

# BRIDE PRICE



**Is it  
modern day  
slavery?**



# DEDICATION

To all the women of Kenya

## Acknowledgements

This baseline survey was conducted jointly by Center for Rights Education and Awareness (CREAW) and MIFUMI-Bride Price Network through the support of DFID-UK to determine the nature and significance of bride price and the role it plays in perpetuating domestic violence in communities particularly in North Meru and Kisii Districts.

CREAW wishes to acknowledge and thank all those individuals who have contributed to the production of this Report. We would like to thank Patrick Ndira and Atuki Turner together with the entire staff of MIFUMI-Uganda and MIFUMI-Prompt for envisioning and initiating this regional project and through whose dynamic leadership this project was born. We also wish to thank Mr. Kamau Mubuu, the lead consultant in the technical team involved in designing the survey. We would further like to thank Michael Wachira and Faith Mwendu who were the lead researchers in this Survey and who compiled the report under the guidance of the Executive Director, Ann Njogu, who we also wish to thank profoundly for her passion, vision and support.

In addition we are grateful to the Deputy Executive Director- CREAW, Emmah Munyambu, for her comments and her patience together with Joseph Wambuki and the entire staff at CREAW who were instrumental in the finalization of this report by submitting their respective comments on the same, which were edited and incorporated into the report by Elizabeth Njuguna, whom we also thank.

We would further like to thank Zackayo Lintari who facilitated the carrying out of this survey in Nkomo, Kimanchia and Limauru locations in North Meru District together with the key informants and participants in those locations. We would also like to thank Geoffrey Mogoire who facilitated the carrying out of this survey in Bogiakumu Bomarenda and Bonyanchaire locations in Kisii District together with the key informants and participants in those locations.

To all of you we say thank you!

# Forward

Tracing the origins of bride price would be as elusive as tracing the origins of marriage for since time immemorial the two have existed hand in hand.

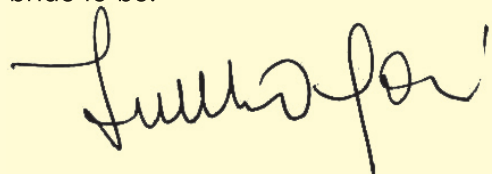
There however, in recent times seem to be conspicuous and emerging trends that point to the practice being commercialized in different societies thus reducing the woman to the status of a “cash cow” and a chattel for bargain.

The increasing commercialization of this cultural system disenfranchises and denudes the African woman of her basic freedoms as the payment of bride price serves to immediately remove her economic, social and sexual rights and vest them in her husband who then acquires absolute ownership of the woman as a result of paying bride price.

This reduces the woman into the husbands “property” with the husband having full authority over her. As a result many women have found themselves in abusive marriages.

Further more, the haggling and bargaining that characterize present day bride price negotiations totally denigrates women as human beings deserving being treated with dignity. It is indeed, a clear violation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) that requires women to be treated with respect and dignity<sup>1</sup>. There is therefore need for deep reflection on the institution of bride price whilst also seeking a radical reform of the same to protect the women’s human rights

It is indeed time for us to reassess the practice of bride price to enable us to not only safe guard the dignity of the woman but also safe guard cultural heritage because commercialization of the practice not only erodes its original intention and significance in marriages but also tends to have serious human rights implications on the life of the bride to be.



JUDY THONGORI –CHAIRPERSON  
CREAW



*1. CEDAW-Convention  
on the Elimination of All  
forms of Discrimination  
Against Women*

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# 1.0 INTRODUCTION

This study sought to determine the relationship between bride price and the incidences of violence against women among selected communities living in North Meru and Kisii districts, Kenya. It particularly focused on how 'commercialization' of bride price relates to prevalence and extent of domestic violence. The two communities were selected for the study because CREAM had already established strong links with them as a result of having worked closely with them at grassroots level. CREAM had indeed worked with various like-minded Community Based Organizations (CBOs) most of which had felt that domestic violence is on the increase in these regions. One of the hypothesized causes to this scenario was commercialization of bride price which makes male spouses perceive to have bought their wives. In the event of any domestic misunderstanding, men who have paid hefty bride price would therefore vent their frustration through perpetration of violence to their wives.

Although marriage among African communities is an institution that links families and clans through the coming together of a man and a woman, it may also be viewed as a communal affair that creates an alliance between the relatives of the duo rather than a contract between them in a western type of marriage. As a result of this communal involvement a father can bring an action to recover bride wealth from the man who is living with his daughter in circumstances

that indicate marriage and unless waived and only in very rare and exceptional cases, payment of bride wealth is an essential element of a valid customary marriage. Although bride wealth serves a definite role in the institution of marriage and its payment is accompanied by very elaborate ceremonies, it would appear that it is very much commercialized today where parents to a bride-to-be seize the opportunity to enrich themselves. The argument is usually that such parents are recovering the expenses of bringing her up, educating and providing for her, all which are part of their parental duties. The haggling and bargaining that characterize present day bride price negotiations totally denigrates women as human beings deserving being treated with dignity. It is indeed, a clear violation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) that requires women to be treated with respect and dignity<sup>2</sup>.

The practice of Bride Price has in recent times begun to lose its original symbolic meaning, function and significance and assume the form of a "wife-for-property" exchange. This study will show that most husbands who continue to abuse their wives always justify their actions by claiming that they purchased their wives, which gives them property rights over her. The property rights of course include the right to use, misuse and abuse!

2. CEDAW-  
*Convention on  
the Elimination  
of All forms of  
Discrimination  
Against Women*

3. Kavata's case only prosecuted after public outcry and even then was after she had died

4. Convention on The Elimination of All Forms of Discrimination against Women (CEDAW), The Universal Declaration of Human Rights, The Beijing Platform for Action, The Declaration on the Elimination of Violence against Women (Vienna Declaration, The Optional Protocol to the African Charter on Human and People's rights on the Rights of Women In Africa.

### 1.1 Statement of the Problem

Domestic violence perpetuated by partners and close family members on women has long been a matter of silent suffering within the four walls of the home. In Kenya, the phenomenon of domestic violence against women has been identified primarily as a private concern. Not until grievous bodily harm is inflicted and possibly death of a victim are the law enforcement agents willing to move<sup>3</sup>. This has limited the extent to which legal resolution to the problem has been actively pursued if at all. Indeed, in Kenya to date, we have no laws that criminalize domestic violence. This is despite the fact that Kenya has signed and/ or ratified international instruments<sup>4</sup> that guarantee equality, respect for human dignity, and respect for human capacity to make responsible choices.

Unfortunately it would appear that many women in Kenya especially in the rural areas are not aware of their basic rights in a marriage and thus tend to fall victims of domestic violence.

One of the latest studies on Domestic violence in Kenya<sup>5</sup>, which is a government report therefore mandating a degree of skepticism out of the governments notorious downplaying of social problems, nonetheless paints a grim picture which means the reality is probably worse. The study finds that 44% of married women divorced or separated aged 15-49 report that they have been physically or sexually violated by their husbands or partners while 29% said they had been victims of such violence in the year preceding the survey.

These Government figures contrasted with those of a private survey<sup>6</sup> which stated that a staggering 83% of women interviewed reported physical abuse and that 60% of married women reported that they were victims of domestic abuse.

This therefore gives credence to the assertion that violence against women is a ubiquitous feature of the Kenyan society. Cultural prejudices also play a huge role in ensuring that women remain submissive and obedient to their husbands and cultural practices such as that of bride price bestow upon the groom total control over his wife as payment of bride price ensures that he has not only purchased a wife but also acquired proprietary rights over her.

The practice of paying bride price in Kenya is solely in the preserve of customary law which is not codified. As such the nature and extent of the practice differs with each community. However in recent times the commercialization of bride price has seen some parents who under the mistaken belief that they can alleviate their long term strategic poverty through short term practical needs, quote exorbitant figures as bride price in order to unjustly enrich themselves.

The Kenyan Penal Code inter alia criminalizes violence against the body of a person and categorizes the same into general assault, bodily harm and murder with varying degrees of the same offences. It does not specifically outlaw domestic violence nor prescribe a punishment for it.

On the other hand, the current Constitution outlaws discrimination on the basis of gender ,sex religion, age or race, but the same provision takes that guarantee away under a claw back clause that states that such discrimination is not outlawed in matters of personal law including marriage, divorce, succession among others.

The domestic Violence (Family Protection) Bill, 2000 that was introduced into parliament in 2000 has to date not made much progress in parliament. Similarly the gains for women that were incorporated in the Bomas draft which sought to outlaw specific violations against women particularly



discrimination and also sought to recognize International and regional treaties as a source of law for Kenya are now feared lost with the Constitutional Review process having gone off track.

