

**BRIDE PRICE AND DOMESTIC VIOLENCE
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THE MIFUMI PROJECT IN PARTNERSHIP WITH PROMPT**

Introduction: The Global context

Bride price, dowry and other marriage gifts form an essential element of marriage in many countries around the world. The practice of bride price is extensively spread across the different continents of the world.

In Africa, women are literally "bought" and "sold" through the institution of bride price. In a typical African setting, bride price consists of a contract where material items or money is paid by the groom to the bride's father in exchange for the bride, her labour and reproductive capacity. If the bride or wife wants to divorce, the material items or money paid to the bride/ wife's father must be returned to the husband. If the wife's family is unable to pay the husband, the wife cannot get a divorce and is condemned to live in an unhappy and sometimes fatal marriage.

This situation is not unique to Africa. Many Arab and Islamic states too consider bride wealth as a fundamental requirement of marriage. The groom has to provide marriage gifts known as "Mahr" to the bride in exchange for her hand in marriage.

In Asia, especially in India, women are subjected to abuse as a result of the institution of dowry where the bride or her family has to pay dowry to the groom's family. The UK Committee for UNICEF stated that "Dowry related violence, sometimes resulting in death of young brides, is common. For example there were 999 registered cases of dowry related deaths in India in 1985, 1,319 in 1986 and 1,786 in 1987. The numbers have continued to increase: the UK government stated in the 1999 Human Rights Report that " In India more than 3,000 women were killed in 1998 because their in laws considered their dowries inadequate. A tiny percentage of murders were brought to justice. Girls continue to be married off well before they reach the minimum age of 18, especially in northern India.

The institution of bride price in Africa has far reaching health, economic, social, human rights and legal implications in the countries where it is practised. Bride wealth as an institution has negative implications on the rights and status of women.

Uganda is one of the countries where the practice of bride price is the norm. Bride price is currently actively practised throughout the country. In a research carried out by The Uganda Association of Women Lawyers in Uganda (FIDA-U), 95.1% of the respondents stated that bride price is essential to validate a marriage. This paper looks at the legal, socio-cultural and human rights implications of the institution of bride price in Uganda. It demonstrates that the institution of bride price is a gross violation of human rights and appeals for your support in abolishing this practice through the humble efforts of The Mifumi Bride price and Domestic Violence Project.

The Mifumi Bride price and Domestic Violence Project is a project which seeks to remove or reduce bride wealth through interventions which will empower rural women in Uganda to be able to resist this degrading and dehumanising practice.

The Mifumi Bride-Price and Domestic Violence Project

The Mifumi bride price and domestic violence project is a brain child of The Mifumi Project and PROMPT.

Domestic Violence Intervention Project

Mifumi has established a pilot project with funds from Comic Relief, which is one of the first of its kind in Uganda. The purpose of the project is to promote protection for and support the needs of women experiencing domestic violence by putting in place a number of policy, procedural and practical measures to:

- Provide legal advice, support and advocacy through an Advice centre to meet the needs of women.
- Run survivor support and education groups for survivors of domestic violence.
- To mobilise the community to tackle the issues of domestic violence by setting up a Community Safety Forum that will work closely with the police and law enforcement officers to strengthen the message that Domestic Violence is a crime and provide effective measures against perpetrators of violence.

Domestic Violence and Bride Price

The Mifumi Domestic Violence and Bride Price Project seeks to remove or reduce bride price through interventions which will empower rural women in Uganda to be able to resist this degrading and dehumanising practice. Our work with women on violence and abuse highlighted the fact that bride price is a major contributing factor to violence and abuse in the home. What virtues the institution of bride wealth carried in the past, they have been lost in the present. Rather than cementing the relationship between the families concerned, and providing stability to the marriage, the customary payment of bride wealth now gives the husband proprietary rights over his wife, allowing him to treat her more or less like a chattel. This is especially so because it equates a woman's status in marriage with the amount of bride wealth exchanged and not with her skills and abilities.

