

**CUSTOMARY LAW PRACTICES AS A FRIGHTENING SPECIES IN
THE PROTECTION OF WOMEN'S RIGHTS IN CAMEROON: THE
NEED FOR EXTERMINATION OR CONTINUATION IN CAMEROON?****Nana Charles Nguindip***

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ABSTRACT

The State of Cameroon with all its legal animation and operational have been signatory to many human right instruments who sees the need of guaranteeing the protection of all unrelatedly of their status, sex or nationality they represent in the society. This protection and treatment of persons are the expectations of the various laws of the country in which customary law is part of by ensuring that everyone including the women should be provided with adequate protection and wellbeing. Even though the laws are clear as to the protection of everyone, customary law on its own continues to be biased in many situations when dealing with women right by regarding them as used and negligible commodities and sometimes considering them as exasperated merchandises in the eyes of the society. This article enunciates that the position occupies by customary law in Cameroon is devastating when it comes to protection, and this has created constant violations on the fundamental human rights of women. The question one is force in querying here is in determining the extent in which women standings are affected in Cameroon as a result of the customary law practices considers as a common pandemic with wide spreading effects? In retorting to the above question and objective, it will be proper for us to use analytical research method so as in gauging and gaging the damages and injuries caused on women right in Cameroon owing to these inhumane practices of customary law practices. From the above luxuriant violations of women right in Cameroon, the predilection remains that the behavior experienced by women

in the country continues to be a great deathtrap and considered as a vanishing species when dealing with the protection of their rights. It is therefore in this track that customary law needs to understand that women just like others deserved to be protected by the law, as the situation experienced is really a dreadful phantasm practices in Cameroon.

KEYWORDS: Violations, Customary Law, Women Rights, Protection, Cameroon.

INTRODUCTION

Cameroonian laws have provision that protect human rights with one of its most fundamental document being the country constitution of 18 January 1996 in its preamble which have mentioned a good number of human rights articulated by the Universal Declaration on Human Rights and even those provided by the African Charter on Human And People's Rights. The preamble of the Cameroon Constitution states that,[1] we, the people of Cameroon, declare that persons without distinction as to race, religion, sex, or belief poses inalienable and sacred rights. Affirm out attachment to the fundamental freedom enshrined in the Universal Declaration on Human Rights, the African Charter on Human and People's Rights and all duly ratified international convention relating thereto, in particular the following principles.[2]; All persons shall be equal before the law,[3] the citizens shall have equal right to vote at the age of 20 years and above.[4] no person shall be subjected to torture, cruel inhuman and degrading treatment, the state shall guarantee all citizens of either sex their rights and freedom, no person shall be arrested on ground of origin, religious, philosophical or political opinion or believe subject to public policy.[5] This preamble ensures that the concept of human right protection and recognition should be done without any speck of discrimination as to sex, status, nationality and other spheres of activities. This same Constitution in its Article 65 is to the effect that the preamble of the constitution is an integral part of the constitution. The notion of protecting women is given great relevance in this law in all aspect of implementation be it employment, health, education, nutrition and domain of great importance. The question we should be asking ourselves is in questioning the reasons of the continuous violation of women fundamental human rights irrespective of the numerous relevant provisions provided by the constitution? For we have to understand that in every normal circumstances, the issue is not just instituting laws, but rather showing its various levels of commitment by those vested with the authority in ensuring protection, and such protection should be executed to the latter. Undeniable and exaggerating, the level of violations and right abuses are alarming especially when dealing with customary law

notwithstanding of the recognition of the national law that deal with the safeguarding and protection of individual human right.[6] The country has even gone to the extent in amending the 1996 constitution,[7] yet the decree of violence done on women continues to be in the increase. Women are discriminated under customary law at all levels of activities in the country from inheritance, marriage, violence, properties, culture and to other activities. Women in the context of the traditional or customary society are treated as abandoned commodities and sometimes vulnerable as to what they represent. Irrespective of the modern conception and advancement, women continue to be treated inhumanely, unsympathetically and callously, and this has affected both their status and rights acquired in the society. Several human Rights instruments, amongst the Universal Declaration of Human Right 1948, the Convention on the Elimination of all Forms of Discrimination Against Women, MAPUTO Protocol, African Charter on the Welfare of the Child, and hosts of others condemning the illegal practices experienced by women as far as customary practices are concerned, but these practices lingers to remains demoralizing and affect the status they represent in the society. The issue here is that regardless of the praiseworthy efforts instigated and set by these instruments, the rate of violation of women rights are increasing and rampant. It is no doubt in explaining that issue of violence is even more explaining and prelude in the Declaration put in place by the United Nations,[8] were emphasis are made clear as to the violence against women. The laws of the country ensures that every customary law and practices.[9] as far as women are concerned should enjoy certain rights which is applicable to everyone such as that as to the right to life; equality; liberty and security of person; equal protection under the law; free from all forms of discrimination; the right to the highest standard attainable of physical and mental health; just and favourable conditions of work; not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.[10] With all these rights laid in place and acknowledge, it becomes the role of every State in exercising that due scrupulousness in ensuring the preservation, investigate and even punishes all acts that are done against the women whether committed by an individual or State. Emphasis should be placed on due diligence as it ensures that State should not laid any excuse when a perpetrator violates this fundamental norms and of protecting the women status. The question one is force in asking here is in determining the position occupies by customary law when dealing with the protection of customary law and practices.

