

**ANALYSIS OF THE CAUSES AND IMPLICATIONS OF CHILD MARRIAGES IN
UGANDA: A CASE OF LUWEERO DISTRICT**

BY *

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DECLARATION

I, SSESANGA JAMIRU declare that this dissertation on “Analysis of the causes and implications of child marriages in Uganda: A case of Luweero District ” is my original work and to the best of my knowledge, has not been submitted for any award at any academic institution.

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APPROVAL

This dissertation on “Analysis of the causes and implications of child marriages in Uganda: A case of Luweero District” has been done under my guidance and Supervision as an academic Supervisor and is due for submission to Kampala International University in Partial fulfillment of the requirements for the award of a Diploma in Law.

Signature:  Date: 12th/10/2017.

SUPERVISOR: Mr. Yohana Barirere

DEDICATION

I dedicate this piece of work to the Almighty Allah who has enabled me to carry out research successfully and my beloved parents especially Mr. Abubakar Sekandi, Mr Galabuzi Muhamad, Mrs. Nakanya Janat and Mrs. Birungi Hadijah without forgetting my lovely wife Nakigudde Sumayiyah. May the Almighty Allah bless you all.

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ABSTRACT

The past two or so decades in Uganda have witnessed a surge in incidents of early or child marriages. This research attempts to analyze the age-old practice from the lenses of the socio-cultural dynamics. In so doing, these dynamics are understood or at least perceived to create a socio-economic classification of “superiority” and “inferiority” amongst males and females respectively. As such, female bodies are viewed as mere objects and in this context “sexual objects” that men can use at any time of their choosing and pleasure. Of major discomfort to the analysis shall therefore be the role played by culture and socio-economic factors on the surge of child marriages. My conclusion therefore is that through the spectacle of child marriages which unsurprisingly largely affects the girl child, society is trying to re-write the script of history underpinned by male domination and looking at the female gender using “sexual lenses”.

CHAPTER ONE

INTRODUCTION

1.0 Introduction

Marriage, as distinguished from the agreement to marry and from the act of becoming married, is the civil status of one man and one woman united in law for life, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex.¹ There are several types of marriages in Uganda as discussed below;

Customary marriage is still the most popular and common form of marriage in Uganda. Anthony Oyuku Ojok,² says many Ugandans opt for customary marriage over civil or religious ceremonies. He reasons that this is because customary marriage is recognized across different cultures, it is cheap and its dissolution is negotiable. Ojok says the Customary Marriage Registration Act Cap 248 requires that customary marriages are registered within six months of their occurrence before they are recognized. A couple seeking a certificate must produce witnesses to the customary marriage, letters of parental consent and passport photographs.

The traditional marriage or give away ceremony in Buganda is one function you will get to hate and like in almost equal proportions. The preparations for any traditional introduction or marriage ceremony (an introduction ceremony acts as the traditional/cultural marriage ceremony) are tiring and trying financially, physically and mentally as you wonder why you have to fulfill a lot of traditional must do requirements and spend so unreasonably high because 'tradition' requires it so. But from the day the ceremony is held, you will like it for the rest of your life because of the cultural and organized displays as well as the value that many people continue to attach to this ceremony called traditionally "Kwanjula".

¹ Black's Law Dictionary Free Online Legal Dictionary 2nd Ed

² Assistant Registrar at the Uganda Registration Services Bureau

Celebration of civil marriages is governed by the Marriage Act Cap 251 Laws of Uganda.³ The Registrar General is gazetted as the registrar of marriages for Kampala capital city whereas the Chief Administrative Officer is gazetted as the Registrar of Marriages for districts outside Kampala.

Civil marriage is where the state grants you legal recognition through documentation (marriage certificate) of your partnership (marriage) to your life partner irrespective of religious or cultural affiliation, in accordance with marriage laws of the state. A marriage is usually formalized at a wedding or marriage ceremony. The ceremony may be officiated either by a religious official, by a government official or by a state approved official. A marriage in Uganda can only be concluded and registered by a legally appointed marriage officer. The marriage officer will register all marriages, through official documentation (wedding register). Civil union marriage as a state institution is governed by the states laws and regulations.

1.1 Background to the Study

According to Mehra, child marriage has been practiced since time immemorial in Asia, Africa and Latin America.⁴ As such child marriages have become the “new normal” part of the marriage institution and are now universally practiced among many societies today and in the past. In nearly all African traditional societies including Uganda and Luweero in particular, pre-marital and extra-marital sex were strongly and highly discouraged and heavily punished, if one was caught in the act or suspected to have done it. In fact a woman was expected to remain a virgin until marriage and after marriage to confine her sexual intercourse to herself and her husband.⁵ If a girl got pregnant for instance before marriage, she would be banished from her family and expelled from her society or beaten. Hence to avoid such risks, girls were allowed to marry as early as the age of 15 years which is below the legal age of marriage in Uganda. The Constitution provides that men

³ Marriage Act Cap 251 Laws of Uganda

⁴Regional seminar on traditional practice affecting the health of women and children in Africa: Addis Ababa Ethiopia 6-10 April, 1987

⁵OKE E.A

and women of the age of eighteen years and above can marry and found a family.⁶ By necessary implication therefore, child marriage means marriage where one or both of the partners are below the age of 18.