Mifumi is one of the ten NGOs in the East of Uganda promoting women's rights as human rights issues. PROMPT submitted a Memorandum to the UK Parliament's Women and Development Committee on domestic violence and has identified that Uganda's National Action Plan for Women by the Ministry of Gender does not provide for domestic violence. A UNICEF report identifies Uganda as having the highest incidence of domestic violence in the world. This project is the first of its kind in Uganda and is funded by The Human Rights Project Fund of The British Government's Foreign and Commonwealth Office

The activities include:

- A baseline survey to establish attitudes towards bride price and domestic violence.
- Awareness Raising through information, education, training and drama.
- Advocacy, Lobbying and Networking with women activists, women lawyers and other allies.

Young Persons Action Against Violence

This innovative pilot project is a two-year pilot project funded by the National Lottery Charities Board and extends our work with the women on protection and provision of support, to work in schools with a focus on prevention. The only one of its kind in Uganda, it aims to ensure prevention of interpersonal and gender-based violence in the short and long term through public awareness and education of young people, children, teachers, and the general public.

Background to Bride price in Uganda

The practice of bride wealth in Africa has been associated with marriages under customary law. Traditionally, bride price was supposed to consist of gifts given to the parents of a bride in appreciation of their role in the bride's upbringing. Bride wealth has also been defended as an institution that serves to protect the wife against abuse from her husband, stabilise the marriage and join the two families together. In some cases, bride price was supposed to act as security for the wife in case of divorce.

Today, the institution of bride wealth has infiltrated many different forms of marriages in Uganda e.g. Civil, Christian, Hindu and Islamic marriages. In fact, the institution of bridewealth is so "deeply entrenched in Ugandan society that ... in practice, [even] a civil marriage will not be regarded as valid by all concerned parties unless it has been preceded by bridewealth." Sylvia Tamale, Law Reform and Women's Rights in Uganda, 1 East Afr. J. Peace & Human Rts. 164, 171 (1993) [hereinafter Tamale, Law Reform and Women's Rights]; see also Uganda Association of Women Lawyers (FIDA-U), A Research Project on Marriage, Its Rights and Duties and Marital Rape ¶ 4.2 (1996) (Findings from studies "carried out in the districts of Iganga, Masindi, Soroti and Kampala, 95.1% of the respondents said that dowry is paid and 76.7% of these respondents asserted that dowry is a compulsory requirement.").

The nature and amount of bridal wealth levied varies among the different tribes. In Buganda, the largest tribe in Uganda, it is local mwenge (banana wine), kanzus and gomesi (traditional dress) including a variety of other items like meat, vegetables, bananas, paraffin etc. In Bugisu, it is two heads of cattle and optionally, goats. Among the Japadhola it is 5 cows, 5 goats and a sheep. Bride price for tribes found in western and eastern Uganda is in the form of cattle. This may change depending on the economic status of a family; some may ask for rare antiquities such as coins now out of circulation. For most, if not all the tribes, until 1945, bride price was mainly a form of appreciation to parents of a girl who remains a virgin till her marriage.

However, since the Second World War many changes have occurred in the structure of society, thereby increasing the significance of bridal wealth in these communities. Migration to towns and cities, economic decline during the Amin and Obote II era meant that families were split and increasingly impoverished. All cultural values and norms that governed bride price gave way to economic interests in most parts of Uganda except Buganda, which still retains the cultural basis of bride price. Currently, the level of poverty in the countryside is extremely high and this has had a direct impact on the institution of bride price.

Bride price has, throughout the years become increasingly commercialised and abused. Because of the grinding poverty, parents and clan members who ask for exorbitant sums or commodities have abused the practice of bride price. The amount of bride price varies according to socio-cultural variables such as level of education, level of income, rural -urban differentials and religion. Rising costs of living has pushed families to sell daughters as soon as possible in order to obtain the much needed bride price to supplement family income or be used to pay for the son's bride. Bride price has been used to deal with the day to day expenses of the family and no longer provides security for the wife in case of divorce.

