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Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
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Parliament House
Canberra ACT 2600

Via email: legcon.sen@aph.gov.au

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

This is a submission of the Federation of Ethnic Communities' Councils of Australia (FECCA). FECCA is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from diverse cultural and linguistic backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA would welcome the opportunity to expand on this submission to the Committee as required. For enquiries please contact the FECCA Chief Executive Officer, Dr Emma Campbell at [redacted] or on (02) 6282 5755.

Recommendations

Regarding the practice of dowry and the incidence of dowry abuse in Australia, FECCA recommends that:

- more research be funded to understand the nature and prevalence of dowry and dowry related abuse in the Australian context in order to inform any future policy responses
- the Government consult with communities and individuals who have lived experience in relation to dowry and dowry-related abuse, to better understand this issue
- the Government allocate resources and funding towards free, culturally appropriate community education regarding the protections available under the Australian family law system and the Australian migration system for women on temporary and permanent visas
- that the family law system including law enforcement, judicial officers and other service providers are supported to increase their culturally competence and responsiveness to CALD communities
- Revise the Family Safety Pack provided to all visa applicants to better encompass DFV, dowry abuse and non-partner visa holders' access to support
- the Government ensure that there are appropriate visa pathways to reduce the opportunity for immigration status to be used a tool of abuse

- the Government allocate adequate funding for CALD specific support services
- Police forces and domestic and family violence services are provided with cultural competence training so that they can recognise and appropriately respond to such violence in CALD Australian communities.
- Taking into account Australia's national commitment to gender equality and human rights, and approach to multiculturalism, any individual in Australia experiencing DFV, in whatever form, should have access to culturally appropriate services that provide adequate protection and support.

Discussion

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;

There is little quantitative or qualitative data available regarding the practice of dowry in Australia. FECCA recommends that more research be funded to understand the nature and prevalence of dowry and dowry related abuse in the Australian context to inform any future policy responses.

However, as numbers of migrants to Australia from countries where dowry is practiced increase, it is likely that the prevalence of dowry in Australia will also increase. Countries where dowry is common include India, Pakistan, Nepal, Bangladesh and Sri Lanka. While the practice of dowry is outlawed in many of these countries, traditions of dowry-like gift giving by a bride's family continue.

Traditionally dowry was given to a woman by her family as a means of providing her with her own wealth and resources when entering a marriage. There is evidence that the modern form of dowry has shifted quite dramatically. In the Indian context, modern dowry has been described as 'price paid by wealthy families with daughters to purchase those highly profitable men in whom there has been heavy investment'¹. As one study argues, '[d]owry is seen by many young men and their kinfolk as a legitimate means of acquiring luxury items, clearing family debts, and moving up on the social ladder'². Modern dowries can involve the exchange or commitment to exchange substantive quantities of wealth - goods, holidays, expensive celebrations, cash, gold, livestock, visas, education tuition, property, and vehicles.

There is evidence that dowry is prevalent among South Asian migrant communities to Australia. In one of the few articles written on dowry and Indian migration, Biao³ argues that education and migration can perpetuate the 'tradition' of dowry for reasons including:

- the perceived value of working and residing in Australia and the capacity of a groom to attract a high dowry payment from a bride's family
- the nature of the marriage search when residing overseas (internet, newspaper and marriage bureau rather than individual connections) and the consequential increased role of economic calculation in the negotiation.

The illegality of dowry in many countries is recognition that dowry can easily become a tool of abuse and violence including gender-based sex-selection and domestic and family violence

¹ Biao, Xiang (2005) 'Gender, dowry and the migration system of Indian Information Technology professionals', *Indian Journal of Gender Studies*, 12:2&3 p368

² Prasad, B Devi (1994) 'Dowry-related violence: a content analysis of news in selected newspapers', *Journal of Comparative Family Studies*, 25:1 p72

³ Biao, Xiang (2005) 'Gender, dowry and the migration system of Indian Information Technology professionals', *Indian Journal of Gender Studies*, 12:2&3 pp357-380

(DFV). However, as the practices of dowry continues, the associated risk of dowry abuse remains. Dowry related abuse can manifest in various ways:

- as increasing demands for often exorbitant dowry payments over time, especially after a marriage has taken place
- as physical, sexual, emotional and financial abuse as punishment for 'unpaid', 'unsatisfactory' or 'insufficient' dowry⁴.

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;

FECCA is aware that there are vibrant discussions within CALD Australian communities as to the role that dowry plays in marriage rituals and processes within various cultural, linguistic and ethno-religious communities, particularly as numbers of migrants to Australia from South Asia grow. These discussions reflect the debates taking place in countries like India and Pakistan around gender equality, and rights and empowerment of women and girls. In the Australian context, community organisations and representatives are also aware of the additional vulnerability of partners and spouses in Australia on temporary visas with regards dowry abuse and other types of domestic and family violence. Anecdotally, the practice of dowry is rare among second generation South Asian Australian migrants, among the Australian Fijian-Indian community and the Australian Anglo-Indian community.

