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COLLEGE OF LAW AND GOVERNANCE  
CENTER FOR HUMAN RIGHTS

Marital Rights of Women: Assessing the Culture of Bride Price among  
*Bench* People; the Case of Semen Bench *Woreda*.

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A Thesis Submitted in Partial Fulfillment for the Requirement of the Degree of Master of Arts  
for Human Rights at the Center for Human Rights, Addis Ababa University

June, 2018

Addis Ababa

## DECLARATION

I, Adam Dagne, declare that this thesis is my original work and has not been presented and submitted to any other university anywhere for the award of any academic degree, diploma or certificate. All sources or materials that I used in this thesis have been duly quote and acknowledged.

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## **Acronyms**

ACHPR	: African Charter on Human and People Rights
ACRW	: African Charter on Rights of Women
BPA	: Beijing Platform of Action
BMZ	: Bench - Maji Zone
CEDAW	: Convection on the Elimination of All Forms of Discrimination against Women
CSA	: Central Statistics Agency
FDRE	: Federal Democratic Republic of Ethiopia
FGD	: Focus Group Discussion
FGM	: Female Genital Mutilation
GTP	: Growth and Transformation Plan
EPRDF	: Ethiopian People Revolutionary Democratic Front
HIV/AIDS	: Human Immune Virus/ Acquired Immune Deficiency Syndrome
HTP	: Harmful Traditional Practices
ICCPR	: International Convention on Civil and Political Rights
ICESCR	: International Convention on Economic, Social and Cultural Rights
MOWA	: Ministry of Women's Affairs
SIDA	: Swedish International Development Cooperation Agency
SNNPR	: Southern Nations, Nationalities and Peoples Region
STD	: Sexually Transmitted Diseases
UDHR	: Universal Declaration of Human Rights
MoWCYA	: Ministry of Women, Children and Youth Affairs

## **Glossary**

<i>Asha</i>	: The practice of offering a virgin girl as a ransom for the family victimized by another family when the latter has committed homicide
<i>Barz</i>	: Widow Inheritance marriage among <i>Bench</i> people
<i>Bayba</i>	: <i>Bench</i> people claim as their family
<i>Baykes</i>	: the dominant clan among <i>Bench</i> that control all spiritual, economic and socio-political organization
<i>Benchdod</i>	: <i>Bench</i> land
<i>Benchnon</i>	: the language of <i>Bench</i> people
<i>Birr</i>	: Ethiopian currency
<i>Chemo</i>	: A drink prepared from the leaves of a coffee
<i>Dash</i>	: Banana
<i>Ditchy</i>	: Maize
<i>Diyant</i>	: Cattle
<i>Dor</i>	: Sheep
<i>Dong</i>	: Sorghum
<i>Erage</i>	: Women's court among <i>Bench</i> people in the past
<i>Garska</i>	: Marriage by the consent between the two spouses
<i>Gez</i>	: Local drink of maize or sorghum among <i>Bench</i> people
<i>Giyam</i>	: Chicken
<i>Goca</i>	: Marriage by Abduction
<i>Gon</i>	: Redded – mud mixed with butter
<i>Iram</i>	: Blood money
<i>Jash</i>	: Ancestral land or it is believed the original homeland of <i>Bench</i> people which is located today in <i>Me'ant</i> area.
<i>Kah</i>	: Possessing spirits and in some case traditional spiritual leaders also called <i>Kah</i>

<i>Kaskakotsa</i>	: A practice among <i>Bench</i> by which the man's family had the right to demand a younger sister if the first wife died before producing children.
<i>Kayat-ket</i>	: A special hut constructed for women to isolate herself during menstruation period from her family.
<i>Kebele</i>	: The smallest administrative units of <i>Woreda</i> or district
<i>Kest</i>	: Goat
<i>Kerd</i>	: A special leaf squeezed on the food if the wife and husband are conflicted
<i>Kominin / Gayni</i>	: The senior wife of the clan leader who preside <i>Erage</i> court previously
<i>Menja</i>	: Socially marginalized ethnic group in Semen Bench <i>Woreda</i>
<i>Mahr</i>	: A marriage gift to the bride family among Muslim peoples
<i>Mohar</i>	: Bride price payment mentioned in Old Testament
<i>Mianage</i>	: Ancestral spirits
<i>Punta Donta</i>	: Arranged marriage
<i>Qoys</i>	: If a women dies before she has given birth and if she has no younger sister, all the bride has to be returned to the husband that are paid during the wedding.
<i>Tilosh</i>	: Bride price
<i>Tiyat</i>	: King
<i>Tiyats</i>	: Regional lords
<i>Ukars</i>	: Village headmen
<i>Vyard</i>	: Marriage
<i>Woreda</i>	: Administrative Structure which is below Zone comprising of smallest administrative units ( <i>Kebeles</i> )
<i>Yelimat Budden</i>	: Development groups
<i>Yekuntal Gabicha</i>	: Quintal Marriage
<i>Yesetoch Enat</i>	: Women's Mother

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## **Abstract**

*This study assesses and evaluates marital rights of women the case of bride price among Bench people the case of Semen Bench Woreda of Bench- Maji Zone in SNNPR. This people accept and practice the culture of Tilosh during marriage as an important aspect of recognizing marriage and any marriage that does not involve the payment of bride price failed to get the recognition of the society. In order to address the objectives of this study, qualitative method of in-depth interview and focus group discussion were utilized for primary data gathering. Three Kebeles from the study Woreda were purposively selected using purposive, non probability sampling technique and a total of 59 respondents are participated in this study. Married men and women, young girls and boys, elders, clan leaders, traditional spiritual leaders, gender office experts, public prosecutors as well as NGOs working in the study area were included. The findings of the study show that, there are various cultural practices among Bench community that undermine the marital rights of women and girls. Among these cultural practices, Tilosh takes primacy. As a result of this practice, women face multifaceted violation of rights within marriage. The finding of the study show that, women''s marital rights are violated by the customary practice of Tilosh especially the right to education, access to reproductive health right, the right to property, access to legal divorce and decision making role within household are the major ones. The study also finds the customary practice of Tilosh is the cause for polygamous marriage, widow inheritance and women labor exploitation within marriage. Another finding of the study was the absence of strong and coordinated administrative measure and resistance from elders and traditional spiritual leaders still the practice continue and severely affects women and girls marital rights in the study area. Thus, the study recommended that, all the stakeholders could be responsible to solve the problems of women that are caused by the cultural practice of Tilosh through effective and efficient awareness creation education among the community about the harmfulness of the practices on women and girls.*

# Chapter – One

## 1. Introduction

### 1.1. Background of the Study

The basis of human rights such as respect for human life and human dignity is a value as old as humanity that can be found in most religions and philosophies. The concept of human rights, which is an ethical concept, has developed throughout history as a result of negative conditions that befell humanity, such as World War II. The term human rights is also strongly associated with the founding of the United Nations (UN) in 1945 and the adoption by the UN General Assembly of the Universal Declaration of Human Rights in 1948. It replaced the phrase „natural rights“, as well as the phrase „the rights of Man“, which was not universally understood to include the rights of women.<sup>1</sup>

Human rights are protections to which all human beings are entitled because of their humanity and not because of their social status or individual merit. The Charter of the United Nations includes among its basic principles the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.<sup>2</sup> Hence, one of the basic principles of human rights is based on the principles of equality and non-discrimination. This principle is articulated in several Conventions such as the United Nations Charter (1945), the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). State Parties are obliged to respect, protect and fulfill the enjoyment of human rights to all their citizens without any discrimination. Moreover, States Parties shall take all appropriate measures; *“To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the*

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<sup>1</sup> Martin Griffiths and Terry O’Callaghan (2002), International Relations: The Key Concepts. Routledge, in London and New York p 141

<sup>2</sup>Charter of the United Nation Article 1, Para. 3, Signed at the city of San Francisco on June 26 ,1994

*inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.*”<sup>3</sup>

Despite such normative recognition of human rights under various instruments, practically there are many traditional, cultural and religious beliefs as well as practices that hinder the equal enjoyment of human rights especially for women and children among different societies. Among these factors, culture plays a significant role in many communities in determining the dynamics of societal structure and recognizing or violating various human rights stated in different international, regional and national human rights instruments influencing and shaping the life of the society at large.<sup>4</sup>

Different society raises culture and religion often as a justification for discrimination against women and girls. As Moghadam & Bagheritari (2005) notes, “*cultural rationales are used throughout the world to protect the status quo when it comes to advancing women’s rights... even in the democratic and developed countries, culture features prominently in arguments against improving women’s rights.*”<sup>5</sup>In all societies and spheres of activity, women are subjected to inequalities and discrimination, though the degree and extent varies from country to country and culture to culture.<sup>6</sup> Among the cultural practices that cause women’s human rights violations is bride price takes precedence in many countries. Bride price is a practice mostly used to validate customary marriages and is very common in many African and Asian countries. The payment is often either in cash or in kind and intended to compensate bride’s family for losing her labor and as a reward for giving birth to groom’s family which is affirmed by the next statement as follows; “*Typically, bride price consists of a contract between families where material items often cattle or other animals or money is paid by the groom to the*

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<sup>3</sup>Convention on the Elimination of All Forms of Discrimination Against Women (art. 5 (a)), adopted by General Assembly resolution 34/180 of 18 December 1979

<sup>4</sup>Eleni Tarekegn, “The nexus between culture and women’s human rights: the case of „ABUSMA” marriage in Afar”. MA thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in human rights, Center for human rights, AAU, June 2013.

<sup>5</sup> Bagheritari & Moghadam, “Cultures, Conventions, and the Human Rights of Women: Examining the Convention for Safeguarding Intangible Cultural Heritage, and the Declaration on Cultural Diversity” March 2005. P.4

<sup>6</sup> Kalkidan Bekele, “Cultural Practices that Affected the Status of Women: In Benishangul- Gumuz Mandura Woreda” A Thesis Submitted to the Institute of Gender Studies Addis Ababa University In Partial Fulfillment of the Requirements of Masters of Arts in Gender Studies, AAU, July 2007.

*bride's family in exchange for the bride and invariably her labor and her capacity to produce children.”<sup>7</sup>*

The practice of bride price is identified as a major cause for a frequent violation of human rights and exposes women and girls to violence and abuse. Because the basic rationale of the practice affects women's human rights particularly their marital rights which is clearly indicated as follows;

*“It subordinates women, objectifies them, commercializes marriage and threatens women's physical and mental health. It has far reaching health, economic, social, human rights and legal impacts. The international community has recognized it as a form of slavery, a violation of the fundamental rights of liberty, equality and non-discrimination and calls for states to abolish it.”<sup>8</sup>*

The practice is also identified one of the harmful traditional practice that affects the human rights and health of women and children by the international community.<sup>9</sup> Ethiopia is a multi-ethnic country with over eighty different ethnic groups and diverse cultural traits scattered throughout the country. Each ethnic group has their own cultural beliefs and practices that play a dominant role in shaping the behavior and action of its members. As a heterogeneous country with diversified cultural and traditional practices, there are various traditional practices prevalent among many ethnic societies that affect particularly women and children not to effectively exercise their fundamental human rights in their socio-economic, cultural and political life.

The researcher is interested to research on this theme since marriage is one of basic human rights of human society which is a source of delight as well as the guarantee for the continuation of generation. As a result, it needs serious protection and maintenance by all stakeholders from different factors that dismantle its inherent purposes. But, there are different socio-cultural practices in our society's still prevalent despite a lot has been said and done against them that impede the full enjoyment of this basic human right.

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<sup>7</sup> Saad Baluku Muthegheki et al, (2012). An Exploratory Study of Bride Price and Domestic Violence in Bundibugyo District, Uganda

<sup>8</sup> Evelyn Okoth, (2002). The Bride Price culture and human rights; The Development Education Journal Volume 9 Number 1 p 27

<sup>9</sup> Fact Sheet No.23, Harmful Traditional Practices Affecting the Health of Women and Children

Among these practices the bride price payment is widely practiced among *Bench* people, which is known by the local people as *Tilosh* and due to this the human rights of women's are under frequent infringements and married women's are highly at the risk of labor exploitation, widow inheritance, domestic violence, early marriage, abduction, psycho-social violence and the like. Bride price payment was also perceived to worsen existing gender inequalities especially regarding marital rights of women. The researcher was in this locality for more than two years because of my occupational placement and observed naturally the existing discrimination and violence on women's which is primarily related to bride price payment. Even if the problem is there, comprehensive studies on its character, peculiarities and evils of bride price in relation to marital rights of women have not been on the research outline in Ethiopia up to now just like other traditional and cultural practices such as FGM, early marriage, and abduction that affect the human rights of women's. Hence, this study assessed marital rights of women in relation to the payment of bride price in the specified community in light of various international, regional and national human rights instruments and policy frameworks adopted by the country.

## **1.2. Statement of the Problem**

The situation of women's human rights in Ethiopia has been improved in the past decades, but prejudice, stereotypes, discrimination and inequality still persist across different institutions and societies. Many of their rights are not respected, a number of violations are still continuing and access to resources is limited. For instance, more than 50% of the Ethiopian population is female, but the proportion of resources controlled by females is very small as compared to their number.<sup>10</sup> According to *Habtamu* (2008), still now essential economic sectors are dominated by males and male's unilateral role in all areas of decision making as well as women's vulnerability to a range of violence is observed which can be summarized as follows; *"The greatest proportion of land, industries and business are owned by males. Furthermore, wife and child beating are prevalent throughout the country, husbands make major decisions regarding resource*

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<sup>10</sup> United Nations Entity for Gender Equality and the Empowerment of Women, Preliminary Gender Profile of Ethiopia, Addis Ababa, Ethiopia - November 2014, p 54

*and family matters, girls do not have much say on their own marriage and reproductive health, and girls' abduction and rape still prevail in some parts of Ethiopia.*"<sup>11</sup>

Even if lack of sufficient data has been a hindrance to fully grasp the marital rights situations of women in Ethiopia, the existing limited conducted studies have shown that women's human rights violence within marriage is prevalent both in rural and urban areas. For instance, as per the report of MoWCYA (2013), a mixture of violence against women and girls are prevail throughout the country as clearly expressed as follows; *"Community based studies in Ethiopia indicated 50-60% of women experienced domestic violence in their life time. HTPs related to violence like female genital mutilation/FGM/, early marriage, rape and abduction are commonly manifested violence perpetuated against women in Ethiopia."*<sup>12</sup>

Women in Ethiopia are also underrepresented in different sector, such as education, the economy, employment, politics and decision making.<sup>13</sup> Though many of these indicators have shown some improvements in the past decades, the gender gap is still visible across all sectors. It is also suggested that the socio-economic and political development of the country is not still properly address the frequent violations of women's marital rights at national level and women are often exposed to sexual, physical and psychological forms of gender based violence within marriage.<sup>14</sup>

Among the traditional and cultural practices prevalent in our country among different ethnic communities that affect the marital rights of women, the culture of bride price is common and dominant in some ethnic communities. It is believed that, this culture of bride price affects women and acts to diminish their autonomy and sense of self worth and status within marriage. *"The payment is sometimes used to control a partners actions, rights for example to movement, to decide on the number and spacing of the children, acquisition and management of property, her rights on divorce, over custody of*

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<sup>11</sup> Habtamu Wondimu, (2008). Handbook of Peace and Human Rights Education in Ethiopia. P. 79

<sup>12</sup> Ministry of Women, Children and Youth Affairs (MoWCYA), Assessment of Conditions of Violence Against Women in Ethiopia , November, 2013 Addis Ababa, Ethiopia p 5

<sup>13</sup> Ethiopia: Country Gender Profile Final Report December 2006 WABEKBON Development Consultant PLC p. 5

<sup>14</sup> Elshaday Kifle and Tsion Yohannes (2015), Gender and Human Rights. Teaching Material Printed by Central Printing press

*her children and her independence.*"<sup>15</sup> This customary practice is widely observed among *Bench* ethnic people and there is evidence and studies that show the prevalence of violence against marital rights of women among *Bench* people that was largely associated with the cultural practice of bride price which is stated as follows:

*"The cornerstone of Bench women's subordination to men and their vulnerability to frequent violence of their human rights was the custom of Tilosh or bride price, a payment of, on average ten to twenty head of cattle by the family or patron of the groom to the family of the bride. Through Tilosh, and the concomitant principle that children were "belched by the beast," the husband and his family or patron secured legal rights over both the wife and her offspring. Tilosh payments guaranteed that children belonged to the husband and his family or patron regardless of biological paternity, the man's death, or the woman's flight from marriage. Thus, if the husband died, the woman could be "inherited" by his most senior brother (Barz). If she died before producing children, the man's family had the right to demand a younger sister she might have to take her place (Kaskakotsa). A man could take as many wives as he wished (polygamy), provided he could make proper Tilosh payments for them."*<sup>16</sup>

Therefore, if the problems continue affecting the marital rights of women and no support is provided, the issue will be aggravated much and will affect the women development initiative of the nation in general and the study area in particular. For this reason, the researcher has taken the initiative to conduct the study considering that the study is timely and crucial so as to improve marital rights of women in the specified area.

The Constitution of Federal Democratic Republic of Ethiopia reveals that any customary practice which contravenes the Constitution has no effects and such practices could be put an end if it has been violating the protection of women human rights in general and

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<sup>15</sup> Margaret Oguli Oumo (2004), *Bride Price and Violence Against Women: The Case of Uganda*

<sup>16</sup> Alemayehu Abraham & Bisrat Lema *Visiblizing the Invisblized in the Historical Discourse: History of Bench Women to Present* January, 2016 Mizan-Tepi University. unpublished P 74

marital rights in particular.<sup>17</sup> It also recognizes that State shall enforce the right of women to eliminate the influence of harmful customary practices that cause violence against women.<sup>18</sup> Despite the constitutional recognition and international calls for its abolishment and Ethiopia is signatory to most of the international human rights Conventions such as CEDAW, the customary practice of bride price payment is still prevalent in Ethiopia especially among *Bench* people in South West Ethiopia. Even though there is evidence that bride price payment can have wide- ranging influences on women's marital rights, it remains a much neglected area and has attracted relatively little scholarly attention and policy focus in Ethiopia. This study basically emphasizes on the cultural practice of bride price and women marital rights among *Bench* people in Semen *Bench Woreda* in SNNPR. Previous studies conducted by graduate students of AAU and other researchers have not addressed the issue of bride price from women's marital rights aspect. Among the researchers that conducted their studies on women's and marriage related practices are Hirut Terefe (2004), Kalkidan Bekele (2007), Tilahun Seyom (2015), Daniel Deressa (2002), Mamitu Yilma (2002), Meron Kebede (2017), Adem Alo (2003), are primarily deal with FGM, gender relations, socio-cultural practices that affect the status of women, the socio-cultural ceremonial system of marriage practices , widow inheritance, impacts of traditional marriage on women , HTPs on women's and girls", types of marriage among different ethnic community in a wider sense. Nevertheless, none of these studies give a comprehensive clue about the cultural practice of bride price from marital rights of women and neither of them is delimited on *Bench* people. Thus, there is an observable gap of research on the culture of bride price explicitly on marital rights of women among *Bench* in addressing the aspects of women's human rights violation or protection.

Hence, this study would have assessed the current practice of paying bride price in the specified community, to describe the community perceptions and views towards bride price and assess the relationship between the cultural practice of bride price and women marital rights (before, within marriage and their rights to divorce). Different harmful

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<sup>17</sup> Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia first year No -1 Addis Ababa - 21<sup>st</sup> August 1995 Art 9/1

<sup>18</sup>Ibid , see Art 35/4

traditional practices and its implication on the human rights of women and children is investigated by many researchers in our country, but the payment of bride price and its implication on the marital rights of women is not still gets the necessary attention of researchers. Thus, this paper would contribute by investigating the nexus between culture of bride price and the marital rights of women's.

### **1.3. Objectives of the Study**

With the view to contribute to the solution to the above stated problems particularly problems related with the practice of bride price on the marital rights of women within marriage, the research has aimed to address the following general and specific objectives.

