

The practice of dowry and the incidence of dowry abuse in Australia

Submission to the Legal and Constitutional Affairs Reference Committee
By Women's Legal Service Queensland

About Women's Legal Service Queensland

The Women's Legal Service Queensland (WLSQ) is a specialist community legal centre, established in 1984, that provides free legal and social work services and support to Queensland women. We assist women in the areas of family law, domestic violence, and child protection. WLS provide State-wide assistance through our legal helpline, and have a designated Rural, Regional and Remote solicitor to increase women's access to our service in non-metropolitan regions. We undertake outreach work at the Brisbane Women's Correctional Centre and at Family Relationship Centres in Brisbane. We also conduct duty lawyer services at three Courts: Holland Park, Caboolture and Ipswich. Our specialist domestic violence units in Brisbane and Southport provide intensive case work and Court representation for our most vulnerable clients.

We thank the Legal and Constitutional Affairs Reference Committee for the opportunity to provide this feedback.

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Women's Legal Service Queensland's (WLSQ) submission to the Legal and Constitutional Affairs Reference Committee seeks to highlight the experiences of women from Culturally and Linguistically Diverse (CALD) backgrounds experiencing domestic violence who have sought advice and support from our service in relation to their experiences of dowry abuse.

WLSQ has assisted clients with this issue who identify as being from South Asian, Middle Eastern and African countries of origin, where the giving of dowry is a common and expected practice within a wide range of cultures and communities. Dowry abuse has been defined as 'any act of violence or harassment associated with the giving or receiving of dowry at any time before, during or after the marriage' in an expert report tabled by the United Nations Division for the Advancement of Women in 2009.¹

WLSQ acknowledges that for some of our clients' dowry abuse plays a significant role within the context of their family law and domestic violence matters and hinders a woman's ability to leave a violent relationship in a variety of ways.

One of the key reasons why the women WLSQ supports remain in violent relationships is financial hardship. WLSQ acknowledges that the costs associated with leaving a violent relationship can be significant and extend to things such as; relocation and moving expenses, loss of employment, legal costs, medical/health expenses and additional expenses related to children. Within this context dowry abuse creates additional barriers and complexities for our clients when attempting to leave the relationship. Sometimes dowry abuse occurs concurrently with other forms of financial abuse such as being denied access to bank accounts or being forced to take out bank loans in their name. Women and their extended families may have gone into significant debt in order to pay the additional dowry expenses demanded by the husband and his family. This debt can be crippling and means that there is often no available money for other necessary expenses during the period of separation for things such as legal representation and relocating costs.

Some of the women that WLSQ support state that they wish to leave the relationship but that this would cause immense shame to their family and result in their community disowning them. Some women who separate from their abusive husbands report that they experience serious pressure to return to the marriage from family members, even in the face of life threatening domestic violence. It is this fear of 'causing' shame and dishonour and fear of experiencing punitive social isolation and retribution that makes dowry abuse such a powerful mechanism for control within the context of domestic violence. Therefore until the values underpinning marriage and women's social standing change within communities that practice the giving of dowry, this type of abuse will continue to occur.

¹ Good Practices in Legislation on "Harmful Practices" Against Women, United Nations Division for the Advancement of Women report, 2009, p20
http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Final%20report%20EGMGPLVAW.pdf

(c) reports of dowry abuse, including potential links to family violence, pretext for arranged marriage, forced marriage, modern day slavery, financial abuse, domestic servitude, murder, and other crimes, as well as any connections between dowry abuse and adverse mental health outcomes for affected women, including self-harm and suicide;

Case Study 1– Anaya (not her real name)

