Communities* program, which aims to build capacity in multicultural communities to prevent family violence.

The Brotherhood commends the Senate for undertaking this Inquiry to investigate opportunities to progress human rights for women. By becoming a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Australia has committed to take all appropriate measures, including introducing legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms. As the Committee may be aware, the rights enshrined in CEDAW broadly cover all aspects of women’s lives. Rights include political participation, health, education, employment, marriage, family relations and equality before the law.¹

We acknowledge the expertise of other organisations and professionals that have provided submissions, and particularly echo the recommendations made by the Harmony Alliance. Our contribution is informed primarily by our work on related social policies and consultation with multicultural communities in the northern metropolitan region of Melbourne. We have commented on the following terms of reference.

¹ Australian Human Rights Commission, www.humanrights.gov.au/publications/woman-world-what-cedaw#5

1) (a) the extent and nature of knowledge regarding cultural attitudes to, the practice of, and the prevalence of dowry in Australia, both before and after marriage

Dowry can vary considerably in practice in terms of scale and meaning between different cultures. Dowry can be interpreted as the exchange of small gifts, which is unrelated to perpetuating gender inequality but important for cultural preservation. Hence, its status as the symbolic exchange of goods is entirely consistent with human rights principles. However, demands for substantial dowry payments and/or financial abuse are not.

While we cannot speak to the prevalence of dowry in Australia, we know that it takes many forms across ethnic communities in Victoria. Generally, when unconnected to visa and migration challenges, it's been a positive cultural practice. It is typically when migration and visa status are involved that 'dowry abuse' may become an issue and we are aware that the Victorian Royal Commission into Family Violence 'heard that misuse of dowry was a "substantial problem" and a particular concern in Indian, Pakistani, Sri Lankan and, increasingly, Middle Eastern communities'.² In our consultations with women in the Indian community in northern Melbourne, we have heard multiple stories of dowry abuse, which typically involves escalating demands for money by husbands and their family members, i.e., dowry extortion, following the initial dowry payment.

From our experience, dowry abuse is related to power imbalances that are the foundations for other forms of family violence. While power imbalances reflect patriarchal cultural constructs, policies and structures may exacerbate vulnerabilities to family violence. For example, we have heard numerous stories of women on partner visas who are dependent on their partner's permanent residency status to remain in Australia, and who experience dowry extortion and family violence. In situations of family violence, due to the financial investment the women's family has already made, the following have occurred:

- The family informs their Australian-based daughter to tolerate the violence from their new husband as they can't afford to re-marry her and fund another dowry; and
- If the daughter returns to her home country she is likely to become an 'abandoned wife', causing shame and dishonour to the family.

2) (b) the appropriateness and impacts of dowry as a cultural practice in modern Australia, taking account of our national commitment to gender equality and human rights, and approach to multiculturalism;

The Brotherhood believes that, just as the Victorian Government did in their recent *Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018*³, it is important to differentiate between dowry and dowry abuse. In this legislation, they included 'dowry abuse' in the definition of family violence. Thus, we do not advocate that dowry should be banned. As noted in our introduction, dowry can vary considerably in practice in terms of scale and meaning between different cultures. We do not believe that dowry in itself causes family violence, but rather greater consequences are needed for its misuse as a tool of abuse. Furthermore, banning dowry does not guarantee its cessation. Dowry has

² Royal Commission into Family Violence, <http://files.rcfv.com.au/Reports/Final/RCFV-All-Volumes.pdf>, p. 1399.

³ Victorian Attorney-General, *New laws to support family violence victim survivors*, press release, 5 June 2018, <https://www.premier.vic.gov.au/new-laws-to-support-family-violence-victim-survivors/>,

been banned in India since 1961, as well as in a range of other countries such as Nepal, Bangladesh, Pakistan and Sri Lanka, but persists in practice. The risk of banning dowry completely is that it will become a secretive practice and women suffering related abuse will be less likely to seek help, due to fear of prosecution, shame or other negative consequences.