Other significant and pending bills include the Sexual Offences Bill (which as at the time of going to press had just received presidential assent) that was specifically watered down by parliament to include inter alia, the legalization of marital rape amongst other outrageous provisions. The HIV Aids Bill is still pending in parliament while the Protocol to the African charter on Human and Peoples Rights on the Rights of Women in Africa has yet to be ratified by the Kenyan government.

Sadly too is the fact that the criminal justice system and community institutions have shown little willingness, capacity and / or political will to ensure the protection of women from violence. Religion and tradition have also taught women to "respect" and stick to their abusive spouses. Further, the economic conditions prevailing in the country, the feminization of poverty and the traditional norms of property ownership have had great adversarial effects to the whole dictates of the balance of power.

## 1.2 Objectives of the study

### 1.2.1 General objective

The general objective of the study was to establish the relationship between bride price and violence against women within marriage among selected communities living in North Meru and Kisii districts in Kenya.

### 1.2.2 Specific Objectives

The specific objectives of the study were to:

- Determine the nature and significance of bride price among the North Meru and Kisii communities in Kenya in respect to marriage relationships.
- Examine the effect of payment of bride price on the quality of relationships among married couples in the said communities ,
- Determine whether the said communities feel the need to address the issue of bride price as a practice that contributes to domestic violence.
- Determine how the communities would like to address the issue of bride price and
- On this basis come up with recommendations on the institutional and legal framework to address the issue of domestic violence perpetrated due to bride price.

### 1.3 Study Assumption

The basic assumption of this study was that bride price has negative influence on marriage relationships, as one of the basis of domestic violence , that bear negatively on the lives of women.

### 1.4 Significance of the Study

To recognize sexual violence as a social ill within a social pattern requires us to see it as a product of history. Sexual violence and gender violence in general is a product of gender relations. Over the centuries men have gained lots of dividends from patriarchy systems. Patriarchy has produced a social structure of inequality involving a massive dispossession of social resources. Patriarchal definitions of femininity

5. Central Bureau of Statistics ( Government of Kenya); Kenya demography and health Survey 2003- report released in 2004.

6. Johnston, Tony- Domestic Abuse in Kenya (Nairobi; population Communication Africa, 2002 p. 10

7. *Supra note 5&8*  
8. *Please refer to note 17 & 18*  
9. *Child marriage, a cause for global action-Erica Chong & Nicole Haberland.*

10. *Masai- A unique and colourful people -by AWAKE (A Kenyan writer)*  
11. *UN- United Nations Convention on the Rights of the Child (CRC)*  
12. *UN- United Nations Convention on the Rights of the Child (CRC)*

(dependence, fearfulness) amount to cultural disarmaments that may be quite as effective as the physical kind.

Given the high rates of domestic violence in Kenya<sup>7</sup> and going by the information CREAM has obtained by working with the grassroots level communities, a formal study to identify how the practice of bride price relates to domestic violence is most timely and important to enable a wider and perhaps more objective understanding of the root causes of domestic violence. Though researchers have attempted to conceptualize and examine bride price in a number of ways, it would appear that little or nothing has been done to link the practice with incidences of violence against women.

Anthropological pieces on marriage and kinships<sup>8</sup> tend to lean towards the nature and significance of bride price in certain communities in Kenya but does not fathom further into the linkage between bride price and domestic violence.

This study assumes that the practice of bride price is among the major factors that contribute to domestic violence (especially that which is perpetuated to women by men) among African communities in general and Kenyan communities in particular. The main goal of this study is therefore to explore the prevalence, extent and nature of bride price practices with a view to suggesting how it can be addressed to reduce domestic violence meted to women.

In Kenya the practice of bride price is in the preserve of customary law which is not codified and the nature and extent of the practice differs with each ethnic group. As such, there are no hard and fast rules on the regulation of the practice and this creates a loophole for parents who wish to alleviate themselves from poverty to misuse the practice to unjustly enrich themselves by demanding high Bride Price.

The need for parents and kin to make financial gain out of bride price is best manifested by the increase in the number of early and forced marriages among certain communities in Kenya for example in Nyanza where Child marriage is also relatively common. One out of three women aged 20–24 is married by age 18<sup>9</sup>.

Because marriage before 18 is prevalent in developing countries, the practice becomes an obstacle to nearly every Millennium development goal viz,

- Eradicating Extreme Poverty and Hunger
- Achieving Universal Primary Education
- Promoting Gender Equality and empowering women
- Reducing child mortality
- Improving material health

The girl-child is forced to marry or married off at an extremely early age when she may not appreciate her new status nor have the capacity to play her role effectively as a mother and a wife. Masai parents for example may arrange a daughter's marriage while she is still an infant. The girl is promised to a man who possesses enough cattle to pay the bride price demanded by her father. Often she will be married to a man much older than herself and will take her place among the other wives in his household<sup>10</sup>.

This is not to mention the complications that may come with early conception and delivery. Early marriages deny the girl-child her right to development and education that are enshrined in the United Nations Convention on the Rights of the Child<sup>11</sup> (CRC) - Articles 6(2) and 28(1) respectively. Article 12(1) of the said CRC clearly provides that a child shall be consulted on matters that affect his/her life in accordance with his/her evolving capacities; Article 3(1) further provides that all such decisions shall be in the best interests of the child<sup>12</sup>.

The forced marriages in which most girls find themselves in are in total ignorance of the opinion of the girl and in most instances are definitely not in the best interests of the child.

As can be seen from the foregoing, most of the data surrounding the issue of domestic violence is not centered on Bride price as the root cause of domestic violence but rather tends to portray domestic violence as a phenomenon brought about by factors such as poverty, lack of awareness on human rights and ignorance of the general law etc. There is therefore the need to engage in the area of bride price and domestic violence in order to generate empirical data that could be used to determine the extent to which Bride Price perpetuates domestic violence and thereafter lobby appropriate legislative measures to discourage the practice. Moreover, data generated by such a study can be useful in generating new knowledge that could be shared among like-minded stakeholders in the general area of human rights in order to claim and protect women from undue violations in marriage relationships.

### 1.5 Definition of Key terms

#### *Bride Price:*

According to Wikipedia – The free encyclopedia, bride price also known as bride wealth or a dowry is an amount of money or property paid to the parents of a woman for the right to marry their daughter. Or the payment is an exchange for the bride's family's loss of her labour and fertility within her kin group.

The free dictionary by Farlex describes bride wealth as a payment in the form of money or property or other valuable

asset that is made by or on behalf of a prospective husband to the bride's family in certain cultures or societies.

The terms dowry and bride price are often erroneously used to refer to the same concept but in reality differ substantially. Dowry according to Wikipedia - The free encyclopedia is a gift of money or valuables given by the bride's family to that of the groom at the time of their marriage.



## 2.0 : LITERATURE REVIEW

13. *The Bible Book of Genesis 29:18 King James version*

14. *Kenya (Jamburi Ya Kenya) – Nobert Brockman*

15. *Kariuki, C. W. (2004) Masculinity and Adolescent Male Violence: The Case of three Secondary Schools in Kenya*

16. *Davison J- (1989) Voices of Mutira : Lives of Rural Kikuyu Women*

17. *Supra note 10*

The practice of Bride Price is an age old practice dating as far back as ancient times. In the Bible the most notable recording then being in the Book of Genesis where Jacob seeking the hand of Rachel pledges to serve her father for seven years in return for Rachel's hand in marriage<sup>13</sup>. This is perhaps one of the earliest recordings of a practice that has evolved throughout time and exerted influence on customary practices on marriage the world over.

Closer to home, the practice of bride price has always featured as a significant part of African customary practices surrounding marriage and it would appear that it plays both symbolic and economic functions in the community in which it is practiced.

The symbolic functions of the practice include the payment of bride price as a sign of appreciation to the parents of the bride and also to signify a bond that ties the two families together. Its economic functions assume an important role in the distribution of property and this is characterized by the intended groom providing to the parents of the girl a substantial amount of money and/ or goods before the marriage can be contracted.

If a marriage is not successful, the Bride Price will be returned, it is a further indication that marriage is primarily seen as the alliance of families rather than an interpersonal commitment based on love. Marriage is cemented by the bride wealth,

giving a large number of the bride's family a material stake in the perseverance of the marriage, a form of marital insurance<sup>14</sup>.

Kenya is typically a patriarchal society and the element of masculinity is deeply entrenched in the cultural practices of Kenyan communities. For example, a quick comparison of the vocabularies on gender in the *Kikuyu* language reveals that the word for man, *mundu-murume*, comes from the word *urume*, which means extremely courageous. In contrast, the word *mutumia* (woman) comes from the word *tumia*, which means to "shut up" or condone. Thus men from the *Kikuyu* ethnic community not only define themselves as the dominant sex, but also in terms of the norm of seeing that women merely exist for their use (Kariuki 2004)<sup>15</sup>. In the voice of a Kenyan woman who recounts the advice she got from her mother prior to marriage: respect him (her husband) and do what he wants lest he demands back the *uracio* (bride-price) that had been paid (Davison, 1989)<sup>16</sup>. There is thus every reason to believe that the Kenyan society has socialized the male to think of females not only as subordinates, but also as their instruments<sup>17</sup>.

