



17 August 2018

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Submission to the Inquiry into the practice of dowry and the incidence of dowry abuse in Australia

The Harmony Alliance is one of six National Women's Alliances funded by the Australian Government to promote the views of all Australian women, to ensure their voices are heard in decision-making processes.

The Harmony Alliance's purpose is to provide a national inclusive and informed voice on the multiplicity of issues impacting on experiences and outcomes of migrant and refugee women, and to enable opportunities for women from migrant and refugee backgrounds to directly engage in driving positive change.

The Alliance welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Committee regarding the practice of dowry and the incidence of dowry abuse in Australia. We acknowledge the leadership of Harmony Alliance member, Australasian Centre for Human Rights and Health (ACHRH), on this issue, and commend the submission made by ACHRH to the Victorian Royal Commission into Family Violence to the Committee. In addition, we endorse the submission made to this Committee by our sister Alliance, AWAVA.

The Harmony Alliance recommends that the Senate Legal and Constitutional Affairs Committee:

1. **Note** the devastating impact of dowry-related violence in Australia;
2. **Note** the need to improve the systematic collection of data on the incidence of dowry abuse in Australia;
3. **Note** the recommendation of the Victorian Royal Commission into Family Violence to expand the definition of family violence to include forced marriage and dowry-related abuse;
4. **Recommend** expanding the definition of Family Violence in the Family Law Act 1975 to include dowry abuse;
5. **Recommend** expanding the family violence provisions afforded by the Migration Act 1958 and associated regulations to include dowry abuse for any individual on a dependent partner visa;
6. **Recommend** a review into the process for determining eligibility for family violence provisions afforded by the Migration Act 1958 and associated regulations, in consideration of how dowry abuse can impact on the outward appearance of genuine relationships;
7. **Recommend** systematic dissemination of information regarding the risks of dowry abuse and rights/responsibilities of Australian residents.



Background

1. The practice of dowry refers to the exchange of substantial gifts (monetary, property, or otherwise) between families at the time of marriage.¹ Depending on cultural practices, it can be gifted from the wife's family to the groom's, or vice versa. The giving of dowry can be linked to abuse, including controlling, isolating and violent behaviours by the spouse or spouse's family. Coercive pressure may be placed on a new spouse (usually a wife) to produce a higher dowry after marriage, or a husband or his family who paid a dowry may take out frustration regarding the high cost through violent behaviour towards the new wife. Australian permanent residency can sometimes be used as an incentive to attract a higher dowry. Of particular concern is the isolation created by this intersection with migration; once a new wife has been moved to Australia away from her support network, she is particularly vulnerable to coercive or violent rent-seeking behaviour. Although there is little systematic recording of dowry abuse in Australia, there are concerning indications that this is a significant problem. In one clinical practice, Dr Manjula O'Connor, CEO, ACHRCH, found 75 per cent of female patients suffering emotional abuse and physical violence were linked to dissatisfaction with the dowry provided by the bride's family.²
2. To better understand the instances of dowry abuse in Australia, there is a need to gather systematic data. This could be introduced as standard practice at clinics and service providers dealing with cases of domestic, family and sexual violence. Given the sensitive nature of this information, it would need to be collected in a culturally competent and trauma informed manner.
- 3&4. Dowry abuse is a complex form of gender-based violence, and should be recognised as such in laws that criminalise family and domestic violence in relevant state, territory and federal legislation. This abuse does not need to manifest itself in physical or sexual violence – it may play out in other ways such as economic, isolating and emotional abuse. Including dowry abuse as an example of family violence in Section 4 (1) of the Family Law Act would help to set norms and expectations. We do not advocate for the blanket ban of exchanging dowry, as such a ban would risk moving the practice underground and could deter victims of dowry abuse from seeking help for fear that they or their family would be punished for paying dowry. In India, the giving of dowry has been banned since 1961, however according to UN Women it has in fact been the Protection of Women from Domestic Violence Act (PWDVA) in 2005 law which has had the greatest effect in improving circumstances for victims.³
5. In keeping with this, family violence provisions afforded under the Migration Act 1958 and associated regulations should be expanded to include dowry abuse, and should be applicable to all relevant visa categories. The current family violence provisions are primarily available to partner visa applicants, which excludes many women on other kinds of visas at risk of dowry abuse. At a minimum, family violence provisions should be extended to all other 'dependent' visa categories, such as secondary applicants to skilled and student visas. Ideally, these provisions should be expanded to include all visa categories, noting that threat of visa insecurity can also be used as a tool by a perpetrator of violence, including dowry

¹ ACHRCH. *Refusal to Comply with Dowry Demands Contributes to Family Violence and Death in Victoria*, 2015, p 2, available at <http://achrh.org/wp-content/uploads/2016/07/ACHRH-SUBMISSION-TO-ROYAL-COMMISSION-ON-DOWRY-RELATED-FAMILY-VIOLENCE-AND-DEATH-11-May-2015.pdf>.

² Ibid. p 11.

³ UN Women. *Confronting dowry-related violence in India: Women at the center of justice*, 2012, available at <http://www.unwomen.org/en/news/stories/2012/12/confronting-dowry-related-violence-in-india-women-at-the-center-of-justice>.



abuse. For example, a wife arriving on a tourist visa may find her new husband refuses to support her application for a partner visa until her family provides a bigger dowry, leaving her ineligible for the family violence provisions and pressured to stay longer in a violent situation.

6. Furthermore, the manner in which eligibility for family violence provisions is assessed requires review in light of this inquiry. Currently, the existence of a genuine relationship is assessed prior to looking at the existing of family violence; however, indicators used by Home Affairs to determine the existence of a relationship, such as sharing financial responsibilities or participating in social activities together, are often in conflict with the experiences of victims/survivors of dowry abuse who may be in an arranged marriage and are often experiencing economic abuse or isolation. If family violence provisions instead required the determination of the existence of family violence first, then the way in which the 'genuine relationship' was evaluated could be undertaken in a manner informed by an understanding of manifestations of violent relationships.
7. The government is well placed to disseminate relevant information outlining rights and responsibilities of residents and citizens in Australia, including information regarding zero-tolerance of violence in any form, including dowry abuse. This information should include details of where to seek help for both victims and potential perpetrators. It could be included in pre-arrival stages of migration, including the letter of visa grant, as well as through violence prevention work being done under the National Action Plan to reduce violence against women and their children.

This submission is endorsed by AWAVA and DV Vic.

For more information or to discuss the contents of this submission further, please contact the Harmony Alliance Secretariat:

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