1. An understanding of Customary Law and Practices under Cameroonian Law

Section 27(1) of the Southern Cameroon High Court Law, 1955, provides the acknowledgment and enforcement of customary law which is not repugnant to natural justice, equity and good conscience or incompatible either directly or by implication, with any existing law of the land. In the light of the authorities whenever there is a conflict between any written law and custom, the former shall prevail.[11] In order to arrive at this, certain conditions must be met. First, the custom must be reasonable and must have been practised from time immemorial.[12] Secondly, the customs must pass two tests, namely, the repugnancy and incompatibility tests. That is to say for the custom to be applicable it must not be:

- i) Repugnant to natural justice, equity and good conscience or;
- ii) Incompatible either directly or by natural implication with any written law for the time being in force. The controversy as to the application of customary law has been resolved by subjecting the validity of customary law to decisions of non-customary courts. In the Nigerian case of *Liadi Giwa v. Bisiriyu Erinmilukon*,[13] Taylor, F.J. pointed out that:

“It is a well-established principle of law that native law and custom is a matter of evidence to be decided on the facts presented before the court in each particular case, unless it is of such notoriety and has been frequently followed by the courts that judicial notice would be taken of it without evidence required in proof”.

Looking at the above provision, it should be recalled that gender discrimination is one of the most notorious features of every customary law system. Most women eventually find themselves in a male-dominated society where the men are considered as the ones controlling the institutions that have been set up around them. The situation becomes more interesting as the rule remains that in every traditional societies, a man's wealth is still said to be measured by the number of wives and children he has. The most pleasurable sensation is that women in most customary position are considered as property with the explanation that a property in essence cannot own property.[14] In the traditional society many considered that women are men's property, and these properties should be handed over to male inheritors, along with other property at the time of a husband's death. Customary law does not visage the sharing of property, especially landed property, between husband and wife on divorce; by the way divorce is not even considered as a scaring platform as the position and status of women are far beyond recognition. The wife is still regarded as part of her husband's property. We have

to understand here with every ramification and potentials that the rule remains that when dealing and examining issues related to gender discrimination under customary law, the notion of dowry is highly involved, and once this dowry is being paid, the woman becomes the man's personal property. Indeed, under most customary laws, dowry is used as a measure to justify certain discriminatory practices against women, notably the refusal to grant them inheritance and succession rights. Under customary law, dowry has great significance. In the South West Court of Appeal case of *Kwela Theresia Amih v. Amih Sam*,^[15] his Lordship, Justice Ebong, explained the role of dowry in customary marriages. He wrote, at page 2 of his judgment:

Dowry in customary marriage plays an important part as dowry is in fact the first indication of the seriousness of the suitor not only in Cameroon but in most African countries. But to whom this dowry is paid differs from Conflict between Customary Law and Human Rights in Cameroon from one custom to other, but in most cases the dowry is paid to the parents and family of the woman, and not to the woman.

The situation as propounded by the supposed customary law which will never be recognized and enforced when the purported law in place continues to be repugnant to natural justice, equity and good conscience. Gender inequality as sanctioned by customary laws is best reflected in the domain of succession and inheritance. The rule remains that in most customary laws, women cannot own or inherit property from their parents or husbands, as most of these women are regarded as legal minors where in the event of the death of her husband, a widow may be inherited along with other property by her husband's relatives.

The Cameroon Customary law deposits the presence of suitable male heirs, a daughter cannot inherit on the intestacy of her deceased father. The courts have often rejected this patriarchal interpretation of custom as reflected in the High Court of Fako decision in *Nyanja Keyi Theresia & 4 Ors. v. Nkwingah Francis Njanga and Keyim administrators of the estate of Keyi Peter*.^[16] The deceased, who was polygamously married, died in 1997. During his illness and burial ceremony, his brother and his cousin took care of him. After the burial, on the strength of a family meeting, the deceased's brother and cousin were appointed next of kin.^[17] to the deceased's estate on behalf of the children who were by then adults. They were subsequently issued letters of administration over the deceased's estate. The deceased's daughter disapproved of the way her father's estate was administered, alleging that the

administrators had failed to consider the interest of the deceased's children and had been cruel to them. The administrators claimed that the deceased's daughter and her mother had been partially responsible for the deceased's death and, by virtue of that fact; the daughter was not entitled to benefit from the estate.

The court found that the defendants being the purported administrators of the deceased estate had not established any proof that the deceased died as a result of the action of his daughter and mother, and even if there had been problems between them that fact would not be weighty enough to dissociate her of her father's property, even on the strength of a family meeting. Accordingly, the court revoked the letters of administration granted to the defendants for poor management of the estate and made an order issuing new letters of administration to the deceased's daughter on behalf of all the beneficiaries.