Bride price payments have been interpreted in numerous ways. In many cases, groups justify the practice by claiming that the wealth received compensates them for time and trouble taken to raise a daughter who will be sent off to live with another family. In others, it is viewed as compensation for

the loss of a daughter's economic services or for the children she adds to her new family. For example, among the Dani of New Guinea three separate conjugal assets are recognized in transactions that are separated in time. A man must make gifts of special valuables, such as pigs, shells, or stones to his wife's family when:

1. He first contracts a marriage and his bride starts working on his farm,
2. He acquires sexual rights over his wife and consummates the marriage, and
3. His wife bears a child.

Among the *Igbo*, the bride price is more narrowly thought of as a payment to acquire rights in the children of the marriage and must be returned if a woman is barren or leaves the marriage before producing children<sup>18</sup>.

Among tribes like the *Nuer*, *Turkana*, and *Maasai*, borrowing to make up the agreed upon bride price puts the groom in debt to his older male relatives for many years. The bride's father usually disburses the payment in turn as bride price for his sons and nephews. As a result, the community's wealth is circulated. Among these tribes, the bride's family has a strong economic interest in keeping her marriage together because a divorce would require the return of the bride price, which often has already been given away to relatives. If there are children, however, the bride price usually does not have to be returned, but they belong to the groom's family. He keeps the children instead of the bride price. In a sense, the bride price becomes a payment for children and, therefore, has also been referred to as "progeny price".<sup>19</sup>

Bride price was always relatively high among the *Gusii*, as indeed it was for many other agricultural Bantu-speakers

(somewhat ironically, seeing as they had much less livestock to exchange than the cattle-herding *Maasai*, for example, who had and still have very low bride price). The phenomenon was in part caused by the equivalent of an inflationary spiral: in a society where cattle were both prestige goods and ill-adapted to the wet and hilly environment, where every father feared being left in the lurch by finding that the bride wealth which he had accepted for his daughter would not suffice to get him a daughter-in-law in turn; therefore he was always on the look out for any signs of a rise in the rate, and tended to raise his demands whenever he heard of other fathers doing so.

One highly contentious result of this, according to the North American anthropologist Robert LeVine, was two famous mass outbreaks of rape in *Gusii*-land, in 1937 and 1950. According to his research, the bride price in both those years had soared beyond the reach of young *Gusii* men.

There have been articles published which also suggest that amongst the *Kisii* community there was a practice of "marriage by abduction".

Academics describe marriage by abduction as the practice whereby a man takes a woman by force, rapes her and then attempts to use the stigma of rape and, should she become pregnant, the shame of pregnancy to secure their marriage (*Journal of African History* 2003, 242 n2; Associate Professor 22 Sept. 2003a). An article in the *Journal of African History* by Brett Shadle of the University of Mississippi indicates that the practice occurs when a man cannot afford the required bride price, a payment made by the husband to the wife's family in order to establish a marriage (2003, 242 n2; - **Excerpt from issue papers and extended responses (KEN 41968.E from the Immigration and Refugee Board of Canada)** Shadle's research shows that, historically, marriage by

18. *Brian Schwimmer-Bride Wealth*  
19. *Dennis O'neil-Marriage Rules Part II*

20. *Excerpt from  
issue papers  
and extended  
responses  
(KEN 41968 E  
from the  
Immigration  
and Refugee  
Board of  
Canada)*

abduction occurred among the Gusii in the 1890s, 1940s, 1950s and 1960s (*Journal of African History* 2003, 245-248). During these periods, the bride price rose to heights unattainable by most men as a result of drastic changes within the economy (*ibid.*). Despite the practice's historical precedence, however, an assistant professor of history at the University of Mississippi, who wrote a Ph.D. dissertation on the prevalence of runaway wives, eloped daughters and abducted women in Gusiiland, in the period between 1900 and 1965, said in correspondence with the Research Directorate that he believed the practice no longer existed among the Gusii and that if it still did, the courts would rule in favour of the women (*ibid.*).

However, a Gusii-born associate professor at Jackson State University said that although marriage by abduction is not as common as it has been, it does still exist (18 Sept. 2003a). The associate professor also said that a man, unable to pay the bride price or in competition for a girl he wishes to marry, will follow her until she is alone. While she is collecting water or firewood, for example and then will literally grab her and carry her home with him (Associate Professor 18 Sept. 2003a). Even if someone witnesses the abduction, no one will intervene since it is a practice that is neither condemned nor condoned (*ibid.*). The man then brings her to his home and rapes her (*ibid.*). No longer a virgin, she becomes unappealing to other men and more receptive to her abductor's efforts to either encourage or shame her into staying with him in order to spare her family and her clan any embarrassment (*ibid.*).

On a final note about marriage by abduction, the associate professor said that if a girl or woman decides to remain with her abductor, he will eventually need to pay the bride price to sanction the marriage (*ibid.*)<sup>20</sup>.

## 3.0 : METHODOLOGY

This study was basically an exploratory survey on the nature and significance of Bride Price and the extent to which it perpetuates domestic violence amongst some sections of Kisii and North Meru communities in Kenya. As such, much of the data was largely elicited through a questionnaire administered among various participants in both these communities. Other pertinent primary data was generated through other instruments such as Focus Group Discussion guides and thematic checklists targeting different key informants in the aforesaid communities.

### 3.1 Site selection and Site Description

The survey was conducted in Nkomo, Kimanchia and Limauro locations in North Meru District (hereinafter referred to as the North Meru communities) and Bogiakumu Bomarenda and Bonyanchaire locations in Kisii District (hereinafter referred to as the Kisii districts) communities in Kenya. The two areas were selected as CREAM has strong links at the grassroots and with Community Based Organizations through which it has been appraised of the nature and extent of domestic violence especially due to the conception of ownership of a woman as result of the men in those communities having paid bride wealth for their wives.

#### 3.1.1 North Meru District

North Meru district is inhabited mostly by the Meru ethnic

community. It has a total population of 498,880 inhabitants with a male population of 248,027 and female population of 250,853. The population density is 167 people per square Km. North Meru has the third lowest unemployment rate in Eastern Province and is the 7<sup>th</sup> overall in the country. Primary school enrolment rate is 74.6% and the secondary school stands at 27% meaning that so many pupils do not proceed to secondary schools. The largest numbers of these are girls. It has the 5<sup>th</sup> largest population in Eastern province.

#### 3.1.2 Kisii District

Kisii is home to the Abagusii ethnic group though so many other ethnic groups have settled there. The district population stands at 491,786 with 234,448 males and 257,338 female and a population density of 758 persons per km. It is the most densely populated area of Nyanza Province and ranks second in terms of rural population density in the country after Vihiga. Kisii has the least unemployment rate in Nyanza at 5%. 22% of children under 5 years are malnourished. ½ of Kisii residents have clean drinking water and safe sanitation. Enrolment rate in primary schools is 74.2 % and secondary schools is 34.8%.

#### 3.1.3 Sample Design and Sampling procedures

The baseline survey adopted a Purposive (Subjective) sampling method to identify respondents, participants, case studies

and key informants for the study. This is because CREAM is familiar with both communities and had to identify women who are married in North Meru community. While snowball sampling technique was used to identify women who have had bride price paid for them.

#### *3.1.4 Data Sources and Data Collection Methods*

During the visits, data was collected using the following research instruments: questionnaires, which were distributed to married women and girls and homes in North Meru and Kisii. In-depth interviews were conducted with marriage counselors, police and chiefs as key informants. Focus group discussions were held whereby groups of eight (8) to ten (10) people were openly engaged on issues relating to bride price practices and how it relates to domestic violence.

#### *3.1.5 Data Analysis Interpretation and Presentation*

The data collected was subjected to electronic analysis via the use of SPSS-programme and interpreted in line with the objectives of the study. It was thereafter presented in the form of Bar Charts.

#### *3.1.6 Limitations of the Study*

This survey was carried out in certain locations in North Meru district and Kisii District. While developing the initial questionnaire which was distributed in North Meru, the research team designed the questionnaire with very few open ended questions which then confined participants strictly to

answer “yes” or “no ” . This greatly reduced the chances of obtaining diverse views on some particular questions and it was only during the analysis of the data obtained from Meru North were the researchers able to appreciate that a more interactive questionnaire would have yielded details that would have added value to the report.

However with the benefit of hindsight the Kisii questionnaire was redesigned to include more open ended questions which then brought out diverse answers to the questions asked.