#### **1.3.1. General Objective**

The general objective of this study is to assess the effects of the cultural practice of bride price payment on women's marital rights among the *Bench* people in relation to the basic human rights of the married women under international, regional and national level human rights instruments.

#### **1.3.2. Specific Objectives**

To address the general objective of the study, the specific objectives are:

- ✓ To understand the nature and practice of bride price payment among *Bench* people in relation to the marital rights of women.
- ✓ To assess how socio-cultural practice of bride price among *Bench* people impact the protection of the marital rights of women.
- ✓ To examine the perception of *Bench* women and the societal attitudes towards the customary practice of bride price.
- ✓ To investigate whether there are customary courts among *Bench* community to deal with women's frequent problem within marriage.
- ✓ To evaluate the different intervention initiatives undertaken by different stakeholders to address the problem in the study area.

## 1.4. Research Questions

This study is attempted to address the following research questions.

- What are the different socio-cultural justifications of the *Bench* community for practicing high bride price payment during marriage?
- What are the perception of *Bench* women and the attitudes of the society towards bride price?
- How the customary practices of bride price payment affect the marital rights of women? What are the different challenges encountered women within marriage?
- What are the special customary institutions in the community that deal with women's marital problems among Bench people?
- What are the different interventions carried out or planned by different stakeholders working in the area?

## 1.5. Scope of the Study

This study has both thematic and geographical delimitations. Thematically, it assessed marital rights of women and the cultural practice of bride price payment among *Bench* people. To assess the effects of the socio-cultural practice of bride price against women's marital rights, the researcher basically focused on the nature and rationale of the practice, multifaceted challenges women face within marriage and its implication on the promotion of human rights of women's with special emphasis on marital rights. Moreover, the study also assessed the traditional conflict resolution mechanisms and its impact on women's marital rights protection as well as the interventions carried out on bride price practice by the responsible stakeholders. Geographically, the study is delimited to Semen Bench *Woreda* of Bench-Maji Zone, in SNNPR on the selected three *Kebeles* namely *Kasha*, *Wala* and *Gola*. This is because the practice of *Tilosh* is more prevalent in this *Kebeles* as compared to other *Kebeles* of Semen Bench *Woreda*.

## **1.6. Significance of the Study**

Conducting this study has been multiple significances for different target groups especially it will have practical and academic significance. First, the main significance of this study is to give an insight to the situation of women's marital rights among *Bench* people. Secondly, the women and children affair offices would be benefited from the study in that it gave due emphasis for the issue and help the women who have been in traditional marriage by taking it as input for their intervention. Thirdly, the Civil Society would also understand the women's marital problem in the community and it initiates them to address the problem by doing different activities to promote better human rights of women's in the area. Fourthly, the country also benefited, when the impact of bride price payment on women marital rights have been identified and possible intervention is suggested. The study also serves as a springboard for future in-depth research and expansion of the research to other areas. Finally, the study is significant that it can possibly recommend for actors who are working on women and girls' wellbeing based on its findings.

## **1.7. Limitation of the Study**

In conducting this research, there are limitations that affect the processes and results of the study. The first limitation was due to the cultural sensitivity of the topic key informants are not as such willing to give information about the values and norms that devalues their culture even if they recognize its defects. Lack of experience of the researcher and language barrier since the study area is dominated by *Benchnon* speakers are also the other limitation of this study. This has created limitations on quality and quantity of information gathered. Moreover, conducting the study on all *Kebeles* of Semen Bench *Woreda* was impossible because of time, resource, financial, and material constraints. These limitations have necessitated the researcher to limit the study on a specific one *Woreda* and the aforementioned three *Kebeles*.

## **1.8. Research Methodology**

### **1.8.1. Research Approach**

To undertake this particular study, I have used the qualitative research method with ethnographical research approach to explore and investigate the phenomenon of the cultural practice of bride price and marital rights of women in the study area. As it is explained by Creswell (2007), exploration requires going deep into people's day to day life, interactions and expression of past experiences that can better captured through gathering qualitative information.<sup>19</sup> This research method is used for data collection, analysis and interpretation and it is also helped the researcher to have an in-depth understanding of the respondents take on the bride price during marriage practice. In sum, using qualitative research method is helped me to obtain the relevant data through closer investigation of the issue and it is suitable in order to listen to what people to say about their culture of bride price practice.

### **1.8.2. Data Sources**

There are two major sources for any study to gather data using the more appropriate data gathering instrument, these are primary and secondary sources. The primary data sources are those from which a fresh and a first time data are available. The secondary data sources on the other hand, contain those data which have been already existed are collected. For the purpose of this study, primary data were gathered from fieldwork and secondary sources are also gathered through document analysis and review of related literatures as well as the opinion and views of prominent scholars, academically published journal articles, books, legal instruments, reports and conference papers are taken as the relevant source of information to this study to frame the theoretical basis of the study.

### **1.8.3. Data Gathering Instruments**

In order to generate valid and extensive data, the study employed a combination of data gathering instruments from qualitative research approach. These varieties of instruments

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<sup>19</sup>John W. Creswell, (2007), Research Design : Qualitative, Quantitative and Mixed Methods Approaches , SAGE Publication, Inc P 256

are employed basically to collect primary information from key informants. These tools are in-depth interview and focus group discussion with key informants.

### **1.8.3.1. In –depth Interview with Key Informants**

In-depth interview is appropriate research method for collecting detailed and richer information. In in-depth interview the interviewer can get a relevant data by letting the subjects to narrate all his or her experiences.<sup>20</sup> Furthermore, Kvale considers the interviewer as a traveler leading the interviewee to new and detail insights of the issue under discussion unpolluted by his presence. In this study in-depth interview is used to uncover subjects’ real experience. Hence, in- depth interviews are conducted with 26 purposely selected key informants including, married women, women’s representatives at *Kebele* level, community leaders, traditional spiritual leaders, local non- governmental organizations managers, and government bodies such as policeman, *Woreda* and Zonal level Women’s and Children Affairs Heads and experts , public prosecutors were purposefully selected for interview. Key informants who were capable of providing richer and detailed information about the subject of the study are selected purposively. In this study, information was solicited from research participants through the use of semi-structured interview guide questions.

### **1.8.3.2. Focus Group Discussion with Key Informants**

In this study, focus group discussion is also used to complement the data obtained through other methods of data collection. Focus group discussions are more appropriate when group interaction are capable of producing detailed data and new thoughts and illuminating conflicting views of respondents. In focus group discussion, information is generated from interaction among participants. Participants forward and listen to others’ ideas. In such group context participants express their views from their standpoint. Focus group discussion reduces the influence of the researcher (moderator) on participants than would be possible in individual interviews.<sup>21</sup>

Focus group discussion used to collect information mainly on the necessity of bride price, the social and cultural circumstances where by bride price is justified, the perception of

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<sup>20</sup>Steinar, Kvale (1996). An Introduction to Qualitative Research Interviewing

<sup>21</sup>Bloor, Michael, etal (2000). Using Focus Group as Research Method in Intellectual Disability

the community towards promoting the practice, the multifaceted challenges women face within marriage, on the issues regarding the effectiveness of government adopted women focus rights policy frameworks and protection measures adopted to end or mitigate harmful traditional practices that violate the marital rights of women particularly bride price. For this study, the role of FGD had also significant role in digging out most agreed upon information on marriage process, types of marriage and the value of bride price among the rural *Bench* people and the marital rights of women. FGD was conducted with total of 33 purposely selected key informants including married men and women, community elders, traditional spiritual leaders and youth (both boys and girls) were also participated.

#### **1.8.4. Sample Size and Techniques**

The Bench-Maji Zone is divided into Ten *Woredas*, viz; North Bench, South Bench, She- Bench, Sheko, Gurra Ferda, Me<sup>o</sup>enit Goldeya, Me<sup>o</sup>enit Shasha, Berro, Surma and Maji. Hence, for the purpose of this study, the first three *Woredas* (North Bench, South Bench, and She Bench) are targeted because the *Bench* community is dominantly live in these three *Woredas* and one *Woreda* among them is purposefully selected to gather the necessary information to address the above mentioned research objectives. Then, three *Kebeles* are selected and from these Kebeles a total of 48 respondents are participated both in interview and focus group discussions. Both men and women participants were selected for interview. But, more number of women respondents is included since women are the focus of this study. For focus group discussion, still both men and women are selected from community elders and women are based on their position and status in the community. Moreover, key informants such as, policeman, religious leaders, *Woreda* and Zonal level Women<sup>o</sup>s and Children Affairs Officials, public prosecutors were purposefully selected for interview. This helped the researcher to acquire a variety of responses which is useful to investigate the issue from different perspective and finally addressed the general and specific objectives of the study. In this paper, the researcher used a non-probability sampling technique particularly; purposive sampling is employed. Because this type of sampling technique helps the researcher to select the respondents based on knowledge about which ones will be the most useful or representative

respondent that have an insight understanding on the issue or on the area under discussion.<sup>22</sup>Moreover, in purposive sampling, “researcher uses their special knowledge or expertise about some group to select subjects who represent this population.”<sup>23</sup>As a result, the researcher employed this technique of sampling to grasp the relevant data for the study.

#### **1.8.5. Data Analysis Techniques**

The data gathered using different instruments are record as audio records, field notes, diaries, from this records the data is organized and presented using narrations that make ready for analysis. In analyzing qualitative data, I have created codes for each response and categorized them to better understand the findings specifically thematic analysis have been employed in this particular study to meet the corresponding specific objectives.

#### **1.9. Ethical Considerations**

The researcher followed the basic ethical principles of scientific research in the processes of data collection, data presentation and analysis. Therefore, the researcher is kept the confidentiality of the selected key informants and participants in most instances as per the interest of the informants of the research who prefer to stay confidential. The researcher also asked the consent and interest of the participants and key informants to record their sound and capture their image during focus group discussion and in-depth-interview. The researcher is careful in dealing with interviewees particularly women on the issue of bride price and their marriage rights within these culturally entrenched communities. As such women are interviewed and discuss separately from men. This helps women to feel free to share their experience and opinion. The essence of the study and how the finding could be beneficial to them and other people are clearly explained to participants.

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<sup>22</sup>Babbie,Earl.*The Practice of Social Research*. 11<sup>th</sup> ed. Thomson Wadsworth: 2007, P.

<sup>23</sup>Yitayew Alemayehu and Wondemagegn Tadesse, *Human Rights Research: A practical Guidebook on Methodology and Methods*, Center for Human Rights Addis Ababa University, AAU printed, 2013, P. 131

## **1.10. Organization of the Research Paper**

The research is organized in five chapters. The first chapter deals with introduction which discusses background of the study, statement of the problem, the research questions, objectives of the study, significance of the study, scope and limitation of the research, the research method, and organization of the research paper. Related literature and theoretical, legal and policy frameworks associated with human rights in general and marital rights of women in particular was dealt in the second chapter. A brief description of the study area was given in the third chapter. The following chapter is finding of the study and data analysis which is obtained from the fieldwork. In this chapter, it was attempted to investigate the culture of high bride price among *Bench* people in relation to the marital rights of women. The last chapter is concerned with conclusions drawn from the research findings. Following the conclusion, it was attempted to forward recommendations to the respective parties.

## Chapter - Two

### 2. Review of Related Literatures

This chapter presents review of related literatures in relation to socio-cultural practices of bride price and women's marital rights in the bride price marriage practice. The reviews were made as a way of helping the researcher to build a foundation for the study and to identify the existing gaps. Furthermore, this chapter also presents the definition of key terms used in the study such as bride price, women's rights as a human right, marriage as a human rights and marital rights of women's and culture as one part of human rights. Another emphasis area of review of related literature is on the multifaceted challenges of bride price faced by married women's, normative frameworks on protecting the human rights of women at international, regional and national level and lastly human rights situation of Ethiopian women's and the legal and policy framework of the country towards promoting marital rights of women are discussed.

#### 2.1. Definition of Key Words

##### 2.1.1. Bride Price or Bride Wealth, Marriage and Culture

The concept of bride-price has been conceptualized by many scholars and writers of marriage payments. When we see the literal definitions given by major English Dictionaries, they try to define bride price in the same way in the following ways; The Concise Oxford Dictionary- Tenth Edition defines the term bride price as "*a payment made to a bride's family by that of the groom.*" While Merriam-Webster Dictionary define it as "*a payment given by or on behalf of a prospective husband to the bride's family in many cultures*"

Although there are differences in the way they are practiced, the kind of commodities they are given and the ritual procedures, gift exchange during marriage to ones couple is common in all societies. "*Payments between families at the time of marriage existed during the history of most developed countries and are currently pervasive in many areas of the developing world.*"<sup>24</sup>The payment has two dimensions. In some countries it is a

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<sup>24</sup>Siwan Anderson, The Economics of Dowry and Bride Price. Journal of Economic Perspectives Volume 21, Number 4, 2007 P. 151-174

payment made by the parents of the bride to the bridegroom that is dowry and in others area particularly in African continent, in many sub Saharan countries, it is a payment made by the bridegroom to the parents of the bride called bride price. Even in the Western societies the practice is common, especially men is expected to give luxurious gifts including a diamond ring to the bride as a gift during marriage. <sup>25</sup>

The practice of bride price has a religious and different socio-cultural justification and most great religions of our world recognize bride price as a legitimate practice to validate marriage. For example, when we read the Bible we can find stories about payment of bride price. Jacob worked seven years for Leah, and another seven years for Rachel (Genesis, 29:16-35). Leba forced Jacob to serve for fourteen years wages for cultural reason which can be considered as a marriage gift. The Old Testament defines bride price as „*Mohar*“ money paid to the parents of the girls as compensation.<sup>26</sup>In Jewish tradition, the Hebrew Bible mention the practice of paying a bride price to the father of a girl, which is stated Exodus 22÷ 16-17 as: *“And if a man entice a maid that is not betrothed, and lie with her, he shall surly endow her to be his wife. If her father utterly refuses to give her unto him, he shall pay money according to the dowry of virgins.”*

Furthermore, other religions also strongly advocate this practice of gift sharing during marriage. To mention a list of them, in the Indian tradition marriage gift is strongly advocated by Hinduism and other indigenous religions and this customary practice also supported by various African traditional religions. *“Hinduism put dowry as the necessary requirement for marriage to occur. African indigenous traditional religions have the requirement of bride price for marriage to be ratified. In Islam the groom is also expected to give „Mahr“ a marriage gift to the bride.”*<sup>27</sup> What we understand form this is that, the major religions in our continent recognized the practice of bride price as a legitimate practice for marriage validity. What makes all of them similar is that, in each case it was a payment of considerable value to the parents of the girl as either

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<sup>25</sup> Fr. Deo Eriot. Religious and Cultural Perspectives on Bride Price, A Paper Presented to International Conference on Bride Price and Development Makerere University, Kampala Uganda 2004

<sup>26</sup> Ibid

<sup>27</sup> Ibid

compensation, or a gift of appreciation or simply a fine by the groom in contrary to the culture of South Asian States.<sup>28</sup>

It is also better to define the second important concept of this which is marriage. Marriage is one of the social institutions which is the basic source for the continuation of human generation and gets the attention of various philosophical, religious, cultural and legal appreciations. Numerous definitions are forwarded in relation to marriage from religious to cultural perspectives. There are two competing views about marriage. First view is Conjugal view: tries to define marriage as: *“the union of a man and a woman who makes a permanent and exclusive commitment to each other of the type that is naturally (inherently) fulfilled by bearing and rearing children together.”*<sup>29</sup> The second view is Revisionist view which also define marriage as *“the union of two people or whether of the same sex (of opposite sexes) who commit to romantically loving and caring for each other and to sharing the burdens and benefits of domestic life.”*<sup>30</sup>

Black’s Law Dictionary also defined it as in the same manner as follows: 1. *“A legal union of man and woman as husband and wife”* ,...*the civil status or relationship existing between a man and a woman who agree to and to live together as spouses”* 2, *Marriage is ,the act or ceremony so uniting them; a wedding.”*<sup>31</sup> For some writers marriage is a relationship among two people seeking higher welfare and a secure environment to protect and raise their own children.<sup>32</sup> Planiol defined marriage as *“a contract between two parties sanctioned by law and cannot be broken by free will.”* Departure of Planiol is that, he defined it interims of civil contract which has some essential condition for its validity.

Now let me define culture, just like any other Social Science concepts, there is no single agreed upon definition of the concept culture, as a result the term culture has various meanings and definitions given by various scholars. When we see *The New Catholic*

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<sup>28</sup>Ibid

<sup>29</sup>Sherif Girgis, Robert P. George & Ryan T. Anderson, WHAT IS MARRIAGE? Harvard Journal of Law & Public Policy, Vol. 34, P-246. Available at: <http://www.harvard-jlpp.com/wp-content/uploads/2013/10/George-Final.pdf>

<sup>30</sup> Sherif Girgis, Robert P. George, & Ryan T. Anderson, p-246

<sup>31</sup> Bryan A. Graner (ed.), Black’s Law Dictionary, 7<sup>th</sup> ed, 1999, P-986

<sup>32</sup>Maira Covre & Sussai Soares, Marriage Dissolution: An Institutional Cross-National Comparison, 2008, p-2. Available at :<http://folk.uio.no/torkildl/divnet/papers/covre.pdf>

*Encyclopedia Volume 3*, we can find more than 135 explanations about culture. Edward B. Tyler in his book, *Primitive Culture*, published in 1871 said that, “*culture is that complex whole which includes knowledge, belief, art, law, morals, custom, and any other capabilities and habits acquired by man as a member of society.*” A more recently comprehensive definition of culture was adopted at the World Conference on Cultural Policies (Mexico, 1982) and used in ongoing discussions on culture and define the term culture as follows:

*“Culture is the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or a social group. It includes not only arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs.”*<sup>33</sup>

The term culture has been defined in many ways. It often is used in a narrow sense to refer to activities in such fields as art, literature and music. But in a broader definition used by social scientists, culture includes all areas of life, and all human beings have a culture. Culture includes a society’s arts, beliefs, customs, institutions, inventions, languages, technology and values. A culture produces similar behavior and thought among most people in a particular society.<sup>34</sup>

Accordingly, my operational definition of bride price, marriage or marital and cultures are: bride price is a gift by bridegroom or his family to the bride family either in cash or kind for cultural validity of marriage. Marriage is an agreement between man and women based on their free will to live together as a spouse. While culture refers to customs, institutions, practices, ways of life, and achievements of a particular group or nation within a particular area.

