



# Bride price and marriage under cameroonian family law

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## Abstract

Marriage is not a prison neither is it a “do or die affair”, but the customary law in Cameroon has transformed marital links into a dungeon where women are forced into because of the material and financial gain to be obtained by the girl’s parents called bride price. The absence of legal regulation and non-acknowledgment of bride price has made parents to often force their girl child into marriage without the girl’s consent. Most times, the parents demand exaggerated amount from their daughter’s suitors and hand her over to the highest bidder. Such practice mostly leads to adultery, domestic violence, human right abuse and marital instability amongst other, added to the fact that divorce under the customary law setting can only be acceptable after the refunding of the entire bride price. Thus, making divorce very difficult and almost impossible, as the parents of the bride will be unable to refund, and the bride with her limited resources will be bound to remain in an abusive marriage. From here, we notice that, bride price instead of being a means to consolidate families, instead frustrate it. It is worthy to note that, Family law has as main aim to protect the family which is the bases of all society and as such, it should see into the question of bride price, either to legally regulate its payment and give it an explicit legal value or get rid of it. This is because, if this customary rule cannot be abrogated by statutory law, the legislators should regulate its payment and regulate it by limiting the maximum amount to be demanded and also harmonize its payment throughout the national territory.

**Keywords:** bride price, marriage, marital instability, human right, domestic violence, divorce

## 1. Introduction

Marriage can be defined as a solemn legal act where a man and a woman agree to live together under certain conditions established by the law. Generally, marriage under the law has three forms: the traditional marriage which has been the only valid form of marriage in Cameroon till the decree of 16<sup>th</sup> March 1935. Under this form of marriage, the family of the groom gives some material things and a sum of money to the bride’s family which serves as the payment for the bride without which the marriage cannot be valid.

Apart from this form, we have the civil marriage normally called the registration of the marriage which can be done only by the couples before the civil status registrar accompanied by two witnesses if the spouses are majors. If they are not or if one of the spouses is a minor, they are accompanied by the parents whose concern is needed to validate the marriage. Lastly, we have the religious marriage; this form of marriage is optional and is done before the Imam for Muslims and before a priest for what concerns Christians. It is believed that this form is required to obtain God’s blessings. In this paper we shall limit ourselves only on the study of tradition marriage; this is because of the various aches that it brings to the society. Despite the fact that it has only a customary value, we should not ignore the fact that it has serious effects on marriage as a whole.

In an African society, marital bond is sealed following a particular pattern or traditional procedures that start with the payment of some material things or a sum of money usually called bride price or dowry. This stage is called customary or traditional marriage.

Before going to that, we must first admit that before colonization, African countries had its customs and traditions that governed life in their society <sup>[1]</sup>. With the arrival of the colonialist, most of these customary and traditional practices were abolished such as female circumcision and other archaic practices. This is because most of these practices merited to be totally abandoned because of the negative effects they had on the population <sup>[2]</sup>. That is why the French law of 24<sup>th</sup> April 1833 provided in article 1 that “*every free born and everyone who acquires freedom must enjoy his civic and political rights under the same condition prescribed by the law*”. This text implied that there will be direct application of French laws in all French colonies. That is why the same laws were applied both on French national and Cameroonian natives found on French territories. The application of these texts witnessed certain failures because of the persistent practice of some customary rules by the native population. This caused the colonialist to acknowledge the importance of the people’s custom and traditions by elaborating another law; the decree of 20<sup>th</sup> May 1857 that permitted the application of certain customs and traditions in French colonies. That is how the local population was allowed to have their traditional and customary practices in certain domains of life such as marriage, succession, civil status, donations etc.

These decree created a judicial duality with the customary law cohabiting with statutory or modern law in the French colonies and this for many years <sup>[3]</sup>. Progressively, there came the elaboration and adoption of laws that were proper to certain francophone African countries such as Cameroon. Through these different laws, while certain traditional practices were

consecrated as law and some permitted to exit as customary law, others were prohibited and one of these traditional practices that were permitted to exit as customary law was the payment of bride price for the validity of marriage under customary law.