Miss Rwerenga, a woman in Mbarara, was sold twice by her father, who has since been arrested for improperly collecting payment from two suitors. See Luganda

Ahmed Musoga, Man 'Receives' Bride Price From Two Suitors, Held, The Monitor, Oct. 4, 1999, at Up Country, <http://www.africanews.com/monitor/freeissues/04oct99/up.html>. Mr. Rwerenga had first sold his daughter to a man by the name of Kirama. Soon after, another suitor showed up offering more money than Kirama had paid. Mr. Rwerenga sent for his daughter, gave her to the new, wealthier suitor, and collected a second bride price. Ms. Rwerenga's choice is not even a consideration within the context of the news story. Her father's crime is not in selling his daughter to the highest bidder. Her father's crime is in keeping the money of the suitor who was not selected. Ms. Rwerenga was simply shuffled by her father from one husband to the next based on their bids for her as a bride.

Sylvia Tamale, a lecturer at Makerere University in Uganda aptly stated that:

Whatever virtues the institution of bridewealth carried in the past, they have been lost in the present. Rather than cementing the relationship between the families concerned, and providing stability to the marriage, the customary payment of bridewealth now gives the husband proprietary rights over his wife, allowing him to treat her more or less like a chattel. This is especially so because it equates a woman's status in marriage with the amount of bridewealth exchanged and not with her skills and abilities.
- Tamale, Law Reform and Women's Rights at 170.

The continued practice of bride price has resulted in gross violations of women's human rights, international and national laws and has exposed women to health risks.

CURRENT LAWS

Most of the international human rights instruments and conventions have condemned the practice of bride price as a practice that constitutes gross violations of fundamental human rights. Uganda has signed and ratified a number of international treaties and conventions that protect the rights of individuals especially women.

Bride price as a slave-like practice

Bride price has been condemned as a practice similar to slavery, which should be abolished. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (to which Uganda is signatory) states in section one that: "each of the States Parties to this Convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition of ... any institution or practice whereby:

(i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group.

226 U.N.T.S. 3, art. 1 [hereinafter Supplement to Slavery Convention].

Uganda assented to the slavery convention in 1964 and more recently, in 1995, Uganda reiterated its support for the international ban against slavery and hence, bride wealth by joining The International Covenant on Civil and Political Rights. The ICCPR states that "no one shall be held in slavery; slavery and slave-trade in all their forms shall be prohibited." Art. 8(1). The ICCPR further emphasises that "no one shall be held in servitude." Art. 8(2). In the same year that Uganda ratified the ICCPR, the Constitution was adopted and it too bans slavery in no uncertain terms. See Const. art. 44(c).

In addition, the Universal Declaration of Human Rights an instrument that has world-wide recognition as one which represents a common standard for all nations to strive for in the promotion of human dignity emphasises that all human beings are born free and equal in dignity and rights. (art.1). The African Charter also denounces all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited." (art. 5)

Bride price as a cause/ contributing factor to violence against women

Violence against women violates women's human rights. Bride price promotes unequal power relations within the family and contributes towards such violence. Bride price is a practice that makes women vulnerable to abuse because they are treated as property instead of human beings. In a research study done in Uganda, bride price was reported as a leading cause of domestic violence. 62.2% of the focus groups polled listed bride price as a major source of domestic violence in their communities. See Law & Advocacy for Women-Uganda, Research Findings On Domestic Violence 12 (March 1, 2000). Statistics from the Mifumi Domestic Violence Office and the Consultancy Report indicate that bride price is a significant factor to violence in the home. Ugandan women who participated in the Constitutional Commission also reported that "many men who have paid bridewealth subject their wives to inhuman treatment." Ministry of Women in Development, supra p. 6, at ¶ 3.4.1(ii)(a). Consider that in addition to the abuse that bridewealth promotes, women who are in these relationships are frequently trapped as a result of an exorbitant bride price that the parents either cannot afford to or do not want to refund to the husband. One woman stated that "Women in my culture are taken as property to be bought and can be treated as those who take them wish, as long as they pay the dowry bride price to the parents." The World Bank Group, Excerpts from Women in Tradition (visited May 20, 2000) at <http://www.worldbank.org/worldlinks/english/html/ug-women.html>.

