



**ACHRH**  
Australasian Centre for  
Human Rights & Health

Empowering Communities  
through Knowledge  
and Research.

## **Australasian Centre for Human Rights and Health**

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# **Refusal to Comply With Dowry Demands Contributes to Family Violence and Death in Victoria**

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### **About the Australasian Centre for Human rights and Health inc.**

The Australasian Centre For Human Rights and Health (ACHRH) was launched September 2012. ACHRH vision is to create happy communities. Our Mission is to build individual and community resilience through harmony in the home, positive mental health, and mutual cultural respect. ACHRH primarily works with immigrants from the Indian Subcontinent and South Asia. ACHRH is a think tank that engages in community based research and runs community based education activities that are evidence based . ACHRH regularly makes submissions to influence government policy. ACHRH looks to find new and innovative methods of action research ; find solutions to the problem of gender power imbalance, gender inequality , and domestic violence in the Indian and South Asian community.

ACHRH supports migrant settlement into Australia through cultural awareness, understanding and appreciation among migrants of Australian mainstream cultural values. ACHRH has been funded by the Commonwealth of Australia to conduct ACHRH designed Australian Culture Awareness course for migrants titled “Mutual Cultural Respect”.

## **FOREWORD**

ACHRH is grateful for opportunity to present this submission “Refusal to Comply With Demands for Dowry Contributes to Family Violence and Death in Victoria”.

This submission addresses the following terms of reference of the Royal Commission into Family Violence

1. The prevention of family violence in CALD communities
2. Early intervention to identify and protect those at risk of family violence and prevent the escalation of violence in CALD communities
3. Support for victims of family violence and measures to address the impacts on victims, particularly on women and children in CALD Communities

## **Method**

Based on the information received by the Indian and other Asian communities , the media and Indian community based action research conducted in collaboration with The University of Melbourne and the clinical data of its Founder /Director(Dr Manjula O’Connor, Psychiatrist) ACHRH has come to view dowry as playing a significant adverse role in promoting emotional, physical abuse, violence in the Indian, the South-East Asian , Chinese, African and the Middle-Eastern communities . A recent media report has linked two domestic violence deaths to dowry (The Herald Sun 23/4/2015 , report attached) .

Definition- Dowry is defined by the\_Merriam -Webster dictionary as money or property that a wife or wife's family gives to her husband when the wife and husband marry in some cultures . Based on the research with Victorian Indian population (Colluci and O’Connor et al, 2013; O’Connor and Colluci 2014 in Press) ACHRH has refined the definition to include dowry as “substantial gifts” in the context of a marriage, where the value of gifts is out of proportion to the income of the families.

The harmful impacts of coercive dowry demands by the groom and his family are well documented in the Indian academic and popular literature this archaic practice is also documented in other countries for example China, Pakistan, the Middle East .

Our research has confirmed that this practice is continuing in multi-cultural Australia in many CALD communities and recently a report has linked dowry with at least two deaths in Victoria - Chinese and the Indian community( **See attached Herald Sun Report 24/4/2015**).

in 2013 ACHRH commenced a petition ( **Petition template attached** ) to amend Family Violence Protection Act 2008 - SECT 6 titled “Meaning of Economic Abuse”. The petition demands *to add the words* ‘Dowry (or coercive demands for substantial gifts, cash material goods in the context of a marriage) as an example of economical abuse. This petition has been signed by 620 members of the Indian community , 360 have been tabled by the Hon Ted Baillieu in 2014 on two occasions- 160 signatures and another 200 signatures ( **The Hansard 2014** , attached ). Another 320 signatures have been collected and will be presented in the Parliament in 2015. This issue has received substantial media coverage since 2013 (Appendix 6 attached ).

This harmful tradition in the Middle Eastern and Muslim communities of Australia takes the form of groom gifting cash to the father who is at risk of succumbing to greed and “sell” his underage daughter to the highest bidder, who tend to be usually many years her senior. (Anne Baraclough. The Australian 2014. *It is the Young flesh they want* ).