However, in Cameroon, this is a rare and isolated situation to reiterate, female children may only inherit property in the absence of suitable male heirs, be they brothers or relatives.[18] This situation has changed for the fact that Cameroon has ratified human right instruments as to recognizing female rights, emphasizing that even the female issues can also participate in matters relating to property inheritance.[19] Thus, it may not be presumptuous to conclude that the defendants have abused the administration of the estate the daughters of the deceased would not have shown any interest whatsoever in it. The daughters had found themselves forced to seek administration over the estate for reasons not associated with discrimination. Nonetheless, the court was swift to identify gender discrimination in the custom under consideration, which denies female children the right to intestate succession.

Similarly and of huge interest is the case of *Chibikom Peter Fru & 4 others v. Zamcho Florence Lum*, [20] where the Supreme Court was called upon to rule on a male-controlled custom that denies a married daughter the right to succeed on the intestacy of her deceased father. The deceased died intestate in 1985 and was survived by several wives and children, most of whom were males. However, the eldest of these children, Zamcho Florence Lum, was a female. Upon the death of her father, she applied for a next of kin declaration before the Mankon Customary Court. The court temporarily declared her next of kin of the estate of the deceased until a 'proper' successor was selected in the near future from among the boys who at that time were proven within family circles to be unworthy of controlling the estate of the deceased. On the strength of the next of kin declaration, she was then awarded letters of administration by the Mezam High Court. However, in 1989, some members of the family,

including some of those who had supported her application to be made next of kin at the customary court, brought an action at the High Court requesting, among other things among being the cancellation of the letters of administration granted to her. The trial judge dismissed the application but ordered Florence to render accounts of her administration of the estate to the Administrator General. Dissatisfied with the rejection of their request, they lodged an appeal against the verdict of the High Court to the North West Court of Appeal, sitting in Bamenda, the regional capital. The Court of Appeal allowed the appeal and disqualified Florence from administering the estate. Aggrieved by the decision, Florence proceeded on further appeal to the Supreme Court. The Supreme Court annulled the decision of the North West Court of Appeal and referred the matter for hearing and determination before the South West Court of Appeal, sitting in Buea, the regional capital,[21] The Supreme Court's referral was based on two recommendations: first, the North West Court of Appeal violated the preamble of the constitution by discriminating against Florence as a female and, second, a custom that prohibits married women from benefiting on the intestacy of their parents is repugnant to natural justice, equity, and good conscience and, thus, offends the provision as provided in section 27 of the SCHL, 1955.

The South West Court of Appeal was requested to consider the original appeal filed against Florence in the North West Court of Appeal and the main issue was the allegation that she was not a fit and proper person to administer the estate of her deceased's father.

There has been, and still existing mammoth hullabaloo surrounding women's rights in general and that of widows' particularly, has been of much concern to women, policy makers and universal organisations alike. In an archetypal traditional African environment, the woman practically sees herself in an essentially male-dominated environment. The various customs obtain in most African countries; the institutions that regulate day to day life are controlled by the men-folk. In this way, women have very restricted rights. Upon the breakdown of a customary law marriage through death, the widows in most instances are considered by many communities in Africa as an object of inheritance,[29] but of the fact that such practice is contrary to the law,[23] cases abound which show that this practice is instead gaining ground,[24] The tendency is that upon divorce, the woman has little or no rights over property. A concrete example is experienced in the case of *Achu v. Achu*,[25] Inglis, J posited that:

“Customary law does not countenance the sharing of property, especially landed property, between husband and wife on divorce. The wife is still regarded as part of her husband's property”

The position experience under customary law is silent on women rights, but courts seem to apply and follow these practices. In the case of *Alice Fodje v. Ndansi Kette*, [26] seems to suggest the contrary view. In this case, the parties were married in 1952 according to the native laws and customs of the people of Bali. The marriage was blessed with eight children. In 1981, the appellant left the matrimonial home. The respondent took a second wife. In 1983, the respondent petitioned for divorce in the Bali customary court. His prayer was granted. No order as to property adjustment was made.

As a result, the appellant appealed. Justice Arrey in a dramatic manner held that the appellant should occupy one of the three houses, and also collect from the other two. But the decision seems to be an isolated authority on its merit.

2. Has the presence of Written Law in Cameroon posed a threat to Customary Law Practices?

We do understand that both written and customary law are regarded as sources of laws in Cameroon and it will be wrong, or perhaps out of context to settle either for the superiority of written law because it defines the quantum of admissible customary law or the customary law rules simply because most of the cases are hardly brought to court. Nevertheless, the people do accept the customs as binding, notwithstanding legislative enactments to the contrary.

2.1. Understanding the Sensation of Written Law in Women's Right Protection

Written laws in all its explicable parlance are those laws laid down in a country's legislation and enacted by the legislative body of that country in which these laws becomes binding as soon as they have been promulgated by the Executive arm of the State. [27] This law by virtue of Section 11 of the Southern Cameroon High Court Law of 1955 considers laws as comprising:

- (a) The Common law
- (b) The doctrines of equity, and
- (c) Statutes of general application which were in force in England on the 1st day of January 1900.