Anaya was married to Sai in India by arrangement in 2008, when Anaya was 21 years. Anaya's family were hopeful that marriage to an Indian Australian would benefit their daughter through the opportunities of a life in Australia. In the tradition of dowry there was an exchange of gifts between the families of the bride and groom, with an unspoken expectation that the gift from the bride's side to the groom would be substantially higher value. However, after arriving in Australia with her new husband, Anaya was surprised to find that the family had exaggerated their wealth and social standing. Her husband did not own his own home as had been stated, and the couple lived in overcrowded conditions with his in-laws and adult siblings. Anaya felt tricked. Complaints to her husband were met with abuse. She was accused of being ungrateful and lazy by her mother-in-law who reported this back to her family in India. Anaya's own family minimised the abuse and encouraged her to comply with her husband and in-laws. The shame of divorce on the whole family meant that separation was not an option. Her abuse was linked to repeated demands for money (dowry) by his parents to hers, and threats that if she left the relationship or reported abuse, her family would be asked to return the gifts given to them at the marriage. The financial burden on her family in India and threats made against them by her in-laws who had powerful relatives in India compounded Anaya's suffering. Her in-laws witnessed and sometimes encouraged physical abuse by her husband without intervening to assist her. Her life was characterised by extreme deprivation and financial control. She was expected by her husband and in-laws to work long hours cleaning and cooking for the family, in a situation akin to domestic and sexual servitude. It was 9 years before Anaya was able to separate with her two children.

Dowry is a tradition often linked to the practice of arranged marriages. Women often don't know their potential husband well and have little opportunity to assess whether their husband will be abusive in the lead up to the marriage. In the Australian context, the groom's status may be elevated if he is an Australian citizen or permanent resident due to the perceived and real benefits of Australian citizenship. Dowry practices can legitimise what essentially amounts to extortion, and extends the impact of domestic violence to include extended family. The use of extortion and threats against overseas family members is a very effective coercion tactic, as our judicial responses in relation to overseas threats is limited. For a woman trapped in this situation, the experience can be one of profound isolation and few options to increase her safety.

(d) the adequacy of the family law system, including how divorce and property settlement proceedings deal with dowry and dowry abuse, and the operation of and need for extra-jurisdictional (including international) enforcement mechanisms;

Case Study 2 – Fatimah (not her real name)

Fatimah was married to Omar in a South-Central African country before they immigrated to Australia. Omar was a well-educated, well paid banking executive in Brisbane. Both families in their home countries identified as Christian. At the time of the marriage, Omar's family had paid Fatimah's family a dowry in their home country, worth a few thousand Australian dollars, before they migrated to Australia. A year later, Fatimah was forced to flee her home in Brisbane with her baby after a violent incident where Omar strangled her whilst she was holding their baby. She did not return and Omar began demanding that she or her family repay the dowry, as he was not seeing his son. Omar argued that the dowry was refundable if he did not have the child in his custody. Fatimah's family was very poor and unable to repay the dowry. Essentially Omar used blackmail to attempt to get Fatimah to reconcile with him or let the child live with him. During phone calls with the child Omar would hassle her about the dowry money. He told her that he had started proceedings (in their home country) for an annulment of the marriage and for the return of the dowry funds. However he was never able to provide any proof of such proceedings.

The issue of dowry abuse created additional complexity when resolving Fatimah's parenting and domestic violence matters. WLSQ was unable to advise her in relation to the legal status of the dowry transaction in their home country. The client was unable to afford to get legal advice in her home country as to whether it was even possible for a Court to order that the dowry funds be returned to the husband. In Australia she was successful in obtaining a DVO against him so he was unable to contact her, and a Parenting Order that the husband not spend any time whatsoever with the child.

The husband was prohibited from contacting her to demand that she repay the money, through a 'no contact condition' in her DVO, however Fatimah still felt a great deal of stress, anxiety and guilt in relation to his relatives pressuring her relatives back home. Years later, she is suffering financially but has not sought child support payments from the husband in case he pursues her relatives again for the dowry funds.

WLSQ Recommendations:

- 1) That the Family Law Act be amended to take into account domestic violence in property settlement and spousal maintenance applications.
- 2) That there be focussed training of state Magistrates and legal professionals about better recognising financial abuse including dowry abuse in domestic violence protection order matters.
- 3) That there be ongoing domestic violence training for professionals in the family law system specifically covering issues for CALD women such as dowry abuse.
- 4) That experts who work with CALD communities be engaged to develop and deliver the training.