The right to be free from violence, torture, cruel, inhuman and degrading treatment is recognised in many international conventions. The Universal Declaration of Human Rights states that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." UDHR, art. 5. The African Charter states that "all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited." Art. 5. The International Covenant on Civil and Political Rights states that "[n]o one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment." Art. 7. The Constitution states that "[n]o person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment." Const., art. 24. The practice of bridewealth promotes cruel, degrading and inhuman treatment towards women.

In an interview conducted for a research report from Makerere University, one woman stated that she had been married for five years, during which she had been repeatedly battered by her husband. See Victoria Mwaka, Mugenyi Mary, Grace Banya, Women in Uganda: A Profile 109 (Makerere University, Mar. 1994). When she finally escaped from this abusive relationship and returned to her family, she was rebuked by her father because her husband had threatened to claim the bridewealth he had paid for her. Under severe duress she was forced to return to her husband. The research report confirmed that she had been hospitalised several times since her return and her body was visibly mutilated. Id.

Bridewealth produces these types of degrading and cruel scenarios everyday in Uganda. Men who pay a price for their wife tend to treat her as a piece of property and feel justified in their abuse because of the dehumanising practice of bridewealth. See Alice Armstrong et al., *Uncovering Reality: Excavating Women's Rights in African Family Law* 30 (1992) (noting that men "have interpreted the payment of bridewealth as giving them ownership of their wives. This attitude has been thought to encourage wife beating.").

Bride price and right to equality in marriage

The institution of bridewealth denies women equality throughout a marriage, and is therefore in violation of both international and domestic law. The Universal Declaration of Rights states that "[women] are entitled to equal rights as to marriage, during marriage and at its dissolution." Art. 16(1). Many international conventions ratified by Uganda have followed suit, as did the Ugandan Constitution. CEDAW, which Uganda ratified in 1985, compels Uganda to outlaw the practice of bridewealth. Following the Universal Declaration of Rights' example, CEDAW requires that:

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution

Art 16. The ICCPR declares that "States Parties to the present Convention shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution." Finally, Uganda included a specific provision in the Constitution reflecting this norm of international law: "Men and women ... have the right to marry ... and are entitled to equal rights in marriage, during marriage and at its dissolution." Const., art. 31, §1.

In order to fully understand the impact of bridewealth on the equality of women throughout the course of a marriage, it is useful to consider the impact of the custom on each stage of a marriage separately: 1) the same and equal right to enter marriage and to freely choose a spouse; 2) the right to equality during a marriage; and 3) the right to equality at the dissolution of a marriage.

A Woman's Equal Right with Men to Enter Marriage and to choose a Spouse

The practice of bridewealth does not afford women the right to enter a marriage of their own choosing, a right which men clearly have. No woman who has to either ask her father to set a price for her that the groom can afford, or finds herself betrothed to a man simply because her family has struck a bargain for her and received the traditional bride wealth, has been able to choose her husband freely. Uganda has admitted as much in its government report to the UN Committee on the Elimination of Discrimination Against Women, stating that "cases may arise whereby a spouse is chosen for a woman provided the man can pay the amount of bride price required. ... This shows that women do not have a right to enter into marriages with their free and full consent." CEDAW Report, ¶ 355. Nor do such women have equal rights with men at marriage.

The right to equality during the course of a marriage is eroded by the institution of bride price. Women are expected to be subservient to their husbands. One woman stated that "like a lot of men, my husband believed that, having paid bride price for me, he had a right to sleep around while it was my duty to stay at home, cook, clean, take care of the children, remain faithful

and never complain." Mark Mathabane, Lobola, AIDS and Africa, Wash. Post, March 27, 2000, at A27. Women are subordinated into a powerless position in her marriage by the institution of bridewealth.

Even at the dissolution of a marriage, women are in a powerless situation to effect divorce. A woman, Zahara Gaina from Western Uganda (Mbarara) testified that women from her culture were not supposed to apply for a divorce because it is taboo. It is the husband to decide on whether or not to divorce her. - The World Bank Group, Excerpts from Women in Tradition (visited May 20, 2000) at <http://www.worldbank.org/worldlinks/english/html/ug-women.html>.