Cameroon with all its ramifications as a bi-jural state makes it pragmatic in ensuring that every state deserves to be operating under two categories of laws, and the written law of the State is more in recognition in a given State. It should be recalled that apart from the provision provided under the Southern Cameroon High Courts Laws, those provided by the Married Women Property Act of 1882 is solemnly of huge importance. This piece of legislation respect the protection of property rights of parties. It provides in it's **Section 1(1)** that

“A married woman shall ... be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property as her separate property, in the same manner, as if she were a female sole, without the intervention of any trustee”.

With *nothing a do about nothing*, Lord Denning in his great explanation in the case of *Midland Bank Trust Co. and Another v. Green and Another* throw a lot of insight with issues related to property. This is what Lord Denning says.

Nowadays, both in law and in fact, husband and wife are two persons, not one. They are partners-equal partners-in a joint enterprise, the enterprise of maintaining a home and bringing up children. Outside that joint enterprise, they live their own lives and go their ways

From the above explanations it can be emphasised that when it comes to English Law they knows no community of property,[28] and the famous dictum of Romer, L.J. in the case of *Cobb v. Cobb* about section 17 of the *Married Women's Property Act 1882*,[29] when he said that:

“I know of no power that the Court has under section 17 to vary agreed or established titles to property. It has the power to ascertain the respective rights of husband and wife to disputed property, and frequently has to do so on very little material, but here, the original rights to property are established by evidence and those rights have not been varied by subsequent agreements, the court cannot in my opinion under section 17 vary those rights”[30]

From all the explanations purported by the above Section 17, there are some controversies when dealing with matters of property after divorce has been pronounced since its provisions would have ceased to apply because it refers to "husband" and "wife". To cure these

complicated illness, the *Matrimonial Proceedings and Property Act 1970* in its section 39 allows an application within three years to be made by either party notwithstanding that their marriage has been dissolved or annulled. Cameroonian courts are content with applying the principles adumbrated above with caution. In various local cases, the effect has been given to local statutory enactments, particularly the 1981 Ordinance. In substance, it provides that a married woman can exercise a trade different from that of her husband and can operate a separate bank account.[31] Indeed, if the woman purchases property with her income or sums from her account, ownership and title rest in her name. Consequently, in *Moussi v. Moussi*, the court ordered that items of moveable property bought by the wife but still in the custody of the husband be handed over to her. In the same strand of reasoning, the High Court of Buea held in *Body Lawson v. Body Lawson* that each spouse should continue to have ownership of property purchased in their respective names.

2.2. Women under Customary Law Practices measured and seen as Heritable Property

The fact and notion under customary law stands that bride price is seen to concretize the union between two families rather than two individuals with huge effects produces far-reaching consequences. Really even after the payment of the bride price by the purported groom family, it should not be a tradition that the woman must be attached to the deceased husband family. Staying at deceased husband family must be done with the voluntary consent of the wife. For the we have to understand here that the death of the man does not normally terminate the marriage, as it is possible, with the consent of the woman, for her to be attached to another member of the family in marriage. The attachment of the wife to her deceased husband family or married to the deceased brother continue to cause polemics in customary law practices as most of the deceased brothers considers that upon death they will not only inherit the deceased property, but equally inherit his wife as of right.

It was an old Jewish custom for the “levir” or brother of a deceased to take over his wife to produce a son for the latter and perpetuate his name. The objective in customary law is different. It assuages the widows’ incapacity to succeed and Professor Elias writes that the union is “a scheme of social insurance against neglect and hunger for the deceased’s dependants.” In *The Estate of Agboruja* it was explained that the basis of the custom was to ensure the continued maintenance of the widow and her children and was not repugnant as contended by the widow; unless it could be shown that the new husband was wicked towards

that family when the deceased was still alive. The male relative becomes a new father for the children and is responsible for their upbringing as if they were his children.

The term widow inheritance is commonly used giving the impression of compulsion. Widows have always had the option to refuse to take a relative of the deceased as a husband without thereby forfeiting the right to maintenance by the family if they remain in the family. The true significance of the expression is not necessarily that the successor inherits the widow as a wife, but rather the responsibilities towards her, which were initially those of the husband. An Ashanti proverb cited by Rattray says that “The one who takes the gun of the deceased also takes the widow”. The gun symbolizes the means of livelihood and one cannot take it away without assuming the responsibility to feed the mouths that depended on it.