The prevalence of child-mothers is one of the most outstanding and widespread problems in the district though no data has been produced to show the exact number of child mothers. Children as young as 15 years old are categorized as “women” of childbearing age.

The major factors leading to early childhood marriages in the district can be clustered into two i.e. socio-economic and socio-cultural which may include poverty, illiteracy, ignorance and traditions, customs, cultural practices respectively

There has been several efforts towards elimination of child marriages by advocacy groups such as NGOs. These groups have tried to address the issue of the child mother, but so far have come up with no concrete solution to reduce the problem of child marriages in the country as a whole, although factors leading to early childhood marriage have been identified and known by policy makers. In Uganda, the child is held in high esteem as a source of pride and prestige. Wealth from the girl-child’s bride price is very important to the family. The girl-child has no voice and keeps quiet when her rights are infringed upon. She is powerless because of her total dependency on adults.⁷

The integrity of the family unit is under considerable pressure from high level of poverty, HIV/AIDS, social and political instability. Such events have resulted, among other things, into reduction in the quality of care given to children by parents and this has increased child abuse, child marriages and neglect.

⁶Article 31 (1) of the 1995 Constitution of Republic of Uganda

⁷Baseline survey on girl child abuse, by FIDA (U) /UNICEF “speak-out for the girl child project 1997 pg. 1.

1.2 Statement of the Problem

Child marriage contributes to a series of negative consequences both for young girls and the society in which they live. It is a violation of human rights in general and of girl's rights in particular. For both girls and boys, child marriage has profound physical, intellectual, psychological and emotional impacts; cutting off educational and employment opportunities and chances of personal growth. Child marriage and its consequences in Luweero make it necessary to examine this phenomenon deeper in order to understand its nature and come up with recommendations for alleviation of the problem. For instance during a verbal discussion with a Mid-Wife in Kiwoko Hospital,⁸ out of the women who come to the hospital to deliver, half were child mothers between the ages of 14-18. This number could be more alarming given the fact that there are many others who normally deliver at homes with the help of local birth attendants due to lack of knowledge about the importance of anti-natal services. According to her, some of the child mothers always go through hardships during labour so much so that most of them have to be operated in order to save both lives.

According to Criminal Cases Statistics (2010-2016) from Luweero Chief Magistrates Court, it was revealed that out of the High Court cases for defilement, 13, 16 and 15 cases were respectively reported and registered in the years of 2010 up to 2016. This is a clear indicator that few of the cases are reported as evidence by the increasing numbers of child-mother and child marriages caused by early pregnancy. Some of these cases are actually not reported just because of a number of reasons such as fear and shame.

As much as there is a heavy sanction for defilement, which is one of the major factors leading to child marriage of the girl child in the district, most of the offenders have been set free. They only pay a penalty or fine for "breaking into a home stealing a girl" after which, the issue of bride price wealth comes in and thus the girl child ends up getting married at an early age. The law has addressed defilement as criminal. However, there has always been a conflict between customary and written laws. Though written law prevails, customary law still has its place and most of the

⁸ Sister Nakato Peninah, a midwife in-charge Comboni Hospital, Luweero

time, the elders first handle the issue of defilement where the victim would be asked to pay a fine. If this is done, the case is set aside or settled.

1.3 Objective of the Study

1.3.1 Overall Objective

To analyze the causes and implications of child marriages in Uganda

1.3.2 Specific Objectives

- . To analyse the causes of child marriages in Luweero District
- . To examine the effects of child marriages in Luweero District.
- . To suggest the appropriate recommendations to address the problem of child marriages in Luweero District.

1.4 Research Questions

- . What are the causes of child marriages in Luweero District?
- . What are the effects of child marriages in Luweero District?
- . What are the appropriate recommendations to address the problem of child marriages in Luweero District?

1.5 Scope of the Study

Geographically, the study covers Luweero District. The research will be carried out mainly in Kiwoko and it will cover several areas of interest as regards the topic.

The researcher will look into the historical aspect of that particular society particularly, focusing attention to their reaction to such a phenomenon.

Though the scope is limited to Luweero district, it is assumed that the results are a representative of similar situations in most districts throughout the country, especially as regards the fate of the problem of child marriages.

1.6 Operational Definition of Key Terms

Child:

The 1995 constitution⁹ gives an indicative age but does not precisely define a child “that men and women of 18years and above have a right to marry”. It can be interpreted therefore that children are persons below 18 years.

The children’s statute¹⁰ also defines a child to mean a person below the age of 18years.

Similarly, the UN convention on the rights of the child 1989, defines a child to mean a human being below the age of 18 years.

Customary Law:

The Matrimonial Causes Act (1970)¹¹ defines civil customary law to mean rules of conduct which govern legal relationship as established by custom and usage and not custom forming part of the common law not formerly enacted by parliament.

Custody of children

According to Osborn’s Concise Law Dictionary, a person has actual custody of a child if has actual possession of the person, whether or not that possession is shared with one or more persons.

Illegitimate:

This is usually applied to bastards, or children born out of lawful wedlock¹².

⁹ Article 31 (1) of the 1995 Uganda constitution as amended

¹⁰ Convention on the Rights of the Child" Archived 31 October 2010 at the Wayback Machine.