# 4.0 : DISCUSSION OF THE FINDINGS

## 4.1 Introduction

This chapter discusses the findings of this study as per the objectives highlighted in Chapter One. The data discussed were obtained from 120 survey respondents distributed equally in three locations in each of the two districts, Kisii and Meru. Additional data was obtained from key informants, focus group discussions, participants and case studies. Interpretation of data has been done within the context of human rights discourse with a view to determining the hypothesized relationship between bride price and incidences of domestic violence perpetrated by men to women in a marriage context. In-depth discussions of major issues pertaining to the relationship of the two variables is preceded by a brief description of socio-demographic characteristics of respondents.

## 4.2 Socio-Demographic Characteristics of the Respondents

### 4.2.1 Age of respondents

The majority of survey respondents (33.3%) fell between the ages of 26 - 30 years. Those between 31 – 35 years comprised 32.5% of the sample while those in the age categories of 20 – 25 and 36 and above accounted for 27.5% and 6.7% respectively (see Table 4.1). This means that most of the respondents were married for not less than five years, competent to herald on their marital experiences pertinent to the subject of inquiry.

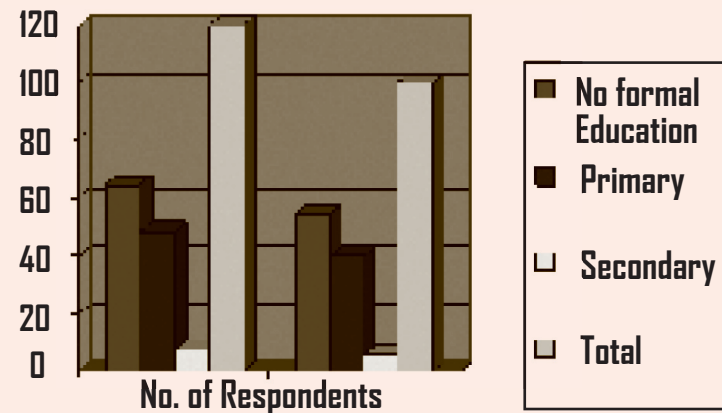
Table 4.1 Distribution of Respondents by Age

Age of respondents	No. of Respondents	Percentage
20 – 25 years	33	27.5
26 - 30 years	40	33.3
31 - 35	39	32.5
36 & Above	8	6.7
Total	120	100

### 4.2.2 Educational level of respondents

In regard to educational levels, an overwhelming majority of them had either no formal education (54.2%) or had only primary education (40%). Put together, the two categories

Chart 4.1 Distribution of Respondents by Level of Education



accounted for 94.2% of the 120 respondents interviewed in the study. Only a mere 5.8% had attained secondary education (not beyond A' level) while there was none who had attained college or university education (see Chart 4.1). The situation in regard to FGD participants and case studies on education was not any different. Overall therefore, the sample for the study was dominated by women with relatively low educational achievements whose exposure to human rights discourse is quite limited. This is however, the real scenario that one would expect of majority of women living in the rural areas in Africa.

#### 4.2.3 Marital status of respondents

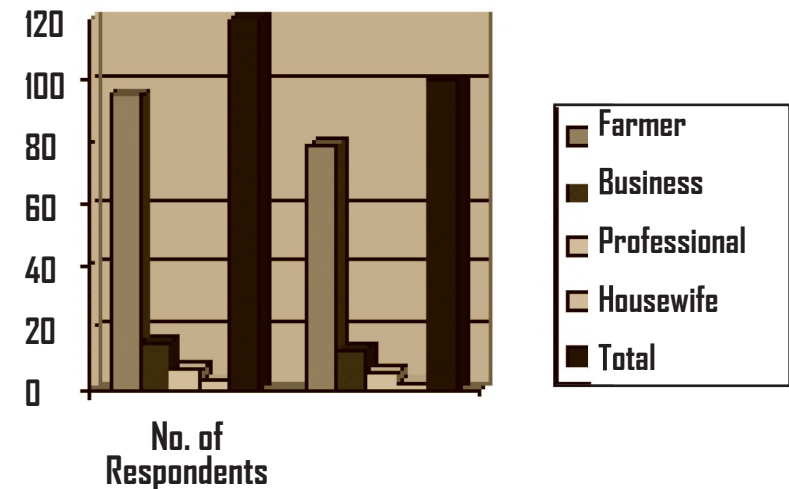
All the 120 survey respondents in the study, except a single divorcee in Meru, were married under either customary or statutory law or living in a marriage set up that may fall in a wide variety of customary arrangements.

#### 4.2.4 Occupation of respondents

The majority among the 120 respondents interviewed in the Kisii and Meru districts were peasant farmers accounting for 79.2% of the survey sample. Another 12.5% comprised of small scale business women while 5.8% and 2.5% of them were professionals and housewives respectively (see Chart 4.2).

Women peasant farmers therefore, also dominated the FGD participants, key informants and case studies selected for the study. This implies that the overwhelming majority of the subjects studied are a low income group, bearing on the extent to which they can claim and protect their rights in marital relationships.

Chart 4.2 Distribution of respondents by occupation



### 4.3 Significance and Nature of bride price among the studied communities

#### 4.3.1 Payment and Significance of bride price

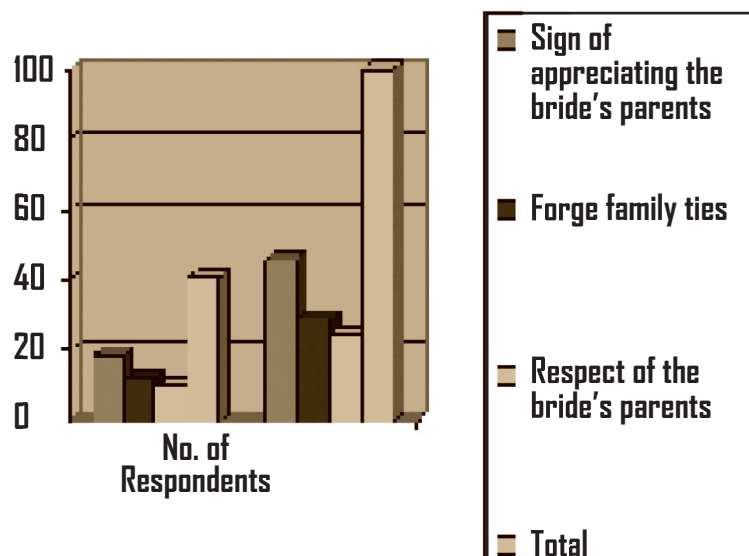
The study revealed that bride price, which is mandatory for a man to pay, plays an important role in customary marriage among both Gusii and Ameru communities. Indeed, survey data indicates that an overwhelming majority of the women (76.7%) had had bride price paid by their husband upon marriage. Only a mere 23.3% of the respondents whose husbands had not paid bride price in both districts (see Table 4.2).

Table 4.2 Distribution of Respondents by whether bride price was paid

Whether bride price was paid before marriage	No. of Respondents	Percentage
Yes	92	76.7
No	28	23.3
Total	120	100

Apart from signifying that a serious transaction has taken place between two families, that of the groom on the one hand and that of the bride on the other, it also symbolizes

Chart 4.3 Distribution of Respondents by reasons of paying bride price (Kisii)



an establishment of a lifelong relationship between the married couple, the two families and the clan. Indeed, some

of the reasons cited by respondents in regard to bride price payment are: sign of appreciating the girl's parents work in bringing forth the wife of their son (46.3%), forging and nurturing family ties (29.3%) and a show of respect for the girl's parents (24.4%) as depicted in Chart 4.3

For respondents who had not had bride price paid to their parents, 57.9% indicated that their husbands were not able to pay at the time of marriage, 21.1% did not demand it because they were not comfortable with the groom while another 21.1% indicated that their husbands were unable to pay by virtue of being unemployed at the time they got married.

This is supported by the outcome in the F.G.D'S where it emerged that the cases of single mothers in both those communities was on the increase and this could be attributed to young couples living together without being either customarily or statutorily married. It was expressed during F.G.D's that in such relationships, the men had not paid any bride price for the various reasons outlined above and so were at liberty to abandon their "wives" at will.

#### 4.3.2 Nature of and mode of bride price among the Meru and Gusii

Although traditionally, there may be differences on preliminaries regarding courtship and marriage between the two communities, its nature and practice is essentially similar in many respects as would be expected across many African societies and cultures. Among the Gusii, when a boy identifies a girl that he admires, he immediately informs his family who will then send an emissary or agent known as "esigani" to the family of the girl to survey and determine the background of the girl's family. Great care is taken to ensure that the two

21. 1986 joint research Ministry of planning and National development & Institute of African studies University of Nairobi

22. Excerpt from article Traditional music and cultures of Kenya by Jens Finke

families are not within the prohibited degrees of relation and once the agent completes his assessment of the girls family he relates the news back to the family of the boy who then invite the girl's family to view cows at the boy's home.