Therefore whether the widow becomes a wife to the successor or any other person depends on her consent. This was emphasized by a West African chief who described the situation as follows: “If somebody dies any member of the family can go secretly to any of the wives and find out if she would marry him. If the woman agrees, there is a customary present that the relative gives to the woman. If there is an agreement between the woman and the man, the man is to go and inform the oldest person in the family.” In his study on the Bali tribe in Cameroon, it is established that widows generally have three options. They could return to their parental homes, remain in the home of the successor under his guardianship as a widow, or become the wife of one of the relatives of the deceased. Where she elects to return to her parental home the bride price must in principle to be returned, although the right may be waived by the family. Where she chooses to remain in the husband’s compound as a widow, with or without children, the obligation to refund the bride price is removed and she is entitled to maintenance from the husband’s family. Indubitably therefore, the consent of the widow is necessary especially as article 77 (2) of the Civil Status Registration Ordinance No. 81-02 of 29 June 1981 provides that “In the event of the death of the husband, his heirs shall have no right over the widow, or over her freedom.” When there is consent the matter cannot get to court, and in fact we came across a case which is representative of the actual situation. In *Asane Florence v. Ndeh Thomas* the plaintiff’s mother and three other widows were taken over by her “uncle” when their husband died. Other children were born of these unions and the defendant was one of them. In the case, however, the point in issue was not the levirate marriages but rather whether the plaintiff was to succeed to property as the child of her biological father or of the father by inheritance.

The courts generally castigate levirate marriages as being contrary to natural justice, equity and good conscience. Thus in *David Tchakokam v Keou Magdaleine* it was stated that “any custom which says that a woman or any human being for that matter is property and can be inherited along with a deceased’s estate is not only repugnant to natural justice, equity and good conscience, but is actually contrary to written law.”

In the light of what is said about the bride-price and levirate marriages it is clear that the “woman as property” theory is in sharp decline. The process was started in the divorce case of *Fodje v. Kette*, described by Professor Ngwafor as “a famous first,” because Arrey, J. granted the wife the right to occupy the matrimonial home as well as collect rents from two other houses. An appeal against that decision to the Supreme Court is still pending. This could just be indicative that the highest judicial authority considers the case to have been rightly decided. The equality of sexes is a matter of public policy proclaimed in the preamble of the constitution. The principle is also enshrined in article 2 of the African Charter on Human and Peoples’ Rights, which has been ratified by Cameroon. In this respect the high judicial body overruled a decision of the Bamenda court of appeal in *Chibikom v. Zamcho Florence* in which a married woman was held not have the capacity to administer her father’s estate.

3. Reasonable and Debateable implications of Women Protection in Cameroon as to Customary Law

The rule remains that women are complaining everyday about the abuse done on them or the violation of their rights as women by their supposed husbands who exert assault on them, but most of them lack the courage to prosecute their husbands.[33] They believe that marriage under customary law is a sacred institution which needs to be protected at all cost, so bringing or taking an action against their husbands will constitute a breach of confidence of upholding this prestigious institution. They prefer to bear and die in silence even when they are aware that they are victims of violence from their husbands. Some even stay and refuse to report abuse cases for the sake of their children as they think it is their responsibility to protect their children against public mockery and insults. Combatting violence or the inhumane treatment on women when dealing with customary law practices is a difficult and pragmatic unreality that will be a nightmare on the part of the law to handle as most of the victims of the violence are women who in most cases find it difficult in reporting cases of violence. A practical situation can be seen under customary law practices where the law in the country does not consider rape between husband and wife. This is because they believe that the husband has

the right to have intercourse with the wife as he wishes. The wife is seen as a property and does not belong to the husband alone but to the whole family. With all these outdated traditions, it difficult to change the mentality of the people. Women who are victims of domestic violence cannot even file a complaint or return to their father's house. Reason being that tradition forbids return of bride price and it is a taboo. Some of these women are even afraid of being punished by the custodian of their traditions. We believe the law will not force these women in bringing actions against their husbands in case of abuse or violence, the women or the supposed victims continues to suffer from these pandemic plagues or violence of their right, but the question is how many of them have that courage to bring actions against their husbands? They believe that they owe that obligation to be submissive and respectful to their husband as they consider them as the sole provider of the family, bringing or reporting cases of violence against them will make them to be deprived of the privileges that they acquired. It is thus the fundamental human right of the women to be treated humanely as the law gives and maintains their position and status that they occupy, they should be bold enough in bringing or reporting cases when faced with abuse or violations of their rights and status by their husbands, the law officials are there to help them combat this crime by punishing those who violate or abuse their right and status. But it will be difficult to handle this issue of combatting violence if cases of violence or abuses are not reported. It was not by chance that the Universal Declaration of Human Right 1948 in its article 2 talks about the responsibility of everyone to respect the dignity of all regardless of their genetic characteristics.[33] Cameroon has recognised this right in its preamble by ensuring that fundamental human right are respected,[34] in which those pertaining to women are not an exception.[35] We believe that issue of reporting cases by women should rather be an obligation not that of helping them since the law gives room for this. The situation of women irrespective the abuses that they encountered under customary law practices are not only limited to the women, but also extends to the female children in which customary law continues to recognize them as nothing and helpless since the law does not regards them as important in the society. The situation becomes horrible and worrisome when dealing with inheritance or succession cases where the girl child is helpless and questioning the place they occupied in the community and even in their father household.