¹¹ Matrimonial Causes Act (1970)

¹² Black’s law Dictionary 2nd Edition Pg 131

Illegitimacy:

This is a condition before the law, or the social status of a bastard. The state or condition of one whose parents were not married at the time of his or her birth¹³.

Abortion:

It is a miscarriage or expulsion of a human fetus before gestation is completed. According to the research, it also includes illegal and voluntary removal of the fetus; this is not legal in Uganda¹⁴.

Putative Father:

A putative father, with some variations in specific language, generally means a man whose legal relationship to a child has not been established but who is alleged to be or claims that he may be the biological father of a child who is born to a woman to whom he is not married at the time of the child's birth¹⁵

Defilement:

This is performing a sexual act with a girl under the age of 18 years¹⁶.

Prostitute:

A prostitute means a person who in public or elsewhere, regularly or habitually holds himself or herself out as available for sexual intercourse or other sexual gratification for monetary or other material gain and "prostitution" shall be constructed accordingly¹⁷.

¹³ Black's law Dictionary 2nd Edition Pg 131

¹⁴ Sec.141 Penal Code Act cap.120

¹⁵ Child Welfare Information Gateway (30 June 2010). "The Rights of Unmarried Fathers". U.S. Department of Health and Human Services.

¹⁶ Sec.129 Penal Code Act cap. 120

¹⁷ Sec.131 Penal Code Act cap. 120

Prostitution:

This is the act of performing or offering or agreeing or offering to engage in sexual conduct with another person under a fee arrangement with that person or other person.

Elopement:

This is the act of running away, leaving without permission or escaping from custody. It may also be defined as an unmarried couple's act of secretly leaving home for the purpose of getting married. At common law, it is the act of a husband to go away and cohabit with another man¹⁸.

Bride wealth:

This is money or goods given to the bride or her family by the groom or his family before or upon marriage¹⁹.

1.7 Significance of Study

The findings of the study will avail literature to be used to broaden the minds of the people about the problems of child marriage and its impact on the child mother.

The findings of the study will contribute to the cumulative knowledge on marriage, and the child mother's position in society with a view of contributing to the planning process for development of the child mother and policy formulation.

The findings of the study will draw community effort on sensitization model for areas with a similar problem.

The research finding will be used for comparative studies such that we are able to see similarities and differences that exist between different communities.

¹⁸ Sec. 127 Penal Code Act Cap. 120

¹⁹ Mifumi and 12 others V AG Const. pet. 12 of 2007

1.8 Justification of the Study

There has been lack of research and studies carried out particularly published works on the problem of child marriage. Much has been written on marriage, taking it as an institution, but with little emphasis on the problem of child marriage in Uganda.

Therefore no exhaustive study has been recorded and written covering this area though it is actually a country wide problem. Much work has been written on the girl child raising issues of sexual abuse and defilement in particular. However, no much emphasis has been made regarding the problem of child marriage.

The researcher aims at looking into a number of problems such as failure to continue with studies, separation and divorce, prostitution, child dumping, illegitimate children among others, including that of health.

1.9 Methodology

The researcher depended on interviews, questionnaires and focus group discussion. The researcher also used some of the reports and materials raising other issues about the girl child relating it to the problem of child marriage where applicable.

This part therefore presents a description and explanation of procedures that will be used in conducting the study, particularly in sampling and data collection. Qualitative method will be used to collect data from a sample population earmarked for the study. Qualitative data will be used to gain views of those in the field of women's rights, medical, legal profession and policy makers about the subject of research, and the recommendations. Data will be analyzed basing on information in the literature review.

1.10 Research Design

This study will use a case study research design. A case study research method as an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the

boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used

1.11 Research Population

The study population will consist of Doctors, Clinical officers, Nurses, Midwives, traditional birth attendants, lawyers, women rights activists and policy makers in the study area. The study population will be divided into two (2) categories. Officers engaged in the provision of Reproductive health services in the first category; the second category will consist of lawyers, policy makers and women rights activists.

1.12 Sample Size

Purposive sampling design will be used to derive sample from officers in the first category who will be considered to be knowledgeable on the subject in question. This technique will be considered appropriate since specific information from key informants will be required. The researcher will pick doctors, nurses, midwives, traditional birth attendants lawyers, policy makers, and women rights activists etc

1.13 Sampling Procedure

The sample will be a representation of the population. In other words most characteristics of the population will be represented in the selected sample. This calls for the use of a suitable sampling strategy. The procedure adopted will ensure that the selected sample represents the population. This will be clearly explained.

1.14 Research Instrument

The research instrument or tool that will be used to collect data includes the Questionnaire, Interview Guide, and Observations Checklist. The basis for the options/content in a standardized or researcher devised instrument are the aspects discussed in the Review of Related Literature. The researcher will try not to develop his own questions or select a standardized instrument without any basis then. A researcher will devise instrument that can be pre- tested to 5-10 subjects or

respondents not included in the actual study to test its reliability and will also be tested for its validity. If a standardized instrument is to be adopted, the name of the author of the instrument and permission to use must be mentioned in this section.

1.14 Validity and reliability of the instrument

The questionnaires (instruments) will be pre-tested on a section of respondents who are not included in the sample. This will assist in testing the validity and reliability of the instruments. Furthermore, consultations will be made with Kampala International University supervisors to test further validity of the instruments.