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<sup>33</sup>UNESCO website on culture and development, [http://www.unesco.org/culture/laws/\\_mexico/html\\_eng/page1.htm](http://www.unesco.org/culture/laws/_mexico/html_eng/page1.htm). Accessed on 25/Nov/2017

<sup>34</sup>The World Book Encyclopedia , Vol 4 , a Scott Ferzer Company 2001 P. 1156

### 2.1.2. Marriage Payments: Bride Price and Dowry

Marriage payments are common in all societies and come in various forms and sizes generally can be classified into two broad categories; “*transfers from the family of the bride to that of the groom, broadly termed as “dowry” or from the groom’s side to the bride’s broadly termed as bride price.*”<sup>35</sup> The general pattern seems to be that, “*bride price exists more frequently in primitive, tribal and often nomadic societies.*” Bride price paying societies have also been associated with mostly strong female role in agriculture; “*bride price is founded in societies in which agriculture relies on light tools and thus where women are actively engaged.*”<sup>36</sup>

There are various socio-cultural motives and justifications behind marriage payments across time and place. One of the hypotheses mostly forwarded for marriage payment is to the economic value of women. “*Brides command a positive worth a bride price in areas where women make valuable contributions to agricultural work or other economic activity. In regions where women do not make an economic contribution, they constitute an economic liability and hence bring a dowry.*”<sup>37</sup> Moreover, the marriage payments are determined by the demand for and supply of brides and grooms in a particular society. “*When grooms are relatively scarce brides pay dowries and when bride are scarce grooms offer a bride price.*” Marriage payments are also linked with the kinship structure of the society. As a result, bride price is mostly observed among societies with general polygamy whereas dowry almost often occurs in monogamous societies.<sup>38</sup>

Bride price is the most common practice used to validate customary marriage in many African countries and the practice is the part of marriage rituals and accepted as a cultural norm to legitimize marriages. But, bride price as a cultural practice faces many

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<sup>35</sup>Siwan Anderson, The Economics of Dowry and Bride Price. Journal of Economic Perspectives Volume 21, Number 4, 2007 P. 151-174

<sup>36</sup>Ansell, Nicola (2001) “Because It’s Our Culture (Re) Negotiating the Meaning of *Lobola* in Southern Africa Secondary Schools” Journal of Southern African Studies, 27(4): P. 697-716

<sup>37</sup> Sudeshna Maitra (2007), Dowry and Bride Price. Prepared for the International Encyclopedia of the Social Science, 2<sup>nd</sup> Edition. York University P. 4

<sup>38</sup> Ibid, P. 5

international debates, discussions and has received condemnation globally.<sup>39</sup> The bride price payment is a key element of the marriage contract in many sub Saharan African countries, particularly in Ghana, Kenya, Nigeria, Rwanda, Senegal, South Africa, Tanzania and Uganda. Despite some differences are there, what makes the culture of bride price similar in all African countries is, contrary to a dowry payment in Asian countries, the culture of bride price payment is practiced as the money or wealth transfer given by or on behalf of the groom to the bride and her family upon the marriage of the couple.<sup>40</sup> Hence, the bride-price in African context is an amount of money, property or land, paid by the groom, or his family, to the parents of the bride. The practice also suggests that women are property which can be bought and owned by their husbands.<sup>41</sup>

Studies conducted in many African traditions indicate that, bride price historically believed to have beneficial values such as; it gives formal recognition to marriage, maintains social control, construction of society identity, protects wives against possible abuse, stabilizes the partnership, promotes social cohesion and joins the two families together. Eventually, the tradition appears to have become monetized and commercialized, for these reasons have lost much of its traditional essence and value in many circumstances.<sup>42</sup> According to Issac (2015), the customary practice of bride price during marriage lost much of its original meaning and its financial value is prevail and affirmed that it is one of the cause for domestic violence against wives in many countries; *“Bride-price, thus appears to involve bargaining and buying of a wife as a 'commoditized' item in the marriage market, which can result in domestic violence towards a woman if she does not fulfill her 'value for money' expectation.”* The writer

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<sup>39</sup>Isaac Dery. (2015), Bride-price and domestic violence: Empirical perspectives from *Nandom* district in the north western region of Ghana, International Journal of Development and Sustainability, Volume 4 Number 3 : P. 258-271

<sup>40</sup>Linguère Mously Mbaye, etal. (2013), Bride Price and Fertility Decisions: Evidence from Rural Senegal, Institute for the Study of Labor. P. 1

<sup>41</sup>Gender and Development Network website on Harmful Traditional Practices: Your Questions Our Answer, [www.gadnetwork.org.uk](http://www.gadnetwork.org.uk). Accessed on 29/Nov/2017

<sup>42</sup> Okonkwo, Uchenna .T. etal, Socio-cultural Factors Affecting the Autonomy of Reproductive Decisions of Married Women in Nsukka L.G.A. of Enugu State, Nigeria, International Journal of Sociology and Anthropology Research Vol.3, No.2, P.1-12, April 2017

also argues that bride price payment has direct or indirect influences on the human rights of women particularly their reproductive rights are under frequent abuse.<sup>43</sup>

The custom of dowry on the other hand is prevalent in many South Asia Countries and considered to be an ancient practice associated with the institution of marriage, which involves the giving of gift from bride's side to the groom's side at the time of marriage.<sup>44</sup> Dowry or sometimes called groom price is a marriage payment made from the bride's family to the bride, the groom, the wedded couple, or the groom's family. It may consist of movable property such as money, ornaments, clothing, household goods, or cattle. In some cases land is also provided as a part of the payment.<sup>45</sup> Dowry is identified as one of the harmful traditional practice against women which underscore the importance of individual consent and property and other rights for women.<sup>46</sup>

Despite dowry is justified as a practice to assist a newlywed couples to start their life together with ease, now it has causes many socio-economic problems with very serious consequences. As a result, dowry related violence such as bride burning, harassment, physical torture, and domestic violence against women is the common incidents among societies that practiced dowry as custom.<sup>47</sup>

In a nutshell, both bride price and dowry marriage payments are identified as harmful traditional practices<sup>48</sup> that have both a direct and indirect consequences on the human rights of girls and women particularly their marital related rights recognized under various international, regional and national human rights instruments and policy frameworks.

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<sup>43</sup>Isaac Dery. (2015), Bride-Price and Domestic Violence: Empirical Perspectives from Nandom District in the North Western Region of Ghana, *International Journal of Development and Sustainability*, Volume 4 Number 3 : Pages 258-271, p 259

<sup>44</sup> Neaz Ahmed, Exploring the Socio-cultural Context of Dowry Practice in Bangladesh *Sociology and Anthropology* 3(3): 171-178, 2015, p. 171

<sup>45</sup> Sudeshna Maitra, *Supra note 37, P. 3*

<sup>46</sup> Nidhi Gupta, Women's Human Rights and the Practice of Dowry in India: Adapting a Global Discourse to Local Demands. *Journal of Legal Pluralism* 2003 No. 48 p. 85-123 P. 112

<sup>47</sup> Saira Salim , Dowry, Its Causes and Consequences: A Sociological Study of Dowry Harassment and Death Cases in Aligarh District of UP. *International Journal of Scientific and Research Publications*, Volume 7, Issue 5, May 2017 p.12- 22

<sup>48</sup> Seethe Fact Sheet No.23, Harmful Traditional Practices Affecting the Health of Women and Children

## **2.3. Marital Rights of Women**

The protection of women's marital rights greatly affects her ability to participate in the political, economic and socio-cultural dealings of their society and to control her life and informed reproductive choices. Rights such as equal rights within marriage were among the first human rights pertaining to women's status to be explicitly recognized under many international human rights instruments. One of the basic principles governing marriage under human rights law is that no one may be forced to enter into a marriage against his or her will. Hence, age, consent, equality, access to legal divorce from abusive marriage relationship and access and control of property are among the basic marital rights of women recognized under various international, regional and national human rights instruments. The following section deals about some of the basic marital rights of women's in relation to marriage.

### **2.3.1. Free and Full Consent of both Parties**

The right to consent to marriage is explicitly recognized in principal human rights treaties. In all cases, consent must be full and informed, accompanied by an understanding of the consequences of entering into marriage. Where one or both of the parties to marriage is not fully consented, the marriage is not truly acceptable. <sup>49</sup>Article 16/2 of the Universal Declaration of Human Rights clearly stated the necessity of consent for marriage as follows; "*Marriage shall be entered into only with the free and full consent of the intending spouse.*" Moreover, article 23/3 of the ICCPR also recognized the human rights of both men and women to give their consent regarding their future marital partner and relation as follows; "*No marriage shall be entered into without the free and full consent of the intending spouses.*" In addition, Article 16/1(b) of the CEDAW oblige signatory States of the Covenant to ensure these rights of both women and men during the conclusion of marriage which stipulates it as follows;

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<sup>49</sup> See Article 1 of Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages Opened for signature and ratification by General Assembly resolution 1763 A (XVII) of 7 November 1962 Entry into force: 9 December 1964, in accordance with article 6

*“States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women...The same right freely to choose a spouse and to enter into marriage only with their free and full consent.”<sup>50</sup>*

In this case, governments have a duty to guarantee that marriage is entered into with free and full mutual consent by taking appropriate legal and policy measures that are necessary for protecting a woman’s right to consent to a marriage include addressing cultural practices that condone the marriage of underage girls, changing laws that set different marriage age requirements for boys and girls and they should specify the minimum marriage age and adopting policies to prevent the paying of bride-price which is the main cause for the practice of arranged marriage which is a violation of women’s right to freely choose their spouse. <sup>51</sup>In an arranged and forced marriage, the decisions in determining marriage partner is externally pressured as well as manipulated. The young women and men who oppose an arranged marriage may involuntarily accept by the fear of lose the love and support of their families. In this regard, a woman may agree to marry a husband chosen by her parents by the fear of not to be denounced or not to be disowned by her parents. <sup>52</sup>This is a direct violation of marital rights of both couples as long as both of them are not freely consented to the marriage. Domestically, the FDRE Constitution under article 34/2 and the same article of the SNNPR Constitution which proclaims that *“marriage shall only be entered with the full and free of the intending spouse”*.

### **2.3.2. The Right to Marriage and Found a Family**

The right to marry and found a family is one of a recognized marital right of women under numerous human rights Conventions. And all citizens are entitled to enjoy the benefits of marriage and should not be denied arbitrarily. Failure to recognize legitimate unions denies individuals participation in an important social institution and jeopardizes the economic well-being of members of those unions. As stated in the Universal

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<sup>50</sup>See CEDAW Article 16 /1 (b)

<sup>51</sup> Committee on the Elimination of Discrimination against Women ; General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, 26 February 2013

<sup>52</sup>Deveaux, K. (2006). Gender and Justice in Multicultural Liberal States

Declaration of Human Rights, the family is the basic unit of society and it needs legitimate respect and protection from the society and the State as follows; “*The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*”<sup>53</sup> Besides, ICCPR Article 23/1&2 guaranteed the human rights to form family by stating that; “*Family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The right of men and women of marriageable age to marry and to found a family shall be recognized.*”

The right to marry is also recognized in the ICESCR under Article 10(1) of the Covenant provides that the States Parties to the present Covenant recognize that: “*the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*”

Furthermore, at the regional level Article 6 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women also provides that “*States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that: a) Marriage shall not take place without the free and full consent of both parties; b) The minimum age of marriage for women shall be 18 years.*”<sup>54</sup> Thus, the right to marry and found a family is among the basic human rights of women’s and governments need to recognize and ensure that all people can enjoy this right by adopting legal provisions and privileges associated with marriage.<sup>55</sup> The FDRE Constitution Article 34/3 and the same article of the SNNPR Constitution proclaim that “*family is the natural and fundamental unit of the society and is entitled to protection by the society and the State*”.

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<sup>53</sup> See UDHR Article 16/3

<sup>54</sup> See African protocol on the rights of women article 6 (a & b)

<sup>55</sup> Marriage Rights: Gaining Grounds. A Tool for Advancing Reproductive Rights Law Reform, p75 2006

### **2.3.3. Equal Rights within Marriage including Property Ownership and Inheritance**

Equality is one of the foundations of human rights and it is an integral part of the moral teachings of most the world's religious and philosophical systems. It is also mentioned in the forefront of most human rights conventions including the United Nations Charter, the International Bill of Rights and regional human rights instruments and national constitutions of member States.<sup>56</sup> The UDHR which is the first universal international human rights document explicitly discussed about the equality between men and women particularly in article 1 and 7 as follows; *"All human beings are born free and equal in dignity and rights." "All are equal before the law and are entitled without any discrimination to equal protection of the law"* respectively.

Many human rights instruments entitled women's right to enjoy all human rights equally with men without discrimination based on sex. Article 3 of the ICCPR puts obligatory statement on members States to realize this basic right of citizens as follows; *"State Parties undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant."* And 26 also provide that *"all persons are equal before the law and are entitled to the equal protection of the law."* Article 6 of the African Women's Right Protocol more elaborately states the equality between men and women within marriage; *"State parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage."*<sup>57</sup> Consequently, the Federal Democratic Republic of Ethiopian Constitution, article (35/2) and the SNNPR State Constitution article (35/2) stipulates that *"Women have equal rights with men in marriage as prescribed by the constitution."*

In relation to property rights of citizen, the UDHR clearly states that everyone has equal rights to own property.<sup>58</sup> The CEDAW also stated that the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration. In

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<sup>56</sup> James R. Lewis & Carl Skutsch, (2001), The Human Rights Encyclopedia, Vol one, M.E. Sharpe, INC. P.701

<sup>57</sup> African protocol on the rights of women , Article 6

<sup>58</sup>UDHR Article 16

addition, both spouses have equal rights in the joint administration of marital property.<sup>59</sup> Article 21/2 of the African Protocol on the Rights of Women in Africa guaranteed women's equal right to own property with men within marriage stated as follows; *"Women and men shall have the right to acquire her own property and to administer and manage it freely."* Article 6(j) of the Charter also specifically guarantees African women's right to property within marriage equally with their husband. *"During marriage, women shall have the right to acquire her own property and to administer and manage it freely."*<sup>60</sup> In corresponding to these, CEDAW, General Recommendation No. 29 emphasizes both spouses should be entitled to joint titling of major assets, including the land and house, which requires the consent of both parties for mortgage, lease or sale.<sup>61</sup> Hence, ensuring equal rights within marriage obligates governments to make sure that women have the same rights and responsibilities that married men have and to remove legal and cultural barriers that reinforce women's subservient to their husbands. In relation to these, the Federal Democratic Republic of Ethiopia Constitution Article (35/7) stated that *"Women shall have the right to acquire, administer, control, use, and transfer property."*<sup>62</sup> In the same manner, the SNNPR State Constitution article 35 (8) clearly stipulates that: *"Women have the right to acquire, administer, control, use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall enjoy equal treatment in the inheritance of property."*

#### **2.3.4. Access to Legal Divorce and the Equitable Distribution of Property**

Women's access to divorce and equitable division of property between spouses upon divorce is also among the basic marital rights of women guaranteed in many human rights treaties. In situations where married women perceive the negative risks of staying in their marriage relationship, divorce is critical to enable women to end unwanted and abusive marriages and to discourage informal separations which leave women and children without legal protection. But, the practical problem in this regard is that, many

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<sup>59</sup>CEDAW , Article (16/h)

<sup>60</sup>African protocol on the rights of women, Article 6 (j)

<sup>61</sup>CEDAW Committee General Recommendation No. 29

<sup>62</sup>Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, 1<sup>st</sup> year No.1, Addis Ababa, 21<sup>st</sup> August 1995, article 35/7

countries domestic laws are inconsistent to those treaties and still discriminatory laws and procedures are common in relation to access to legal divorce of women. The following statement consolidates this idea which states that;

*“Yet, laws in some countries continue to discriminate against or disadvantage women in divorce proceedings. Some countries” laws stipulate different grounds for divorce between men and women, as well as establish lengthier or more complicated procedures for women than men to divorce, thus hindering women”s ability to end the marriage. For example, a husband”s adultery may never be considered a ground for divorce, while an act of adultery by a wife is a sufficient ground. Women”s ability to end their marriage may also be hindered if there is a risk of losing access to their children where divorce regimes discriminate against women in terms of child custody, as they do in some countries.”<sup>63</sup>*

Member States are recommended to avoid discriminatory laws and practices that violate women”s marital right to get formal divorce and their access to property and children upon divorce under various human rights instruments. The first international human right declaration that stipulates this right is UDHR under article 16/1 which states that: *“They are entitled to equal rights as to marriage, during marriage and at its dissolution”* which affirms women”s equal with their husbands to get legal divorce without discrimination based on her sex. Moreover, CEDAW provides that State Parties are duty bearers to ensure this human rights of women as follows; *“States parties must take all appropriate measures to eliminate discrimination against women in matters relating to marriage and family relations ensuring, on a basis of equality of men and women, the same rights and responsibilities at marriage dissolution.”<sup>64</sup>* Similarly, the U.N. Human Rights Committee has recommended the prohibition of biased laws and procedures regarding the access to divorce as *“any discriminatory treatment in regard to the grounds and procedures for*

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<sup>63</sup>Canadian HIV/AIDS Legal Network, (2009). Family and Property Issues, Respect, Protect and Fulfill: Legislating for Women”s Rights in the Context of HIV/AIDS

<sup>64</sup> See CEDAW Article, 16/ 1(c)

*separation or divorce, child custody, maintenance or alimony, visiting rights or the loss or recovery of parental authority must be prohibited.*<sup>65</sup>

On the other hand, initiating divorce also must be an option for women, as well as for men, and laws must protect women's rights during divorce proceedings. Governments that do not allow for divorce or that only permit men to institute divorce proceedings and compel women to stay within abusive or oppressive relationships is the direct violation of women's marital right to divorce. Furthermore, limiting the grounds on which divorces are granted or favoring men when distributing property after a divorce discourage women from seeking divorce, which is also an indirect violation of their rights.<sup>66</sup> Hence, governments must guarantee and protect women's human rights of access to legal divorce without discrimination. Furthermore, Article 16 of CEDAW Convention provides for *"the elimination of discrimination against women at the inception of marriage, during marriage and at its dissolution by divorce or death."* In corresponding to this, the FDRE Constitution under article 34/1 recognizes *"the equal rights of women with men while entering into, during marriage and at the time of divorce."*

#### **2.4. Human Rights Situation of Ethiopian Women's**

Women in Ethiopia as anywhere else occupy a low status in the society and also victims of various human right violence and harmful traditional practices simply because of their gender. Patriarchal domination, cultural and traditional practices, economic deprivation etc are among the reasons for violence against women in Ethiopia.<sup>67</sup> This violence starts since her birth; an Ethiopian female in most families is of lower status and commands little respect relative to her brothers and male counterparts at the time of birth and childhood. Ethiopia is a patriarchal society that keeps women at a subordinate position, using religion and culture as an excuse. There subordination is expressed in the following areas;

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<sup>65</sup>U.N. Human Rights Committee, "General Comment No. 19: Protection of the Family, the Right to Marriage and Equality of the Spouses (Article 23)," U.N. Doc. HRI/GEN/1/Rev.1 at 28, 39<sup>th</sup> Session, 1990, Para. 9.