The issue of bride price is an old traditional practice that existed and continues to exist in African societies Cameroon inclusive. It is true that the payment of bride price also exists in European cultures but it does not have the same characteristics as that of the African society. Under the European culture, bride price is all goods or property brought by the bride or by her family to help provide for the need of the couple. In Roman law for example, dowry or bride price is all goods brought by the bride to help provide for the need of her home. Under the French law, the old article 1540 of the civil code provides that, "*bride price is the property that the bride brings to her groom to help in family need*". From these different definitions, we understand that according to European culture, bride price is paid by the woman or her family not for the benefit of the man or his family but for the benefit of the newly created home (for the bride and the groom). But in the African context, we have a quite different scenario. Bride price is paid in cash, in kind or by service by the future husband or his family not for the benefit of the new couple but for the benefit of the bride's family and the bride herself. In the African context therefore, bride price can be defined as all objects and gifts, in kind, cash or by service given by the family of the groom to that of the bride as homage from the demanding family to the family of the bride. It is only through this that children born into the marriage shall be legitimate and may be able to enjoy civic and civil rights in the community. It can also be seen as a symbol of alliance between the two families.

In all traditional societies in Africa in general and in Cameroon in particular, marriage is considered as valid only when the bride price has totally or partially been paid by the groom or his family. That is, the bride can only be considered as a legitimate wife only when her bride price has been paid totally or partially. Bride price is the condition for the legitimization of all marital union in the traditional context<sup>[4]</sup>.

We also need to know that marriage in Cameroon is in two forms: modern marriage and traditional marriage. Modern marriage is that which is governed by the dispositions of the laws adopted after the independence of Cameroon, for instance the ordinance n°81/002 of the 21<sup>st</sup> June 1981. Traditional marriage on the other hand, is that which existed even before colonization. According to customary law, marriage is a contract through which the head of the family acting in place of the entire family, engages to marry a young girl with or without her consent into marital ties in favor of a man from his family for a consideration defined by the customs of the girl. Nonetheless, these traditional practices have evolved, as only few traditions still continue to practice traditional marriages and collect bride price without the concerned of the bride<sup>[5]</sup>. In most traditions like that of the Bali Nyonga in the North West region of Cameroon, the family head now resort to seeking the concern of the bride concerning the groom and her desire to marry before indulging into any marital negotiations with the

groom's family. It is only when the bride has given her full concern that the bride price is collected which leads to the validity of the marriage.

We understand from this that, under customary law there is no marriage without bride price contrary to statutory law or modern law that does not consider bride price as a condition for the validity of marriage according to the provisions of article 70 of the ordinance n°81/002 of the 21<sup>st</sup> June 1981. According to this provision, "*the payment or not of the total or partial bride price, the execution or the non execution of any marriage agreement has no effect on the validity of marriage*". From this provision, we can note that statutory law does not recognize bride price as an element for the validity of marriage as it is the case under customary law. Nonetheless, this does not make the payment of bride price illegal, but the law does not intervene in such matters, it is exclusively of the domain of customary law. Nevertheless, we cannot deny the fact that bride price can influence marriage either negatively or positively. In other words, just as bride price can help to solidify a home and give more value to the bride, it can also be destructive or constitute a break to the stability of marriage. Because of the absence of the law in the regulation of bride price, family heads who are competent to rate the bride price of their daughters would have the tendency or would be tempted to ask an exaggerated amount in addition to the material gifts which may transform the bride into a commodity for commercial transactions, and the high demand of bride price can be a threat to marital stability causing high rate of divorce, domestic violence, abuse of human right, just to name a few. On a more realistic ground, the question we would ask is to know the exact value of bride price in marriage under Cameroonian law. Given the fact that the law has not given it a legal value, is it not reasonable for the law to organize the payment of bride price and give it a relatively legal value? It may be a solution to overcome the perverted effects of bride price in marriage. By so doing, the law may canalize the approximate amount of bride price to be demanded by the bride's family and the procedure of payment. To reach at this, we shall analyze the generality of bride price in marriage before exposing the inefficient reaction of the Cameroonian legislators towards it to finally assess the effects of the indifference of the law on bride price.

## 2. The conception of bride price in marriage

The payment of bride price is a complex customary practice which has divers' interpretations in different customary settings. In a correspondence sent to the Research Directorate, the post-doctoral researcher of the Free University of Amsterdam, who conducted a research on women's rights in Cameroon, stated that, "*there are a lot of differences in bride price payment depending on the region and village of origin of the respective spouses*". Each region has its own code of conduct in matters of bride price. Even though it has different aspects, it has the same importance in all the traditional settings: according to traditional practices, a woman becomes her husband's property and that of her in-laws once the bride price is paid. In 2014, a representative of the women's

empowerment and the family sent a correspondent to the research directorate where he stated that a young woman is treated like a commodity in her family: they can force her into a marriage or arrange one for her with two or more suitors and thus increase the amount of bride price.