1.15 Data gathering procedures

A combination of complementary data collection techniques will be used in order to achieve the objectives of the study. These will include research devised, structured and unstructured questionnaires, document review, personal interviews, library research and internet.

The study will make extensive use of written documents which will include papers delivered at conferences / seminars, official reports, journals, textbooks, newspapers, and internet in order to know what other people had discovered and to fill in gaps left in their studies.

The procedure for data gathering will include the Researcher visiting major hospitals, sub-health centers and NGO's. The visits to health centers and records will reveal the existing health facilities in terms of adequacy, equipment and the overall readiness to provide reproductive health services. In effect face to face interviews will be held with staff of NGO's and health facilities about what they perceive in regard to the subject of study. Thus the face to face interviews will be primarily guided by a list of open –ended and inter- locking questions related to various issues relevant to the study.

In this part of the study, the collection of data step by step, before, during and after the administration of the research instrument will be described.

1.16 Ethical Considerations

The researcher will obtain respondents informed consent before interviewing them and the information obtained will only be for the purpose of the research project and treated with utmost confidentiality.

1.17 Limitations of the Study

The study is not only about what the law is, but also about what the law ought to be. On what the law is, there are a number of materials, albeit not quite sufficient in the legal context.

On what the law ought to be, there are even fewer materials in the context of the law, though there are plenty of materials in other contexts for example the medical aspects. This is another limitation that the researcher will strive to overcome.

CHAPTER TWO

2.1 Causes of Child marriages

The causes of early marriage of the girl child include socio –economic and social cultural factors, education, personal decision and external factors, defilement, lack of sex education and religious practices. According to most of the respondents interviewed, the above are the causes of their early marriage. Thus, it is important to know the root causes of early marriage of the girl child before we examine its effect as a problem to the child mother in Luweero District.

One of the Major causes of early marriage is the socio-economic factors. Economic pressures and poverty have added a new angle to the problem of early marriage not only in Luweero district, but all over the country. Early girl child marriages largely motivated by economic reasons have led to increased vulnerability of the girl- child. These causes are discussed below;

Poverty

Most of the child marriage happens in rural or backward areas of the country. The main reason for this is poverty for sure. Parents who have girl child but don't earn much to give them a better life often choose child marriage of their children. In case of poverty girls suffer the most as they are forced to get married at the age of 10 or less. For the boys the marriage does not take place but poverty triggers child labour. Poor families sell their children into marriage either to settle debts or to make some money and escape the cycle of poverty. Child marriage fosters poverty, however, as it ensures that girls who marry young will not be properly educated or take part in the workforce

In Uganda, child marriage is often a result of poverty. Many parents marry their daughters in the hope of securing their financial security. Bride price can also be a motivation for parents, a younger bride means a higher bride price for the family²⁰.

²⁰ Re Namubi and Juma (infants) (FAMILY CAUSE No. 020 of 2013 and FAMILY CAUSE No. 023 of 2013) [2014] UGHCFD 12 (21 February 2014)

Customs and Traditions

Customs and traditions are an integral component of many societies including the Ugandan society. Child marriages constitute an important part of our customs and cultural values. Even though there are several disadvantages to child marriage, the practice continues due to the difficulty in convincing people within a community of its negative effects.

Since Uganda operates both customary law and statutory or written law, it is pertinent to approach the problem under both regimes. It will be shown that even where the law is adequate, its implementation is hindered by customary practices and societal attitudes.

Traditional and social norms which dictate that girls are married at a young age in order to fulfil their role as a wife and mother, play a role too. In addition, displaced population living in refugee camps often feel unable to protect their daughters from rape. Marrying them off to a warlord or other authority figure is seen as a form of protection.

It is evident in Constitutional Appeal No. 2 of 1998, *Ismael Serugo Vs Kampala City Council & Attorney General*²¹ that whether the payment of bride price before marriage and its refund during divorce are customs judicially noticed and hence requiring no further proof in the instant petition, it was vehemently argued for the respondents that the practice of paying bride price being customary had to be proved in relation to a particular community where known or practiced. Furthermore, according to the petitioners' affidavits, the use of bride price leads to social ills such as fathers forcing daughters to get married simply to collect a bride price and young women being removed from schools and forced into child marriages.

However, before a custom becomes law, it must have existed for a long time; it must be continuous and undisputed by the majority of the community. It must be certain and consistent with other customs. When in court, customary law must be established and proved to be in existence.

²¹ Constitutional Appeal No. 2 of 1998, *Ismael Serugo Vs Kampala City Council & Attorney General*

Gender roles in a patriarchal society

In a patriarchal society such as Uganda, specific roles are assigned to women traditionally and such societies tend to facilitate these through practices like child marriage which reinforce prescribed gender roles. Society, therefore, exerts pressure on its members not to abandon child marriage practices.

However, a Ugandan woman's right to own and manage property is recognized by statutory law. She can own property and dispose of it the way she wishes. This is true at the normative level where the gender neutrality of law offers such phantom rights.