3.1. Experiencing Child marriage, a common practice and explanation under Customary Law Practices

Under statutory law, the legal age of marriage is 15 years for girls with parental permission, and 18 years for boys.[36] In 2016, the state adopted a new Penal Code, which criminalizes forced marriage, and penalizes offenders with five to ten years in prison, as well as a fine of CFAF 25 000 – 1 000 000 (CFA franc). **Section 356** of this law states that:

“Whoever compels anyone to marry shall be punished with imprisonment for from 5 – 10 years with a fine of from CFAF 25,000 – 1,000,000.

Where the victim is under the age of 18, the punishment may not be less than 2 years imprisonment, whatever the mitigating circumstances. Whoever gives in marriage a boy or a girl under 18 shall be punished as under the last two foregoing subsections. Under conviction, the court may deprive the offender of parental power and disqualify him from being the guardian or curator of any person for the time prescribed by section 31 (4) of this penal code.”,[37] This situation of preventing child marriage is just a nightmare in Cameroon. Child marriage is most common in the northern part of the country where three-fourths of women aged 20-29 were married before they turned 16. Prevalence is highest in North of Cameroon, where 79 percent of girls marry early. Most of the girls in the northern part of the country are given to older suitors when they are 11 or 12 years-old according to Demographic and Health Surveys. Cameroonian girls are susceptible to early marriage because cultural and social norms dictate they marry earlier than boys, as it is believed that the future and dignity of girls in the country is secured only in her marital home. Girls are therefore denied the opportunity to go to school because they are expected to do chores such as cooking, fetching water and cleaning the home in preparation for their married life.

In the northern part of Cameroon, girls are often told early that marriage is their primary destiny. Girls are therefore advised and forced to marry at a young age and consequently forced to finish their schooling early. The fact that early marriage can be a major financial boon compounds the impetus to marry them off early. According to culture, the groom provides what is known as “bride wealth” to the girl’s family in the form of livestock, cash or goods. The younger the girl, the higher the bride price, which incentivizes poor families to marry off their daughters before they even hit puberty. Additionally, older men often seek younger women as a means of boosting their virility and avoiding infections, as it is believed that a young and a virgin bride is pure a characteristic much valued in Cameroonian culture.

Faced with these statistics, one is pushed in continuing asking how policies can prevent such high rates of child marriage. This question is even more urgent considering that we know that child marriage affects the lives of girls with regards to barriers to education, continuous intergenerational poverty, higher health risk (increased risk of obstetric fistula, STIs related risk and pregnancy related complication), undermines the dignity and safety of girls and infringes on the rights of girls. Further, child marriage robs girls of their childhood and the option to pursue an education and exercise the right to choice as they are thrust into adult roles, which often includes forced sex and pressure to bear children, before they are ready.

3.2. The position of widow Inheritance, a human right violation in Cameroon

The African Charter on Human and People's Right, and the Protocol to the African Charter on Human and People's rights on the Rights of women in Africa explicitly call for the elimination of harmful traditional practices. Several articles of the Protocol call attention to widow's rights. For example, article 2(1) (b) prohibits discrimination that endangers the health and general wellbeing of women. Furthermore, article 2(2), deals with the elimination of harmful cultural and traditional practices while articles 3 and 4, which deals with the rights to dignity, and life, integrity and security of person respectively, ensure that women such as widows are treated in a respectful, humane and non-degrading manner. In spite these provisions, article 20 and 21(1) address the unique issues associated with widows. Article 20 caters to situations where widows are subjected to all sorts of degrading and humiliating treatment by their status as widows.[38] It also envisages and seeks to prevent situations where widows are denied the custodianship of their children. Other harsh realities such as forced marriages and the inability of widows, from certain societies, to remarry have been recognized and dealt with admirably in article 20, which states as follows.

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- (1) That widows should not be subjected to inhuman, humiliating, or degrading treatment;
- (2) A widow shall automatically become the guardian and custodian of her children, after the
- (3) Death of her husband, unless this is contrary to the interests and the welfare of the children;
- (4) A widow shall have the right to remarry, and in that event, to marry the person of her choice.

Article 21(1) seeks to tackle the problems associated with inheritance as follows: A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In a case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.

Despite subscription to, and ratification of the above-mentioned gender equality and social justice treaties, respect for the Constitution of Cameroon remains superficial leading to a lack of substantive policies that would promote women's rights. In most of Cameroon, widows are dehumanized and dispossessed of their inalienable rights including the right to succession, inheritance, and property ownership. In both the customary and received laws applicable in Cameroon,[39] a husband is duty-bound to maintain his wife or wives and children as well as members of his immediate and extended family, whether or not they might have a means of their own. "However, intestacy rules fail to make a proper inventory of all beneficiaries. The patrilineal system of succession excludes women from the list of beneficiaries for, not being family members. While the family has absolute ownership of land, women, and widows are considered non-family members by both their natal groups and the kinship group into which they get married. Although there is no uniform pattern in the custom depriving women of succession rights, this conflict of laws in Cameroon has left a gap that permits the selective appropriation of gendered laws that negatively affect women's rights. While international law supersedes the constitution, and the latter supersedes culture, the rights enshrined in the constitution are more declarative than actual, mostly due to the patriarchal mind-set that is the basis of these laws. Under Cameroonian customary law, the wife is defined as the property of the husband.