Traditions in migrant families including the sharing of wealth through the purchase of property and other support of adult children, including among South Asian migrant families to Australia, should not be misunderstood as dowry. Inter-generational relationships differ between cultures, families and individuals.

Discussion of dowry and dowry related abuse must occur in a nuanced and sensitive way, with consideration given to the breadth and complexity of different cultural practices. This includes an acknowledgement that many relationships involving dowry are loving and respectful. All discussions on this issue must involve communities and individuals who have lived experience in relation to dowry and dowry-related abuse, to better understand this issue.

Dowry abuse should be dealt with and understood as a form of domestic and family violence. While DFV is prevalent in all sections of Australian society, the nature or form of abuse experienced will differ between communities and individuals. The use of dowry should be understood as one tool among many that may be used to perpetrate abuse.

Perpetrators of dowry related abuse are almost always male intimate partners (grooms) or their family members and the victims of dowry abuse are almost exclusively women (brides) and their family members. The prevalence of women being abused by their in-laws, particularly their mother-in-law, has been well documented as one key aspect of dowry related abuse⁵ including in Australia⁶. However, it is important to understand that abuse by both intimate partners and family members is not necessarily connected to dowry even in instances when a dowry has been paid.

⁴ Prasad, B Devi (1994) 'Dowry-related violence: a content analysis of news in selected newspapers', *Journal of Comparative Family Studies*, 25:1 pp71-89
<https://www.aljazeera.com/indepth/features/2017/06/dowry-australia-form-abuse-170629102856430.html>

⁵ Rew, Martin; Gangoli, Geetanjali; Gill, Aisha (2013) 'Violence between female in-laws in India', *Journal of International Women's Studies*, 14:1 pp147-160

⁶ <https://www.smh.com.au/world/dowrys-dark-shadow-20140522-38ris.html>
<https://www.sbs.com.au/yourlanguage/hindi/en/article/2017/07/17/indian-woman-files-dowry-complaint-against-australia-based-husband-and-laws>

Taking into account Australia's national commitment to gender equality and human rights, and approach to multiculturalism, any individual in Australia experiencing DFV, in whatever form, should have access to culturally appropriate services that provide adequate protection and support.

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;

FECCA understands that for migrants who are experiencing dowry abuse, their immigration status can be a complicating factor in their successful exit from their abusive situation. FECCA believes that the interplay between migration and family law is not well understood. In particular, there is a lack of understanding about how this interplay affects women and their children when family breakdown occurs.

FECCA's consultations have revealed that many women in Australia on temporary visas (including accompanying spouses of temporary visa holders) fear that after a relationship breakdown or because they leave a relationship due to DFV, they will be forced to leave the country and their children (especially if those children are Australian born). There is limited availability of migration law advice for individuals who are on temporary visas engaging with the family law system. In this way, the family law system does not adequately serve these individuals who experience domestic or family violence, including those who may experience dowry abuse.

FECCA recommends that the Government allocate resources and funding towards free, culturally appropriate community education regarding the Australian family law system and migration system. FECCA also recommends that funding and resources be allocated towards providing culturally competent services and access to justice for those experiencing DFV, particularly those who are more vulnerable owing to their immigration status and dependence on a partner or sponsor.

FECCA also recommends that staff working in the family law system including law enforcement, judicial officers and other service providers, are provided with cultural competence training. Training will assist in recognising that DFV may be expressed in different ways across different cultures, and that community members may be used to different mechanism of dispute resolution, such as community led mediation. FECCA also believes that those working in the family law system should receive training and guidance about how to work with interpreters and translators in order to more adequately respond to CALD Australians experiencing DFV.

Through consultations FECCA is aware of community concerns that women in Australia could be left destitute as a result of dowry abuse. In some cases, the assets exchanged as dowry occur offshore, while the marriage of the bride and groom occurs in Australia. In the event of a marriage breakdown, this can result in a situation where the contributions of the bride's parents to the marriage are held offshore and thus not included in the split of assets in divorce proceedings⁷. FECCA acknowledges that this is a challenging issue to address within the Australian legal framework, however it is real and possible result of dowry abuse that may impact on the safety and welfare of victims. Better cooperation and coordination with overseas law enforcement would improve the capacity of Australian authorities to respond to situations of dowry payment and receipt across international borders.