The constitution guarantees fundamental freedoms and rights of the individual including the right of life, property and protection from deprivation of property without compensation. Despite these provisions, the laws relating to private rights still reek of gender discrimination. However, case law has indicated that men and women may hold and own property in their individual capacity. The case in point is **Uganda v Jenina Kyanda**,²² where Asthana J. held that "*a woman in Uganda is capable in law to hold and to own her own separate property.*"

Control over sexuality

One of the leading causes of child marriage is the over-emphasis on virginity and chastity of girls and the consequent control of the sexuality of women and girls. The sexuality of girl children is linked to the honour and reputation not only of the family but also of clan, caste, race and ethnic groups. A continued tradition of child marriage tends to ensure this control over the girl's sexuality persists across generations as it is handed over from one patriarchal family to another²³.

²²Uganda v Jenina Kyanda (1977) H.C.B 111.

²³ Mifumi (U) Ltd & Anor Vs Attorney General & Anor (Constitutional Appeal No. 02 of 2014) [2015] UGSC 13 (6 August 2015); MIFUMI (U) Ltd and 12

Minimising the risk of dishonour

Child marriage is believed to reduce the risks associated with the sexual abuse of girl children such as molestation, rape and trafficking as well as to avoid the instances of premarital sex and unwed motherhood.

Sheelagh Stewart stated that child marriage has been common throughout history in many parts of the world including Africa and Europe. He further noted that those marriages did not necessarily mean that child brides were sexually abused. However, today it has created a lot of problems for the child mother and it is considered to be sexual abuse.²⁴

Moulding the behaviour of the girl child

There is a perception that exists that girls who are married off early are easier to mould as per the desire of the matrimonial household. These girls are believed to be more likely to submit easily and accept the traditional gender norms without questions.

Paternalistic control of women's sexual and reproductive behavior has a history that reaches back into ancient times.²⁵ The limitations imposed by international human rights instruments on restrictive laws against women's choices have not been explored in a comprehensive or adequate way for example women are imprisoned for terminating their own pregnancies. Women may end up being unappropriately charged for such offences if they lacked access to contraceptive services. For example in Uganda, abortion is outlawed under Section 141 of the Penal Code Act²⁶ which punishes a person who helps a pregnant woman to abort and further punishes a woman who aborts.²⁷

²⁴Women: Platform for Action and the Beijing Declaration, New York, 1996. P.146

²⁵Roger Schofield, Did the Mother Really Die? Three Centuries of Maternal Mortality in 'The World We Have Lost', in THE WORLD WE HAVE GAINED: HISTORIES OF POPULATION AND SOCIAL STRUCTURE (Lloyd Bonfield et al. eds., 1986).

²⁶CAP 120, Laws of Uganda.

²⁷Ibid section 142

Marrying a girl off while she is still young is believed to be less expensive than waiting till she and the groom reach adulthood. Economic situations can compel many families to resort to child marriage. In addition, Caste, class, sub-castes etc. are still of significance in Uganda society and some families may fear they will be unable to find a suitable partner for the girl/s in their household. Any delay may raise apprehensions of not being able to find an 'appropriate' match.

Lack of Alternatives

Many parents do not find themselves in a position to support the girl child so she can pursue her schooling, and not many girls in areas where this practice is common have any careers to look forward to. Marriage is considered to be the ultimate goal of every girl and child marriage is seen as a way the girl can quickly adapt to family life and responsibilities.

Laws reasonably related to a family-based objective can limit the right to marry and to found a family.²⁸ Laws on the minimum age of marriage are not incompatible with rights to marry and to found families. Women who lack alternative opportunities are frequently induced to marry at or below the minimum legal age. Parental support obligations may legally terminate upon marriage, at a time when women have no means to support themselves through meaningful and productive employment, and no opportunities to pursue education or careers. Socio-economic and cultural influences accordingly lead women to child marriage and child bearing, recognizing no function or worth for women except as wives and mothers. Women need legal protection against being conditioned to serve prematurely in the founding of families. Human rights provisions stating that no one shall be obliged involuntarily to enter into marriage fail to recognize that many women "volunteer" for marriage through lack of any dignified alternative following adolescence²⁹.

²⁸ For example, the European Court of Human Rights has ruled that the right to divorce could not be derived from the right to marry of article 12 of the European Convention. *Johnston v. Ireland*, 112 Eur.Ct.H.R. (ser. A) at 45 (1986)

²⁹ *Mifumi (U) Ltd & 12 Others v Attorney General, Kenneth Kakuru* (Constitutional Petition No.12 Of 2007) [2010] UGCC 2 (26 March 2010);

Lack of awareness of adverse health consequences

Most parents and families practicing child marriage are unaware of the health risks that come with it. Child marriage leads to early motherhood which endangers the young mother's health as well as that of her child. The practice increases the risk of death of the mother and/or child during early pregnancy at the time of delivery and even immediately after delivery. It may also lead to the birth of a weak child who frequently contracts infections.

While the Prohibition of Child Marriage Act, 2006 has made Child marriage a serious and punishable offense, awareness of the law, its clauses and implications is still severely limited.

Lack of political will

The involvement of the local political community in the organisation and implementation of child marriages at the local level makes ending the practice an uphill task as these politicians are more likely to be assured the vote of the communities they govern over.