<sup>66</sup> Marriage Rights: Gaining Grounds. A Tool for Advancing Reproductive Rights Law Reform. P75

<sup>67</sup>A National Report on Progress made in the Implementation of the Beijing Platform for Action (Beijing + 10) Ethiopia, Prime Minister Office/Women's Affairs Sub Sector. March 2004, p 13

*“Ethiopian women”'s status is low where they: (a) are generally poorer than men because they earn less; (b) are less educated; (c) are increasingly becoming heads of households, with no resources to support their dependents; (d) do not enjoy due acknowledgment for their labour contribution, particularly in agriculture, and (e) do not have decision making power.”<sup>68</sup>*

Domestic violence is also highly prevalent in Ethiopia and socially condoned widely. It is one of the most common, yet one of the most unreported forms of violence in Ethiopia that many women face in their everyday lives, aggravated by women’s poverty and economic dependence on their husbands. Study conducted by the World Bank in July 2005 concluded that, 88 percent of rural women and 69 percent of urban women believed their husbands had the right to beat them.<sup>69</sup>

In corresponding to these, countrywide conducted studies on domestic violence of young adults aged 15-24 years found that 10 percent of married young women have experienced forms of physical domestic violence by their husbands. Moreover, according to 2010 study on seven regions of Ethiopia, it was shown that around 20 percent of sexually experienced women in Ethiopia experienced rape. Due to socio-cultural factors coupled with limited awareness of their rights make many of the victims accept the blame for rape leading to stigmatization.<sup>70</sup> Moreover, there are also various forms of gender based violence and harmful traditional practices inflicted on women and girls even though the degree vary from place to place as a result the human rights of women are violated. The following report concludes the marital situation of Ethiopian women’s and their challenges with regard to HTPs as follows;

*“The practice of early marriage is common, particularly in rural areas. For example, in the Amhara region of Northern Ethiopia 48% of women are married before the aged of 15. In 2005, it was estimated that 27 % of girls fewer than 19 years are married. Despite the criminal prohibition on polygamy, it remains prevalent in rural Ethiopia. Abduction of women, although a criminal offence, is*

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<sup>68</sup>Sida, A Profile on Gender Relations Towards Gender Equality in Ethiopia February 2003 p15

<sup>69</sup>[www.africa4womensrights.org](http://www.africa4womensrights.org). As accessed in 25/11/2017

<sup>70</sup>A National Report on Progress made in the Implementation of the Beijing Platform for Action (Beijing + 10) Ethiopia, Prime Minister Office/Women's Affairs Sub Sector. March 2004, p. 55-58

*still considered as a legitimate way of procuring a bride especially in southern Ethiopia. It is estimated that approximately 8% of married women in the country have been abducted and forced into marriage. Although cases of abduction and rape are sometimes reported to the Ethiopian authorities, prosecutions are uncommon and rarely successful. Marital rape is still not recognized under the Criminal Code 2005. Finally, although the Criminal Code, as well as the Constitution (article 35(4)), condemn harmful traditional practices, female genital mutilation (FGM) remains widely practiced in Ethiopia, especially in the regions of Somali, Afar, Dire Dawa, Oromia and Harar. It is estimated that around 74% of the female population undergoes FGM. No criminal prosecutions have ever been brought against perpetrators of FGM.”<sup>71</sup>*

## **2.5. Ethiopian National Policy and Legal Frameworks towards Women**

### **2.5.1. National Legal Frameworks to Promote Women’s Human Rights**

As a member country of UN, Ethiopia has been involved in different regional and international agendas deals with women and ratified major international and regional legal instruments or conventions including Convention on Civil and Political Rights (ICCPR)<sup>72</sup>, Convention on Economic, Social and Cultural Rights (ICESCR)<sup>73</sup>, the Convention on the Rights of the Child (CRC), the African Charter on Human and Peoples Rights (ACHPR) and she also a signatory of global agreements on women rights such as Convention on the Elimination of Discrimination against Women (CEDAW)<sup>74</sup> and the African Protocol on the Rights of Women<sup>75</sup> which guarantees women equal rights and protection from discrimination. The Beijing Platform of Action (BPA) also ratified by Ethiopia which reflects the issue and concerns of women and strongly advocates women role and participation in leadership and decision making and reaffirms women’s

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<sup>71</sup> [www.africa4womensrights.org](http://www.africa4womensrights.org). As accessed in 25/11/2017

<sup>72</sup> Adopted and Opened for signature, ratification and accession by General Assembly resolution 2200A of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49

<sup>73</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

<sup>74</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 Entered into force 3 September 1981, in accordance with article 27(1)

<sup>75</sup> Adopted in Maputo, Mozambique on 11 July 2003 and entered into force 25 November 2005.

rights are human rights as well as State parties are duty bound to ensure this right.<sup>76</sup> The ratification and domestication of these international human rights instruments are the major achievement by the government in promoting and protecting the rights of women and girls.<sup>77</sup> Hence, the ratification and domestication of these major international and regional human rights instruments which are both general as well as women specific is one of the great effort of the country to improve the human rights of women at a national level. Moreover, a national human rights action plan was developed with a special section of women and children. All the above mentioned Conventions are mainstreamed with the activities of different government offices and try to make the accessible to the public as per the following report indicates;

*“Its implementation is overseen by top leadership within the relevant ministries and the commission. The government has undertaken actions towards familiarizing relevant bodies such as parliament, members of law enforcement, and women”smachineries at various levels with the contents of CEDAW. In order to make these instruments accessible to the public, the instruments have been translated into five local languages and made accessible to justice administration bodies in the country.”<sup>78</sup>*

The other significant effort of the government to realize women’s human rights in general and marital rights in particular is the Constitution and other domestic legal documents are consistent with international and regional legal instruments on women’s human rights. The FDRE Constitution of Ethiopia has made the provisions of these Conventions an integral part of the law of the land. It further ensures that *“all fundamental human rights granted are to be interpreted in conformity with the principles of the signed Conventions and Declarations adopted by Ethiopia.”<sup>79</sup>* To see a list of them, the Constitution guarantees the marital rights of women as equal to those of men in all spheres including equality in marriage, the right to equal employment and the right to acquire, administer,

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<sup>76</sup> Beijing Declaration and Platform for Action The Fourth World Conference on Women, Having met in Beijing from 4 to 15 September 1995 Para 13 & 14

<sup>77</sup> A National Report on Progress made in the Implementation of the Beijing Platform for Action (Beijing + 10) Ethiopia, Prime Minister Office/Women's Affairs Sub Sector. March 2004, p 3

<sup>78</sup> National Report to the Implementation of the Beijing Declaration and Plat form for Action (1995) and the Outcome of the 23<sup>rd</sup> Special Session of the United Nation General Assembly (2000), p. 34

<sup>79</sup> FDRE Constitution Article 9 & 13

control, use and transfer property, with more emphasis on land and inheritance issues and the right to access of family planning and education as well as rights to maternity leave with pay.<sup>80</sup> In addition, the Constitution obligates the government to take significant legal and policy measures to protect women's and girls' from harmful customs. The FDRE constitution also ensures right to protection from harmful customs and proclaims that women have the right to get protection by the State from harmful customs; *"The State shall enforce the right of women to eliminate the influences of harmful customs. Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited."*<sup>81</sup>

Furthermore, a new Federal Family Code was adopted based on the principle of gender equality, came into effect in July 2000. The Code basically stipulated various marital rights of women. Such as it raised the minimum age of marriage from 15 to 18 years<sup>82</sup> and established the rights of women to share any assets the household had accumulated if a couple has been living together for at least three years in an irregular union.<sup>83</sup> In addition, the Ethiopian Criminal Code criminalized several harmful traditional practices against women and girls to improve the marital rights of women, such as abduction,<sup>84</sup> female circumcision, and infibulations or other harmful practices,<sup>85</sup> early and forced marriage,<sup>86</sup> widow inheritance and polygamy.<sup>87</sup> It also criminalized domestic violence.<sup>88</sup> Another significant development of the 1995 FDRE Constitution in relation to women's marital rights is article 25 of the Constitution guarantees women the right to equality with men in the enjoyment and protection of rights provided for by this Constitution without any discrimination based on sex. In addition, Article 34 and article 35 (1 & 2) of the FDRE Constitution normatively recognized the marital, personal and family rights of both men and women explicitly as follows;

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<sup>80</sup>Ibid, Article 35

<sup>81</sup>FDRE Constitution Article 34/4

<sup>82</sup>Federal Negarit Gazetta Extra Ordinary Issue No. 1/2000 The Revised Family Code Proclamation No. 213/2000, Addis Ababa 4<sup>th</sup>Day of July, 2000 , Article 7

<sup>83</sup>Ibid , Article 58,59 & 102/1

<sup>84</sup>Criminal Code of the Federal Democratic Republic of Ethiopia 2004, Article 586

<sup>85</sup> Ibid, article 565, 566 &567

<sup>86</sup> Ibid, article 648

<sup>87</sup> Ibid, article 657

<sup>88</sup> Ibid, article 564

*“Men and Women, without any distinction as to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce. Laws shall be enacted to ensure the protection of rights and interests of children at the time of divorce.”<sup>89</sup>*

In addition, the SNNPR State Constitution article 34 and 35 and the revised regional Family Code are properly recognizes the marital rights of women who live in the region. In general, a significant change has taken place in the legal framework to protect marital rights of women. From the Family to Criminal Codes, from law of succession to nationality rights, a massive revision has been carried out to make the legal system and its instruments gender-sensitive. Changes in the Federal and Regional Family Codes have ensured equal rights for women, in marriage, divorce, custody of children, and rights to matrimonial properties. In general, the 1995 FDRE Constitution and other domestic laws are gender responsive normative frameworks which seek to promote equality between women and men. And specifically provides for the rights of women and equal treatment with men including equal opportunities in political, economic and social activities.

### **2.5.2. Policy Frameworks to Improve Marital Rights of Women in Ethiopia**

The government of Federal Democratic Republic of Ethiopia (FDRE) has declared its commitment to promote gender equality and women’s human rights with the publication of the National Policy on Women in 1993; the incorporation of gender issues in different national policies including Education and Training, Health, HIV/AIDS, Population and others formulated in the same year; as well as adequately addressing women's concerns in the Federal Constitution of 1995.<sup>90</sup> Apart from being a signatory of major Conventions that protects women from discrimination and other, the Ethiopian Government has also expressed its commitment to gender equity and equality by issuing different domestic polices specifically related with women. In order to rectify the past political, economic, social and cultural bias against women, specific policies and strategies have been adopted. Among these the National Policy on Women, the National Action Plan on

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<sup>89</sup>FDRE Constitution Article 34 (1)

<sup>90</sup> National Action Plan for Gender Equality (NAP-GE) 2006-2010, Ministry of Women's Affairs (MOWA). Addis Ababa - 2006 p 1

Gender Equality and the Women's Development Package are noteworthy of these instruments. As a result, the participation of women in decision-making and political life has shown a significant progress.<sup>91</sup>

One of the pillar strategies of the First Growth and Transformation Plan was to promote women and youth empowerment and equitable benefit. The plan gives priority to address or resolve the multi-dimensional problems faced by women. The plan tries to implement packages of women to ensure socio-economic and political participation and benefit of women. The plan also made efforts to increase girls' enrollment in school, expanded female health extension worker coverage and increase extension service to the women farmers in rural areas including legislative and institutional reforms to protect the rights of women and open opportunities.<sup>92</sup> Equality between men and women, boys and girls, is one of the central pillars of Growth and Transformation Plan. The adoption of the National Action Plan for Gender Equality 2006-2010 in 2005 is the first comprehensive commitment of the Ethiopian government to mainstream women's human rights with national development policies.<sup>93</sup> Furthermore, Ethiopia also one of the countries that embraced the principle of the MDGs and takes different actions to realize it domestically since most of these goals are related with women.

## **2.6. Challenges of Bride Price Customary Practice on Marital Rights of Women**

The practice of bride price has frequent challenges on the women's human rights particularly against the marital rights of women. In theory, bride price could be interpreted as explicit recognition and valuing of women's productivity and contribution to marriage; in practice, it often serves to limit women's control over their bodies. Bride price has long been linked to domestic violence, owing to women's fear of returning to

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<sup>91</sup>Ethiopia's National Report under the Universal Periodic Review Mechanism, Human Rights Council, Working Group on the Universal Periodic Review Sixth session Geneva, 30 November-11 December 2009 p. 17

<sup>92</sup>FDRE – GTP I 2010/11-2014/15, MoFED September 2010 Addis Ababa p. 11&12

<sup>93</sup>FDRE- GPT II (2015/16-2019/20) Volume I: Main Text National Planning Commission May, 2016 Addis Ababa p. 208

their natal home without being able to repay the bride price.<sup>94</sup> African women's rights campaigners advocate the abolishment of the practice and have linked it to the spread of AIDS, since bride price as a payment for sexual protection and frequency.<sup>95</sup> A working paper by *Bishai and Grossbard* (2006), demonstrated that bride price increase the number of extramarital affairs for men, but decreases those of women.<sup>96</sup>

A lot of women have suffered and had their rights violated because of the cultural ritual of bride price payment. Once the man has paid bride price, the woman is reduced to the status of property because the man has paid for her. So, the practice undermines women's dignity and welfare. Since it forces a woman to live under intolerable and hostile family environment subjects her to servitude and slave like conditions hence leading to violence against women. In some cases, bride price has been associated with widow inheritance practice among different societies. In general, the human rights implication of bride price on marital rights of women can be summarized impact on property rights, control, access and inheritance are violated, impact on the number of child one produces, hence it affects the health and labor of woman.<sup>97</sup> As a result, the international community identified bride price among the harmful traditional practice and condemned it in many ways as an obstacle to improve the marital rights of women;

*"The institution of bride price, dowry and other related marital gifts constitute some of the major harmful traditional practices that contribute to the subordinate status of women, undermining their rights and the rights of their families, and communities, leading to a greater tolerance of gender violence and contributing to violent conflict, HIV/AIDS, poverty and disability."*<sup>98</sup>

As a cultural practice, bride price violates basic human rights and freedoms of married women that are recognized under different human rights instruments. Furthermore, bride

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<sup>94</sup> Ansell, Nicola. 2001. "Because It's Our Culture (Re) Negotiating the Meaning of *Lobola* in Southern Africa Secondary Schools." *Journal of Southern African Studies*, 27(4): 697-716

<sup>95</sup> Wendo, Charles. 2004. "African Women Denounce Bride price." *Lancet* 363(9410):716

<sup>96</sup> Bishai and Grossbard. 2006, "For above Rubies: The Association between Bride Price and Extramarital sexual relations in Uganda." John Hopkins University

<sup>97</sup> Alupo Josephine Llb M.U.K, Bride Price and Gender Violence A Paper Presented to the Participants at the International Conference on Bride Price and Development, February 16th -18th 2004.

<sup>98</sup> Patrick Ndira, A Paper Presented at the International Conference on Bride Price February 16th -18th 2004

price has been one of the factors that causes to early marriage through arranged marriage so as to obtain bride wealth. Because of bride price, parents are eager to arrange a marriage for their daughter. This is against the marital rights of women since arranged marriage is not based on love, simply money and other commodities and violates a girl right to education and it is also interfere with right to choose a spouse of her will. Even the money is not given to the bride rather to her families. *“Moreover, settlement of bride price in fact transfers the rights of the bride over her own destiny into the hands of her husband who has paid for her. Henceforth, the husband has all the authority over her. For these reasons many African brides end up in abusive marital relations.”*<sup>99</sup>The other challenge of bride price against the marital rights of women is divorce of marriage in itself is not easy to obtain under customary laws and limits women’s access to divorce right. In this case, bride price appears to be a harmful socio-cultural practice which subordinates women to inferior status in society and impede right to divorce of women when they face frequent violation of their rights which is asserted by the following study result which states: *“Practices that view wives as commodities are abuses in themselves as well as can contribute to abuse towards the wife if she is perceived as not fulfilling her „value“. Leaving marriages or seeking divorce where pride price is paid is extremely prohibitive since most women or their families are unable to repay.”*<sup>100</sup>

The other challenge of bride price against the marital rights of women is that, it exacerbates domestic violence on married women by their intimate partner. Although the original intention of practicing bride price is to give formal recognition to marriage and protection to wives against abuse, as well as to promote the relationship between the newly couples and their respective families, currently the practice lost its original values and simply practiced as commerce across many cultures and gives confidence for husbands to bite their wives as a right. *“Bride-price can appear to be the „buying“ of a*

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<sup>99</sup> Fr. Deo Eriot. Religious and Cultural Perspectives on Bride Price, A Paper Presented to International Conference on Bride Price and Development Makerere University, Kampala Uganda

<sup>100</sup>Saad Baluku Muthegheki et al,(2012). An Exploratory Study of Bride Price and Domestic Violence in Bundibugyo District, Uganda

wife as a commodity, which can result in abuse towards a woman if she does not fulfill her „value“ or if she attempts to leave and the bride-price cannot be repaid.”<sup>101</sup>

The other challenge that women face within marriage because of the socio-cultural practice of the payment of bride price during marriage is, it violates the dignity and health of women within marriage. In many societies where bride price is practiced, parents consider their daughters as a property or source of income and they demand bride price as a means to compensate time, money and trouble taken to raise a daughter. This exaggerated motive of parents to earn money leads to arrange marriage with any individual who is simply capable of paying the demanded money irrespective of his health status. This exposes the vulnerability of women to HIV/AIDS and other sexually communicable diseases. The following idea corresponds with this argument as follows:

*“In this regard, payment of bride price reduces women to the status of chattel or property and exposes them to all sorts of abuse, widow inheritance and the risk of HIV infection. Indeed bride price relegates women to „an article of trade to be bought or sold“ because in many instances it implies that the man has purchased the wife to provide labour, he can demand sex at any time and has control over the reproductive capacity of his wife among others. This puts the woman in a vulnerable position where she can be subjected to abuse, making it difficult for her to leave, especially where her family cannot afford to return the bride price or is unwilling to do so. The payment of bride price has contributed to domestic violence and the spread of HIV/AIDS because the woman is completely subjugated under such circumstances.”<sup>102</sup>*

The payment of bride price also affects women's right to make decisions on matters that affect their life or related to their household. And the payment actually reduces the woman to an object of sale and hence commodifies her. As a result, the practice degrades the status of women and considers their role as insignificant within marriage: *“Bride price payment condemns women to a kind of marital enslavement. The enslavement*

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<sup>101</sup>Gill Hague and Ravi Thiara, (2009). Bride-Price, Poverty and Domestic Violence in Uganda p. 4

<sup>102</sup> Mrs. Margaret Sekagya, Analysis of bride price from a human rights perspective Paper presented at the International Conference on Bride Price Uganda Human Rights Commission - 18th February 2004 p. 2

*denies them control over decision-making processes, family resources, their children and their own sexuality. In some cases, it takes away their economic freedom they might have acquired through education; especially in cases where the father demands compensation for educating the girl.”*<sup>103</sup>

In conclusion, bride price is also a cause and in itself is form of gender based violence and discrimination. The Declaration on the Elimination of Violence Against Women, adopted by the United Nations General Assembly in 1993, defines violence against women as “*any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*”.<sup>104</sup> The challenges of bride price against the marital rights of women corresponds with this definition since in many different circumstances the perpetrators of domestic violence against women use the fact that he paid bride price as a defense to domestic violence, women and the society at large accept domestic violence as a legitimate practice.

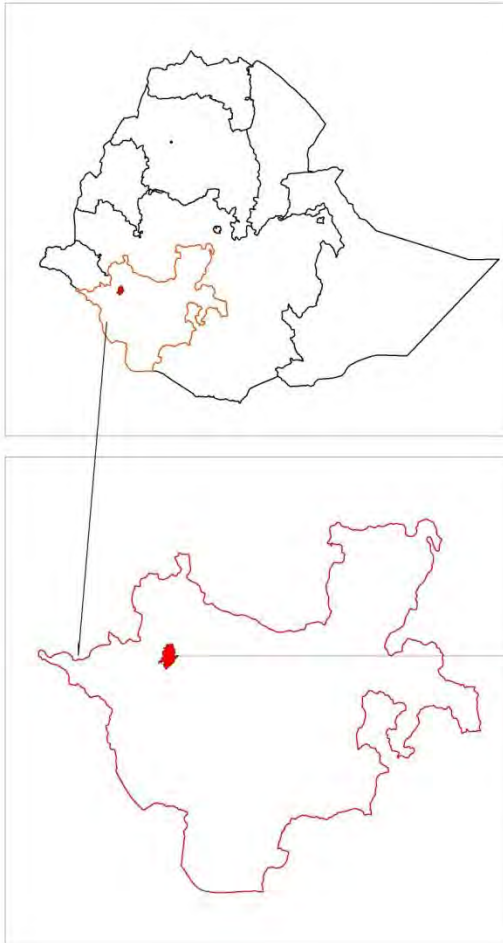
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<sup>103</sup>Tendai Mangena & Sambulo Ndlovu , Implications and Complications of Bride Price Payment among the *Shona* and *Ndebele* of Zimbabwe, International Journal of Asian Social Science, 2013, 3(2):472-481 P. 480

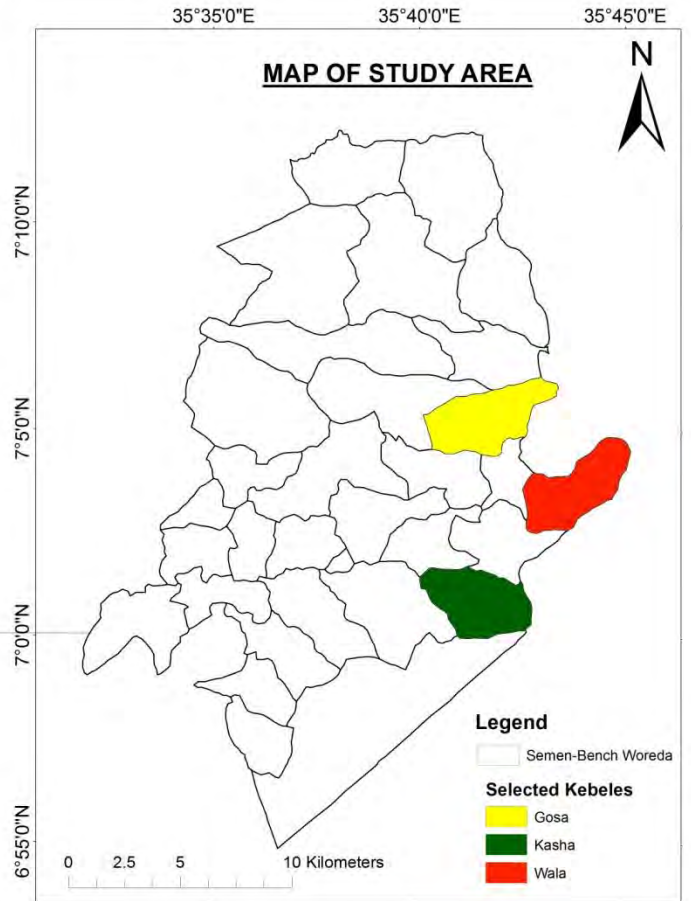
<sup>104</sup>The Declaration on the Elimination of Violence against Women (DEVAW), adopted by the United Nations General Assembly in 1993

# Chapter - Three

## Map of study area Ethiopia



## Semen Bench Woreda



## Bench- Maji Zone

### 3. Description of the Study Area

In this chapter description of the *Bench- Maji Zone*, *Semen Bench Woreda* and the three research *Kebeles* (*Kasha, Wala and Gola*) is given. The chapter is divided into three main parts which stretches from the *Zone* down to the *Woreda* and the three sample *Kebeles* providing essential data pertinent to the research objectives. It is most appropriate to provide here a brief overview of the *Bench* people: their ethno-linguistic identity, socio-cultural practices, livelihood system and other related issues. This is necessary because the practice of bride price is a function of the people’s overall socio-cultural system.