Once the girl's family is satisfied, arrangements are made for parents of the two families to meet so that they can determine the amount of bride price, the mode and procedure of payment. Women do not play a central role in these transactions which are purely a male affair<sup>21</sup>. This is where the super ordinate – sub ordinate arrangement in the subsequent marital relationship begins. Ordinarily, animals such as cattle, sheep and goats feature prominently as the mode of payment as traditional symbols in marriage rituals, though most recently, part of these are converted into cash. Depending on the agreement reached by the two families and their clans, bride price may be relatively high. Many factors determine the number of animals that a father will ask for as bride price. Sometimes it would be how well he compares with others within his clan, society or neighbours or the level of education of his daughter. As a result, young men together with their parents and clan would be pressured to raise the required number of animals in exchange for the girl.

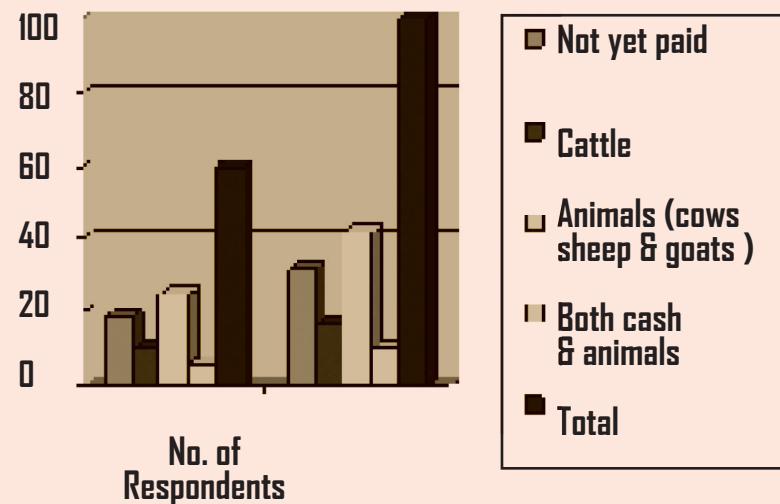
Perhaps this is well captured in a quote regarding bride price, which would buttress the basis for high bride price and the attendant pressure it would exert on young men who desired to marry:

*"Bride price was always relatively high among the Gusii, as indeed it was for many other agricultural Bantu-speakers (somewhat ironically, seeing as they had much less livestock to exchange than the cattle-herding Masai, for example, who had and still have very low bride price). The phenomenon was in part caused by the equivalent of an inflationary spiral:*

*in a society where cattle were both prestige goods and ill-adapted to the wet and hilly environment, where every father feared being left in the lurch by finding that the bride wealth which he has accepted for his daughter will not suffice to get him a daughter-in-law in turn; therefore he is always on the look out for any signs of a rise in the rate, and tends to raise his demands whenever he hears of other fathers doing so. One highly contentious result of this, according to the North American anthropologist Robert LeVine, was two famous mass outbreaks of rape in Gusii-land, in 1937 and 1950. According to his research, the bride price in both those years had soared beyond the reach of young Gusii men"<sup>22</sup>.*

According to survey data elicited in Kisii, the present mode of payment includes cash in addition to livestock which include cattle; sheep and goat (see Chart 4.4).

**Chart 4.4 Distribution of respondents by the mode in which bride price is paid among the Kisii**



### *4.3.3 Influence of bride price on marital relationships*

The majority of respondents in Kisii district, whose spouses had paid bride price in either one or a combination of the modes shown in the above table, indicated that they had struggled to make such payment as expressed by 65% of them. The rest 35% indicate that their spouses had not struggled in making the payment. The reason for such struggle is unemployment (28.2%), inadequate savings (59%) or bride price is simply too high (12.8%). The women whose husbands had not struggled to raise and pay bride price indicated that it was due to their being allowed to pay in installments (42.9%), having eloped (38.1%) or simply that their families could not afford it (19%). As for Meru district, of which exact statistics could not be computed, other items went into the payment of bride price including clothes, miraa and sugar.

Information gathered from F.G.D'S in this regard tends to explain further the importance of items such as the miraa and sugar. The sugar is a present day substitute for honey which was used to prepare a special honey brew that was consumed by the father of the bride and that of the groom during the period of bride price negotiations.

According to data obtained from a key informant, preparations for marriage are traditionally ceremonious and intricate among the Ameru, but with local variations in subcultures, for example, whether it is among the Atharaka, Imenti, or Tigania.

Among the Tigania for example, a young man identified a suitable girl for himself and after courting for a while the girl introduced the boy to her parents who asked him where he came from. This was largely to determine the respectability and credibility of the boy's family and if the prospective

couple were within the degrees of prohibition. The boy then informed his father who then gathered Miraa to take to the girl's father and thereafter the elders decided on the viability of the marriage with the girl-signaling acceptance of the boy by accepting some sticks of Miraa presented to her by the elders.

Bride Price included a heifer, a bull and three goats in addition to certain other items that had to be presented to the girl's home before collection of the girl and this included a gourd of honey, a goat and a ram.

In present times however although most of the ceremonious practices such as the presenting of miraa to the girls father were still observed, present economic times and constraints have made it necessary to revise some practices such as presenting of honey to the girls father which has widely been substituted for sugar which is more readily available. Similarly during focus group discussions with the participants in the communities it was observed that in addition to the items mentioned above, a cash amount was also included depending on the level of education of the girl and/ or the affluence of her family in the society. (See case study 3).

It emerged in an FGD that economic constraints are a key factor in why some men cannot pay dowry for their wives but instead opt to elope. Payment of bride price seems to have lost its original symbolic meaning and is instead being replaced by a girl's parents seeking to elevate their economic status by demanding exorbitant amounts as bride price. This view is again reinforced by responses from participants who when asked if in some cases parents would marry off their daughters to rich men, 92% answered in the affirmative. (See Table 4.4)

Overall, data from the various sources indicated that young men and their families do struggle to raise bride price, a

reason that may explain why they could easily be frustrated in a relationship where the wife might refuse to be controlled in marital set up. Indeed, survey data indicates that majority of the women appreciated that their husbands had had difficulties in raising bride price for various reasons.

Further data suggest that the respondents felt disrespected by virtue of bride price having been paid to their parents, a majority (66.7%) felt disrespected for having been exchanged for money or other form of property while the rest (33.3%) did not feel disrespected by their parents.

Of those who felt disrespected in Kisii district, their reasons ranged from not being consulted (17.9%), protracted negotiations (30.8%), family blessing should have sufficed (20.5%) and that their husbands treated them as property for having paid bride price (30.8%). Indeed 68% of them indicated that this affects their relationship negatively. Only 31.7% indicated that their relationship has not been affected negatively by the payment of bride price.

**Table 4.3 Distribution of respondents by whether they felt disrespected for being exchanged for cash or property**

Whether felt disrespected by being exchanged for money	No. of Respondents	Percentage
Yes	80	66.7
No	40	33.3
Total	120	100

Another effect as aired by most of the respondents (73.3%), in both the studied districts is that they felt payment of bride

price as a condition for marriage affects their relationships with their husbands. Only a mere 26.7% of the respondents indicated that payment of bride price has no bearing to their marital relationships (See Chart 4.5).

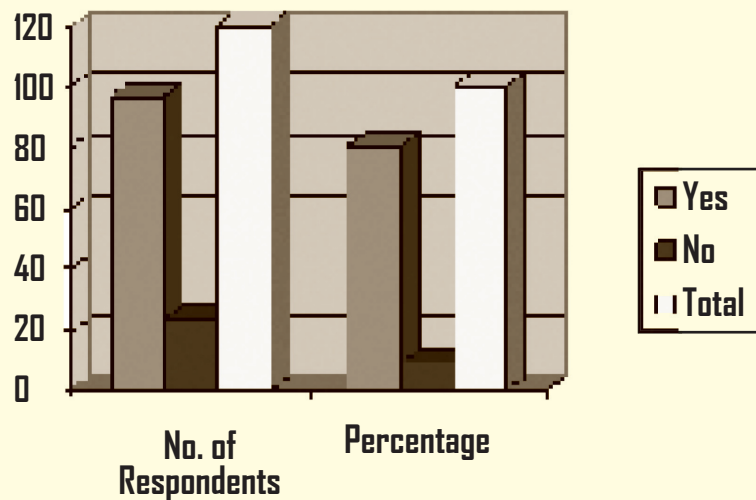
Of the 60 respondents in Kisii district, those who indicated that bride price influenced their marital relationships cited the pressure put by their parents on their husbands, which is then occasionally vented onto them (53.6%) and the issue being raised by their husbands whenever they disagree (31.7%). Seventy-eight of those in Kisii whose husbands have not paid bride price felt that their marital relationships are better because they can part with their husbands in case of an irresolvable disagreement. They also had the options to leave or stay in an abusive marital relationship.