It is relevant to specify that in Cameroon, bride price is recognized only under customary law. Statutory law does not recognize it as a condition for the validity of marriage unlike customary law. We shall thus analyze how customary law conceives bride price in marriage (A) and also its conception under statutory law (B).

#### **A) The concept of bride price under customary law**

Bride price plays a very vital role in various customs before the formation of the traditional marriage. In a report presented in 2009 to the United Nations Human Right Committee, the government of Cameroon explained that, “in order to validly marry under customary law, the man must pay some token (bride price) to the family of the bride” and we cannot disavow the fact that, this is an obligation without which the marriage would not be recognized under customary law.

The nature of bride price is not the same in all traditions settings. It can take the form of material gifts, cash payment or labour depending on the customary law of each locality and culture. In former days, bride price took the form of labour provided by the suitor for the parents of the wife to-be. This labour was rendered in addition to a small cash payment and drinks. But with the advent of modern cash economy, bride price took the predominant form of money payment such that even when material gifts are demanded as bride price, they can be evaluated and paid in form of cash payment. Thus, the bride price provides a financial gain for the bride’s family in terms of gifts in cash and in kind. A man will never be respected if he fails to pay the bride price and the woman is expected to live under the dominance of her husband when once bride price is paid.

That is why we can easily assess that the payment of bride price is a proof of marriage under customary law and also, it helps to establish the filiations of children born in the marriage, that is, to legitimize the children born in the marriage.

#### **a) Bride price, a determining condition for the validity of marriage under customary law**

The handing over of gifts of diverse nature to the bride’s family apart from binding the two families of the couple together in holy matrimony, also contributes to ensuring the proof of marriage: this is because, before the advent of civil marriage with the signing of the marriage certificate by the civil status registrar, marriages were celebrated in the customary way. Thus the payment of bride price in this contemporary period is as important as the civil marriage. So, the bride price payment is a proof of the marriage covenant between the two families both at the level of the form and the substance. It is also the proof of the existence of the regularity of the social relations that is born between the two families through the union of the two spouses. It also constitutes the material proof of the concluded marriage, so bride price is an unequivocal proof of

marriage under customary law.

The practice of bride price is also meant to validate customary marriages and is mostly common in African countries especially Cameroon though different names have been allotted to it due to the multi-lingual nature of the nation. This practice before now has been seen as a unique one because it serves as a starting point of the union of the spouses<sup>[6]</sup>.

Generally, in the customary setting, bride price marks the beginning of every marriage. It makes the marriage to be “legal” and to show the legitimacy of children; as bearing children out of wedlock especially in the African society is a taboo. Thus, one can rightly say that bride price is that first and compulsory payment either in cash or in kind, a man pays to the parent of a girl or lady he intends to marry in order to gain access to a relationship with the girl, which will in turn bring about his own family.

There are some cultural values attached to bride price that made the practice very significant: it serves as a gesture of sincerity, a symbol of faithfulness of the man to the woman towards the marriage, which is similar to the wedding and engagement rings used today and most importantly, because of the religious value added to it, there is a spiritual bond that the woman values to it.

Also in traditional setting, bride price is seen as an appreciation to the girl’s parents for having looked after her. This is more prevalent among the people of the northern part of Cameroon. Payment of bride price is a form of recognition as an appreciation of the effort of the parents for looking after the girl the man intends to marry. It is also a stabilizer of marriage. This is more prevalent among the *Bamileke* people. In the northern part of Cameroon, bride-price is seen as a sign of love. They consider that if a lot of cattle are paid then the husband loves the woman, if few cattle are paid then the husband does not love the woman very much. It is a reminder that the girl is not cheap and insignificant. The attitude towards a girl in situations of cohabitations without bride price is not always favorable but when the bride-price is paid the attitude changes and the girl receives more respect. Also, women tend to respect their husbands more if bride-price is paid for them. Another function of bride-price is to compensate the bride’s family for the loss of her services. A female family member particularly one brought into the family by way of marriage, was considered especially valuable since she performed household chores and, most importantly ensured the continuation and growth of the family. Hence marriage of a female member was considered a loss to her family and a benefit to her husband’s family. The giving of bride price is therefore considered a *quid pro quo* for the services which are transferred to the man’s family. The gifts also serve as an expression of the husband’s or his family’s gratitude to the bride’s parents for the care they took in bringing her up and in allowing her to marry him.