Cycle of subordination and dependency

The girls subjected to this practice are caught in a continuous cycle of subordination and dependency due to their position, they lack the capacity to take independent decisions, pursue their education and earn a living. The girl is rarely consulted about her own marriage. Child brides are often left disempowered, dependent on their husbands and deprived of their fundamental rights to health, education and safety. Because they are neither physically nor emotionally ready to become wives and mothers, child brides are at a greater risk of experiencing dangerous complications during childbirth, becoming infected with HIV/AIDS and suffering from instances of domestic violence. With little access to education and economic opportunities, these women and their families are more likely to live in poverty.

Many countries such as Pakistan have laws against child marriage. The laws are not enforced. In Afghanistan, a new law was written into the country's code enabling Shiite, or Hazara, communities to impose their own form of family law--including permitting child marriage.

Gender inequality

Another main reason behind child marriages is gender inequality. Even today in this modern era there are lots of places where people consider boy child as good luck whereas girl child is not. They don't get proper education and proper amenities to lead a good life, rather they are being forced to child marriage.

Child marriage is a product of cultures that devalue women and girls and discriminate against them.³⁰ "The discrimination," according to a UNICEF report on "Child Marriage and the Law," "often manifests itself in the form of domestic violence, marital rape, and deprivation of food, lack of access to information, education, healthcare, and general impediments to mobility."³¹

Illiteracy

Lack of education can be considered as another big reason behind child marriage. People who are uneducated and don't have any idea about the post-marriage complication a toddler can face often opt for child marriage for whatever reason. Lack of education also triggers these mentioned beliefs to be true for many people.

Low literacy level and weak enforcement of laws contribute to child marriages in Odisha, according to a study by UNICEF and Action Aid, an international non-government organisation. The results of the study released at a workshop on 'Preventing child marriages' on Thursday, say that in Odisha 11 per cent girls and 2 per cent boys in the age-group of 15 to 18 years are married. The study which analysed the Annual Health Survey of three years (2010-11, 2011-12 and 2012-13) says Odisha is one of the States where child marriage is still practiced. According to 2011 Census, 1,71,193 girls under 18 are married while the figure for the boys of the same age group is 38,965.

³⁰ Mifumi (U) Ltd & Anor Vs Attorney General & Anor (Constitutional Appeal No. 02 of 2014) [2015] UGSC 13 (6 August 2015);

³¹ UNICEF (2014) Report

Peer Pressure

The peer pressure to marry doesn't necessarily suggest a problem with marriage itself, but a lack of other cultural models. This results in a lot of people choosing marital and family structures by default rather than by intention — a kind of compulsory monogamy

When it comes to marriage, peer pressure plays an important role. A couple might want to get married because most of their friends are married. Also parents are pressuring their children to get married by finding them the perfect husband or wife. Even if the children don't like the person that their parents are forcing them to get married, they feel committed. There are also those situations where guys or girls get into a relationship with someone and their parents don't approve it. Parents not approving the relationship pressures couples into getting married, because that way their parents may not have choice but to accept the relationship. Then if a boy gets a girl pregnant, right away both of the families start pressuring their kids to get married. Parents believe that pregnancy should lead into marriage because that way their grandson or granddaughter will have a united family. Another thing that pressure's couples into getting married is wanting to have intimacy. In some cultures there is a saying that you can't have sex until you get married. For that reason couples decide to get married.

CHAPTER THREE

EFFECTS OF CHILD MARRIAGES

3.1 Introduction

Child marriages is one of the most harmful practices as it usually denies girls educational opportunities, leads to poverty and economic insecurity and has a serious negative impact on their health and decision-making capacities. It also reinforces other forms of gender-based violence and problems. The effects of child marriages are therefore dire and devastating as discussed below;

Health complications

Child marriages exposes the mother and her children to psychological and other health related problems. Because they are also children, young or immature mothers exercise less influence and control over their children, and have less ability to make decisions about their nutrition, health care and household management.

Child marriage disproportionately affects girls and has an impact on their mental and physical health for the rest of their lives. Not only are they denied the right to choose their own partner, they are marginalized and subject to various religious, societal, political and cultural practices that fail to honour their basic human rights. The physical health of the female spouse in a child marriage faces several threats. These young girls are often the victims of domestic violence, and they lack the means to advocate for themselves. Additionally, child brides often live with their husband's extended family, which may also be a source of violent abuse in crowded conditions.

Young girls suffer psychologically in child marriages as they are denied an appropriate childhood and adolescence, and are subject to an increased incidence of psychological abuse as well as domestic violence; a curbing of personal liberty; an incomplete education; and a lack of employment and career prospects – all of which contribute to the cyclical nature of poverty, gender inequality and child marriage.

The sexual and reproductive health of the female in a child marriage is likely to be jeopardized, as these young girls are often forced into sexual intercourse with an older male spouse with more sexual experience. The female spouse often lacks the status and the knowledge to negotiate for safe sex and contraceptive practices, increasing the risk of acquiring HIV or other sexually transmitted infections, as well as the probability of pregnancy at an early age. Complications from pregnancy and childbearing are the leading causes of death among girls aged 15–19 years.³² Often, those in child marriages do not have access to adequate health and contraceptive services, owing to geographic location or the oppressive conditions of their lifestyle.

School drop out

Child marriages also contribute to school drop out because they are married early, little or no focus is given to their education, going grossly against the adage, “educate a woman and you educate a family, educate a family and you educate a nation.” Dropping out of the future generations from schools perpetuates the cycle of poverty and thereby, curtails the overall economic growth of the nation. Women with higher levels of education are less likely to marry early.