Cameroon has over 250 ethnic groups and an overabundance of native laws and habits such as the hideous rite linked to widowhood. Widows in different parts of the country go through varied treatments once their husbands die, some of which are repugnant. The rationale for the traditions of widowhood rites, according to its adherents, is meant to purify the widow from ill fortune provoked by her husband's death. This purification which takes different forms includes - amongst others sleeping on uncovered floors, eating with unwashed hands, dancing nude, and, at times, avoiding taking a bath for weeks. In some cultures, widows are not allowed to talk to or greet anybody, stay or sleep alone at home.

4. The Need in Decimating Customary Law Practices considered as Harmful

The propensity is that violence on women has been stipulated in series of laws ranging from legal to that of customary. In every given society there are two laws being written and customary laws that govern that society. The same situation or scenario exist in Cameroon where there is the presence of written laws[40] spelled out in relevant legal documents such as the constitution, labour code, criminal code, civil status registration ordinance and others. The fact that issues of customary laws have been existing for a very long time and the practices have been carried out by the people; the existence of written laws to check elements of customary law becomes questionable. Even though the provision of **Section 27** is clear as to that customs that are incompatible with the written laws of the land should be questionable as it is considered as repugnant to natural justice, equity and good conscience. These written laws in the country have been considered by many as a threat to the existing customary practices. It is not really a bad issue mentioning the laws that deals with violence against women whether these laws are written or customary. But when dealing with aspects of combatting it, the rule remains that the laws should be used effectively. What the state should be doing to these communities who are so indented to these harmful practices is telling the people about the ills and consequences that the none eradication of these harmful practices will have on the status and right of the women rather than talking about the law. The custom or tradition is the bone of contention here and not the law where those combatting should lay emphasis on. Combatting and supressing these harmful practices that affect the status and right of the women continue to be a complex and complicated issue that needs lots of precaution in handling. It becomes the responsibility of the State to ensure combatting them even though eradication will be impossible. The existence of the laws on violence should be used diligently in its application and one should be used differently from the other. The law laid down[41] must be separated from the laws as it ought to be[42] when dealing with issues of contending. There can never be a proper correlation between the written laws and customary laws when issues of combatting are concerned. The mixing up and coexistence of the legal text and customary law will be confusing and demanding sometimes.

CONCLUSION

There is no doubt that the human right protection climate of women in Cameroon is questionable and the future occupies by women when dealing with the protection of their right is in unquenchable flames. These women are subjected by the so called traditional and customary law practices who continue regarding women as frustrated organisms. The laws of

Cameroon are clear from the 1996 Constitution in its preamble provide for equal treatment of all irrespective of their status and sexes they occupied and represents, but the situation under customary law continue to be provocative and devastating. Really the laws of the country continue to frown and considered all practices of customary law as discriminatory, inhumane and degrading on the women. Even though the laws of the country considered all customs and traditions which are repugnant to natural justice, equity and good conscience to be discriminatory and sees the need of exterminating them, the constant and rampant violations of women right in the country has really created an environment of a questionable character. With all these violations in place, we are really worried by asking whether all these customary law practices understands the implications and the consequences it has on women when these women undergoes these cruel, degrading and unscrupulous practices. The question of protecting women rights under customary law remains controversial and problematic as the future in the protection of women right as far as customary law exist will continue to be a nightmare and a difficult nut to crack since many Africans are attached to their tradition, a custom in which the existing practices will continue to be a paddling machine. So one can say without any fear of contradiction that, combatting customary law practices against women in Cameroon continue to be considered as a noiseless arena were abuses, discrimination and inhumane practices on the women statuses continue to be a nightmare on Women Rights and Status. So with all these, can we say the situation of customary law on women status must encountered the need for extermination or continuation in Cameroon?

REFERENCES

1. Law No 2008/001 of 14 April. This law amended and supplemented law No 96/06 of 18 January 1996 which itself amended the constitution of 2nd June 1972.
2. Preamble, constitution of the Republic of Cameroon, 18 January 1996, it which article 65 of the said laws considered the preamble as an integral part of the Constitution.
3. Part 1 art 1 (1).
4. Art 2(3).
5. Ibid Preamble.
6. The Cameroon constitution which is regarded as the grundnorm that is the highest law of the country.
7. The 2008 law modifying and amending certain provisions of the 1996 Constitution.
8. The Declaration really frowns on the practices that affects human Statuses and condemns all those acts that are discriminatory to the human race in which the women in many