Majority of the respondents were affirmative that bride price affected marital relationships negatively. They indicated that husbands who had paid bride price perceived it as having acquired the right to mistreat women (30%), that wives were their property (38.3%), it was some form of control (18.3%) and the women should not have a say in the home (13.3%). Indeed most respondents (71.7%) observed that this was because most parents cannot afford to pay back bride price in spite of being unhappy when their daughters are abused. They would thus helplessly sit back when their sons in law meted domestic violence on their daughters.

These findings tie with the views brought out during focus group discussions where it emerged that in Kisii for example, men had the tendency to “discipline” their wives whenever the wives were “disobedient”. The forms of disobedience ranged from talking back to the husband to even attending women’s group meeting without the authority of the husbands. The right to discipline of course is acquired through payment of

bride price as the husband is entitled to absolute control of his wife by virtue of such payment. In the Meru communities the views from F.G.D's also tied with the survey findings with the participants on this question and it emerged that once dowry was paid the men were of the impression that their wives should remain submissive to them and should not own any property of their own apart from that which the husband had authorized. In all these instances it was evident that the denial of rights in the relationships stemmed from payment of bride price

Chart 4.5 Distribution of respondents by whether they feel that bride price affects their relationship negatively



It also emerged from the survey data that parents have tendency to marry off their daughters to rich men for huge sums of money as attested to by 92.5% of the respondents (see Table 4.9). Only a mere 7.5% of the respondents gave a negative response. The two major reasons offered for such tendencies were; acquisition of higher status in society and

accessing easy money to alleviate poverty scoring 56.9% and 41% respectively.

The findings on this question are understood more clearly when read together with those on the question on why bride price was not paid. In Kisii for example, over half the participants who answered this question said it was not available at the time of marriage. F.G.D's on this question brought out the opinion that high sums of bride price were sometimes asked for by the parents of the girl leading to the inference that the girls parents were looking for a suitor who could afford to pay such large sums as bride price.

However during focus group discussions it emerged that it was not uncommon for would be husbands to reach an agreement with the girl father on payment of bride price in installments but this was of course subject to variables such as the amount of bride price asked and the time allowed for payment.

(See case study No 4 )

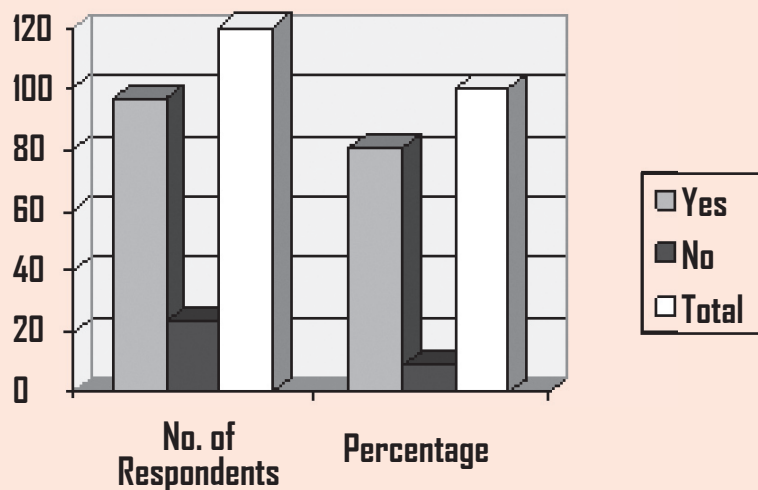
Table 4.4 Distribution of Respondents by cases of parents marrying off their daughters to rich men for huge sums of money.

Do some parents marry off their daughter to rich men for huge sums of money?	No. of Respondents	Percentage
Yes	111	92.5
No	9	7.5
Total	120	100

On whether the practice of bride price should be abolished, 80.8% of the respondents in both Kisii and Meru districts were affirmative while the rest 9.2% responded in the negative (see Chart 4.6). Of the respondents in Kisii district, 23% of them opined that this should be banned for it no longer served the symbolic function it did traditionally, did not promote marital happiness (22.7%) and gave men the perception that they were entitled to mistreat their wives (27.3%). In Meru, respondents indicated that if banned, men would stop having an excuse of mistreating their wives (28.3%), remove the perception among men that women are inferior (11.3%) and that women would start accessing their rights (30.1%).

Those who felt that it should continue with reform were of the view that it brought together two families (56.7%) and was a symbol of appreciation on the side of the groom and a sign of respect for the girl being married (43.4%).

**Chart 4.6 Distribution of respondents by whether bride price practice should be banned**



All 120 (100%) respondents in the two districts studied indicate that there is need to sensitize communities on the negative influence of bride price on marital relationships. The reasons were that; this would curb harmful traditional practices relating to the institution of marriage (76.7%), husbands would stop treating their wives as if they were their property (13.3%) and that such sensitization would reduce incidences of domestic violence that directly resulted from the practice and women's ignorance of their rights. Indeed, respondents further indicated that one of the benefits of such a ban would be to have couples and families co-exist peacefully in marital relationships (50%), curb mistreatment of women by their husbands (16.7%), women would enjoy better quality of life in marriage (13.3%) and that there would be greater respect for women in the communities (20%).

These views were reiterated in focus group discussions where participants in Meru North outlined some harmful cultural practices such as where a woman in an abusive relationship has not had bride price paid for her, she cannot return to her parents' home with the children of the man as they will not be recognized. This practice then sought to keep such women trapped in these relationships for lack of an alternative place to seek refuge and also for the sake of the children. During F.G.D's it emerged that the doing away with bride price would then mean opening an avenue for such women and their children to seek refuge from their parents during such periods of violence. (See case studies Nos 1 , 2, 5 & 6)

On the converse, some of the respondents and FGD participants who supported the continuity of paying bride price among the studied communities indicated that bride price bestows certain advantages on the woman especially where she has had children. They said that in the event that she left the matrimonial home for whatever reason, her



children would be regarded legitimate and as products of a legitimate union with full rights of inheritance.

It emerged during F.G.D'S in both Meru North and Kisii communities that both the payment and non payment of bride price results in the marriage relationship being affected in a certain way. On the one hand, payment of bride price ensures a woman's place in the marriage as the legitimate wife of her husband but at the same time makes her prone to domestic violence related to bride price where the concept of ownership of the wife comes into play. On the other hand non payment of bride price while giving the woman some element of freedom within the relationship also puts her in a precarious position where she is uncertain of her status as the recognized wife of the man and runs the risk of her children being disowned by not only the man but also her immediate family.

It clearly emerged during the F.G.D'S in both the Kisii and Meru communities, that the immediate underlying factor in the positions taken by the advocates for and against bride price was legitimacy of the women and children in such marriages. However participants were also at a loss as to how to address the issue of bride price and safeguard their status as legitimate wives within the marriages.

All respondents (100%) in the study had experienced violence in marriage that could be associated with bride price. This originated from their husbands and mothers-in-law (40%), sisters-in-law (25%), mothers-in-law (15%), their husbands (13.3%) and their own parents (6.7%). They felt that women are presently being grossly mistreated in marriage among all communities in Kenya. Much of this mistreatment, they opined emanated from women's ignorance of their rights in a marriage set up (36.7%), fear of being chased away by their

husbands (43.4%), and perception that they were property that should be controlled by their husbands (21%).

On whom they would report the matter to if mistreated, the respondents indicated that they would report to their husband's best friend (10%), their parents (21.7%), Parents'-in-law (21.7%) and clan elders (36.7%). Only 3.3% indicated that they would not report to anyone. However, the entire 100% had at one time or the other shared with someone about their abuse or mistreatment incidences with someone.

It is peculiar to note that out of the sample, none of the respondents indicated that they would be willing to report a case of domestic violence to the police. This would serve to reinforce the views collected from in depth interviews with police officers in the two communities who explained that survivors of domestic violence were not comfortable reporting such incidences to the police for fear of retribution from their husbands and also for fear that the sole bread winner of the family may be jailed thereby pitting the family into financial woes ( see case study 10).

However this came out more clearly in focus group discussions where participants in Meru North, for example gave examples of incidences where they were treated with contempt by police officers when they attempted to report cases of domestic violence to them. The participants in focus group discussions were of the view that the police officers very often dismissed domestic violence cases saying that the police do not handle such cases and referred them back to their parents.

During in-depth interviews with police officers in Meru North it emerged that there did not exist any gender desk at the police stations where women could talk to a police woman in confidence. Indeed the officers confirmed that serious cases of domestic violence were either handled by the Officer

23. *Supra note 4*

Commanding Police Station (OCS) or his deputy who were in both instances men.