When a girl leaves school early, her career opportunities are limited and she may fail to establish her independence. It appears that at least half of South African girls that fall pregnant hope to return to community. The issue of completing high community education has to be seen in the light of what is normal. Since so many young people drop out of community, it is quite likely that these pregnant young women who did not finish community would have dropped out anyway.

Researchers have found that many teens are already out of community, when they fall pregnant. Most of them fall pregnant because of alcohol abuse in the family, poverty, being expelled from community and deciding that community was pointless because there aren't any jobs anyway. We need to ask whether having a child is not a positive and rational decision from the viewpoint of certain teenagers, especially if they feel that education has little to offer. A lonely neglected girl may long for the love and security that she imagines a baby will bring. At the same time, being a

³² WHO (2009) Report

mother provides a sense of importance and purpose which many young people lack. Despite all the causative factors of pregnancy, the pregnancy itself disrupts the educational chances and even destroys the future of some girls. The fact that she will be away from community for a certain period before the birth is not in itself the only disturbance in the girl's academic journey. When time comes to become a parent and adult who has given birth to her first child, faces some difficulties and confusion brought about this new role of parenting, now what about a child who is supposed to be a learner and a parent at the same time. Clearly the chances of success diminish because of the increase in responsibility.

Social misfit

Uganda has been developing at a steady pace in terms of economy and threatens many of the developed economies, yet it continues to be stuck in the shackles of social problems. Child marriage is just one of the many social problems that hinder development of the nation in the real sense. UNICEF defines child marriage as "a formal marriage or union before 18 years of age." Traditionally the culture of child marriages had started during the medieval period. The young were married off for various reasons – protecting the females from being raped by foreign rulers, preventing conversion of religion, to strengthen military and political alliances between kingdoms and cast system.

Loss of esteem

Many females around the globe are subjected to child marriage with immature minds and bodies, and they are forced to shoulder heavy duties which includes but are not in any way limited to early pregnancies, harsh family behaviors, family disputes, behavioral problems and understanding problems. Early pregnancies and other health problems have a great impact on their self-esteem, confidence level and their trust on elders to share their problems. When females are married at early age, they are not only deprived of their education but they are also not aware of the attendant consequences.

According to several research studies, married young girls are not familiar with health consequences, moreover they are also not allowed to share whatever they suffer regarding their

health which in turn decrease down their level of confidence and reliability on others to share problems. Such females are even exposed to have high infant mortality rates, weaker health and poor self-esteem.

Inferiority complex

Inferiority complex is an emotional disruption of the mind and a deep rooted belief in lack of self worth and incompetency in any given tasks. In marriage, inferiority sets in when you feel that you cannot measure up to your spouse because of your low self esteem or you are better than your spouse because of your selfish behaviour

Inferiority complex in a spouse may be traced to their childhood. An adult who has been emotionally or psychologically abused as a child can still continue to suffer the pains of the past into adulthood. If a spouse is an introvert, extremely quiet, anti social and lacks confidence, it is possible that he/she is still suffering from inferiority complex as a result of a traumatised childhood. Suffering certain pains in silence can ruin a relationship and marriage before it begins.

Child age pregnancy

Girls who have just walked into adolescence age and don't know anything about sexual life, are forced to get into physical relationship after marriage. They suffer from early age pregnancies which bring several medical and health problems. Most of the time, this becomes life threatening for the victim.

The most obvious human right violated by avoidable death in pregnancy or childbirth is a Woman's right to life itself. Article 6.1 of the Political Covenant provides that "every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."³³

³³This article reflects Article 3 of the Universal Declaration, and is given further effect in, for instance, Article 2 of the European Convention, , Article 4 of the American Convention on Human Rights , and Article 4 of the African Charter

This understanding of the right to life is essentially male-oriented, since men consider state execution more immediate to them than death from pregnancy or labor. It ignores the historic reality of women, which persists in regions of the world where almost all of the 500,000 women who die each year from pregnancy related causes³⁴ live, and is indeed a focus of sex stereotyping in that capital punishment cannot usually be applied to pregnant women.

Domestic violence

Those who get married at early age have to face violence after marriage. Being an innocent kid she has to deal with complicated life after marriage which are way to difficult for a toddler to handle. Often this triggers the in-laws and husband to torture the girl even when she isn't responsible for anything.

³⁴Maternal Mortality Rates: A Tabulation of Available Data at 2, WHO Doc. FHE/86.3 (2d ed. 1986), cited in Halfdan Mahler, The Safe Motherhood Initiative: A Call to Action, 1987 LANCET 668, 670

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

4.0 Introduction

This chapter presents general conclusions and recommendations drawn from the whole process of this study and it identifies areas for further study.

4.1 Conclusion

Child marriages are worldwide and Uganda is no exception. Being worldwide, each country tries to find out its causes and hence give necessary solutions. Therefore the laws governing such acts should be checked by first finding the casual factors and then enforcing the preventive measures.

Generally the objective of the study was to examine the causes of child marriage of the girl-child and difficulties faced by the child –mothers during such marriages. The causes were found out to include sôcio-cultural factors, lack of sex education, defilement, education, elopement and Aids, Insecurity and wars, religious practices and personal decision. The problems faced by the child mothers were found out to include abortions, Reproductive Health problems, Inheritance and property rights, separation and marital instability, custody of the child, failure to maintain and oneself, and dropping out of school and failure to continue.