#### 3.1. Bench – Maji Zone

##### 3.1.1. Location, Topography and Climate

The *Bench-Maji Zone* is one of the fourteen *Zones* of the SNNPR State. It is located in the Southwestern part of the region. According to the 2007 census, the population of *Bench-Maji Zone* is 659,046. However, in the reality on the ground, the population is rising from time to time due to high immigration from other parts of the country. The same source shows that, of the total population of the *Zone* 582,198 and 76,848 people dwell in rural and urban areas respectively.<sup>105</sup> Based on these data, the *Zone* has made a population projection in 2007 EC and, estimated that the *Zone* has a total population of 813,728, of these 403,469 (49.56 %) are male while 410,239 (50, 42 %) are women. The *Bench-Maji Zone* is bordered by *Kaffa Zone* to the North East, *Shaka Zone* in North West, *South Omo Zone* in South East, *Gambela regional State* and *South Sudan Republic* in the South. The *Zone* is situated in 193, 266 square Kilometer area of land.<sup>106</sup> The *Zone* has one municipality and ten *Woredas* which are divided in to 241 *Kebeles*. The *Zone* is divided into ten *Woredas*; namely, *Semen (North ) Bench*, *Debub (South) Bench*, *She Bench* , *Sheko* , *Guraferda*, *Me’etit Goldiya*, *Me’etit Shasha*, *Bero* , *Surma* and *Maji*. The Zonal town, *Mizan-Aman* is added as the eleventh *Woreda*. The capital city of the

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<sup>105</sup> Central Statistical Agency of Ethiopia (2008), Population and housing census of Ethiopia the 2007 Summary Section II; July 2008

<sup>106</sup> *Bench- Maji Zone Second Growth and Transformation Plan 2015-2020*, November 2015 *Mizan - Aman* P. 2

Zone is Mizan- Aman with about 39,700 of population and about 840 kilometers from the regional capital of Hawassa.

### **3.1.2. Ethnic Composition and Economy**

According to the Zone Tourism and Communication Bureau report, there are six indigenous ethnic groups reside in the Zone. These are *Bench*, *Sheko*, *Dizi*, *Me'ənit*, *Surma* and *Zilmamo*. *Bench* ethnic group live in She-Bench, South and North Bench *Woredas* while *Sheko* in Sheko *Woreda*. These two ethnic groups circumscribe the Zone town. *Me'ənit* resides in Me'ənit Shasha and Me'ənit Goldiya *Woredas* which lies along the Omo River; *Dizi's* in Dizi and Bero *Woreda*; and *Surma* and *Zilmamo* in *Surma Woreda*. Among these ethnic groups *Surma* and *Zilmamo* are pastoralists' communities lying along the South Sudan Border following the Akobo River. *Dizi* and *Bench* are agriculturalists. *Shekos* are agro-foresters and hunter gatherers who feed on tubers and herbs. Honey is their economic production. *Me'ənit* is agro-pastoralist whose subsistence system has been rapidly changing due to the introduction of Protestant Christianity, the expansion of market with the surrounding people and resettlement program in the area.<sup>107</sup>

### **3.1.3. The History of Bench People**

The *Bench* people are one of the six nationalities living in the Bench- Maji Zone. They are predominantly live in three *Woredas* (Debub Bench, Semen Bench and She-Bench) and Mizan-Aman town administration is scarcely mentioned in written sources and the culture and history of the *Bench* people has not yet fully explored and adequately documented.<sup>108</sup> Previously, the area was called *Gimira Awraja* administered under the previous *Ilibabur* provincial administration. It is reported that due to its possession of natural wealth it was regarded by influential officials of the former regime as their private estate. Thus, *Ras Mesfin Seleshi*, who had been ruling *Ilibabur*, was transferred to *Kaffa* in favor of him that *Gimira* should be administered under *Kaffa*. They were governed

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<sup>107</sup> Bench-Maji Zone Tourism and Communication Bureau Report, (2010) The six nationalities within BMZ unpublished p. 2

<sup>108</sup> The Profiles of South Nations, Nationalities and People, Nationalities Council, Birhan and Selam Printing House April 2015 Hawassa Ethiopia P. 147

under the earlier *Illbabur* province until it was transferred to *Kaffa* province in 1946.<sup>109</sup> The *Bench* and its neighbors namely the *Me'ənit* and the *Shako* were formerly known as *Bench Awraja* until 1991. Currently, *Benchdod* (Bench land) is situated in the *Bench-Maji Zone* of Southwestern part of Ethiopia. It is part of the Southern Nations, Nationalities, and Peoples' Regional State. The *Benchdod* is bordered with *Kaffa* in the North, the *Me'ənit* in the South and East, and the *Shako* in the West. The *Bench* people speak one of the dialects categorized as a branch of the Western Omotic language.<sup>110</sup> In terms of religion, 49.27 % were Protestants, 18.12% of the population practiced the Ethiopian Orthodox Tewahdo Christianity, 26.34 % practiced traditional beliefs and 3.47 % were Muslim.<sup>111</sup> According to the 2007 Central Statistics Agency projection, their population is estimated at 353, 526. They predominantly live in the three *Woredas* (Dehub Bench, Semen Bench and She- Bench) and Mizan Aman town administration. The *Bench* people have shared various cultural practices and life styles with the peoples living around them particularly with *Sheko*, *Me'ənit* and *Kaffa*.<sup>112</sup>

### 3.1.3.1. Socio-political Organizations among *Bench* People

Many traditional African societies are roughly organized along clans and tribes. This is true of the *Bench* people. The *Bench* are distinct peoples who have common ancestry, common language and territory. They all claim *Bayba* as their common father. The people call themselves *Bench* and their country *Benchdod* and language *Benchnon*. The traditional political organization of the *Bench* hierarchy divided into the office of the *Bench Tiyat* (king), *Tyats* (regional lords) and *Ukars* (village headmen) along clans. The commonly agreed total number of clans among writers is thirty. These clans are divided hierarchically into higher, lower and ostracized groups. The *Baykes* clan dominated the socio-political life of the society since all traditional rulers, that is *Bench Tiyat*, *Tyats* and

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<sup>109</sup> Girmaye Kebede, A Short History of the Bench to 1941. BA Thesis Department of History Addis Ababa University 1984 p 2

<sup>110</sup> Nicolas, Gildas. The Dizzu of SouthWest Ethiopia, p 121

<sup>111</sup> Alemayehu Abraham, et al. Visiblizing the Invisblized in the Historical Discourse: History of Bench Women to Present January, 2016 Mizan-Tepi University. unpublished p 12

<sup>112</sup> Hibr Ashara. A Magazine prepared by Bench- Maji Zone for the celebration of the first culture and language symposium published by Girma Printing press January 2012 Mizan Aman, P.11

*Ukars* were came from this clan. The *Bench Tiyat* and *Tyats* were both spiritual and political leaders of the people. The *Bench Tiyat* was nominally the king of the people and the owner of the land. However, the real political power was held by the *Tiyats* who were ruled their respective domains. In terms of religion, the *Bench* belief in the spirit of *Kah* and in ancestral spirit called the *Miange* that played a major role in the political, social and economic life of the people.<sup>113</sup> The economy of the people was mainly based on agriculture. In terms of production the principal crops are *jong* and *dash*. They also keep cattle and other domestic stocks like sheep and chicken. Cattle breeding had multiple roles since all important transactions including marriage, blood money and *Tilosh* gifts paid in cattle.<sup>114</sup>

As regards the original home of the *Bench* people, there are paradoxical expressions. Some literature says that it is some-where in Northern Ethiopia, particularly at Gonder. On the other hand, extending the conclusion reached by Haberland and Nicholas, also accepted by many of historians and the local community tells that the original home of the *Bench* was in the *Jash* which is located today in *Me'ait* area. From there, they began to move towards north and settled first around *Gacheb* Basin. It was from here that *Bench* people expanded and occupied their current territory.<sup>115</sup>

### **3.1.3.2. Agro-Ecology and Economy**

The *Bench* are predominantly agriculturalist. The climatic condition of the area helped for the production of a variety of food crops and the practice of animal husbandry. Cultivation was possible all-year round. They cultivate cereals, vegetables and root crops. Among these cereal crops, *ditchy* (maize) and *dong* (sorghum) are the dominant ones. The varieties of root crops cultivated in the area were *taro (jong)*, *dash* (banana), which is considered as staple food of the *Bench* people. They also produced different kinds of vegetables. The *Bench* also involved in rearing animals such as *diyant* (cattle), *dor*

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<sup>113</sup> The Profiles of South Nations, Nationalities and People , Nationalities Council , Birhan and Selam Printing House, April 2015 Hawassa Ethiopia. P. 148

<sup>114</sup>Tsahaye Mikere , A Historical Survey of the Bench People , 1898-1974 (MA Thesis, Department of History , Adama University, 2010

<sup>115</sup>Awoke Amzaye (2007). Mosaic Cultures and Peoples of South, Nation, Nationalities and Peoples" Regional State. Awassa: Africa Printing Plc

(sheep), *kest* (goat) and *giyam* (chicken). Of these animals, cattle breeding had great value that had multiple roles since all important transactions including marriage, blood money and gifts were paid in cattle. Keeping of honey bee was another significant economic activity of the *Bench* society. Almost all the people produce honey in a traditional way.<sup>116</sup>

### **3.2. Brief Profile of Semen Bench Woreda**

Semen Bench *Woreda* is one of the ten *Woreda* in *Bench- Maji* Zone. In this section an attempt was given to highlight the *Woreda* history, location, agro-ecology, population and related issues.

#### **3.2.1. Location, Population and Ethnic Composition**

Semen Bench *Woreda* is found in *Bench- Maji* Zone of SNNPR State. The capital of the *Woreda* is *Bire* which replace the previous name called *Temenjayacz* found at a distance of 559 kms South West of Addis Ababa and 18 kms away from the Zonal capital *Mizan- Aman* towards North. It is bordered with *Sheka* Zone in the North, *Keffa* Zone in the Northeast, *She Bench Woreda* in the Southeast, *Mizan- Aman* town in the South and *Sheko Woreda* in the West. The total area of the *Woreda* is estimated to be 92,165 ha and the population size is 139,333 accounting nearly 16% of the total population of the Zone and 95% of the population live in rural areas and the remaining 5% in urban centers. The average population density of the *Woreda* is 354 persons per sq.km. The majority of the inhabitants were Protestants, with 64.28 % of the population reporting that belief, 19.29 % practiced traditional beliefs and 6.5 % practiced the Ethiopian Orthodox Tewahdo Church. The *Woreda* is subdivided into 31 *Kebeles* (30 rural and 1 urban).The *Woreda* consists of three ethnic groups namely *Bench*, *Keffa* and *Menja* while *Bench* is the dominant ethnic group in number and dominating major activities.<sup>117</sup>

#### **3.2.2. Agro-ecology and Economy of the Woreda**

The agro-ecological Zones in Semen Bench *Woreda* are classified into three categories based on altitude and temperature: *kola*, *weinadega* and *dega*. The agro-ecology is

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<sup>116</sup>Bench-Maji Zone Tourism and Communication Bureau Report, (2015), The Six Nationalities History and Population number p 2

<sup>117</sup> Semen Bench *Woreda* Government Communication Bureau Report

predominantly *weinadega* accounting for 95 % while *kola* and *dega* agro-ecological Zones equally accounting for 2 %. The topography of Semen Bench *Woreda* ranges between 1001 and 2500 meters above sea level, the annual rainfall is between 1801 and 2000 and the temperature ranges between 15.1 and 25 degree Celsius.<sup>118</sup>

The agriculture sector is believed to be the major economic activity of the *Woreda* since it predominantly supports the livelihood of the *Woreda* population. The major crops grown in the *Woreda* are maize, Haricot bean, *teff*, barely, beans, sorghum, wheat, pulses, root crops (*Godere* & cassava), and coffee. Livestock production is also part of the means of livelihood in the *Woreda*.<sup>119</sup>

### **3.2.3. Harmful Traditional Practices in Semen Bench *Woreda***

The *Woreda* is well- known with prevalence of various kinds of HTPs that affect women and girls' human rights, health and dignity like polygamy, widow inheritance, early marriage, high bride price or *Tilosh*, domestic gender based violence, existence of high level of social marginalization especially against *Menja* minority groups etc.... The *Woreda* was also characterized by inadequate basic social services (quality education, water), access to alternative means of income generating ventures, joblessness, inadequate farming land to adults and other productive resources were observed in the area. These were partly attributed to the structural causes of poverty such as inadequate policies and lack of sufficient enforcement mechanisms to address deficiencies in using the existing favorable policies because of local level attitudinal and behavioral problems. Traditional beliefs and societal norms have also contributed in aggravating the social and economic problems of the area. As a result, the power relations in Semen Bench *Woreda* demonstrated that it is discriminatory and prejudiced when it is looked from the view point of gender equality and social justice. Inequalities between women and men, girls and boys, the sanction the community that considered itself as superior imposed on the marginalized community are widespread across the *Woreda*.<sup>120</sup>

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<sup>118</sup> Yilma Miressa , The Significance of the cultural Laws and Beliefs of the *Sheko* Nationality for Environmental Protection July 2012 Hawassa p. 53

<sup>119</sup> Ibid, p. 55

<sup>120</sup> Action Aid, Semen Bench Development Area Entry Period Program Document (June 2017 to December 2018), Submitted to Bench - Maji Zone Department of Finance and Economic Development, May, 2017 Mizan-Aman p. 9

### 3.2.4. The Status of Women among *Bench* People

The *Bench* ethnic group like most of agricultural communities in the world is strictly patriarchal. In a patriarchal community it is clearly evident that women are occupies subordinate and inferior positions in all aspects of social, economic, political and cultural life. Like many patriarchal communities, the *Bench* women has little or no say on even minor affairs of their family and community as well as all aspects of *Bench* people were dominated and controlled by the male members of the group. One of my key informants clearly describes the situation of their subordination as follows;

*“We women feel weaker and subordinate to our men. The man controls every aspect of our lives. They make us to feel dependant on them by controlling everything. We don’t get a say upon important matters that affect our lives. This includes preventing us from accessing and using resources. Most of the things that we bought and sold at a family level won’t involve women.”*<sup>121</sup>

Moreover, unlike the traditional way of dinning or eating from the same plate in other communities, the *Bench* people eat by being served individually and women have low status even treat below their children. The woman prepares the food. The husband takes his part and eats alone, and each child does the same; at last the mother takes her part, eating inside the partitioned back room. The husband eats in the living room. This is because as the informants widely agreed, if children and the mother were to eat together inside the living room, the dignity of the husband would be decreased.<sup>122</sup>

Women also have no place in indigenous political system of *Bench* and do not take a position in the political systems of *Bench* except the special role and status given to the first wife of *Tiyat*, *Kominin* or *Genni*. According to *Bench* tradition, the principal wife was a virgin queen that a successor *Bench Tiyat* would married on his coronation ceremony. The principal wife had possessed prerogative rights over all other wives that married him before or after his coronation. Apart from this position, the role of women’s in religious ceremonies as leaders and organizers as well as participating in the traditional

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<sup>121</sup>Key informant interview at *Bire* conducted on February 26,2018 on the celebration of Women Day

<sup>122</sup> Dereje Tadesse ,etal. Ethno- History of The *Bench* People. June 2013, Hawassa p. 68

conflict resolution mechanism as a negotiator is unthinkable. Thus, women had no direct role in the rituals and community leadership among *Bench* people. The following FDG result can justify this idea as follows;

*“If a woman, especially during her period of menstruation had sexual intercourse and her relative approached the ritual place of ceremony, it would become impure and unholy. This was considered sinful and taboo. Thus, all the rituals and placation ceremonies would be performed by the male ritual leader. The women had no ritual leadership position in Bench history.”*<sup>123</sup>

According to one of my key informant, the subordination of women in *Bench* community takes different forms and can be summarized as, son preference, discrimination against girls in food distribution, burden of household work on women and young girls, lack of educational opportunities for girls, lack of freedom and mobility for girls, sexual harassment at work place. Besides, lack of inheritance or property rights for women, male control over women’s bodies and sexuality, no control over fertility or reproductive rights of women are among a list of them. They are particularly needed for preparation of food and drink, not for conducting relevant ritual practices.<sup>124</sup>

One of the roots causes for the subordination of women and gender inequality among *Bench* people is the fact that payment of bride price. As a result, women are forbidden to run her own life in marriage unless she satisfies the interest of her parents. This is because in the traditional belief in *Bench* people it is a pride for parents to get good matrimonial compensation for their daughter’s nuptials. It also enhances their social status and respect. Hence, payment of bride price helps men to control women as their own private property which subjects women to various inhuman treatments within household.<sup>125</sup>

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<sup>123</sup>FDG result with Clan leaders and *Kalcha* (traditional spiritual leaders) at *Kasha Kebele* on February 28,2018

<sup>124</sup>Key informants interview result with Semen Bench *Woreda* Women and Children Affairs Office Experts conducted at *Bire* on February 22/2018

<sup>125</sup>Alemayehu Abraham, etal. Visiblizing the Invisblized in the Historical Discourse: History of Bench Women to Present January, 2016 Mizan- Tepi University. unpublished p 76

### 3.3. *Gola, Kasha and Wala: The Three Study Kebeles*

The following description about each *Kebele* is meant to give introduction to the sample research area. *Kasha, Gola* and *Wala Kebeles* are selected for this research. These three *Kebeles* are purposefully selected to gather data for this study because bride price practice was prevalent in this *Kebeles*. The total population of *Kasha Kebele* was 4500<sup>126</sup>, in *Gola Kebele* 5367 while in *Wala Kebele* 4789. These *Kebeles* are found relatively in the interior bordered with *Kaffa Zone* and the prevalence of harmful traditional practices and different kinds of crimes are common and most of the time it is difficult to capture the perpetrators by both of Zonal government to take necessary legal measures.

### 3.4. Marriage Systems (*Vyard*) among *Bench* People

Marriage among *Bench* is exogamous that means marriage within the same clan is forbidden. So, they have to marry outside of their own clan. Marriage is conducted based on clan. A person marries outside of his clan. *Kumt* and *Kam* clan members usually married each other but they don't establish marriage relation with *Mano* and *Menja* clan members. But there is a marriage relation between *Mano* and *Menja*. The marriageable age among *Bench* is 15 for women and 20 for men. Generally speaking, marriage can be made among the *Bench* in one of four ways. “በብሔረሰቡ የጋብቻ ሥርዓት በአራት መንገዶች ይፈጸማል፡፡ እነርሱም በቤተሰብ ስምምነት የሚፈጸም ጋብቻ፣ በማስኮብለል የሚፈጸም ጋብቻ፣ የጠለፋ ጋብቻ እና የውርስ ጋብቻ ናቸው፡፡” which can roughly translated as “The nationality conducts marriage through four ways. These are arranged marriage, abduction, widow inheritance and by the consent of the two married couples.”<sup>127</sup> This section gives brief information about the aforementioned marriage types that are commonly practiced by *Bench* people found in Semen- *Bench Woreda*.