Instead of banning the practice of dowry, which might drive the practice underground, we need to have in place strong social policies, systems and laws that prevent, address and penalise the abuse of dowry. We recommend consideration of a consistent and broader definition across Australian jurisdictions—this could take the form of federal legal recognition (as in Victoria) of dowry abuse as a form of economic abuse within the *Family Law Act (1975)*. This could be complemented by family violence training and protocols for authorities including police and the judiciary to respond to dowry abuse, and a specialist investigative body. The *National Commission for Women Act 1990* in India established the Complaints and Counselling Cell to receive information about dowry abuse, a response protocol that expedited and monitored police investigations, and a requirement that those responsible for implementing the law work with frontline NGOs and community health services to develop systems to implement the legislation.⁴

3) (i) the extent to which the requirements for spouse and family visas may enable or prevent dowry abuse, and:

4) (ii) vulnerabilities experienced by women suffering dowry abuse as a result of temporary migration status, including disincentives to report dowry abuse and the ability of victims to access the family violence protections afforded by the *Migration Act 1958* and associated regulations.

The risk of dowry abuse appears to be intrinsically linked with dependency conditions of temporary visas. The threat of ending relationships, and consequently cancelling visa sponsorship, enables one partner, often the male permanent resident, to blackmail and exercise coercion in a range of ways:

- We have heard stories of migrant women on partner visas with high qualifications, who have suffered dowry abuse, being threatened with visa cancellation by their partners if they pursue employment in their chosen field. Instead, low-skilled and low-paid employment options were encouraged.
- Women have disclosed incidences of domestic violence, but are fearful of reporting due to implications for their visa status.
- Another example is a woman whose partner is a permanent resident and whose children are Australian citizens, but remains on a skilled visa. She has experienced blackmailing behaviour from her partner with the threat of cancelling her visa, returning her to India and consequently separating her from her children.

The process to become a permanent resident is often long and costly. We have heard that some women are framed as benefiting from the investment their partner and partner's family have made and therefore owing them financially for this privilege. The risk of extortion is likely to be exacerbated given recent amendments which prolong the waiting period for social security benefits from two to four years, enacted

⁴ 'Implementation of domestic violence and dowry-related violence laws', <http://www.endvawnow.org/en/articles/801-implementation-of-domestic-violence-and-dowry-related-violence-laws.html>

by the recent passage of the *Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018*.

RECOMMENDATIONS FOR THE FEDERAL GOVERNMENT

Many of these could be included in the federal government's forthcoming *Fourth Action Plan to Reduce Violence Against Women and their Children 2019-2022*:

1. Support a national research agenda that investigates the nature and extent of dowry abuse in Australia and the transnational context and develops a systematic collection of dowry abuse related data.
2. Develop a transnational plan with relevant countries to: foster joint research; develop processes and a legal framework to investigate, prosecute and address incidences of dowry abuse; and develop preventative initiatives.
3. Expand the definition of family violence in the *Family Law Act (1975)* to include dowry abuse as part of ensuring a consistent and broader definition across Australian jurisdictions.
4. Ensure Australian Cultural Orientation (AusCO) providers are directed and resourced to develop and provide pre-departure and in-country information aimed at both potential perpetrators and victims regarding dowry abuse and penalties, penalties for perpetration, available protections and services, and rights and responsibilities of Australian residents.
5. Fund and implement community engagement and promotional programs, co-designed with multicultural communities, that increase understanding of any changes to laws relating to family violence that arise from this Inquiry, as well as reporting mechanism and support services. There should be a dedicated focus on high risk communities.
6. Provide training that increases understanding of dowry abuse as a form of coercion and control to stakeholders such as family violence services, police, courts, health professionals.
7. Amend the *Migration Act 1958* to extend the family violence provisions currently available in Partner Visas to all other visa categories.

If you require further information, the Committee can contact Ms Hutch Hussein via hutchhussein@bsl.org.au or 0438 507 103.

Yours sincerely,

CONNOR LENNEBERG
Executive Director