Although the officers were of the view that such cases were taken seriously, they confirmed that few were ever reported to them and this was confirmed during focus group discussions where participants largely felt that they did not have confidence in the rate of arrests and successful prosecutions of perpetrators of domestic violence.

In F.G.D's in Meru North the participants expressed views that although the local administration did attempt to resolve issues of domestic violence, the men did not take summons to appear before the area Chiefs seriously and they cited incidences where women who had reported their husbands to the area Chief were beaten by their husbands who claimed that the wives were having extra marital affairs with the Chiefs. This was explained in detail during in depth interviews with Chiefs in Meru North who confirmed that the men made such allegations as an excuse to avoid appearing before the chief. Most of the participants during the F.G.D's expressed the view that the area Chief's were also usually reluctant to arrest perpetrators of such violence because they (the perpetrators) were people who often socialized with the Chiefs.

Those who have ever shared information with someone or their friends in regard to having experienced domestic violence and abuse indicated that their husbands were the most frequent perpetrators (43.3%) , followed by both husband and mother-in-law (25%) and their sisters-in-law (10%).

On reasons why women persevere the various forms of abuse in marriages, respondents had different views ranging from embarrassing the family (21.7%), protecting their children

(16.7%), fear of having their husbands arrested and jailed (23.3%), fear of subsequent mistreatment including being chased away (25%), and having no confidence that authorities would take any meaningful action against the abusers. All were however clear that bride price too played a huge role as many were not able to refund the same to their respective families in law.

Further, none of the respondents believed that mistreatment or abuse by their husbands was an expression of love as conceived in most African traditions. This was because such abuse resulted in injuries and showed no respect for women.

## 5.0 : CONCLUSION

The urgency to unlock women's and girls' potential in contributing towards their own upward mobility and enjoyment of life, is one of the reasons bride price has become an issue, the two sides being the direct costs that arise from bride price related violations and abuses directed towards women and girls which hinder development as well as the indirect costs arising from the absence of their meaningful control over their lives, which is equally underscored by bride price. It is noteworthy that in almost all cases the transaction is negotiated by the extended family and in almost all cases, this excludes the views of the couple who however take primary responsibility to endure any bitterness if the transaction or the marriage goes sour.

The practice of bride wealth promotes cruel, degrading and inhuman treatment towards women. In Meru North District for instance, it emerged during focus group discussions that a woman who had gotten children while cohabiting with her boyfriend would not be allowed back home by her parents even if she was being abused by her boyfriend until bride price was paid by the boy friend. This practice then ensures that such women remain ensnared in a cycle of abuse as they are not economically empowered to live independently nor refund the bride price and very often remain in such abusive relationships for the sake of their children. Similarly in Kisii District it emerged during focus group discussions held with men that husbands felt it was their right to discipline their wives by canning them because they had an absolute right

over them having paid bride price. Bride wealth produces these types of degrading and cruel scenarios everyday in Meru and Kisii communities as well as other communities in Kenya. Men who pay a price for their wife tend to treat her as a piece of property and feel justified in their abuse.

Violence against Women resulting from cultural prejudices is incompatible with the dignity and worth of the Human Person. Here, bride price would fall under cultural prejudices because it affects dignity of women and justifies oppressive gender relations. Bride price can be classified as a form of inhuman treatment as it is akin to purchase of women /girls who have no control over what is to be paid and this makes them community properties. They are thus discriminated against and treated in the most inhuman ways. For as long as one individual is able to purchase another human being, a relationship cannot be premised on equality, mutuality, respect and dignity as the power dynamics are extremely tilted against the one who is purchased. Some have argued that bride price is equivalent to modern day slave trade. Not only does the practice of bride wealth threaten the health of women, but also that of men and children. Most international human rights instruments recognize the right to physical and mental health<sup>23</sup>.

The practice of bride price does not afford women the right to enter a marriage on their own terms, a right which men clearly have. The right to equality during the course of a

marriage is eroded by the institution of bride price. In some communities, if women want a divorce, they must get their fathers 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 unwanted marriages because their fathers cannot afford to or are unwilling to refund the bride wealth given to them by a husband.

The study also shows that although most participants felt that the practice of bride price should be stopped it was evident that both the payment and non payment of bride price served to affect the marriages adversely. Those participants who advocated for the retention of the practice were concerned about the legal status that the practice guaranteed them and their children while in the marriage although it was also clear that this guarantee goes hand in hand with the risk of being denied their property and economic rights within the same marriage. On the contrary the participants who wanted the practice banned were aware that without the payment they were liable to suffer the effects of harmful cultural practices associated with the practice such as the non recognition of the women or their children as legitimate wives and issues of marriage who have a right to inheritance and in some instances also the right to bury a deceased spouse.

The underlying factor in all these instances was the legal status accorded to the women and the issues of marriage by virtue of bride price being paid so that although majority of the participants wanted to see the practice banned, they were at a loss as to how to combat the negative practices that necessarily came about as a result of non payment of bride price and indeed how to retain the legal status of themselves as wives and the issues of marriage as legitimate children

who have the right to inheritance.

The research on bride price related abuses and data collected on experiences of rural women and girls in Kisii and Meru will be used as a lobbying tool to fight for enactment and adoption of laws and policies that shall protect women and girls from harmful cultural practices.

# 6.0 : RECOMMENDATIONS FOR REFORMS

## 6.1 National Survey On Bride Price And Its Relation To Domestic Violence

As the most immediate step, there needs to be a National survey on bride price and its relation to domestic violence. The survey must include key components that have not been previously included in previous research surrounding the issue of bride price and its relation to domestic violence and must seek to include as much as possible participants from all ethnic groups to ensure that the data generated reflects the views of all the diverse ethnic groups in Kenya.

The institutions involved in this survey should include

- Women human rights NGO's e.g. CREAW
- Ministry of Gender Sports and Cultural services
- Central Bureau of statistics
- Ministry of finance and planning
- Ministry of Justice and Constitutional affairs
- University of Nairobi Institute of African studies
- Religious Organizations
- Local and Provincial Administration
- Elders in the communities
- Community members in the society particularly the vulnerable groups like women.

## 6.2 Analysis of Data

The data generated should then be analyzed and based on the findings come up with recommendations on the way forward in terms of identifying the legal and institutional framework to either ban, reform or regulate the practice of bride price,

Once the analysis of the data is complete and recommendations are complete, the lead NGO should then convene a meeting with other like minded NGO'S, Government ministries such as the Ministry of Gender Sports and Cultural services, The university of Nairobi Institute of African Studies, and renowned anthropologists to develop a manual for civic education on bride price and how it perpetuates domestic violence.

The lead NGO should then develop a clear framework for civic education on the bride price manual ensuring that the framework targets all levels of society from members of parliament through to schools and grassroots levels.

This will ensure that awareness creation is created on all levels. This will create the space for programmatic reforms which will include further training for law enforcement officials including Administration Police and Chiefs on suitable methods of handling domestic violence in general and in particular its

relation to bride price.

The bride price manual should in addition to outlining the ills of the practice of bride price provide for an acceptable alternative practice to that of payment of bride price. This may be in the form of a symbolic ceremony but one that inevitably does not involve the payment of any money or goods to the family of the bride as bride price. However great care has to be taken to ensure that a situation does not arise where the presentation of gifts (other than on account of Bride price) to the family of the bride would render the giver of the gifts guilty of payment of bride price.

All these programmatic reforms must be carried out against the backdrop of either reforming or completely banning the practice of bride price and not with the objective of doing away with other positive cultural practices that are peculiar to marriage such as introductions of both families and the symbolic socialization that takes place thereafter.

### 6.3. Legal Reforms

To begin the journey to legal reforms on the issue of bride price the following must necessarily take place:

- Audit of the current Constitution, existing Laws on Marriage viz Matrimonial Causes Act and the Marriage Act in order to identify the gaps in these laws.
- Audit of laws in other jurisdictions that have been successful in combating the practice of bride price.
- Audit of pending Bills such as the Domestic Violence Bill (Family Protection Bill) in order to determine the gaps in them in regard to addressing bride price and domestic

violence.

- Based on these audits come up with recommendations on whether to amend the same to include provisions on the mandatory registration of all customary marriages to accord legal status to the married women and their children within such marriages, bride price abolition, reform /regulation and thereafter resume aggressive lobbying for enactment of the same or
- Altogether draft a Registration of Customary Marriages Bill to provide for the procedure and mandatory registration of all customary marriages which will ensure the legal status of women and the children in such marriages.
- A Bride Price Regulation Bill which provides for regulation or abolition of bride price as the case may be and which provides for different bride price violations and strict penalties for offenders who commit such violations. Such a bill should also provide for special but simplified procedure which will allow for penal and civil remedies in cases of domestic violence in general and in relation to bride price in particular. Similarly such legislation should also provide for the forfeiture of property paid to the family of the Bride as bride price.
- Lobbying for ratification of international and regional treaties which Kenya has signed but not ratified which outlaw domestic violence, Lobbying also for the signing, ratification and domestication of the Optional Protocol on the women rights.