Bride price was meant to be a gift to the bride’s parents and relatives for having brought up the child from her birth to that day when she was leaving the home. Therefore, its effect was a sort of compensation for the work. When the bride-price is paid, it is a form of strengthening ties between the spouses, because the girl would fear divorcing threats that the bride-

price would be returned <sup>[7]</sup>.

Bride-price did also serve as a marriage insurance and stabilizer and reminder that the wife was not something cheap or insignificant. These gifts and services continue to come to their people after she was married.

Most scholars of family rites have reported that a woman who is properly married is at a higher status than the one who is not. According to certain traditions, the payment of bride price is more understood as recognition of the wife's value both to her husband and to her own relatives. In addition, the wife's contribution to the family's subsistence is normally indispensable and so the husband is as much dependent upon her as she is on him.

Moreover, it is important to note that, when the bride price is paid, it reaffirms the subordinate position of the women because it is at time seen as the purchase price of the woman. It will also mean the transfer of rights which mean the women will look after the husband and the upbringing of children which is rather socially than biologically determined.

It is then possible to ascertain that; bride-price which is the basis of a marriage determines its stability. Therefore, when bride-price is paid it is culturally, a form of strengthening ties between the spouses, this is because the girl would fear divorcing threats that the bride-price would have to be refunded by her father who would certainly not be financially viable to do that. So, the women are bound to stay in marriage even if it is not in their favour.

The payment of bride price brought up or valorized gender discrimination which is one of the most notorious features of customary law. The woman after marriage finds herself in a male-dominated society. In traditional Cameroonian societies, a man's wealth is still said to be measured by the number of wives and children he has. Generally, women are considered as property and cannot own property. This is mainly because according to the men, their wives were bought so they become part of their property <sup>[8]</sup>. Mr. MIKANO continues to say that this view was corroborated in a 1995 survey conducted in rural areas of Cameroon. According to this survey, it was observed that: *"Traditionally, women are men's property, to be handed over to male inheritors, along with other property at the time of a husband's death"* <sup>[9]</sup>.

And it is admitted that gender discrimination under customary law is partly founded on the notion of bride price. Indeed, under most customary laws, bride price is used as a measure to justify certain discriminatory practices against women, notably the refusal to grant them inheritance and succession rights. Under customary law, bride price has great significance: In the South West Region, the Court of Appeal in the case of *Kwela Theresia Amih v. Amih Sam*, his Lordship Justice Ebong, explained the role of bride price in customary marriages. He wrote, at page 2 of his judgment that, *"bride price in customary marriage plays an important part as bride price is in fact the first indication of the seriousness of the suitor towards the parents of the girl as the money is not paid to the girl but to her father"* <sup>[10]</sup>. Bride price is a symbolic act that validates a customary marriage and also signifies its dissolution: by principle, it is only on full payment of the bride price that the

bridegroom can be said to be in a valid marriage. Conversely, only on the full refund of the bride price by the wife to the husband can the marriage be considered terminated.

Bride price also serves as a means to legitimate children in the traditional setting.

#### **b) Condition for the legitimization of children**

In certain customs on Cameroon, bride price is the main condition for determining the filiation of children born in the relationship. This is because the payment of bride price serves as the condition for the wife's faithfulness to her husband. It is acknowledged in the Bali Nyonga culture that, bride price legitimates children born in the union. Any child born in any relationship or marriage without the payment of bride price does not benefit from the legitimate character of children; this stands even if the couple has proceeded with civil marriage. Customarily, the marriage is not considered as valid, and the children remain illegitimate as regards the customs of the people. In other terms, the paternity is presumed when bride price has been paid even if the payment is done partially and the presumption can only cease with the death of the husband or the reimbursement of the bride price in case of divorce <sup>[11]</sup>. It is also important to add that, according to the Bali Nyonga culture, when the bride price is not paid completely, the children are considered legitimate under the condition that the rest of the bride price would be collected from the husband's daughter when she eventually gets married. Meanwhile, the consideration of bride price as the determining condition for the appreciation of filiation has created some problems such as the determination of the paternity of a child after the demise of its mother's husband, or a child born after the separation of his/her parents when the bride price has not been reimbursed. In some cultures like that of the Bali Nyonga cited above, a child born after the separation of his/her parents or the demission of the father is considered as the child of the former husband as far as the bride price has not been reimbursed.