If women want a divorce, they must get their father's permission. Bride price must be returned to the husband; if the husband doesn't get his money back, then the wife will not be returned. Many women have to stay in abusive or simply unwanted marriages because their father cannot afford to or are unwilling to refund the bridewealth given to them by a husband. In essence, women cannot divorce their husbands without their father's consent, whereas men can divorce their wives without obtaining anyone's consent.

Bride price as a discriminatory practice

The practice of bridewealth is facially discriminatory towards women. A man can marry anyone he likes, and need not ask his parents for permission. A woman must ask her father's permission, since he sets the bride price and has the power to make it too exorbitant for the suitor to afford. A man is not sold for a price set by his parents without his permission, as are women. A man can leave the marriage without anyone else's permission. A woman must obtain her father's permission, for in order to be divorced, the bride price paid by the husband to her father must be returned. As Uganda noted in its report to the UN Committee on the Elimination of Discrimination against Women: "The bride price is fixed by only male members of the family/clan: even the girl's mother has no hand in the affair; she is never present at the ceremony." CEDAW Report, at ¶ 361.

International law prohibits such blatant discrimination against women. CEDAW states that "the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status ... of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." CEDAW, art. 1. Article two of CEDAW requires state action to eliminate all forms of such discrimination, including those stemming from "customary ... practices which are based on the idea of the inferiority or the superiority of either of the sexes." Art. 5(a). By failing to prohibit the practice of bridewealth, a sex discriminatory custom, Uganda violates its obligations under articles two and five of CEDAW.

The African Charter states that everyone "shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status."

Bride price as a cause/contributing factor in the incidence of AIDS/ HIV infection

The practice of Bridewealth contributes significantly to the spread of AIDS throughout Uganda. Not only does it threaten the health of women, but also men and children. The right to physical and mental health is recognised by most international human rights instruments. The African Charter states that "every

individual shall have the right to enjoy the best attainable state of physical and mental health." Art. 16(1). And that "States Parties to the present Charter shall take the necessary measures to protect the health of their people." Art. 16(2). The International Covenant on Economic, Social and Cultural Rights, similarly states that everyone has the right to "the enjoyment of the highest attainable standard of physical and mental health." Art. 12(1). Finally, domestic policy has consistently stressed the importance of improving the health of the Ugandan people, especially given the increasing problem that AIDS represents in this society.

The Uganda CEDAW Report, at ¶ 360 stated that the practice of bridewealth has been abused by parents and clan members asking for exorbitant sums or commodities. Young virgin women are in high demand because they are less likely to have already contracted AIDS. Rising costs of living has pushed families to sell their daughters as soon as possible in order to obtain the much-needed brideprice that will supplement their family income. The bridewealth paid in Gulu, for instance, used to be a gift of 5 or more cows. These days, as cows are not available, bridewealth is paid in cash. See UNDP, Report on AIDS in Uganda at ¶ 2.4.3(b). The price required for a bride has been going up throughout Uganda and the average age of girls being sold into marriage is getting younger. See Ministry of Gender and Community Development, Women and Men in Uganda: Facts and Figures 1998 12 [hereinafter Ministry, Facts and Figures 1998] Some men believe that young girls are less likely to have had sex - and encountered HIV - than older women. Some also believe that having sex with a virgin can cure them of HIV infection or AIDS). See Carol Ezzell, Care for a Dying Continent, Scientific American, May 2000, at 5 (Early marriage means early realisation of the economic value of a daughter, and parents who are struggling to raise many children may choose to marry off their adolescent daughters earlier than they would have in different circumstances. See id.; see also Ministry, Facts and Figures 1998 at 12 (attributing the value to women's parents of bridewealth as one of the reasons women enter marriage at an earlier age than men). The marriage age for girls in Tororo, according to one TASO Councillor, as young as 13 and 15 years."); Daphne Topouzis & Guenter Hemrich, The Socio-Economic Impact of HIV and AIDS on Rural Families in Uganda: An Emphasis on Youth, in Bureau for Development Policy, United Nations Development Programme, HIV and Development Programme Publications, Study Papers ¶ 2.4.3(b) (1994) [hereinafter UNDP, Report on AIDS in Uganda] (visited May 19, 2000 at <http://www.undp.org/hiv/publications/study/english/sp2ech2.htm>)

Another related result of commercialisation of bride price is that many young men can not afford to marry because of the exorbitant bride price. Such men then opt to live with a woman out side marriage or to live alone. Both options tend to increase the spread of AIDS. If young men choose to live with a woman without getting married, it has been found to encourage high-risk sexual behaviour. See UNDP, Report on AIDS in Uganda at 12.