Thus marriage in certain ethnic communities is conducted as a business transactions where the women come to be viewed as “commodities”. This sows the seed of gender based inequality from day one of the marriage. Irrespective *whether the dowry is given to the groom or given by the groom* it is the young bride who suffers emotional abuse and physical violence; either because he did not get enough dowry ; or because he was aggrieved for having to give “too much dowry”. To add to the problem the Australian permanent residency status is being used as a bargaining tool to negotiate a higher dowry price where the marriage is arranged between Australian and non-Australian residents(Colluci and O’Connor et al 2013).

**We urge the Royal commission to acknowledge that dowry is a substantial problem; that dowry induces gender inequality and leads to domestic violence and death . We urge the Royal Commission to implement our recommendations. We recommend the following legal and social changes at the State level, the Federal level and including the point of migration prior to the granting of the spousal visa.**

## **Findings and Recommendations**

### **Recommendation #1-**

We recommend the Royal Commission accepts Dowry as an example of “Financial Abuse” under the Family Violence Legislation 2008 and a significant contributor to the problem of Family Violence perpetrated against CALD women.

**ACHRH recommends amendment of Family Violence Protection Act 2008 - SECT 6 titled “Meaning of Economic Abuse”. As soon as possible to add the words ‘Dowry (or coercive demands for substantial gifts, cash material goods in the context of a marriage) as an example of economical abuse.**

**Recommendation #2** -- For the Indian community ,ACHRH recommends the Indian Family Court Judgments and divorce settlements should be taken note of and have some influence on legal judgments in Victoria

**Recommendation #3-**Victorian Government to speak with Federal Government to consider changes in Australian law whereby

(3.1). Judges to make a note of dowry contribution and whether the dowry is held by the husband and his family here in Melbourne or overseas.

(3.2) Receiving or giving of Dowry by Australian residents be made illegal at the Federal and State Levels

(3.3) Also dowry related offences be made illegal with punishment to be prescribed.

**Recommendation #4** - Victorian Government to speak with Federal Government to highlight the potential to stop the problem of dowry abuse at the point of Immigration . The Government to declare “substantial gifts, cash” etc a breach of visa condition of Spousal Visa application. Further any such application by an Australian resident should include an affidavit stating gifts received at the wedding.

**All women should receive a pamphlet containing information on Domestic Violence help lines, and list of their women oriented Community based organizations**

**Recommendation #5 - Greater awareness of avenues for help for women**

Our findings indicate ethnic women do not know their rights, ways and means of accessing legal help . Community based education and raising awareness for CALD women is required on an on-going basis , implemented by local community organizations, supported and funded by the Government.

***Recommendation #6 . It is important that the Judiciary and the Police are educated regarding dowry and its role in FV.***

**Recommendation #7. Dowry is a cultural blind spot with the Indian and many CALD communities. Silence needs to be broken. Prevention through social/cultural education, delivered through the grass roots community organizations needs to be supported by the government. Young men need to be educated into the inherent value of a spouse –one that is not measured by money. Young people should undergo premarital counseling and in this, education of ‘Faith Leaders’ is important as they are central to the wedding process .**

**Recommendation #8.** Accurate reporting and collection of data at National and State levels giving an official figure of DOWRY related violence and deaths should be done in a coordinated manner between the Police, Justice, FV delivery services and the NGO s.

**BACKGROUND**

The World Health Organization has adapted the ecological model of domestic violence proposed by Heiss et al (cited in WHO 2008) which implicates deep-rooted cultural and social norms as significant contributing factors toward physical and intimate partner violence against women. The dowry system is an ancient social

practice that perpetuates the oppression, torture, and murder of women in India (Bannerji 2014) and after migration (Uberoi et al 2006). Violence can occur when the dowry or bride-price is deemed unsatisfactory by the recipient (Babu and Babu 2011).