#### **B) The concept of bride price under statutory law**

As aforementioned, bride price is a customary institution which the colonial initiative failed to wipe out. The colonial authority intervened through the MANDEL Decision of 13<sup>th</sup> June 1939 and through the JACQUENOT Decision of 14<sup>th</sup> September 1951 on marriage. In fact the MANDEL Decision was meant to correct the traditional rights on the consent of the young girl towards marriage while the JACQUENOT Decision was aimed at correcting the validity of traditional marriages and the rate of bride price. After the colonial masters, the Cameroonian legislators made an attempt through several laws to rub traditional marriages and the payment of bride price of all legal value; this is the case of the laws of 7<sup>th</sup> July 1966 and that of 11<sup>th</sup> June 1968. Under the law of 7<sup>th</sup> July 1966, bride price is no longer a condition for the validity of marriage and the law of 11<sup>th</sup> June 1968, we noticed that the drafting of a marriage certificate by the civil status registrar is not subordinated to any payment of bride price and in case it was paid, it is mentioned nowhere in the said certificate. What then is the position of the Cameroonian legislators on matters of bride price in the

Cameroonian positive law?

**a) The non recognition of bride price by the Cameroonian positive law in matters of marriage**

Presently under the Cameroonian positive law, the ordinance n° 81/002 of the 29<sup>th</sup> June 1951 organizing civil status of physical persons, has adopted the solution given by the law of 7<sup>th</sup> July 1966 and even the preliminary project of the civil code adopts the same position where it adds that, “*where the bride price has been paid, it can no longer be restituted unless it is proven that the cause of the marital separation is the pride price*”. This simply means that, neither the civil law nor the 1981 ordinance give a legal value to bride price in Cameroon. That is why in its article 70, it stipulates that, “*the nonpayment or payment of partial or total amount demanded for bride price or any matrimonial agreement has no effect on the validity of the marriage*”. And sub 2 concludes by providing that “*any legal action against the validity of marriage based on the non-execution or partial execution of any agreement on matrimonial bride price is inadmissible in court*”. This simply means that, according to the ordinance of 1981 or the preliminary project of civil code, the groom is free to pay or not to pay bride price and it would not affect in any way the validity of the civil marriage under statutory law.

Primarily, bride price as a social reality and a customary institution had four essential functions: approbatory function (proof of marriage); function of security and guarantee for the stability of marriage; compensatory function from the groom’s family to that of the bride; and determining factor for the determination of filiation (mentioned above); but these functions no longer exist today in many traditions. Bride price is now considered or treated as the purchase price for the sale or buying of a woman <sup>[12]</sup> which is illegal according to the Universal Declaration of Human Right.

The law has left the domain of bride price in the hands of the custom. That is why this payment differs from one geographical area or custom to another. In certain parts of the grass field regions of Cameroon, bride price is just symbolic meanwhile for those in the forest zone, it is very high, such that it is described as something that never ends “*la dot ne finis jamais*”. This method is highly criticized by many who feel that high bride price is the cause of the fragility of the future home as the bride price reduces the family patrimony.

It is relevant to note that, despite the non-recognition of bride price by the positive law, criminal law sanctions the excess demand of pride price. But this does not solve the problem of the absence of the legal regulation of pride price.

**b) The relative recognition of bride price by criminal law through the repression of excessive demand of bride price**

Despite the non-acknowledgment of bride by the civil code and by the 1981 ordinance as a condition for the validity of marriage, the Cameroon criminal law relatively acknowledge it by sanctioning any abuse or deviations that can cause any injury to the future couple.

In fact, the admission of bride price as the main condition for

the validity of marriage and for the legitimization of children under customary law coupled with the absence of its legal regulation, has cause so many abuses in the domain of the payment. That is why the criminal legislation has decided to sanction any abuse or excessive demand of bride pride. It is important to note that, the payment of pride price has become a business, a source of income for those who are habilitated to receive it. The cost of bride price has become very expensive in some cultures such that it has become a true obstacle to marriages. Today, bride price is seen as a form of speculation that reduces the woman to a negotiable commodity <sup>[13]</sup>. It is this malaise that has caused the criminal legislator to regulate this payment through the sanction of the excessive demand of bride price. Remember the latin criminal law principle which states that “*Nullun crimen, nulla poena, sine lege*” which simply means under criminal law there is no crime nor sanction without text. This simply means that the criminal law cannot sanction the excessive demand of bride price, without recognizing it.