⁷ <https://www.smh.com.au/world/dowrys-dark-shadow-20140522-38ris.html>

The adequacy of Australia's migration law system in terms of addressing dowry and dowry abuse;

FECCA commends the government for the provision of the 'Family Safety Pack' which is provided to all visa applicants and which outlines Australia's laws and rights relating to DFV, sexual assault and marriage. The pack is available in 46 languages and was developed as part of the Second Action Plan of the *National Plan to Reduce Violence against Women and their Children 2010-2022*. However, FECCA recommends a revision of the pack which could include:

- a revised definition of DFV so it is expanded beyond intimate partner violence to include family violence (ie including in-law violence)
- dowry abuse
- inclusion of information for holders of visa categories other than partner visas.

FECCA is concerned that certain provisions within Australian migration law system increase the opportunity for perpetrators to use immigration status as a tool of DFV. The immigration status of women who experience DFV has a significant impact on their experience of that violence and their ability to leave a violent relationship. Research suggests that visa dependence is one of key barrier to migrant women accessing legal and justice support for DFV:

Refugee and immigrant women described their dependent visa status as a tool that was used by husbands to threaten and intimidate them, as a factor increasing their vulnerability to violence and impacting on their willingness to seek help.⁸

FECCA argues that the more difficult it is for an individual to become a permanent resident or a citizen, the more vulnerable that individual is to abuse. FECCA has recommended that the Government ensure that there are appropriate visa pathways to reduce the opportunity for immigration status to be used a tool of abuse. Recommended amendments to existing legalisation include:

- broadening the definition of family violence in the Migration Regulations 1994 (Cth), as recommended by the Victorian Royal Commission into Family Violence, to ensure that a person who experiences violence perpetrated by a family member other than the person's spouse can apply for the family violence exception;
- expanding the family violence exception to cover secondary applicants for onshore permanent visas, and holders of a Prospective marriage (Subclass 300) visa who have experienced family violence but who have not married their Australian sponsor, as recommended by the Australian Law Reform Commission in its 2011 report, *Family Violence and Commonwealth Laws – Improving Legal Frameworks*; and
- amending the evidentiary requirements for the family violence exception to make it easier for women to prove that they have been subjected to violence, as recommended by the Australian Law Reform Commission in its 2011 report, *Family Violence and Commonwealth Laws – Improving Legal Frameworks*.

FECCA believes that these amendments will make it more difficult for immigration status to be used as a tool of abuse, whether or not that abuse is linked to the practice of dowry.

⁸ inTouch Multicultural Centre Against Family Violence, "I lived in fear because I knew nothing": Barriers to the Justice System Faced by CALD Women Experiencing Family Violence (2010), p25.

FECCA recognises that within CALD communities and CALD DFV specialists and dedicated service providers there is knowledge and understanding of the extent, nature and prevalence of dowry practice and abuse. These service providers should be adequately funded to provide support to victim/survivors of dowry abuse and related violence in culturally and linguistically appropriate ways.

Our consultations indicate that mainstream DFV service providers are largely unequipped to deal appropriately with incidents of dowry abuse, or even to recognise it as DFV. It is a huge burden for victim/survivors to have to educate service providers and law enforcement officers on the nature of their abuse whilst they are seeking support for these experiences. This diminishes trust in the services and reduces the likelihood that women will be able to safely and swiftly exit situations of dowry abuse.

Victim/survivors of dowry abuse in CALD communities have repeatedly and consistently expressed a preference for small, culturally and linguistically specific, CALD community DFV specialist service providers because there is an understanding of the specificities of their situation, culturally and linguistically appropriate support, bilingual workers and interpreter supported services, and culturally appropriate exit strategies. There is significant reluctance amongst victim/survivors from CALD backgrounds to engage with mainstream DFV services due to a perception (or prior experience) that their cultural and linguistic heritage will not be engaged with appropriately as part of the support process. The lack of CALD appropriate DFV services has been raised in discussions of the tragic recent death of Sadif Karimi⁹.

The clear preference for mainstream organisations in receiving Government funding is indication that CALD women's preferences are not being given high priority. FECCA recommends that the Government allocate adequate funding for CALD specific support services.

Training and reporting regimes that apply to Commonwealth, and State and Territory police forces and family violence services in relation to dowry and dowry abuse;

FECCA recommends that in addition to increased funding for CALD specific support services, police forces and DFV services are provided with cultural competence training. Victims/survivors from CALD backgrounds are often reluctant to disclose violence due to a range of factors including language barriers, social isolation, mistrust of police and the justice system, shame and stigma associated with seeking help. Improving cultural competence will assist in addressing some of the additional barriers faced by CALD victims/survivors, and assist in educating frontline service staff on the ways that culture may impact the ways in which DFV is expressed.

⁹ <https://www.canberratimes.com.au/national/victoria/an-ocean-of-grief-family-waits-for-answers-about-how-sadif-karimi-was-burnt-alive-20180709-p4zqgh.html>