Continuous demands by groom's family and criticisms by in-laws of insufficient dowry offerings is shown in Australian research to be associated with domestic violence, emotional abuse, humiliation in the Victorian Indian community (Collucci and O'Connor et al 2013; O'Connor and Colluci 2014, in Press ; O'Connor M personal communication 2015) . Onset of first episodes of depressive illness is recorded in victims of dowry related violence in India, associated with higher rates of suicide (Chowdhry and Patel 2008).

In India dowry deaths are a known problem (Ranjana Kumari 1989)and the recent Indian figures show an increase in Dowry deaths( National Family Survey of India 2010 cited in Babu and Babu 2011; and NFS 2013 cited in Bannerji 2014)

The problem becomes acute when young Indian women marry Indian men living abroad such as Australia. Non Resident Indians or NRIs as they are called command a premium dowry sum as they offer the bride a chance at better life in Australia(Palriwala and Uberoi 2006). The departure from India for the young women takes away their legal protection afforded by Indian laws(O'Connor M personal communication 2015) that criminalize dowry and make it mandatory for husband and his family to return the dowry after separation for up to seven years after the new marriage under Section 498A of Indian Penal Code

Australia is a multicultural country and celebrates the glory of its diversity. There is a dynamic interaction between cultural diversity and Australian milieu. This interaction on occasions can throw up cultural issues that cause problems for residents. One such example is the issue of dowry demands, expectations of substantial cash, or other gifts which are multiple times the annual income of the bride or the groom's family leading to domestic violence, suicide and depressive illness affects young Australian Indian women who are newlyweds. This has become apparent in clinical cases seen in one Psychiatric Practice where victims of domestic violence from Indian Subcontinent and South Asia are treated(M O'Connor 2015, personal communication) and by observations of ACHRH supporting network of women from Indian and South Asian community recorded here . It has also come to the attention of ACHRH that dowry demands are being made among other CALD

communities, for example Eastern and South Eastern Asia, the Middle East, and African cultures. The women whether they receive or give dowry face domestic violence.

**Absence of specific laws in Australia that can protect Indian and ethnic new spouses from dowry demands during marriage and confiscation of dowry by in-laws following separation are leaving a group of women vulnerable to verbal threats, humiliations ,social isolation from their families leading to adverse mental health effects such as depression and suicidal thinking . As mentioned previously there is evidence of death which was preceded by physical violence, emotional abuse in at least 2 CALD women of Victoria . Many cases are going unreported. This loop hole should be closed legally and with social education.**

WHO ( 2008, 2013) has firmly put the agenda of Intimate Partner Violence (IPV) including Domestic /Family Violence (FV)on the international agenda emphasizing that intimate partner violence is the most common type of violence suffered by women, affecting approximately one third women worldwide. However the rates are higher in some regions for example, in South East Asia and Africa the rates are up towards 37%(WHO 2013). This variation in rates is relevant for Multi-cultural Australia. The respect for continuity of one's original culture is valued and cherished (Berry 1995), conducive to good mental health and a cohesive society (Bhugra et al 2013). Yet this brings its own issues leading to the need for culturally sensitive interventions to support the FV response and prevention programs (Victorian Action plan 2012)

The issue of Prevention of Violence against Women (PVAW) is taken seriously by all levels of Governments in Australia. The Commonwealth government of Australia released its 'National Plan to Reduce Violence against Women and Children' (2012-2022). In 2012 Victoria's 'Action Plan to Address Violence against Women and Children' was unveiled. To further enforce the plan in 2014 Premier Daniel Andrews announced Royal Commission into Family Violence , with the aim of improving our current response and prevention of FV .