To this effect, the criminal law in its section 357 (1d and e) concerning the abuse in respect of bride price provides that “*whosoever demands the whole or any part of an excessive bride price for the marriage of a girl over twenty one (21) years of age, of a widow or divorced woman; For want of compliance with his excessive demands for bride price for the marriage of a girl under the age of twenty one years and for no other reason, obstructs her marriage, shall be punished with imprisonment from one (1) to five (5) years or with a fine from five thousands (5000) to five hundred thousand (500,000) or with both such imprisonment and fine*”. But despite these provisions of the criminal law, the big question still remains. We notice the vague nature of these provisions; the paragraphs (d) and (e) of article 357 (1) lack the precise and objective elements that can permit us to understand the content of the provisions. Still yet, we can’t say which elements or criteria or amount can be judged as being excessive. It is therefore difficult to fix the rate at which the bride price is considered as excessive. Thus, these omissions, vagueness and textual imprecision can have negative repercussions on the quality of decisions law courts will render if such cases are brought to their notice. For a better efficiency in the fight against abusive demand of bride price, the criminal law will gain more if they adapt to local realities by fixing or limiting the minimum and maximum amount of bride price above which can be considered as abusive even though this will be difficult in certain customs that consider that bride price never end.

We can therefore say that neither the civil law nor the ordinance n°81/002 of the 21<sup>st</sup> June 1981 nor the criminal law fully recognizes nor regulates the payment of bride price. The provisions of the civil law are ineffective and those of criminal law are insufficient and vague. We thus believe that the payment of bride price is exclusively the manifestation of cultural rights and its violation will automatically mean the violation of such rights. Nevertheless, the absence of the regulation and the non-acknowledgment of bride price have heavy effects on marital stability and human right.

### 3. The effect of bride price on marital stability and human right

As mentioned above, bride price or dowry is only recognized under the customary law. Civil law has not officially admitted it as a condition for the validity of marriage (even if at times its payment is mentioned in the marriage certificate but this is optional and not obligatory). And we have seen the important role it plays in the validity of customary marriages as it determines the legitimacy of children born within the relationship.

We also need to admit to the fact that, the none-recognition or the absence of the legal regularization of bride price is a cause of so many abuses in the demand and the payment of bride price. It is true that the criminal law in its article 357 mentioned above, sanctions the excessive demand of bride price, but the question still remains: what does the criminal law mean by excessive demand of bride price? When do we consider the demand for bride price as being excessive? The lack of precision or clarity in this legal provision does not help the situation as it still leaves the doors open for misinterpretation and arbitrary<sup>[14]</sup>. That is why the law has to come in to regulate the payment of bride price. This is because the abuse of this has tremendous effects on marriage: it toys with marital stability as the excessive demand for bride can be the cause of domestic violence and marital instability which the law is fighting to eradicate (A). It should also be noted that the abuse of bride price can lead to the abuse of human right as the groom and his family can/would consider the bride as a commodity they bought with a high price (B).

#### A) The effect of high bride price on marital stability

The payment of high bride price is one of the main causes for domestic violence (1) and marital instability (2) which the law is fighting to eradicate. So, to succeed in this fight, there is the need to regulate the payment of bride price.

##### a) Domestic violence

Notwithstanding the legal restrictions regarding applications of customary law, a lot of women have suffered and had their rights violated because of bride price payment. Once the man has paid her bride price, the woman is reduced to the status of property because the man has paid for her. This practice however undermines women's dignity and welfare; moreover, it is prohibited by the preamble of the Cameroon constitution which provides that "*declares that the human person, without distinction as to race, religion, sex or belief possesses inalienable and sacred rights*". The presence of bride price payment or its excessive payment forces a woman to live under an intolerable and hostile family environment which subjects her to servitude and slave-like condition.

Dissolution of marriage in itself is not easy to obtain under customary laws. This is because the divorce is considered as effective only when the entire bride price has been refunded. Most often, the family of the bride has nothing and the refunding remains in the hands of the bride who, because of her limited resources is obliged to continue in the abusive marriage given that she cannot marry another person without refunding

the former husband. Further still women divorcees are not easily accepted by their own parents because the society's mistaken view is that the failure of their marriage is due to their haven not been properly brought up under proper instructions. Worse still, the failure is seen to reflect on the character of the woman's parents. So, the woman is always to blame and divorce is related to her domestic failures<sup>[15]</sup>.