### 6.4. Advocacy Campaigns

- i) Lobby Parliamentarians for the enactment of a bill on regulation of bride price or for the passing of amendments

to the Constitution , Marriage Act and Matrimonial Causes Rules to address bride price and provide for procedure for prosecution of offenders and penalties.

Once a bill on bride price regulation is passed there should be immediate initiatives to step down the Act and conduct civic education.

- ii) Similarly there will also be a component of training for Police and Administration officers, judicial officers on the provisions of the proposed Act.
- iii) Incorporation of the Bride Price Manual in high school curriculum and introduction of the same as a course unit at the University Level.

This will entail lobbying the Ministry of Education, Ministry of Gender, Sports and Cultural Heritage and concerned institutions of secondary and Higher learning for their involvement in creating the syllabus to incorporate the manual both at the High school and University levels.

- iv) Lobbying the Government to establish shelters for victims of domestic violence in all the provinces whether through decentralized funds or otherwise.

### *6.5 Poverty Eradication*

Poverty has been identified in this study as one of the factors that directly contributes to the commercialization of bride price.

Government must therefore be pressurized to speed up implementation on its poverty reduction strategy in order to

arrest in the long run the need for parents to make easy and quick money through early child marriages and exorbitant amounts of bride price.

An immediate evaluation of the rate of government implementation of its economic recovery plan needs to be undertaken. Thereafter public awareness on the economic recovery plan needs to be created and it is through the platform of public pressure that the government can be pressured to speed up implementation.

### *6.6 Monitoring And Evaluation*

The NGO'S involved in this initiative should develop effective monitoring and evaluation tools to monitor the impact of civic education on the general public, the rate of successful and unsuccessful prosecutions under the proposed Act to regulate, reform or abolish bride price.

### *6.7 Media Campaigns*

As part of civic education and awareness creation there needs to be a media strategy to disseminate information to the general public through both print and electronic media on the various initiatives undertaken with relation to bride price. In this regard it will also be important to sensitize the media itself on Bride price and it relation to domestic violence in order that they may appreciate it as a unique source of domestic violence that needs to be addressed.

# ANNEXTURES

## CASE STUDY 1

Julius Mogaka (not his real name) is a peasant farmer who fell in love with Mary. Julius is an orphan and therefore had to rely on his own wits to negotiate bride price with Mary's father. However Mary's father demanded an exorbitant amount of Kshs 20,000/= and 4 cows for Mary as bride price which Julius could not possibly meet.

Moreover, Julius did not have immediate family who could raise the amount needed and Mary's father was adamant and refused to consider letting Julius pay the dowry in installments. Left with no option Julius and Mary decided to elope thus bringing upon themselves the wrath of an aggrieved father who has since disowned Mary.

## CASE STUDY 2

Eric Moseti (not his real name) eloped with his wife June 4 years ago and started a family together. Unfortunately June passed away without Eric paying bride price for her and as result Eric did not have the customary right to bury his wife, as he had not paid bride price for her and she was therefore not legally his wife.

It was only after hasty negotiations and largely due to donations from his friends that Eric was able to pay the dowry and claim the right to bury June as his wife.

## CASE STUDY 3

Monica Kananu (not her real name) comes from an affluent

family in Nkomo Location. Her father has thriving businesses and has been able to educate Monica up to college level where she enrolled in a nursing course. Her husband Nyagah (not his real name) is a farmer who comes from a middle class family. While most of the pre-marital practices were followed, Monica's parents in addition to the normal items asked for also asked for a cash "gift" of Kshs 70,000/= as their daughter had attained affluence due to her education and modern upbringing.

## CASE STUDY 4

However it is not uncommon for the man to negotiate and come to an understanding with the girl's parents over the gifts to be presented as Bride wealth or indeed the duration of time within which the items should be presented.

Agnes Kiambi (not her real name) is from a poor family and her husband Nicholas Muthama is a peasant farmer. During the Bride price negotiations Nicholas was able to convince Agnes' father that he was only able to pay 2 cows and a goat and that this gifts would be presented to Agnes' father in installments. Agnes' father was agreeable after considering that Nicholas although not being financially stable came from a decent family, was of good character and was hardworking.

## CASE STUDY 5

Stella Makena (not her real name) eloped with her husband at the age of 22 and cohabited with him for 5 years within which period they were blessed with 2 children. Recently Stella's husband lost his job as a casual labourer and began excessively



drinking. He also became verbally and physically abusive towards her and the children and at times threatens to kill her.

Stella recently sought refuge from her husband by running away with her children to her parents' place. However her parents told her that she would only be welcome at home by herself without the children who in their opinion were not legitimate as the union between Stella and her husband was illegitimate with none of the customary practices being observed and no Bride Price having been paid.

Stella is now forced to live with her abusive husband as she has no alternative place to go and no independent source of income.

### **CASE STUDY 6**

Leah kaumbura (not her real name) had been cohabiting with Japeth Kaguri (not his real name) for a period of 5 years without Japeth paying any dowry to Leah's father. Leah's idea of an ideal marriage was one where bride price was paid to her parents as a sign of respect and also to signify that she was the lawful wife of Japeth. However Japeth took in a second wife claiming that he was not legally married to Leah who was then forced out of the home and had to return to her parents.

Her mother would not accept her with the child and she was left with no option but to abandon the child with her and ran away to a nearby town to look for work. Unfortunately Leah passed away from HIV/AIDS leaving the child to be taken care of by her mother.

This child is not recognized by Leah's family as being Leah's

child, will not be accepted by her family and will have no right to inherit any property at all.

### **CASE STUDY 7**

Chief in Meru North - In an interview with the area Chief at Limauru Location in Meru North District, it emerged that one week prior to this survey being conducted, a woman who was a survivor of domestic violence in that location had committed suicide after her parents refused to accept her back home together with her children as her husband had not yet paid dowry.

### **CASE STUDY 8**

Zipporah Kanini (not her real name) is a hardworking mother of three. Her husband Peter (not his real name) is currently unemployed and frequently resorts to drinking to "drown his sorrows". Kanini's husband claims to have spent all his savings on paying a hefty bride price of one heifer and one bull. He still has a balance of 3 goats to pay before he can finish paying the Bride price.

Kanini's father is growing impatient and constantly nags Kanini about her husband's inability to complete the payment of bride price. Kanini in turn is forced to pressure Peter who has recently resorted to shutting Kanini up by verbally abusing her and sometimes physically assaulting her.

Kanini rears chickens and is a member of a self-help women's group that has helped her buy a heifer whose milk Kanini sells to earn money to buy food.

Her husband recently sold the heifer without telling her, ostensibly to raise money to pay the balance of the dowry saying that Kanini has no right over any property in "his house" as he has paid bride price and everything under that roof belongs to him.

### **CASE STUDY 9**

Penina Nthama (not her real name) has been a victim of spousal abuse for the better part of her 4 year marriage. Her husband who has never paid dowry believes that they are just passing time with each other and since their union has not been legitimized through payment of Bride Price, Penina's husband believes that he has the right to chase Penina away and get another wife if he so wishes.

Penina is afraid of even speaking out against her husband as she fears being thrown out of the matrimonial home and further more her parents have made it clear that they shall not accept her back home with her child.

### **CASE STUDY 10**

Angelina Mosei (not her real name) who lives in Bonyanchaire has been a quiet victim of spousal abuse until recently when she confided in a church counselor one afternoon. She has sustained serious injuries from constant physical abuse from her husband but is scared of pressing charges against him because if he is

arrested and jailed there will be no one left to provide for her and her 3 children. Further more, if she reports to the police and he is not successfully prosecuted, then the tirade of physical and verbal abuse will continue.

### **CASE STUDY 11**

My husband does not like to use condoms; in any case we cannot afford to buy them because they are expensive. On a good day at the market I can make up to 100 Kshs, which I shall use to buy food to supplement our diet. My husband cannot agree to use that money to buy condoms and when I bring the issue up he says he does not see the need because he knows he is clean"- Pamela Momanyi (not her real name) – Bomarenda Kisii.

### **CASE STUDY 12**

I know my husband is unfaithful, I have tried to talk to him about it but he either denies it or resorts to abusing me physically. He often comes home late at night and demands to have unprotected sex with me. I know it is my duty as a wife to satisfy my husband but I am afraid that if I refuse he will chase me and my children away. I have no other place to go and so I just pray that he will not infect me with Aids. - Joy Mbura (not her real name) Kimanchia Meru North.



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