The Victorian Action plan 2012 -2015 makes a special mention of the role of the community. *The Victorian Government cannot end violence against women on its own. We need change across our community to stop violence against women and children. We need the community talking about this issue and rejecting violence against women and children. We need men to lead and challenge other men about this issue. All of us must take a stand on this issue – violence against women and children is unacceptable.*”

The 2011 Australian census revealed that over one-quarter (26%) of Australia’s population was born overseas, and an additional one-fifth (20%) had at least one overseas-born parent. Since 2006, an increase from 0.5%–1.5% has been recorded in the proportion of Indian migrants to the Australia (ABS, 2011), and such people numbered 295000, or 5.6% of the population. In Victoria the number of Indian people has increased rapidly from approximately 60,000(in 2006) to 110,000 approximately in 2011, a hundred percent increase ( ABS 2011 ). A further 60,000 approximately Indians migrated into Victoria in 2013(ABS 2013-14), bringing the number to 170,000. The number is even greater when International students around 22,000 (2013) are added along with family members on tourist visas. This increase is not matched by policy and service provisions.

**Multicultural communities must participate in and take ownership to prevent DV**

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The ancient culture of the Indian migrants and Indian culture interacts with Australian culture as a dynamic system and gives a particular cultural colouring to the gender-based stories of oppression and domestic violence. As mentioned previously, DV rates are high and certain cultural traditions reinforce gender inequality in India. Our community action research (Collucci and O’Connor et al 2013) confirms continuation of patriarchal Indian cultural traditions in Victoria and dowry is one such practice. This harmful cultural practice associated with domestic violence and murders in India is showing similar trends in Victoria. Experts have blamed the culture of son preference associated with the culture of greed and commercialism (Babu and Bau 2011). In particular it is noted that the Expats, also called Non -Resident Indians (or NRI s) are (Palriwala and Uberoi 2008)

contributing to the rising amounts of dowry . ‘Permanent Residence’(PR) of affluent countries such as Australia is highly prized. Thus the Australian-Indian men who return back to India for arranged marriage are able to command huge dowry. The Groom’s father and mother who often live in India and play a key role in setting up his arranged marriage, negotiate the cash, gold and gifts they would expect to receive during and after the wedding( See Appendix 4 and 5 , Letters of Support by Mr Ashok K Godara, father of murdered Ms Deepshikha Godara ). The result- *bride’s parents can be forced to pay huge dowry to his family .*

The bride culturally speaking will be gifted to the groom and family as a divine gift. Henceforth she will be expected to stop having substantial relationship with her parents. Her parents henceforth will always be worried that she is at risk of being abused should his parents feel slighted in any way. This results in the bride’s parents acting out a pleasing, subservient, submissive role to the groom and his family who in turn are treated as ‘Royalty’ and superior. Cash and gifts is a way of ensuring their pleasure-the bigger the gifts the safer she will be.

Thus the context for gender inequality is set from day one of the arranged marriage, the fundamental social driver of FV (Vichealth 2009).

### **Dowry demands in India**

Social inclination for dowry makes it the precondition of marriage irrespective of religion. The modern phenomenon of dowry shows a dramatic change where grooms family claim dowry as of rights. In distant past it was a voluntary gift to the daughter in lieu of inheritance. Dowry is now demanded as sort of compensation because the in laws family treat the existence of the girl in the family as purely a financial burden. The bride’s family is compelled to meet the dowry demand to ensure daughter’s welfare and happiness in her in -laws family.

In India, in spite of laws prohibiting the practice, not much has changed over the last 30 years. The National Crime Records Bureau of India (2011) recorded a total of 8,618 female deaths related to dowry demands whereas the Asian Women's Human Rights Council (2009) estimates that the practice of dowry is implicated in 25,000 deaths and maiming of women between the ages of 15-34 in India every year(cited in Bannerji 2014 ). Despite efforts on the part of the Indian government, social

activists and feminists organizations in India, not much has changed over the past decade, in fact, the problem has increased, resulting in an unprecedented amount of mortality and morbidity among women in India.

In other sense, parents want to 'buy' daughter's happiness in exchange of dowry so that she is not treated badly and do not be the victim of domestic violence. In addition to that parents see dowry as negotiation tool for their daughter in her in-laws family that will give her bargaining capacity.