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<sup>126</sup> Key informant interview result conducted with the administrator of the *Kebele* at *Kasha* on February 28, 2018

<sup>127</sup> The Profiles of South Nations, Nationalities and People , Nationalities Council , Birhan and Selam Printing House April 2015 Hawassa Ethiopia P. 150

### 3.4.1. Arranged Marriage (*Punta Donta*)

The first type and the most widely practiced marriage among *Bench* people is arranged marriage by the local elders. This type of marriage is arranged by elders based on the consent of the family of the groom and the bride. The groom's parents select a suitable bride for their son. Arranging this type of marriage takes a long time and process.<sup>128</sup> According to the *Bench* tradition, parents spend much time in spouse selection. It includes certain criteria such as the clan she belongs, women's strength in cultivation and skills in the preparation of *Gez* or local drink of maize or sorghum among others. A thorough study of clan origin is one of the basic pre-requisites to deciding marriage arrangements. For this reason, marriage between parties from different clans is possible.<sup>129</sup>

The elders enter into the girl's homestead and explain the purpose of their visit. The elders ask the parents to give their daughter to the asking family. After a brief discussion on the issue, both parties arrange an appointment for a week later and the elders return home. The appointments is arranged in order to inform the close maternal and paternal relatives of the girl. During the second visit the two parents thoroughly discuss the details of the arrangement and at the end; the girl's parents accept the elders demand. Finally, the elders and girl's parents arrange an appointment for *Tilosh* or bride price. During the third visit the elders come to the girl's parents with a bride price (which is a head of cattle ranging from 7-15). Moreover, the groom is presented with sheep.<sup>130</sup> The payment of *Tilosh* is based on brides' clan status and authority which is clearly stated in the following and also asserted during data collection time:

“በቤተሰብ ስምምነት የሚፈጸም ጋብቻ አግቢው ለልጅቷ ቤተሰቦች ጥሎሽ ይሰጣል። የጥሎሹ መጠን ግን እንደየ ጎሳው ዓይነትና የሥልጣን ደረጃ ይወሰናል። “ኮንት” የሚባለው ጎሳ አባል ለሆነች ልጃገረድክ 15-20 ከብቶች፣ ከመካከለኛና ዝቅተኛ ጎሳዎች ለተገኙ ልጃገረድ ደግሞ ከ3-7 ከብቶች ይሰጣል። ከጠሎሽ በኋላ ሰርግ ይደረጋል።” which can be roughly translated as

<sup>128</sup> FGD bride price discussants results conducted at *Wala Kebele* conducted on 02 March ;2018

<sup>129</sup> Dereje Tadesse , etal. Ethno- History of The Bench People. June 2013, Hawassa p 84

<sup>130</sup> Ibid , p 85

follows. “For a marriage conducted by the consent of the family, the groom gives a bride price to the bride parents. The bride price size is determined by the type of clan and their status and authority within the community. For girls from “Kont” clan an average of 15-20 heads of cattle are given. While for girls from middle and lower clans an average of 3-7 cattle are given. After a bride price there is wedding ceremony.”<sup>131</sup>

On the wedding day, the groom together with his selected escort goes to take the bride from her parent’s home. Immediately upon their arrival, a relative of the bride reveals the house where bride is located. On the wedding day, before bridal escort arrives, she goes out from her parents home and sits with her bridal materials like a sleeping mat, *Gon* (reddened –mud mixed with butter ) which she uses to smooth her body and grind castor bean. All these materials are used by the bride in staying in the seasonal hut. In the groom’s house dancing, singing and playing takes place for a minimum of three days. The *Bench* sees marriages as a high priority, in order to produce offspring.<sup>132</sup>

### **3.4.2. Marriage by Abduction (*Goca*)**

Among the *Bench*, there is also another type of marriage by abduction called *Goca*. This would be done whether or not the girl was willing. According to informants, before the wedding process started, the groom constructs a house near that of his father and plants a serious of crops. This is a sign for his parents, “*I am mature enough to marry a wife*”. If his family is unable to respond to the requites of the groom, he approaches an elderly woman as the intermediary, informing her to his choice of a bride. The elderly woman then asks the girls if she is willing to marry this man and inform the man of her answer. The intermediary women does not inform of the transaction. This is due to a fear that the girl’s parents would take her away before they could proceed with the kidnappings process. If they encounter a male member of bride’s lineage during this precarious journey a conflict starts and the victors take the girl.<sup>133</sup> Even if the grooms win in the conflict during kidnapping, he is not allowed to make love with the girl before he pays

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<sup>131</sup> The Profiles of South Nations, Nationalities and People , Nationalities Council , Birhan and Selam Printing House April 2015 Hawassa Ethiopia P. 150

<sup>132</sup> Dereje Tadesse, etal. Ethno- History of The Bench People June 2013, Hawassa . P, 86

<sup>133</sup> Ibid, P, 87

the bride price to her parent. In the abduction process, a life may be lost and there is no wedding ceremony. “የጠለፋ ጋብቻ የጸና የሚሆነው ሽማግሌ በጉዳዩ ገብቶበት አስፈላጊው ካሳ ከተፈጸመ በኋላ ነው።” In this case the marriage can get recognition after elders intervene on the issue to negotiate the two conflicting parties and both necessary compensation and bride price should be paid.<sup>134</sup>

### **3.4.3. Marriage by Inheritance (*Barz*)**

There is also another type of marriage among *Bench* known as *Barz* (inheritance). As explained by the elders, this type of marriage takes place if the husband dies. His wife, after she has finished her mourning period, is given to one of her husband’s brother for marriage. The reason that she marries her brother –in- law is to protect the deceased man’s property and children from being used by another person or outsider who is not his blood relative. In addition, the bride price payment or *Tilosh* which is already paid during her marriage is also the other factor for the practice and prevalence of inheritance marriage among *Bench* People.<sup>135</sup>

### **3.4.4. Marriage by the Consent between the two spouses (*Garska*)**

The other type of marriage is a marriage conducted by the consent between two spouses and is called *Garska*. This type of marriage can happen when a boy loves a girl. The boy selects the girl at a certain ceremony such as a wedding or at market place.<sup>136</sup> According to *Bench* tradition, during her menstruation period a women isolates herself from her family and stays in a special hut constructed for this purpose near the house known as *Kayatket* in *Bench*, till she becomes clean. While she stays there, the food is given to her in isolation by separate materials and that girl does not touch materials used in the family with her hands.<sup>137</sup>

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<sup>134</sup> The Profiles of South Nations, Nationalities and People. Nationalities Council , Birhan and Selam Printing House April 2015 Hawassa Ethiopia P. 150

<sup>135</sup> Ibid p 151

<sup>136</sup> Dereje Tadesse, etal. Ethno- History of the Bench People. June 2013, Hawassa p. 88

<sup>137</sup> A Document Prepared by Bench-Maji Zone Women and Children Affairs Office to Prevent and Eliminate HTP among Agriculturalist and Semi-Pastoralist *Woreda*’s July 2017 Mizan Aman Unpublished p. 7

### 3.5. Marriage and Bride Price among *Bench*

The payment of bride price is most prevalent practice among all ethnic communities in Bench-Maji Zone, but it widely practiced among *Bench* people. As a result, women are exposed to serious forms of human rights abuse within marriage. Bench- Maji Zone Women and Children Affairs Office assessment on harmful traditional practices against women and children within BMZ indicate that payment of bride price has twofold challenges both for women and men express as follows;

“.....በቤንች ብሄረሰብ ዘንድ በርካታ ከብትና መሳሪያ በጥሎኸ መልክ በመቀበል ፍቃዱ ሳይጠየቅ ሴት ልጅ ባል እንድታገባ ይደረጋል። በገንዘብ እንደተገዛች ስለሚቆጠርም በትዳር ህይወቷም በኑሮዋም ሆነ በንብረቷምንም ዓይነት መብት የላትም። በተጨማሪም አግቢ ወጣቶች ጥሎኸ እንዲከፍሉ የተጣለባቸውን ከብት ለማሟላት ሲሉ ከአካባቢያቸውና ከአጎራባች ወረዳዎች በመሄድ ዘረፋ ያካሂዳሉ በዚያን ጊዜ የመሳሪያ ተኩስ ልውውጥ ይካሄዳል። የሰው ህይወት ያልፋል፣ አካል ይጎዳል፣ እንዲሁም የተዘረፈባቸው ግለሰቦች ደግሞ በሌላ ቀን ወደዘረፋባቸው አካባቢዎች በመምጣት ዘርፈውና የሰው ነፍስ አጥፍተው ወይም አካል አጉድለው ይሄዳሉ። which can roughly translated “..... Among Bench people marriage is practiced without getting her consent and girls are forced to marry in order to get a considerable amount of cattle and guns from groom as a bride price. Once the man has paid Tilosh, the women are reduced to the status of property because the man has paid for her. In addition, male brides are also faces different problems to pay the requested Tilosh, they engaged in many illegal actions such as looting others cattle in their locality or in other neighboring community which causes conflict and leads to death and body injury. In other days, those who are looted are agitated to revenge against their looters. In this case they killed humans or caused body harm.”<sup>138</sup>

<sup>138</sup> A Document Prepared by Bench-Maji Zone Women and Children Affairs Office to Prevent and Eliminate HTP among Agriculturalist and Semi-Pastoralist *Woreda*'s July 2017 Mizan Aman Unpublished p. 8

The *Bench* society is polygamous. If a man has wealth to feed and manage his family he can marry as many wives as he wishes. Especially the clan leaders based on the size of their property can be married to 40 wives; the famous among these wives are called “*gendanz*” while others are named “*gen*” or “*komogen*”.<sup>139</sup> According to elders, marrying many wives and having many children is seen as a great adventure among *Bench* people. Moreover, the man that has many wives and children is a very great and respected man in the society. Besides this, the other reason is to make use of female labor. At the present time the number of wives in which clan leaders married is minimized usually not more than ten wives. The researcher personally found the clan leader with nine wives and he is also arranged to marry his tenth wives in the near future.<sup>140</sup>

One of the common challenges of bride price in marriage is the practice of *Qoys* if a woman dies without giving birth; there is a refunding of the bride price. In *Bench* society, if a woman dies before she has given birth and if she has no young sister, all the bride price has to be returned to the husband that is paid during the wedding. If a woman who has died has a younger sister of marriageable age, she was given to the widower and the bride price is kept as it is. As it is widely agreed by the elders, the second alternative, if the woman dies after she has borne a female, the whole bride price remains stable for her father. However, if that child is male, half of the bride price is returned to the husband. Among the *Bench* divorce did not occur in the distant past. Moreover, if the wife is sterile or unable to bring children her wife has the full right to divorce and claim the return of bride price he paid for her parents during marriage.<sup>141</sup>

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<sup>139</sup> Hibr Ashara. A Magazine prepared by Bench- Maji Zone for the celebration of the first culture and language symposium published by Girma Printing press January 2012 Mizan Aman

<sup>140</sup> Interview result with *Kasha Kebele* clan leader Ato Gebre Shmetet (*Azunans* his leadership name ) conducted at *Kasha* at February 28/2010

<sup>141</sup> Bench- Maji Zone the Second Culture and Language symposium , A Research presented for discussion on the Language and Culture of nationalities within the Zone , Oct, 2008 Mizan –Aman.

## Chapter - Four

### 4. Finding of the Study and Analysis

This chapter presents findings of the study along with the analysis and summary of the qualitative data in connection to the objectives and the basic research questions addressed in the study. The study specifically focuses on the practice of bride price and women's marital rights among *Bench* people. One of the objectives of the study as stated in chapter one is to understand *Tilosh* (bride price) among *Bench* people. Therefore, to address the objectives this chapter attempts to give general background information on the overview of bride price practice among *Bench* and its cultural justification as well as process of bride price rituals are discussed. Furthermore, the challenges and violation of marital rights of women as a result of bride price practice are also presented and analyzed in line with basic human rights standards recognized under international, regional and national human rights instruments primarily focused on marital rights of women.

#### 4.1. Bride Price Payment and Marriage among *Bench* People

Intensive focused group discussions were conducted with community elders, married men and women on the marriage system, the customary bride price practice and related issues. Furthermore, men and women respondents were asked about their marriage experience through in-depth interview approach. All results indicate that, marriage was largely conducted in traditional way among *Bench* people. Despite various types of marriage are practiced among *Bench*, *Punta Donta* marriage is the most common type of marriage in the study area which is practiced through the full decision of parents are held. There are traditional ways of identifying the marriageable age of both men and women among *Bench*. For boys there are basically two ways. The following FGD result clearly stated how the *Bench* community knows the marriageable age of boys as follows;

*“We have two ways to recognize the maturity of our boys for marriage. One way is the groom constructs a house near that of his father and plants a serious of crops. This is a sign for his parents, “I am mature enough to marry a wife”. In this case his parents begin to search wife for him outside their clans. If his family is unable to respond to the requites of the groom, he consults with his friends for*

*marriage by Goca or abduction. The other ways of identifying whether boys are ready for marriage is by using belt. The belt which is used by boys among Bench people is prepared from cattle skin, if his belt is tearing apart four times, his parents are informed that he is qualified as much as necessary for marriage. One belt may serve at least for four years. After these his father should find wife for his son.”* <sup>142</sup>

While in the case of girls like most ethnic group in Ethiopia, *Bench* women also have no say in the selection of their spouses and the timing of their marriages. Almost all first marriages were arranged by parents. It depends on the wishes of their parents particularly fathers. The maturity of girls for marriage is also identified still using traditional methods. The focus group discussion conducted with women at *Gola Kebele* discloses the criteria for identifying the maturity of girls for marriage as follows; *“A special hut was constructed for girls to isolate herself during menstruation time from her family called Kayat-ket little far from the main house of her parents. If two houses are made and give way, we know she is matured and identified as well enough for marriage.”*<sup>143</sup>

Almost all interviewees and discussants affirmed that child marriage is accepted as the norm among *Bench*. There are two basic socio-cultural justifications for the practice of early marriage in *Bench* community. The first reason is that wishing higher *Tilosh* parents forced girls to marry early since the society pays higher bride price for youngsters and virgin girls. The other reasons given for early marriage were fear of sexual violence; such as rape and abduction, that befall young girls before marriage and fear of promiscuity and unwanted pregnancy before marriage on the girls’ side.

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<sup>142</sup>FGD result with community elders at *Kasha Kebele* on February 28,2018

<sup>143</sup>FGD Result with married women at *Gola Kebele* on March 02/05/2018

## 4.2. Cultural Justification for the Payment of Bride Price among

### *Bench People*

The payment of bride price for marriage is the deep rooted culture and it is necessary condition as well as a pre-request for validating or getting societal recognition for any marriage and often justified by various socio-cultural reasons among *Bench* people. The *Tilosh* Regulation drafted to control unbalanced payment of bride price by the Semen Bench *Woreda* Council in its introduction part puts how the culture of bride price is a deep-rooted practice among *Bench* people and its difficulty to eliminate it totally and as well as its impacts on the community at large as follows;

“ጥሎሽ በሌላ ማኅበረሰብ እምብዛም አስፈላጊነቱ ባይታወቅም በቤንች ብሄረሰብ ያለና የነበረ ባህል መሆኑ የታወቀ ነው። በቤንች ብሄረሰብ አባባል (አስኒያ ዕስ ዛም ኡሎ ፤ ጸጥኒያ ዕስ ማይታም ኡሎ፤ የሰውን ልጅ በገንዘብ፤ የአውሬን የልጅ በሎር ያዝ) በማለት ተረት ያለውና ይህንን የጥሎሽ ፍላጎት በቀላሉ ማስተው አስቸጋሪ ነው።..... ጥሎሽን አስመልክቶ በአሁኑ ሰዓት ከ30,000- 70,000 የሚደርስ ከፍ ያለና በማኅበረሰቡ መሀከል መሬት፣ ንብረትና ቤት ከነቦታ እስኪሸጥ ድረስ በመገፋፋት ለከፍተኛ ኢኮኖሚያዊ ቀውስ እየተዳረገ ነው።” which can be translated as “.....even if the necessity of bride price is not well known in other societies, bride price was common in past and still now among Bench people. Among the proverbs of Bench community that shows the need of bride price states that; “Capture human beings by money, while animals by spear.” So, it is difficult to abolish the practice easily. Currently large amount of money was requested as a form of bride price ranging from 30,000 -70,000 birr are paid for one marriage. This forced the society to sale their arable land, house and other properties. As a result, the societies are exposed to serious economic crisis.”<sup>144</sup>

<sup>144</sup> በደቡብ ብሄር ብሄረሰቦችና ሕዝቦች ክልላዊ መንግስት በቤንች ማጂ ዞን በሰሜን ቤንች ወረዳ በባህላዊ የጥሎሽ ስርዓት ላይ የሚፈጸሙ ጎጂ ልማዳዊ ድርጊቶች ለመከላከልና ለማስወገድ የወጣ ደንብ ቁጥር 1/2003 ገጽ 1

The results of both focus group discussion and interview with key informants also affirmed that, there are various cultural, social and spiritual justifications for the practice of bride price during marriage among *Bench* people. All women, men, elders, traditional spiritual leaders and the society at large try to provide their own socio-cultural and economic reasons for the practice of bride price. Women support the payment of bride price as a way of understanding their husbands respect and love towards her, “*How can I understand whether he loves me or not if he is not paid Tilosh for my parents.*” While men also supports bride price as a mechanism to get the trust of their wife to live together for long years “*if she is paid she stays within marriage for long unless she leaves the marriage at any time.*” Parents of the girl also see bride price as a major source of income and a means of compensation for the cost they waste to grow the daughter. And they also see bride price as a source of respect and social values if they are paid higher bride price.<sup>145</sup> The practice of bride price and its continuation is supported by almost all and still strongly advocated by those traditional spiritual leaders since they have share from the payment of bride price and celebrate and bless the marriage. The next interview result indicates the religious aspect of bride price payments among *Bench* people as follows;

*“After bride price is paid, her father must give two heifers out of the payment to the traditional spiritual leaders. Then some sort of heir is dig up from the bride and put on the heifers we pry live a healthy life, long age, peaceful life and to gave child. Then both heifers were slaughtered. Unless this practiced is done, she will die. I know those who die. She can “also give birth.”<sup>146</sup>*

In the process of bride price payment negotiation the consent of the bride is not asked and simply decided by parents of the two couples and elders in the community as well as traditional spiritual leaders are also participated. Even in conditions when both of the married couples love each other and if he can’t be able to pay *Tilosh* the only option is that he is asked to serve as a servant for her father and if he is agreed he can live with her as a marriage partner. Unless any marriage that didn’t get the consent of parents and if

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<sup>145</sup> FGD discussants result conducted with both men and women at *Gola Kebele* on March 05/2018

<sup>146</sup> Interview Result with one of the traditional religious leader at *Wala Kebele* on March, 01/ 2018

bride price payment is not paid it fails to get the recognition of the society and her family and clan are considered as their status is degraded and defiled.<sup>147</sup> In some case, there are conflicts among the families of the bride and groom due to the disagreement on the amount of money paid which cause death.<sup>148</sup>

The other basic question raised here is what would happen if a girl marries husband without the payment of bride price by her consent? If a women marry husband by rejecting the arranged marriage through her parents which is the main source of income through the payment of *Tilosh* and identified as the only legitimate marriage type, she will face direct opposition and condemnation from her relatives and the people because it is considered as a deviant behavior among the society and she is considered as her families adversary since she bereave her parents opportunity to be rich as a result of a gift of money as a means of bride price during her marriage. Informants in all focus group discussion and interview revealed this issue as follows;

*“In our community if she rejects her parents arranged marriage and if her parents are not paid Tilosh, all community members gather together and they curse her. There are two rituals when they did it or curse her. “ይህ መብያ እንደተገለበጠ ያንችም ማገጸን ይገልበጥ፤ ድንጋይ ውለጂ፤ ይህ ውኃ እንደተገደበ ያንችም ማገጸን ከመውለድ ይገደብ አትውለጂ፡፡” All members of the community came up with traditional dinning plate subvert it, said, “as this dinning plate subvert your womb also subvert, gave stone”. The other ritual to cure her was they went into a river and dam it, said, “As this water stops its flow, your uterus also cease giving children”. Then she can’t be alive, and she will die.”<sup>149</sup>*

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<sup>147</sup> FGD result with elders, clan leaders and traditional religious leaders at *Gola Kebele* on March 3/2018

<sup>148</sup> Key Informant Interview with Semen Bench *Woreda* Administration and Security Bureau Religious Forum Officer at *Bire* on March 5/2018

<sup>149</sup> FGD Conducted with *Gola Kebele* Elders, Clan leaders and traditional spiritual leaders at *Gola Kebele* on March 3/2018

### 4.3. Challenges of Bride Price on the Marital Rights of Women

This section presents findings of the study regarding the challenges and violations of rights of women within marriage that encountered married women. Moreover, this chapter will present the practice of customary courts to settle conflicts within marriage and efforts or intervention done by different stakeholders to minimize bride price payment for the better protection of marital rights of women.