It goes without mention that women are expected to sacrifice themselves to endure the harassment and mistreatment by their husbands for the sake of their children, if such a woman leaves her children behind to suffer she cannot be accorded sympathy by the community. This clearly shows that payment of bride price has serious implications on the woman and hence reducing her status to that of property. This causes violence like lack of maintenance, verbal assault, forceful sexual intercourse, lack of sexual rights, and many others. Many girl children are affected by the institution of Bride Price.

##### b) Marital instability

Studies on the effects of high bride price on marital stability abound. And in most of these studies, it has been proven that, high bride price could affect marital stability<sup>[16]</sup>. They presented a model whereby the husband hurts his wife's well-being in order to extract a payment from his in-laws where he feels the bride price was overpriced. They rely on a signaling mechanism, in which the abandonment threat is made credible by resort to violence. The bride's family gives in to violent behavior because it can only be committed by husbands willing to abandon their wife if their request is not satisfied. Thus, bride price was found to precipitate violence which has high tendency to affect stability in marriage. Both sexually and in terms of their labor, high bride price has long been linked to domestic violence, owing to women's fear of returning to their natal home without being able to repay the bride price. It is important to reiterate that divorce under customary law is only effective after the refunding of the entire amount of bride price no matter the number of years spent in the marriage nor the number of children produced in the marriage. It can also be demonstrated that high bride price increases the number of extramarital affairs for men, but decreases those of women. This extra-marital affairs increase the chance of marital problems in the family which can likely lead to marital separation; adultery being one of the main causes of divorce.

In Uganda, HAGUE and THIARA<sup>[17]</sup> wrote on the effect of high bride price on men which has serious implications on marital instability. They identified the effects of high bride-price on men in the interviews which were conducted with male respondents in the Members of the Public Interview data-set. The effects of high bride price on marital stability included poverty which the couples are forced to enter into by way of incurring severe debt. They maintained that high bride price heaps huge pressure on young inexperienced men when they have no resources; and young people start marriage and adult life in financial trouble, as poverty has serious implications on marital stability. They also commented on scenarios where high bride price led to the inability of the cohabitating man and woman to be separated due to inability to meet up with the high

demands from the girl's family in the name of bride price. They maintained that there were also issues around co-habiting, where parents had come to take their daughters back since the requested bride-price was clearly not going to be paid, breaking up the new family.

The excessive demand for price also has a negative impact on the couple as they start their marriage in poverty due to the high demands levied on them by the girl's family <sup>[18]</sup>. A custodian of the traditional cultures of the forest zone said that, "*It has resulted in poverty since it is costly and over charged and sometimes boys are left with nothing after the payment of bride price, and therefore suffer after marriage because all the money that would be used to feed the family was used to marry*". Young men spoke about how bride price affects them financially: "*We suffer so much because we pay a lot of money*". Another noted how men often get into financial trouble due to bride price and said '*The man may have to borrow substantially and go into debt and impoverishment in order to pay the bride price and may have no income. We think that this is a sort of financial maltreatment. Such realities would certainly shy men away from marriage and those who gather the courage to do so end up having a very unstable marriage with domestic violence and the abuse of human rights.*

### **B) The effect of high bride price on human right**

As already mentioned the high payment of bride price will certainly lead to the abuse of human right (1) and forced marriages (2).

#### **a) Human right abuse**

It is no more news that bride price contributes to the total subordination and dehumanization of women. It leads to the *enslavement and disrespect of the woman because she was bought through bride price*. A religious leader in Uganda mentioned that bride price was a human rights offence and said '*It is not right to put human beings on the commercial market, bargain for them and when one is fed up, dump them leaving the woman psychologically tortured. Women lose their dignity, have to do endless hard labour and then failure to produce children becomes a big crime once you have been paid for*'. Bride price is the root cause of the problems women face in traditional African societies and have influenced their status vis-à-vis property <sup>[19]</sup>. Under most customary laws, women cannot own or inherit property from their parents or husbands. In fact, women are regarded as legal minors. In the event of the death of her husband, a widow maybe inherited along with other property by her husband's relatives. The practice of levirate is widespread in certain regions of Cameroon and is classified as a 'forced' marriage. The widow finds herself in a difficult situation made worse by the fact that dowry was paid on her behalf before the solemnization of her marriage. Her failure to refund the dowry makes the widow an object of inheritance in the same light as a piece of property.