If ever increasing dowry promises are not fulfilled the bride is sent back to the parent's home. This is considered shameful for not only the bride but also for her whole family. Even after marriage the ghost of dowry haunts. In-laws family ,the groom expects dowry on every religious occasion, birth of children and in any social event of the family in the name of gift(See Mr Ashok Kumar Godara's letter of Support, Appendix 4 and 5) .

### **Why Muslim women have to give dowry?**

Dower is an essential requirement of a valid Muslim marriage. Mahar or Dower is an amount of money, equivalent property or other valuable things that is paid in marriage by the groom to the wife. This is token of love, respect and symbolic in term that the husband can maintain his wife. Dower also restrains men's arbitrary power to divorce the wife unilaterally.

Dower money is broadly divided into two categories. Prompt dower is given at the time of marriage and deferred dower is given at the termination of the marriage by divorce or death of any parties.

*Due to exchange of religious culture, Muslims in India have taken the dowry system as precedent and ignore the rule of dower.* The use of dowry is so extensive in Muslim society as well that no marriage can be imagined without the transaction of dowry. *Being afraid of future domestic violence and verbal abuse against the daughter, parents are compelled to give dowry (UN WOMEN 2014).* One reason is the apprehension that if their daughter's marriage dissolves, it will be more difficult to arrange another marriage for the divorced daughter. A second marriage is economic drain but also a collective stigma for the family. Considering all factors, parents prefer to give dowry at the beginning of the marriage to placate the groom's family.

The Sudanese community gives dowry in the form of cows and animals back in Sudan that can become a cause of conflict in cases of FV and separations (Personal communication, Magistrate Sunshine Court 2014)

### **Legal Action taken by Indian Government**

In 1961 the Government of India passed a law making the taking and giving of Dowry illegal in India.<sup>1</sup> It also shifted the burden of proof on the person being prosecuted. Provisions were also introduced in the Indian Penal Code to make Dowry deaths and cruelty related to dowry a punishable offence with severe penalties such as imprisonment for life.<sup>2</sup> *Despite these stringent laws the practice has continued to thrive in India and the Indian Diaspora*(BBC Report 2009) . One way the groom's parents get away with it is by pretending before the wedding they do not want dowry. After the wedding though if the bride has not brought enough dowry and gifts for the husband and his family she is subjected to humiliation, verbal abuse, violence, murder or even aided and abetted in committing suicide. The community members in India rarely complain to the police due to stigma attached and the fear the new bride will be ostracized by the husband and his family. Added to this is the anecdotal reports the law is not fully implemented by the law enforcers leading to flagrant abuse of the laws

### **Situation in Australia**

**75% or women suffering emotional abuse and physical violence in one clinical practice were associated with dissatisfaction with insufficient dowry given by the bride's family (Fig 1 , Personal communication O'Connor M 2015). The group of women belonged to India, Sri Lanka, Bnagldesh, Pakistan and Muslim women of India. As stated previously this clinical picture confirms the previous published community action research (Colluci, 'Connor et al 2013; O'Connor and Colluci in In press 2014)**

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<sup>1</sup> <http://www.vakilno1.com/bareacts/dowryprohibitionact/dowryprohibitionact.html>

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[http://www.vakilno1.com/bareacts/indianpenalcode/indianpenalcode.html#Section\\_304B\\_Dowery\\_death](http://www.vakilno1.com/bareacts/indianpenalcode/indianpenalcode.html#Section_304B_Dowery_death);

**ACHRH has found evidence of two dowry related deaths – one in Indian community (The Herald Sun 2013; personal communication Mr Godara2015) and the second in the Chinese Community(The Herald Sun 2015 Appendix 1).** The issue of dowry related abuse has been widely covered in the Australian print and the visual media. (See Appendix 6).