Although all men and women marry in all societies, marriage has earlier and far greater impact on the lives of women than those of men in many societies. Socialization and culture in *Bench* community places more emphasis on marriage for girls than for boys. The *Bench* ethnic group like most of agricultural communities in the world is strictly patriarchal. In a patriarchal community it is clearly evident that women are subordinate and inferior positions in all aspects of social, economic and political life. The prevalence of high amount of bride price seriously affects marital rights of women and because of these women among *Bench* has developed somewhat wrong perception towards marriage. When women imagine their future marriage relation strongly influenced by the demands on them as wives and particularly as mothers. A woman from *Wala Kebele* expressed this attitude as follows;

*“From an early age we women think about things we are going to face following marriage. The burden of holding a family together in the midst of huge pressure from the community upon women makes family life very difficult. In addition to this, lack of enough support from our husbands in the areas of domestic work exacerbates the problem of women in Bench community.”*<sup>150</sup>

Based on the available data through different data gathering instruments, the research finds the following various challenges against the marital rights of women in Semen Bench *Woreda* as follows.

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<sup>150</sup>Key Informants Interview Result with Women conducted at *Wala Kebele* on March 4/2018

### 4.3.1. Bride Price Promotes Polygamous Marriage among *Bench*

Marriage is the building block of family and human society at large. Yet, the conception of marriage and the mechanism for the foundation of family vary among societies. Polygamy is a widely practiced mechanism for the founding of marriage and family in many societies across the world and Ethiopia too. Despite arguments forwarded by cultural relativists as well as religious and cultural justifications for polygamy marriage, the advent of modern international and regional human rights laws in general and the rights of women in particular brought forward strong criticisms of polygamy as a violation of women's marital rights. Among *Bench* people polygamous marriage is common as far as the men are capable of paying bride price to her family. Almost all participants of this study are polygyny having an average of four to nine wives. The second marriage is conducted with or without the consent of the first wife and he paid a bride price from the first wife property was shared for the second wife, in this case the first wife had no right to claim against this marriage and the payment of bride price from commonly possessed property within marriage. The following interview result explains this issue further as follows:

*“Because of the low status or recognition towards women among Bench people, women's didn't think that they have the right to property within marriage. This helps the husband to use the property for the payment of bride price to the second marriage freely. This practice violates the rights of women and it aggravates the spread of HIV/AIDS at higher rate. Besides, males would have a lot of children but they can't provide the necessary support for their children born within polygamous marriage. It is totally the sole duty of women to care for her children.”<sup>151</sup>*

The United Nations Committee on the Elimination of Discrimination against Women, in its general recommendation number 21 on equality in marriage and family life, stated that; *“Polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that*

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<sup>151</sup>Key Informant Interview Result with Semen Bench *Woreda* Women and Children Affairs Bureau Officer conducted at *Bire* on Feb 28/2018

*such marriages ought to be discouraged and prohibited.*"<sup>152</sup> Mainstream human rights literature has been more or less consistently against polygamy as a practice that "*despoils women of their fundamental rights.*"<sup>153</sup> The opposition to the practice also points to "*the high risk of contracting and spreading HIV/AIDS and the complications surrounding issues of inheritance after the death of a polygamous husband.*"<sup>154</sup> This goes with the above key informant interview result in the study area. Moreover, the Human Rights Committee has pronounced polygamy to be a violation of the dignity of women and "*an inadmissible discrimination against women*" in reference to article 3 of the ICCPR.<sup>155</sup> CEDAW, Gen. Rec. 21 Para 14 also affirms that a polygamous marriage has a severe financial effect on women and her children within marriage.

As mentioned in Selamawit thesis, polygamy marriage is threat to the equal rights of women within marriage. Furthermore, polygamy forces women to share hard-earned matrimonial property with multiple co-wives and children all bound to receive an ever smaller share of resources. A wife in such a union often sees her contribution to the homestead rewarded by the husband taking on additional wives with whom she must share that hard earned matrimonial property. "*Women in polygamous unions are often hard-pressed to prove a valid marriage was concluded under customary law, without which women cannot claim any rights in the marriage or upon divorce.*"<sup>156</sup> Hence, bride price entitles for men's among *Bench* people to marry more and more wife which intensify serious human rights violation of women within marriage. The following key informant interview result asserts this idea in the study area which states that:

*"Immediately when he married the second wife, he constructs a house near that of his first wife and he gives a portion of land around her house to cultivate it for her household consumption. The first wife property is arbitrarily divided to the*

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<sup>152</sup> CEDAW Committee General Recommendation Number 21, 1994

<sup>153</sup> Jonas, Obonye. "The Practice of Polygamy under the Scheme of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: a Critical Appraisal." *Journal of African Studies and Development Vol. 4(5)*, 2012: p.143

<sup>154</sup> Mubangizi, John Cantius. "A South African Perspective on the Clash between Culture and Human Rights, with Particular Reference to Gender-Related Cultural Practices and Traditions." *Journal of International Women's Studies*, 13(3), 2012: 33-48.

<sup>155</sup> Human Rights Committee. "General Comment No. 28: Equality of Rights between Men and Women (article 3)." March 29, 2000.

<sup>156</sup> Samrawit Tadesse, Culture, Human rights and social change: in the context of polygamy: The Universalism and Relativism Debate.

*second marriage; there is a continuous conflict between the first wife and the second one. When the second wife wants divorce, she has the right to share property from her husband.*”<sup>157</sup>

This widely prevalent practice of polygamy caused by *Tilosh* among *Bench* people contradicts the CEDAW Committee’s General Recommendation 29 Para 13 reaffirms the goal of abolishing polygamy and makes clear that, “with regard to women in existing polygamous marriages, States parties should take the necessary measures to ensure the protection of their economic rights.” The Revised Family Code of FDRE Proclamation No. 213/2000 under article 11 totally prohibited bigamy marriage which stipulates that: “A person shall not conclude marriage as long as he is bound by bonds of marriage of a preceding marriage.” In addition, article 21 of the SNNPR State Family Code Proclamation number 75/ 2004 still restricted the practice of polygamous marriage within the region.

#### **4.3.2. Bride Price and Widow Inheritance Marriage**

The other challenge of the marital rights of women among *Bench* people due to the payment of *Tilosh* is the widely practice of widow inheritance marriage. “*Widow Inheritance is a cultural practice where by a widow is expected to marry a kinsman or brother in-law or a close male relative of her late husband.*”<sup>158</sup> There are various marriage practices in Ethiopia among different ethnic communities. The Constitution of Federal Democratic Republic of Ethiopia reveals that customary practice which contravenes the constitution has no effects and such practices could be put an end if it has been violating the protection of women human rights.<sup>159</sup> Despite normative prohibition of any customary practices that affects the human rights of women, on the ground there are various activities which are directly or indirectly hinder the protection of women’s marital rights. Among these widow inheritance tradition is the common practice among

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<sup>157</sup>Key Informant Women Interview Result with Member of Women’s Watch Group from *Kasha Kebele* at *Bire* on February 27/2018

<sup>158</sup>Tilahun Seyoum Widow Inheritance and Women’s Rights: The Case of the Boro-Shinasha in BullenWoreda, Benishangule Gumuz Regional State. MA thesis submitted to the graduate school of Addis Ababa university in partial fulfillment of the Requirements for Master of Arts in human rights June, 2015 Addis Ababa p 2

<sup>159</sup>Federal Negarit Gazeta of the federal democratic republic of Ethiopia first year -1 Addis Ababa - 21<sup>st</sup> August 1995 Art (9(1) and Art (35(4))

different ethnic groups in Ethiopia and *Bench* people widely. One of the main factors for the prevalence of widow inheritance among *Bench* people is nothing but the practice of bride price during marriage is the major cause. The payment of bride price entitles for her husband's family to consider married women as their family property. In case if her husband died, his senior brother has the right to inherit her unless they demanded the return of *Tilosh* from her parents. The following focus group discussion with elders and traditional spiritual leaders stated that:

*“If her husband has died, his brother has the right to inherit and marry the widow without payment of Tilosh since his brother had already paid. He may be his elder brother or younger brother. This kind of marriage is called Barz in our community. If she dies before having children, a husband has a right to marry her younger sister without paying bride price.”<sup>160</sup>*

This practice is directly against the marital rights of the widow and her sister. According to CEDAW, General, Rec. no 29 Para, 33 clearly state the non-refunding of marriage gifts during death of one of the couple which proclaims that; *“Where a bride price has been paid, legislation should prohibit the deceased's family from demanding the bride price back from the widow in return for the marital land and property.”* The African protocol on rights of women has also provided the widows right which stated that according to most customary laws in Africa, a woman becomes part of the estate of her deceased husband upon his death to be inherited by his brothers. So, the protocol provides that *“a widow shall have the right to remarry any person of her choice.”<sup>161</sup>* Despite the prohibition of widow inheritance, the practice is common among *Bench* people. Due to this kind of marriage women faces a worst problems basically related to access and control of resources. Because, among *Bench* community widows traditionally do not inherit their husbands' ancestral property and they rely on their sons as their commission for holding on to the family property and maintaining their standards of living.

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<sup>160</sup> FGD result with Key informants at *Kasha Kebele* with elders of the community on February 28,2018

<sup>161</sup> African Protocol on the Rights of Women , Article (20(C))

### **4.3.3. Bride Price Violates the Minimum Marriage Age and Affects Girls Right to Education**

The other finding of the study is the payment of *Tilosh* is one of the causes for the practice of early marriage which directly affects girls' right to education. The right to education is one of the basic and instrumental human rights to enjoy other rights. "A person who cannot read or write cannot be a fully functioning member of the present society and enjoy other human rights." <sup>162</sup> Education of girls and women is the rightly considered to be the key for improving women's human rights at all levels in all societies. But, educational attainment of girls and women were strongly affected by culture and early marriage. Girls are failed to fully enjoy the right to education as a result of the practice of bride price payment among *Bench* people. All focus group discussions and interview with key informants in the study area confirmed that girls' right to education is threatened by societal attitudes towards girls' education and early marriage to receive higher bride price.

According to my key informants, marriage is the single most important reason mentioned in all focus group discussions and interviews with key informants as to why girls' education is undermined among *Bench* people. The *Bench* culture strongly urges girls to get married early and take the responsibility of serving their husbands than attending school. The following interview result justifies this idea; "The cultural pressure in favor of early marriage is so strong that families who did not get their daughters married at an acceptably young age will be scorned and ridiculed; girls may also not get husbands if they pass that age." <sup>163</sup>

Moreover, the cultural practice of *Tilosh* is one of the major factors which agitated families to arrange marriage for their children at early age to earn good payment of bride price which violates girls' right to education. The available sources from key informants indicate that *Bench* girls were married at a very young age. Girls were married at the age of eleven or even younger, while men married later in life until he is able to pay *Tilosh*. It was common to find a couple with an age difference of 20 to 30 years, where the men

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<sup>162</sup> James R. Lewis & Carl Skutsch, (2001) The Human Rights Encyclopedia by M.E. Sharpe, INC United States of America p. 696

<sup>163</sup> Women Key Informant Interview result at *Bire* Conducted on 27 February, 2010

were much older than their wives. Besides, according to the results obtained from focus group discussions held with elders of the community confirmed that the payment of bride price is one of the major reason for the prevalence of early marriage among *Bench* which violates girls right to education because, *“the groom”s family only pays a great deal of bride price for young, strong and energetic girls forces the community to retreat for early marriage and ultimately resulted in school dropout.*”<sup>164</sup> As a result, to respect this tradition, parents continue defying the family code of the country that set minimum age of marriage.<sup>165</sup> Yet, the main reason mentioned in the focus group discussions held with key informants that violates girls’ right to education and forced them to arrange early marriage and dropping out of girls from school was the bride price paid to parents of the girl, upon her marriage, as a result;

*“Parents do not believe that girls” education is useful and girls are employable. They argue that educating girls is like planting your neighboring tree. As a result girls” dropout from school and forced to marry is the common practice among Bench tradition. Once married, women will have no time and permission to go to school. Young girls also expected to share the work load of their mothers at home, taking care of their younger siblings and helping in household chores which lead to being absent regularly and later results in dropout from school.”*<sup>166</sup>

As a result, female students are forced to drop out of education and get into marriage which violates the basic rights of women that hinders the enjoyment of other human rights as well as empowerment of women in the study area which contradicts various human rights treaties that recognizes the equal rights of girls and boys to access of education ratified by Ethiopia. Article 26 of the UDHR (1948) states: *“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all*

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<sup>164</sup> FGD Result with elders at *Wala Kebele* conducted on 02 March, 2018

<sup>165</sup> Article 7(1) of The Revised Family Code Proclamation No. 213/2000 sets the minimum age requirement to establish marriage as *“Neither a man nor a woman who has not attained the full age of eighteen years shall conclude marriage.”*

<sup>166</sup> FGD women discussants result at *Gola Kebele* conducted on March 02/2018

*on the basis of merit.*”<sup>167</sup>This basic human right of citizens also comprehensively guaranteed under article 13 of ICESCR adopted in 1966. ICESCR stated the right of everyone to education and obliged member States to achieving the full realization of this right. <sup>168</sup> CEDAW also recommended States Parties to take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women.<sup>169</sup> African protocol on the rights of women extensively deals with the right to education and training and obliged “*State Parties shall take all appropriate measures to eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training.*”<sup>170</sup> Both the Federal and SNNPR State Family Codes under Article 7/1 stipulates the marriageable age of men and women to be eighteen as follows “*Neither a man nor a woman who has not attained the full age of eighteen years shall conclude marriage*”.

#### **4.3.4. The Right to Health and Reproductive Rights of Women**

The right to health is a fundamental part of our human rights and of our understanding of a life and dignity. Among health rights of married women, the reproductive rights of women take priority. Reproductive rights are important to the lives and health of women and children within marriage. A number of international human rights treaties require States Parties to recognize and protect reproductive rights of women.<sup>171</sup> Despite its necessity, the practice of bride price impedes the reproductive rights of women within marriage among *Bench* people. The data available from the study area indicates that, men have steadily shows greater desire for having more children than women and desire for more children which violates the reproductive rights of women. Demanding for limiting family size is higher for women than men. On the other hand, men are principal if not the sole decision makers regarding controlling fertility of women particularly in the study area. The study also finds that the desire for more children by men has cultural

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<sup>167</sup> Universal Declaration of Human Rights, (1948), Article 26(1)

<sup>168</sup> ICESCR, Article 13/1

<sup>169</sup> CEDAW Article 10/1

<sup>170</sup> African Protocol on the Rights of Women, Article 12/1 (a)

<sup>171</sup> James R. Lewis, et al. (2001) The Human Rights Encyclopedia by M.E. Sharpe, INC United States of America p. 869

basis in *Bench* community. Having many children among the *Bench* people were regarded as wealth and blessing. Thus, all families see having a lot of children as an asset to be capitalized on. According to one of the FGD result held with elders and traditional spiritual leaders clearly justified this idea that how the *Bench* society give great value for having many children as follows; *“a man with many children has better prestige since having many children is considered as strengthening the clan one belongs to. It is also believed that children will provide support to their parents at old age.”*<sup>172</sup> In addition, women key informants also clearly mention that their reproductive right is totally ignored and they are forced to be passive regarding the number of their children they will have which is stated as follows:

*“There is no consideration of women” s reproductive health within marriage such as deciding on their own reproductive rights and the right to give birth and/or using contraceptives. All these are decided by husbands and we have no right to say anything regarding the number of children we will have and the use of contraceptive methods for birth control.”*<sup>173</sup>

Having many children especially daughters in the study area is desirable, as they bring bride price money to parents and are, thus, source of income. Given all these traditional beliefs, women in *Bench* community still desire to limit their children since raising children and family maintenance are their sole burden. As one women informants asserted, their reproductive rights are depends on the willingness of their husband. The following interview result with women also asserts that how the reproductive rights of women are continuously violated as a result of unilateral decision of men as follows;

*“I was lived in She-Bench Woreda. With the consent of my parents I am forced to marry a rich person whose I don’t know him before he lives in Semen Bench Woreda. He is a very old man and I am his fifth wife. He gave nine cattle to my parents as Tilosh as per the request of my parents. After few months when I was pregnant he told me to abort the child. Because he is informed by Kalcha, she conceives a son and if he is born at your home you will be die after three month. I*

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<sup>172</sup>FGD discussants result at *Kasha Kebele* conducted on February 28,2018

<sup>173</sup>Key Informant Interview result with Women at *Gola Kebele* conducted on February 29, 2018

*refuse to accept and doing it. As a result, he beats so many times and threaten he will kill me unless doing it. And finally he forced to return back to my family without sharing resources. He insists my parents to return the bride price and they return seven cattle"sout of nine."*<sup>174</sup>

This interview result asserts how much *Bench* women faces multifaceted challenges because of the customary practice of bride price which entitles men unilateral power over the reproductive issue of their wife. This practice contradicts the different international, regional and national legal instruments that recognize the equal reproductive rights of both men and women within marriage. CEDAW stated the equality of men and women relating to marriage and family relation in general and reproductive rights in particular as follows;

*"The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights. States are thus obligated to ensure that men and women have access to a full range of contraceptive choices and reproductive health services and those they have information about family planning and sexual and reproductive health."*<sup>175</sup>

The Programme of Action of the International Conference on Population and Development<sup>176</sup> and the Beijing Platform for Action<sup>177</sup> highlighted the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.

At the regional level the African Protocol on the Rights of Women has also articulates women"s reproductive rights as human rights, and explicitly guarantees a woman"s right

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<sup>174</sup>Interview Result with Women conducted at *Bire* on February 28,2018

<sup>175</sup>CEDAW Article (16/e)

<sup>176</sup>Report of the International Conference on Population and Development, Cairo, 5–13 September 1994 (United Nations publication, Sales N° E.95.XIII.18)

<sup>177</sup>Beijing Declaration and Platform for Action, Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995 (United Nations publication, Sales N° E.96.IV.13), chap. I, resolution 1)

to control her fertility which states that: “*the right to control their fertility, to be informed of their health status and of the health status of their partners, to decide whether to have children, to choose any method of contraception, and the right to family planning education.*”<sup>178</sup> Domestically, Article (35/9) of the FDRE Constitution and the SNNPR regional State Constitution article 35 (7) stated about women equal right with men regarding health, access to family planning education, information and capacity to limit the size of children. Thus, as signatories to this treaty, Ethiopia is required to take action to ensure that women have access to information and health services related to family planning more importantly in the study area.