The problems of child marriage of the child mother must be seriously addressed and the laws regarding the girl child must be strictly enforced in order to curb down the incidence of child marriage and its associated adverse effects.

4.2 Recommendations

A number of suggestions ought to be made concerning the problems of child marriage of the child mother in order to establish and determine ways by which the problem can be handled.

Government must enact and strictly enforce laws to ensure that marriage is only entered into with the free and full consent of the intending spouses as provided by the Constitution in addition, and

strictly enforce laws concerning the minimum legal age of consent and the minimum age for marriage and raise it where necessary. The Government can do this by putting up a tough law concerning marriages for instance, it can put a law in a way that any one getting married must first register with the authorities in that locality. The couples must sign and give details about themselves and there must be witnesses who can testify in case of any problem.

By doing this, the government will be able to regulate the minimum age of consent and marriage. Through this, those are below the age of 18 years will not be allowed to register, therefore reducing the number of child mothers and the problem too.

Government must encourage and support, as appropriate, non –governmental organizations in their efforts to promote changes in negative attitudes and practices towards girls, set up educational programs and develop teaching materials and text books that will sensitize and inform adults about harmful effects of certain traditional or customary practices on girl children. It must at least put up a provision in the penal laws that it is an offence to carry out harmful traditional or customary practices affecting the girl child and the penalty for this is ten years imprisonment. This will at least open the minds and eyes of the society or people who engage in such practices. Such practices include inter alia, child marriage which has an adverse effect on the child mother.

The Government must put up an enforcement mechanism for the laws on defilement. This will help it to punish the victims without any delays of going to court where at the end of it all, evidence will be destroyed and the man is acquitted.

Government must generate social support for the enforcement of laws on the minimum age for marriage in particular for providing educational opportunities for girls.

Abortion laws should be liberalized by relaxing the rigidity of the penal provisions. Young girls /child mothers should be put into consideration where proper clinics and qualified doctors have been availed. Abortion should be permitted as that instead of forcing the girl-child into child marriage; she will go back to school and continue with her studies.

Abortion laws need reform to fit in the present worldwide situations. The law should provide that it should only be carried out in registered clinics and by qualified medical doctors.

It is recommended that laws should go beyond the exceptions to abortion that is in instances like rape and incest, and integrate the conditions which were laid down at the conference on abortions.

It is recommended that abortion should be legal when the pregnancy is grave and an immediate risk to the health of the expectant mother, where there is a risk to the woman's physical or mental health from Continuation of pregnancy meaning risk beyond that normally associated with pregnancy, where there is some likelihood of a serious physical or mental impairment of a child to be born and where the pregnant girl is an adolescent or a legal minor.

For this matter, a child mother is a legal minor. Such conditions should be published in News papers and documents translated into local languages so that every citizen is aware of the existing law and how it affects him or her.

The above was further emphasized by the case of **R V. Borne**³⁵, a case which shows the legality of abortion to preserve not just the woman's life but also in particular her mental health. The court held that Dr. Borne was entitled to acquittal upon terminating the pregnancy of a woman on the ground that if her pregnancy continued, she could become "a mental wreck."

It is also recommended that the legal restrictions especially those concerning the use of contraceptives need to be relaxed. We see that contraceptives are generally supplied to married women and those who are above the age of 18 years. For a young girl who has not reached the age of majority, consent is needed. Family planning Associations must challenge these restrictions and put it to policy makers to declare its use openly from the age of 14 years without having to seek consent from parents. This will help to reduce the incidence of early pregnancy and child marriage thereafter.

Systematic reform in a country where the law or policy is out dated and no longer compatible with widely held social and cultural values is a slower but effective way to bring about change. For any attempt to change facts must be collected, arguments marshaled and public opinion influenced and clear restrictions may be imposed where vague custom formally prevailed.

³⁵ (1939)1 K.B 687

The property rights provided for in the 1995 Constitution must be strictly enforced so that during separation, the child mother will at least be able to leave with property which she owns either individually or in association with others. The courts should be empowered to ensure that during separation, the child mother is protected from deprivation of property by the husband. She must be entitled to have the little she owns.

It is also recommended that there is need for sex education to be done both at community and school level. The parents should try all possible means to be free with their daughters and tell them about sex in general. Sex education should be introduced in schools as part of the syllabus so that both girls and boys are taught right from the beginning about the consequences of sex, pregnancy and child marriage. Initially the responsibility for sex education has been completely abdicated by the parents. Such topics used to be managed by traditional institutions such as elders especially grandparents. Sex education will help to delay the onset of sexual activity or to reduce its frequency.

Government must promote an educational setting that eliminates all barriers that impede the schooling of married and or pregnant girls and young mothers, including as appropriate, affordable and physical accessible child-care facilities and parental education to encourage those who have responsibilities for the care of their children and siblings during their school years to return to or continue with and complete schooling.

The girl child, particularly that in difficult circumstances must be made aware of her own potential, educate her about all International Human Rights Instruments including the convention on the Rights of the child, Legislation enacted for her and the various measures under taken by both governmental and non-governmental organizations working to improve her status.

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