Total number of domestic violence victims cases 2013-15 --341(number of men 4 )

| Year                | DV cases (Women Face to face) | MALE Perpetrators (Seek help and guidance ) | MALE VICTIMS | Telephone support , internet, Face Book, and emails | <b>Dowry a contributory factor</b>  |
|---------------------|-------------------------------|---|--------------|---|---|
| 2013                | 92                            | 5   | 3            | 17  | <b>82</b>   |
| 2014                | 152                           | 7   | 3            | 9   | <b>118</b><br><b>Muslim-Indian women-3</b>  |
| 2015(to April 2015) | 98                            | 3   | 1            | 12  | <b>70</b><br><b>(3-Sri Lankan, 3 -Pakistani, 2 -Bangladeshi )</b>                                       |
| Total               | 341                           | 16  | 7            | <b>38</b>   | <b>270(76.5%)</b><br><b>(11 cases from other ethnicities , majority were Punjabi, and Hindu Indians</b> |

Coercive demands for Dowry associated with domestic violence described by 270 women (75%). Indian women - 260 , Bangladeshi----2 Sri Lankan-----3 Pakistani-----3, Muslim Indian women –2 , Sudanese community (numbers unknown)

Fig 1 Clinical cases seen in Dr Manjula O'Connor's Psychiatric Practice( Personal Communication 2015)

### **Story Of Ms Deepshikha Godara Benipal (Deceased Dec 2014)**

Clinical history obtained from her father Mr Ashok K Godara –She was married off in 2009 in an arranged marriage . He was a permanent resident of Australia and she lived in India. The groom’s family requested a lavish wedding ceremony comprising 300 guests , the entire cost to be borne by him, being the bride’s father. This was clearly said to be in lieu of dowry. He says he asked them again if they had any requests for gifts. The Groom’s family said “they *did not want dowry gifts*”. However the next day the father-in-law turned up at their home and asked for Rs 300,000(\$6000). Mr Godara says he was dismayed and told them he had not arranged for any cash gifts as per their requests .The Groom’s father became hostile and oppressive and said it was “*a matter of family honor*”. It was he said “*to give traditional cash gifts to relatives to celebrate the wedding*”. Mr Godara gave the money “out of fear” , he said he feared they will torture his daughter if unsatisfied with dowry amount .To Mr Godara’s great disappointment the father-in-law came back a week later and asked for another Rs 600,000(\$12,000) . This time the money was needed to pay for the groom’s uncle’s airfares from India to Australia . Mr Godara says he was very traumatized and upset by their coercive and heavy handed demands. He said to them “*how can I arrange so much money*” and they were clearly annoyed by his refusal. He says he eventually arranged the money out of his pension fund but was delayed by a couple of weeks. This angered her father- in- law, mother- in -law, uncle and her husband. According to Mr Godara , they started criticizing Deepshikha and her family. They said to words to the effect that she had scored a great life in Australia for free, she was ungrateful. She was ridiculed daily, humiliated by her husband, judged for minor mistakes, shown disregard and disrespect by uncle who was living with them in Melbourne. Mr Godara says mother-in- and father-in-law who lived in Delhi were inciting the new husband by frequent phone contact criticizing her father. Mr Godara says he is a Secondary School teacher in India. His annual income is meager, around Rs 300,000(\$ 6000) per annum. He had already spent about Rs 300,000 on the wedding ceremony .Then a further Rs 1Million (\$10,000 )as cash gifts had to be found. He is extremely bitter and sad.

Her brother, an ER doctor in India Dr Dinesh Godara told Dr Manjula O'Connor in clinical consultation (Personal communication 2015) they were asked to give cash gifts to his mother, his father and his extended family in India at Indian festivals, at every family weddings that took place in his family in India<sup>3</sup> notwithstanding that the couple lived in Melbourne.

Mr Godara was asked why he gave into demands for money( dowry). He said it was “to protect his daughter from future abuse and violence.” and he burst out crying. He said “father demanded as the head of the groom’s extended household and was given the dowry money, but he did not exert his authority to stop his son from perpetrating violence against Deepshikha”. Their greed he said had not been fulfilled.

#### Pledge of support for anti-dowry petition by Mr Godara

The Godara family particularly father Mr Ashok Kumar Godara has decided to support the Victorian petition to amend the FV 2008 LEGISLATION moved by ACHRH

Please see attached 2 letters of support from him. (Appendix 4 , 5) .