President Yoweri Museveni has said that the culture of exorbitant bride price and dowry now taking root in Ankole is the cause of the escalating rate of prostitution in the region. Museveni said that the youth in Ankole have resorted to staying single - hence engaging in prostitution because of the high bride price demanded by parents for their daughters. He said it was very unfortunate for the Banyankole to turn their daughters into "income generating projects" by demanding hefty sums of money and herds of cattle from in-laws to be. Museveni said the issue of "selling girls" in Ankole has gone too far with some parents now demanding only Friesian cows.

- Luganda Ahmed Musoga, Museveni Not Corrupt - Saleh,
The Monitor: Front Page, July 20, 1999 at
<http://www.africanews.com/monitor/freeissues/20jul99/front.html#anchor4>.

Among teenagers 15 to 19 years old, the ratio of infected girls to boys is six to one. See Naomi Neft & Ann D. Levine, *Where Women Stand: An International Report on the Status of Women in 140 Countries 1997-1998* 143 (1997). Young men are engaging in high risk sexual behaviour instead of getting married because they cannot afford a bride, and perhaps most importantly, the young women who are being married off at such a young age to elder men, and are therefore more likely to have already contract AIDS, find themselves giving birth to children who are infected with AIDS. See Tamale, *Law Reform and Women's Rights* at 182 (reporting that in the Kampala district, "30% of the mothers bore AIDS-infected babies in 1990." (citing the Ministry of Women in Development, *Government Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women* 99-103 (1991)).

The cultural impact that bridewealth has on women is also a contributing factor to the spread of AIDS. Mark Mathabane, a South African man, wrote an article this year in a United States paper, *The Washington Post*, about how the institution of bridewealth had affected his sister Florah in her marriage to her husband, Collin. See Mark Mathabane, *Lobola, AIDS and Africa*, *Wash. Post*, March 27, 2000, at A27. Florah told him that "like a lot of men, [Collin] believed that, having paid lobola for me, he had a right to sleep around while it was my duty to stay at home, cook, clean, take care of the children, remain faithful and never complain." *Id.* In addition to the obviously harmful impact on Florah of being treated as a piece of property or servant by her husband, his adulterous lifestyle exposed her to AIDS and other sexually transmitted diseases. Florah wanted to leave her husband, but the practice of lobola made that impossible. Her father had already spent Collin's down payment and so he was unable to pay back the bridewealth in order to dissolve the marriage under customary law. *Id.* at A56. Instead of supporting his daughter to leave this abusive situation, the father told Florah not to disgrace the family by leaving Collin. "He insisted that if only Florah would bear Collin children, he would stop philandering." *Id.*

Collin's justification for his adulterous behaviour appears to be directly linked to the fact that he "paid" for Florah. This is not unusual. Respondents to a survey on the practice of bridewealth among the Ibo of Nigeria said that the number one social evil associated with the practice of bridewealth was "moral decadence," specifically a high incidence of prostitution, keeping mistresses and promiscuity. See Uche C. Isiugo-Abanihe, *Consequences of Bridewealth Changes on Nuptuality Patterns Among the Ibo of Nigeria, in Nuptuality in Sub-Saharan Africa: Contemporary Anthropological and Demographic Perspectives* 74, 84 (Caroline Bledsoe & Gilles Pison eds. 1994). Besides the obvious damage that such behaviour does to the integrity of a marriage, promiscuity in Uganda can kill. Every time that Collin has sexual relations with another woman, he would be exposing Florah to AIDS and other sexually transmitted diseases. See Mathabane, *supra*, at A27 (linking the practice of bridewealth directly to the spread of AIDS). This point becomes more serious in light of Uganda's high incidence of AIDS.