- circumstances continue to be victims and exposed to vulnerable treatment. This is really a by standard of hallucinations which calls for extermination.
9. Section 27(1) of the Southern Cameroon High Court Law of 1955 is clear as it provide that all the customary law practices even though they should not be repugnant to natural justice, equity and good conscience, but the custom and practices should be compactible to the written law of the land which remains the constitution. This therefore means that the Constitution is the highest law of the law, and all know whether written or unwritten should follow the basic tenets of the Constitution.
 10. Article 3 of the Declaration on the Elimination of All form of Discrimination Against Women.
 11. C. ANYANGWE, *The Cameroonian Judicial System*, Yaounde : CEPER, 1987, p. 243.
 12. J.N. TIEMNGAH, *The Rights of Widowhood in Former West Cameroon. A Case Study of the Fungom Area*, (maîtrise dissertation), Faculty of Laws and Economics, Yaounde, 1990, p. 45.
 13. [1961] 1 All N.L.R. 294
 14. This is what held by Ingles J in the case of *Achu v. Achu* he accepted that in customary law the sharing of property between husband and wife on divorce is still problematic as the woman is still regarded as the husban's property.
 15. Court of Appeal of the South West Region: Suit No: CASWP/CC/86/95: unreported.
 16. High Court of Fako Division: Suit No. HCF/AE57/97–98: unreported.
 17. A next of kin declaration is a preliminary document to the issue of letters of administration in the former Southern Cameroon. It is issued by a competent customary court, upon an application tendered before the court, appointing a beneficiary to exercise control over a deceased's estate. Upon obtaining the declaration, the beneficiary must proceed to the High Court where letters of administration may be issued on the strength of the declaration.
 18. R.D. Hamisu(2005), *Women, Property and Inheritance: The Case of Cameroon*, Recht in Afrika, Vol 1 no. 16, pp 146
 19. Reference is made here as to the Convention on the Elimination of all Forms of Discrimination against Women(CEDAW) in which Cameroon is a signatory which frowns on some harmful and obnoxious practices against women in which one of them is those related to the discrimination as to the ownership of property and also that of inheritance.

20. Supreme Court judgment No. 14L of February 14, 1993. In the South West Court of Appeal, it was registered as Suit No. CASWP/17/931: reported in Cameroon Common Law Report (CCLR), 1997, 213–223.
21. Eko v. Serah Imbole Ngoma, suit N° 28/86-87 C.R. BK. 1/86-87, p. 55 (unreported), Bonjongo Customary Court
22. Law 81-02 of 29 June 1981 on Civil Status Registration in Cameroon, s. 77(2) of which provides that : "In the event of death of the husband, his heirs shall have no right over the widow nor over her freedom or the share of property belonging to her [...]"
23. Christian Taboti v. Mbiekwe Kiembo, Appeal N° BCA/61/86 (unreported); Japhet Nchanji v. Tanto Gwe'u Appeal N° BCA/11/85 (unreported).
24. Appeal N° BCA/62/86 (unreported).
25. Appeal N° BCA/45/86 (unreported).
26. In Cameroon, there are three arms of government that is the Executive, legislative and judiciary. Once the laws are accepted by upper house of the law being the Senate, it is send to the President of the Republic for promulgation into law which thereafter published in the official gazette of the country in English and in French.
27. Pettitt v. Pettitt [1969] 2 All E.R. 385, H.L
28. Section 17 provides that: In any question between husband and wife as to the title or possession of property, either of them may apply to the High Court or to a County Court and the Judge may make such order with respect to the property in dispute [...] as he thinks fit.
29. Cobb v. Cobb, [1955] 2 All E.R., p. 700.
30. Enie v. Enie, suit N° HCSW/65MC/83 (unreported); Body Lawson v. Body Lawson, suit N° HCF/128Mc/86 (unreported); Jones v. Maynard, [1952] 1 All E.R. 802.
31. Sally Engle Merry, Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence, Human Rights Quarterly, Vol. 25, No. 2 (May, 2003), pp. 343-381
32. United Nations General Assembly Resolution 217 A
33. Section 65 of the 1996 Constitution provide that the preamble is considered as an integral part of the constitution.
34. Section 1 of the Cameroon Penal Code provides that everyone is equal before the law
35. Section 52 of the 2011 Civil Status Registration Ordinance that upon the waiver of the President of the Republic, a marriage can be celebrated when the parties in question the female 15years and the male 18

36. Section 356 of the Cameroon Penal Code
37. Section 52 of the 2011 Civil Status Registration Ordinance that upon the waiver of the President of the Republic, a marriage can be celebrated when the parties in question the female 15years and the male 18
38. Section 356 of the Cameroon Penal Code
39. Christian Taboti v. Mbiekwe Kiembo, Appeal No. BCA/16/86(unreported), also inhumane practices were also experienced in Japhet Nchanji v. Tanto Gwei, Appeal No. BCA/11/85(unreported).
40. Although jurisdiction is shared between the customary and the received laws, in Francophone Cameroon for example the parties have the option of jurisdiction and in Anglophone Cameroon the high courts have monopoly over letters of administration and on the basis of which they entertain matters normally subject to the jurisdiction of the customary courts.
41. The most important one to emphasis on is the 1996 Constitution which is consider as the highest law of the law which other laws have their inspirations.
42. The positive law or the *lex lata*.
43. Natural law or otherwise known as the *lex feranda*.