In MARCH 2015 –Mr Godara came to Australia especially to attend the International Women’s day in support of raising awareness on connection between dowry, domestic violence, and murder, arranged by ACHRH (Please see pictures below ). He also attended the Holi Festival to reach out to the young people with the same message.



Deceased woman Deepshikha Godara’s father  
Mr Ashok Godara speaks on connection  
between dowry and domestic violence at  
Int Women’s day 8 March 2015 ,Preston ACHRH function



Deceased -Deepshikha Godara and husband

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<sup>3</sup> This story shows the continuity of culture between India and Australia.



Mr Godara at Holi Festival or Colour Festival at Werribee Race Course, 7 March 2015,  
To raise awareness on domestic violence related deaths. Function Attended by more than 2000 people.

### **Case History no 2 -- Deepa**

Deepa (not her real name), a 28-year-old woman arrived in Melbourne on spousal visa. She was living in the East suburbs of Melbourne. She described her early days. "It was a huge culture shock," she said "It's adjusting to your new surroundings, missing your family". And then he refused to speak to her properly. He was angry because she did not bring enough gifts and cash. He said "your family is mean". They had not given him adequate amount of cash. He was expecting \$50,000 so he could buy a retail business in Melbourne. He asked her to telephone her parents in India to ask them for more money. She refused as she felt embarrassed to ask for money and it would put more financial burden on her parents who already had spent a considerable amount on the wedding.

He started beating her and on a number of times threw her out of the house in the middle of night .She returned back home after a few hours of wandering the streets. The story repeated itself the next week. This time her mother-in-law joined in. His parents had migrated and lived with him. She started beating her, swearing and abusing her, calling her names like "you are useless", "you are eating free food here", "you are a financial burden," "your parents are not respect worthy".

She was subjected to verbal and physical abuse over 8 months. She eventually picked up enough courage and left him. She was referred for treatment of severe suicidal depression and Post Traumatic Stress Disorder by her GP. She needed heavy doses of antidepressant treatment and weekly therapy for 8 months. She improved as she regained her sense of identity and self worth as a single woman. Her spousal visa was cancelled by her husband but much to her relief she was given Permanent Residency by the Immigration Department.

*Her husband applied for divorce in Australia and not in India where the traditional ceremony had taken place . The reason she said was in India divorce is difficult to obtain and the courts are strict regarding return of every article of dowry . They enforce the return of dowry cash, and gold jewelry confiscated by mother-in-law. By*

applying for one sided divorce in Australia dowry is not mentioned in the court judgment. Hence the Indian courts said she was not entitled to reclaim her dowry in India as the Australian courts made no mention.

One day she said she saw an advertisement for a bride for ex-husband. He was going to get married second time with impunity and stood to *gain second lot of gifts and money as dowry*<sup>4</sup>.

### **Application of Laws in India banning dowry**

In India the judges during divorce proceedings occurring within seven years of marriage take note of any mention of dowry. According to the Indian law where any dowry is received by a person other than the woman in whose marriage it was given, that person receiving must transfer it back to the woman within three months. If the person does not transfer within the time specified he/she shall be punishable with 6 months- 2 years imprisonment or with fine of not less than Rs. 5000. The person can also be directed to transfer the property to the person and if they do not return dowry, the said property may be recovered from them as a fine. There is no provision in Australian law to take cognizance of dowry or to punish dowry related offences.

Australian Indian divorced women, who have given dowry to Australian residents in arranged marriages, have to return back to India to reclaim their dowry. Very few Australian Indian women are known to be successful in reclaiming their dowry back in India. The groom and his family exploit the lack of treaty and common laws between the two countries over dowry.