National laws in Uganda

There is no law in Uganda that specifically prohibits payment of bride price. Bride price is widely practised and even condoned by statutory and case law. The Customary Marriages Registration Decree governs customary marriages in Uganda permits customary marriages to be celebrated according to the rites of the community (section 38). According to the African marriage rites, bride price is

essential for the validity of a customary marriage. The Ugandan courts have taken the additional step of stating that a marriage is not valid under customary law if Bridewealth has not been exchanged. In the case of Uganda Versus Eduku (1975)HCB 359, the court held that a customary marriage is not valid until bride price has been exchanged.

Uganda has a plural system of laws, applies written law, case laws, customary law and common law. In addition, many different types of marriages, e.g. civil, customary, Islamic, Hindu and Christian marriages. Most marriages do entail payment of bride price even if they are not customary marriages.

Although the practice of bridewealth is widely condoned and practised, this practice contravenes the Ugandan Constitution and other International Human Rights Instruments and Conventions that Uganda has signed as discussed above.

The Ugandan Constitution which is the supreme law specifically prohibits "laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status" art 33. The Constitution accords both men and women the right to marry, to equal rights in marriage, during marriage and at its dissolution." Const., art. 31, §1. Art 31(3) requires consent to the union by both the man and the woman. Articles 21, of the 1995 Ugandan Constitution provides for equality and non discrimination on the grounds of sex and articles 32 and 33 provides for the protection and promotion of women as a marginalised group and calls for affirmative action.

The Constitution provides the basis for gender equality and for the protection and promotion of women's rights. It specifically prohibits laws and practices that discriminate against women. Since the constitution is the supreme law, any laws and practices that are not consistent with the Constitution are void.

The Proposed Law

The current trend is to put in place laws and policies that are in conformity with the Constitution. The government of Uganda has recognised that the practice of bridewealth is destructive to women, and goes in violation of both domestic and international law and against the policy of this government.

Between 1993-4, during the process of collection of ideas to be incorporated in the new constitution in Uganda, the Constitutional Commission stated that women from thirteen districts agreed that the practice of "bridewealth undermines the status of women and often implies that men believe they have the right to treat their wives as slaves, or property or ornaments purchased." Recommendations by the Women of Uganda, at ¶ 3.4.1(ii)(a).

The Uganda government is aware of the problems caused by bride price and has acknowledged the adverse effects that the payment of bride price has on women. It is aware that bride price assumed the character of selling and buying, lowers the status of women to a chattel and has serious implications on women's human rights. See CEDAW Report, at ¶ 362.

Presently, the Ugandan government proposes to enact a new family law that will conform to the Constitution. Section 19 of the proposed Domestic Relations Bill deals with the issue of bride price and states that:

Marriage gifts shall not be essential requirements for any marriage under this Act, but where marriage gifts have been given by any party to a marriage under this Act, it shall be an offence to demand for the return of the marriage gifts.

This is one step towards the abolition of the institution of bride price. However, this law has not yet been enacted and may take years before it is passed. In the mean time therefore, The Mifumi Intervention project provides an important social strategy in curtailing the practice of bride price.

Conclusion

The practice of bride price is gross violation of human rights and exposes the victim to violence, abuse as well as numerous health risks and dangers. The International community has recognised that bride price is a form of slavery, a violation of the fundamental rights of liberty, equality and non discrimination among others, and calls for states to abolish it. The institution of bride price has far reaching health, economic, social, human rights and legal effects in societies where it is practised. It is a practice that subordinates women, objectifies them, commercialises marriage and threatens women's physical and mental health. Bride price is a practice that has outlived its usefulness and should be abolished in the societies where it is practised. Although bride price is widespread, there is very little research or interventions put in place to abolish it in the communities where it is practised.

List of Laws

- * 1995 Constitution of the Republic of Uganda
- * Customary Marriages (Registration) Decree No. 16 of 1973
- * Universal Declaration of Human Rights
- * International Covenant on Civil and Political Rights
- * Convention on the Elimination of all Forms of Discrimination Against Women
- * Convention Against Torture
- * African Charter on Human and Peoples Rights
- * Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

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