Evelyn OKOTH was right when she said "*the practice of pride price is a gross violation of human right and expose women and girls to violence and abuse especially when the amount paid is huge*" <sup>[20]</sup>. It subordinates women, objectifies them,

commercializes marriage and threatens their physical and mental health. It has far reaching health, economic and social, human rights and legal impacts.

Bride price is supposed to be a symbol or a token of appreciation to the family of the girl to be married off and not meant to dehumanize women as property to be owned, sold and bought off in order to satisfy men's selfish desires and egos. However, bride price is being misused to abuse girls and women. Men tend to think that after paying the bride price women become their goods, services and personal property to be owned, mistreated and dumped when they have outlived their purpose and use.

In Uganda for example, the Mifumi Project and Promot Mifumi Project (PROMPT) have said "*enough is enough*". On the 22<sup>nd</sup> of December 2001, the North-South partners championed the first ever referendum held in Uganda on a social and human rights issue. The campaign led to the majority voting for the reform of bride price and I think Cameroon should follow suit.

#### **b) Force marriage**

Forced marriage is widely considered as a form of violence against women. All the debates around this issue mostly go around human right issues and social justice perspectives <sup>[21]</sup>. Forced marriage can be defined as "*marriage into which one party is coerced without full and free consent including through threats or other psychological means*". In simpler terms, it can be defined as the situation in which a person is deprived of the freedom either to marry or to remain single or to choose their spouse.

According to the Universal declaration of Human Rights in its article 16/2, "*marriage shall be entered into only with the free and full consent of the intending spouses*". And one of the conditions for the validity of marriage under Cameroonian law (the preliminary draft of the law applicable to persons and family of 1981) is the presence of a free and full consent of the spouses. In all these definitions, free and full consent of the intending spouses appear as the key element for a valid marriage. Any pressure and violent actions can be considered as violation of the rule of free and full consent. No form of violence or pressure should be mentioned which means any form which can be physical, psychological, and sexual or any form of intimidation which can be emotional or economic violence or pressure can be considered as violation to the rule of free and full consent. These definitions can be genderless, but it is widely recognized and demonstrated that women are disproportionately affected by forced marriage, mostly because of the bride wealth (bride price) their parent obtain after the marriage of their girl child.

Bride price has also been associated with widow inheritance. In most cultures in Cameroon, a widow is expected to remarry a man from within her deceased's husband's clan because the bride price paid ties her to the clan and she is regarded as serving the clan in place of her husband (regarded as property to serve the clan). If she wishes to marry another man outside the deceased husband's family, she must return the bride price that was paid on her. Thus, the effect of bride price also nullifies the legal provisions on free choice of spouse. As if that

is not enough the relatives of the deceased husband will not allow the woman to move with any property. Their view is that once a woman is married everything she produces belongs to the husband.

The issue of bride price however does not remain only at that. It also affects the sexual and reproductive rights of a woman. One effect of payment is that the husband is entitled to sexual intercourse with the wife who has no right to refuse, regardless of the reason.

As results of these force marriages, most women end up with physical and mental health problems <sup>[22]</sup>. Most women forced into marriage are often victim to forced sex and sexual abuse by their supposed husband living these women with serious physical and mental health problems. Unwanted pregnancies, forced sexual intercourse and educational drop-outs are other negative effects of early marriage. Women that are sent to marriage too early end up dropping out of school because of the general perception of the community that, children cannot continue at school once they are married.

#### 4. Conclusion

With the perverse effects of the payment of bride price in general and particularly the excessive demand of it, it is indispensable for the legislator to see into its regulation at all levels. In fact, it is indispensable for the law to interfere in the matters of bride price payment either to explicitly limit the amount of bride price to be demanded by the bride's family or to regulate its payment. We have understood in the exposé above that marriage only dissolves when the bride price is refunded, which simply means that even the death of the husband does not put an end to marriage relation between the spouses as it is the case with statutory law. The woman continues to be the property of the husband's family even after the death of her husband. This obviously transforms the wife to the status of an asset.

Added to this is that fact that the law has not limited the amount to be demanded or to be paid by the groom's family. This depends on the customs and traditions of each locality, opening the doors to negotiations taking into consideration the educational profile of the bride, the skin texture, the beauty of the bride and many other factors, placing the bride in the position of a commodity for commercial transactions who will be offered to the highest bidder.

We therefore call on the African legislators and those of Cameroon in particular to see into this case of bride price payment to harmonize it with limits fixed as to the amount of bride price to be paid in order to give the woman her place, her importance and her respect as a human being, no matter whether she is a single or a married woman.

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