### **Family Violence legislation Victoria, 2008.**

The Victorian Family Violence legislation<sup>5</sup> (Victorian Legislation) recognizes economic abuse as a contributor towards domestic violence. A family violence intervention orders issued by the Court (IVO) may include any conditions that appear to the court necessary or desirable in the circumstances including a condition directing the respondent to return the protected person's personal property or property belonging to a family member of the protected person. An interim order may provide for the preservation of any property of the affected family member.

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<sup>4</sup> . The ex-pat Indians are exploiting the differences in laws in Australia and India in this regard

<sup>5</sup> *Family Violence Protection Act ( Vic) 2008*

Family Violence Safety Notices issued by police officers (FVSN) provide for the preservation of property of the affected family members.

These protections may enable authorities to consider taking into account dowry as a form of economic abuse and therefore a contributing factor towards domestic violence and also for the preservation and return of Dowry money. Further as the definition of family relationships is wide enough to cover relatives by marriage i.e. in-laws, it would cover cases of Dowry related domestic violence by the spouse's family.

However since Dowry is not a concept that the courts are attuned to considering in the normal course in Australia, it is important that Dowry be introduced as a separate concept by way of example in the legislation so that the asking or taking of it can be included as a form of economic abuse and also that it may be returned to the victim (protected person) under directions of the court in an FVIO.

Further it would be useful if a specific provision was introduced which makes the taking and giving of dowry illegal.

### **Commonwealth Legislation**

The commonwealth Family Law legislation<sup>6</sup> has provisions that allow for economic contributions to be taken into account at the time of divorce proceedings. When determining how to divide marital property, courts are required to take into account a range of financial and non-financial contributions made by each party to the marriage including direct and indirect financial contributions. It would be useful to include dowry as a financial contribution made by the woman(victim) and that contribution be taken into account when dividing marital property so that the woman(victim) gets the benefit of it.

We also urge that the definition of Dowry should be included in Australian Legislation as Gifts in cash or material goods that are out of proportion to the family income. And as in the Indian definition to include any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage, or by the parent of either party to a marriage or by any other person, , to either party to the marriage or to any other person at or before or any time after the

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<sup>6</sup> Family Law Act (Cwth) 1975

marriage, in connection with the marriage of the said parties, whether or not that property or security is given in Australia or any other country.

We also believe that where Australian Legislation is amended to make the taking and giving of dowry a punishable offence, the punishment prescribed should be stringent.

Under Muslim Law, Dowry or 'Mehr' is part of the consideration for the marriage. The husband is required to pay a certain predetermined sum of money if he divorces his wife. Therefore under Muslim Law Dowry has a different connotation and is legalised. However, the issue in terms of Dowry for Muslim women is the right to be able to claim her Dowry on being divorced. As Dowry is not recognized in Australian Law the question arises as to the enforceability of the contract to pay dowry by the Husband when he divorces his wife. In a 2012 decision of the NSW Supreme Court, the decision of a local court with regard to the enforceability of 'Mehr' under Australian law was upheld. The NSW Supreme Court ordered the husband to pay his ex-wife the deferred dowry of \$50,000 plus litigation costs. In that case the husband was also physically and emotionally abusing the wife before he divorced her. It would be useful if the enforceability of contracts for payment of Dowry is recognized under Australian Law as a matter of right so that the wife who is subjected to DV can leave her abusive husband without having to worry about financial security.

### **SUMMARY**

**Dowry is a serious issue that sets the scene for perpetual gender inequality from the time a girl is born. This practice that comprises SUBSTANTIAL gift giving at the time of marriage is far in excess of family incomes. this puts a financial strain on the giver's family and gives rise to marital stress and violence**

**Silence on dowry related harassment must be broken through legislation to ban dowry in Australia at State and Federal levels and continuous community education . Young men need to be educated into the inherent value of a spouse –one that is not measured by money . Young people should undergo premarital counseling and education of Faith leaders is central.**

There are no official figures. Accurate reporting and collection of data at National and State levels giving an official figure of dowry related violence and deaths is needed. A health worker said *“the problem of dowry related violence is*

worse in this (Indian) community than in any other CALD group”(Collucci, O’Connor et al 2013) .

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