#### **4.3.5. Women’s Property Rights within marriage**

Women who secure the right to property is a precondition for the ability to enjoy other rights enshrined under international human rights treaties such as health, education, participation in political and economic life, etc. Access, control and ownership of property or resources for women also helps to raise the status of women within their families and communities which is an important step to achieving gender equality, as it leads to women’s increased decision making power, greater autonomy and economic independence and greater participation in the community.<sup>179</sup>

The lack of control of resources and the associated lack of decision making power on marital property is by far the most important and most complex of the issue among married *Bench* women. The economic dependence of women, their lack of control over productive resources and assets is at the root of the problems the *Bench* women face within marriage. At the household level, women’s limited decision making is associated with their insecurity of access to productive resources, especially land and to their being predominantly engaged in unpaid care economy. The commanding to control women embodied in the question raised by informants, “*how can property own property?*” – is itself reinforced by some curious logic. According to some of my informants, “*women will become promiscuous and indulge in extra-marital affairs if they are allowed to work*

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<sup>178</sup>See African Protocol on the Rights of Women Article 14

<sup>179</sup>Using CEDAW to Secure Women’s Land and Property Rights: A Practical Guide, The Global Initiative for Economic, Social and Cultural Rights p. 1-2

*and that women will become uncontrollable, unmanageable, and unruly or disrespect men if they gain economic independence.*”<sup>180</sup>As a result, among *Bench* people, women’s property rights are under constant infringement since names and property pass to the next generation through male descendants. This system puts sons on a higher footing than daughters and the specific features of land inheritance is especially likely to have effects on gender gaps.

This practice contravenes the equal property rights of women as stipulates under various human rights instruments. The right to property is one of foundation stones of the tradition of all human rights. The United Nations declaration of human rights (1948), article 17 declares: *“Everyone has the right to own property alone as well as in association with others,”* and *“no one shall be arbitrarily deprived of his property.”*<sup>181</sup> The CEDAW also stated that there should be similar rights to both spouses with respect of the ownership, acquisition, management, administration, enjoyment and disposition of property.<sup>182</sup> The African protocol on rights of women has specifically provided the women’s property rights as follows: *“During her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.”*<sup>183</sup>As well as the Protocol guarantees both *“Women and men shall have the right to inherit, in equitable shares, their parents property.”*<sup>184</sup>Article 35/7 of FDRE Constitution and the SNNPR State Constitution Article 35/8 also stated that *“Women shall have the right to acquire, administer, control, use, and transfer property. In particular, they have equal rights with men with respect to use, transfer and administration. They shall also enjoy equal treatment in the inheritance of property.”* Moreover, the SNNPR State Rural Land Administration and Utilization Proclamation No. 110/2007 Article 5 (4& 5) also guaranteed women to own land and land should be registered in the name of the couples as follows: *“Rural youths who wish engage in agriculture shall have the right to get and use rural land which is possessed by the community or government. A husband and wife*

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<sup>180</sup> FGD discussants result at *Wala Kebele* conducted on March 02 /2018

<sup>181</sup> UDHR Article 16 and 7

<sup>182</sup> The CEDAW Article 16/h

<sup>183</sup> Africa Protocol on the Rights of Women, Article 6(j)

<sup>184</sup> African Protocol on the Rights of Women, Article 21/2

*have equal use right on their common land holdings. They do not lose their land holding because of their marriage that they possessed individually before.”*

#### **4.3.6. Women’s Labor Exploitation within Marriage**



Picture 1 Women carrying grass, firewood and maize left to right to sell it at Mizan-Aman Town market

Many labor intensive agricultural activities in *Bench* community such as land preparation, weeding, harvesting and transporting harvests require the active involvement of women alongside men. Women are also primarily and most often exclusively responsible for tending to backyard gardens and cleaning animal barns. But their active participation in the vast majority of agricultural activities does not result in their recognition as farmers on equal balance with men. Among the *Bench* people small scale farming is the major economic activity. Almost all farming practices are done in traditional ways and the division of labor among the *Bench* people remains and follows the traditional farming practices. During the farming process women play a crucial role in providing the working men with things to eat and drink. Some of the foods prepared by the women include bread (*Buud*), *Godere (Gong)*, Spinach (*Sam*) and the drinks includes *Borde (Gez)* and a drink prepared from the leaves of a coffee called *Chemo* are takes a lot of time and women are forced to spent a lot of time at home besides participating in cultivation outside home. All farming activities until harvesting were performed by both sexes until

harvesting where male members of the community were involve in most part of the cases. All the gardening activities around the home were totally performed by female members of the community.<sup>185</sup>

It is also common to see women carrying heavy loads on their back among *Bench* people. It is the duty of women to fund household expenditure and to do this woman engaged in many heavy activities such as selling fire wood and charcoal to residents in urban areas. The way they sell the wood is by carrying it on their back and moving on foot to homes of urban residents especially at Mizan –Aman town. Women“s are responsible to perform various tasks including extreme heavy workloads that required lots of physical energy which exacerbated their vulnerability to various health problems. The following key informant interview result asserted this idea as follows;

*“Considering the low status of women and their extremely heavy workloads, it would come as no surprise that they suffered greatly in their health. Being married at very young ages and exposed to hazardous forms of work, young girls experienced the worst forms of health complications imaginable. Carrying loads on their backs literally contributed to the vulnerability of their back, legs, necks and arms, cooking in smoke-filled kitchens affected their breathing capacity and lungs and further complications of early pregnancy and childbirth all caused their health to deteriorate rapidly. However, these health issues were not considered an issue among the people.”*<sup>186</sup>

*Bench* women are vulnerable to ruthless labor exploitation within marriage. The next focus group discussion result with women“s at *Kasha Kebele* asserts how much the burden of married women within marriage as follows:

*“We traveled 5-6 hours carrying grass, wood and cabbage to sell at towns. At home we pass long time in food preparation. The most common traditional food among Bench community was Buud or bread prepared from maize. To prepare this food woman must grind it by their hands, by default if the maize is grind by*

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<sup>185</sup>Women FGD Discussants result at *Kasha Kebele* conducted on February 28/2018

<sup>186</sup>Interview result with Action Aid Ethiopia NGO manager that works on empowering women in Semen Bench *Woreda* at 05/03/2018 in *Bire*

*modern mill, her husband didn't eat the food. Because if she did it, she is believed that she is a lazy woman. Bench men also prefer eating cabbage but cultivating, preparing and selling cabbage is the sole duty of women. They said, "it is better to die for men than selling cabbage at the market." Moreover, it is common to eat Godere at dinner time among Bench tradition but cooking it takes 4-6 hours. This entire domestic works are done by women alongside with their participation in agricultural activities and cultivation of cash crop."<sup>187</sup>*

Beijing Platform and Program of Action Para 185, affirms that unequal distribution of responsibilities within household has directly limits women's role and participation in public arena and recommended that such discriminatory practice should be addressed as follows;

*"The unequal division of labour and responsibilities within households based on unequal power relations also limits a woman's potential to find the time and develop the skills required for participation in decision-making in wider public forums. A more equal sharing of those responsibilities between women and men not only provides a better quality of life for women and their daughters but also enhances their opportunities to shape and design public policy, practice and expenditure so that their interests may be recognized and addressed."*

In addition, Article 16 of CEDAW stipulates that men and women have the same rights and responsibilities during marriage in matters relating to their children and other household duties. Para, 29 of BPA also suggests the responsibilities among parents must be shared including upbringing of children and other activities.

#### **4.3.7. Women's Decision Making Role in Households**

Although women and men actively participate in the production of goods and services in Bench community, women only have little or no say regarding what to sale, for whom to sell, by what price to sell or for what purpose the money earned from any sales. Women were allowed earned to sell fruits and vegetables and use the earnings for any purpose

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<sup>187</sup>Women Focus Group Discussants result at *Kasha Kebele* conducted on February 28/2018

they need to spend. All the agricultural productions including the sells cash crops, grains, animals and animal products directly to go the pocket of the male. And only the male have the right to spend the money earned from above mentioned activities for anything he thinks is worth spending on. All decisions making powers regarding when, how and what to farm, what types of cattle to raise and to keep are totally decided by the male members of the community among *Bench* and totally ignore women's role.<sup>188</sup>

Issues related with land use and land ownership are also included under the domain of male influences. All decision regarding the acquisition and sale of a plot of land were totally controlled by men. *“Women are just entitled to work on lands of their fathers and husbands. Hence, the Bench people are organized in a patriarchal family structure, all inheritance including land is transferred through the male line of the family. Thus, women have little or no say regarding the use as well as the sale of this basic resource.”*<sup>189</sup>

According to one of my key informant, women have very little or no power to make decisions upon the family affairs. There is a belief that women are created to work and help their male counterparts not to make decisions that affects the male. Decision making is regarded and taken for grant as only the sphere male not women. The next interview result with women key informant asserts this idea as follows;

*“Family affairs such as when and how many children to have were decided by the male. It is the male member of the community that holds the responsibility to react to various social, economic and cultural issues that arise within the family. For instance, it is the husband that decides to whom to give his daughter and the son to marry by providing him with necessary bride price to be given to the families of the bride. Here, the numbers of cattle or money given were also decided by the senior male members of the groom.”*<sup>190</sup>

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<sup>188</sup> Women Focus Group Discussants result at *Wala Kebele* Conducted on March 02/2018

<sup>189</sup> Interview Result with Semen Bench *Woreda* women and Children Rights Protection Expert at *Bire* conducted on February 22/2018

<sup>190</sup> Key Informant Interview result with Women at *Kasha Kebele* conducted on February 26, 2018

Women have little to say regarding whom her son or her daughter must marry or on the amount and nature of gift given to the families of the bride as *Tilosh*. In general, there is a widely held belief that “*women are just properties let alone on deciding on properties.*” In relation to power to make decision on the family affairs, there are sayings and proverbs that shows the subordinate positions of women in family life among *Bench* people. Some of these sayings includes; (Eyaan *babasan manga bagu diyaam*) which can be roughly translated as “*male in court and women in kitchen.*” Another proverb that confirms women’s subordination among *Bench* says (*Magna weresa rsecgna abena amwera*) which can be roughly translated as “*whatever a women knows, it is just nothing compared to what men knows.*”

Like many patriarchal communities, the *Bench* women has little or no say on even minor affairs of their family and community as well as aspects of *Bench* community were dominated and controlled by the male members of the group. This can be evident on male’s decision making power in all aspects of *Bench* life. One of my key informant women clearly describes the situation as follows;

*“We women feel weaker and subordinate to our men. The man controls every aspect of our lives. They make us to feel dependant on them by controlling everything. We don’t get a say upon important matters that affect our lives. This includes preventing us from accessing and using resources. Most of the things that we bought and sold at a family level won’t involve women.”*<sup>191</sup>

Article 5(a) of CEDAW, which requires States Parties to “*modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.*” Moreover, one of the main objective of National Policy on Ethiopian women is also to eliminate step by step , prejudices as well as customary practices that are based on the idea of male supremacy and enabling women to participate in the decision making

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<sup>191</sup>Key Informant Women Interview result conducted at *Bire* on February 27,2018

process at all levels.<sup>192</sup>African protocol on the rights of women under Article 9 also recognize women's right to participate in political and all decision making process without discrimination and member states are suggested to ensure effective representation and participation of women at all levels of decision making.<sup>193</sup>

#### **4.4. Traditional Conflict Resolution Mechanism among *Bench* People and Women's Status**

As stated in the proposal part, one of the objectives of this study is to investigate whether there are special customary institutions among *Bench* to deal with women's problem that they face within marriage. Conflicts within marriage and domestic violence against women and girls are extensively observed among *Bench* community. Physical and psychological abuse of the victims is major ones. The violence could result in broken hands, or fracture of head of the women (wife). However, the community does not give attention to the problems as such and the problems are not reported to the legal bodies or courts. Neighbors of the victim usually interfere when a husband beats a wife and victims seldom go to her parents or any law enforcement body to notify about the violence. In this case the village elders' organize a reconciliation session after which the husband agrees to refrain from beating his wife again. Yet, the promise given by the husband does not last long mainly if he consumes excessive alcohol.<sup>194</sup>

Despite the prevalence of various challenges that faces marital rights of women, there is no special customary institution among *Bench* that deals with women problems specifically. Focus group discussion result with elders of the community confirm that in the past days,(as late as the Derg regime) there was a customary court specifically for women's called *Erage* and an aggrieved women or her family can take the case to this customary court and gets proper decision. Focus group discussant elders clarify the issue as follows:

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<sup>192</sup> National Policy on Ethiopian Women September 19193, Addis Ababa Published by The Transitional Government of Ethiopia , The Prime Minister's Office Women's Affair Sector p. 12

<sup>193</sup>See African Protocol on the Rights of Women, Article 9

<sup>194</sup>Key Informant interview result with Semen Bench *Woreda* Justice Office Public Prosecutor at *Bire* on February 22/2018

*“A man who neglected a wife and her children's support could be taken to women's court called Erage court mostly by the woman's family. The court was usually presided over by the senior wife of the clan leader called Kominin or Gayni. In such cases, she was empowered to impound up to five-sevenths of a man's crop or income to provide for his wife and children. The court also generally dealt with exclusively female issues (such as girls' initiation), and women could bring grievances against their husbands here. As a result, men could be disciplined for rude behavior towards women. As late as the 1970s, such court was observed to be dying out and women's expression of their discontent against neglect or abuse by their intimate partner also vanishes.”<sup>195</sup>*

But currently this court is totally ceased and women's problems are seen by traditional resolution mechanism which is dominated by elders from the community. Currently, the practice of bride price or *Tilosh* provide women with a limited warranty against mistreatment by their husbands in that it gave material weight to their right to protest against legitimate cases of neglect or abuse. The last option or the only alternative what an aggrieved women could do is that, return to her family, where she was entitled to stay until her husband came to ask for her back. Getting her back normally entitled a public apology and a promise to behave better in the future.<sup>196</sup> Nowadays, instead of *Erage* women's problem within marriage is usually settled through local elders. The reconciliation approach however, does not bring ever lasting solution to gender based domestic violence against women. The overall reconciliation system is in favor of men and women are mostly disadvantaged. The following FGD result with women discussants clearly indicates the traditional conflict resolution mechanism is gender biased;

*“If the husband is refused to eat a food at home, it is the sign of he is disputed with his wife. Immediately when she knows his quarrel, a wife did two things. One she finds a special leaf called Kerd and squeezes it on the food. It is believed that, this leaf has the power to chill the disagreement between wife and husband within marriage. The second thing is that, a wife is responsible to announce the*

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<sup>195</sup>FGD Elders discussants result conducted at *Kasha Kebele* on February 28,2018

<sup>196</sup> FGD Elders discussants result conducted at *Wala Kebele* on March 02/2018

*problem to elders as soon as possible. Elders would come and advised the husband to eat the food and they appoint one day for reconciliation. On the day of reconciliation, she prepares food and traditional drink even she may bought additional drinks with her expense for elders. On the day of reconciliation, the case is investigated by elders and both will be punishable. But the punishment is harsh on women than men.*"<sup>197</sup>

A little bit different idea is reflected in other *Kebele* focus group discussion result with regard to guilt and punishment on the reconciliation process. The participants argue that even if the husband is blameworthy for the conflict within marriage he can't be punished, one discussant express the issue as follows "*How men can be punished for women?*" If man is guilty simply he is recommended to eat food since the mistake is his and advised to not to repeat it again.<sup>198</sup>

In this regard, the practice of handling conflicts within marriage through customary court of elders among *Bench* people violates women's human rights and it is inconsistent with the provision of the Constitution in many ways. The FDRE Constitution is one of minority friendly Constitution in the world which recognizes the distinct identity, culture, language and normative order and traditional conflict resolution systems of nations and nationalities which stipulates that: "*the rights of every nation, nationalities and peoples to express develop and promote its culture and preserve its history.*"<sup>199</sup> This article explicitly recognizes the practice of customary laws and institutions. The FDRE Constitution also states the duty of government to support on the basis of equality, the growth and enhancement of the cultures and traditions of all Ethiopian citizens so long as they do not contradict with fundamental human rights standards and constitutional principles.<sup>200</sup> But the Constitution put its limitation on this right under article 9(1) by saying "*..... any laws, customary practice, which contravenes this constitution shall be of no effect.*"<sup>201</sup> Hence, any customary practice, rule, law and institution can be recognized as long as not contrary to the Constitution. Article 34(5) of the Constitution

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<sup>197</sup>FGD Women discussants result conducted at *Wala Kebele* on March 02/2018

<sup>198</sup>Elders FGD Discussants result conducted at *Gola Kebele* on March 03/2018

<sup>199</sup>See Article 39(2) of the FDRE Constitution, 1995

<sup>200</sup>The Federal Democratic Republic of Ethiopia Constitution, (1995), article 91(1)

<sup>201</sup> See Article 9/1 of the FDRE Constitution, 1995

also recognizes the establishment of customary courts and religious courts to handle personal and family matters. *“This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute.”* However, despite such Constitutional recognition of customary courts, institutions and laws to settle different social problems, the overall resolution process of handling conflicts within marriage by elders among *Bench* people violates the Constitution which prohibits discrimination based on gender which is stated as follows:

*“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, color, sex, language, religion, political or other opinion, property, birth or other status.”*<sup>202</sup>

In addition, the practice violates women’s right to access to justice for any violation against them including violations of their marital rights, the FDRE Constitution which stipulates that: *“Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.”*<sup>203</sup> Hence, the customary justice system used by the rural *Bench* people which operates informally based on their own customary laws, procedures and institutions contravenes the Constitution and violates the marital rights of women in many ways.

#### **4.5. Interventions on *Tilosh* to Improve the Marital Rights of Women in the Study Area**

Government of a given State has basically three major duties (respect, protect and fulfill) with regard to human rights of individuals. The obligation to respect human rights of citizens requires States to refrain from interfering directly or indirectly with the human rights of individuals. The obligation to protect requires States to prevent third parties from interfering with the human right of their citizens. And the obligation to fulfill

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<sup>202</sup> See Article 25 of the FDRE Constitution , (1995)

<sup>203</sup> See Article 37(1) of the FDRE Constitution, 1995

requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the human rights to all mankind.

In an attempt to address harmful customary practices and backward traditions in general and payment of higher amount of *Tilosh* payment culture to legitimize marriage among *Bench* people in particular that undermine the roles of women in society and their basic marital rights, various efforts are employed by different stakeholders at a grassroots level to ensure equal rights and benefit from the values of marriage and to abolish traditional harmful practices that violate the marital rights of women within marriage. The next section has presented such efforts, its effectiveness as well as their gaps.

The first effort to curtail the practice of high bride price payment in all 30 *Kebeles* within Semen *Woreda* is the adoption of *Tilosh* Regulation with active participation of the community and they decided that groom or his family to pay only 5500 *Birr* per marriage. Besides, awareness creation forums are also arranged at different times in collaboration with NGOs that work in the area on women and children to provide training for justice offices and public prosecutors, elders of the community, religious leaders with regard to the various challenges of payment of high amount of bride price. And still they are planned to arrange the training. Furthermore, according to Semen Bench *Woreda* Women and Children Affairs Office report at *Woreda* level four hundred seventy six (476) *Yesetoch Yelimat Buddin* or women's development groups, usually called 1 to 5 cooperatives are formed to promote women participation in political decision, environmental conservation, economic, social, and cultural and other activities. In their meeting women discuss their problems and raise other problems that they face in the society and within marriage and they had tried to give solution to solve these problems by doing their group activities.<sup>204</sup>

On the other hand, there are three Nongovernmental Organizations operating in the study area which are mainly engaged in addressing those HTPs in general and payment of bride price in particular in their different projects. These NGOs are working on addressing the harmful traditional practices are both international and local NGOs. These are Action Aid

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<sup>204</sup>Interview Result with Semen Bench *Woreda* Women and Children Affairs Office Bureau Officer held at *Bire* on March 22/2018

Ethiopia Semen Bench *Woreda* Development Project, Mekane Iyesus Church which mainly works on organizing and supporting women participation and advantages from agricultural sector and they formulate a project called Women Agricultural Project and Meserete Mizan Children Care are among them. They conduct various activities to empower women and avoid harmful practices that affect women and children and supporting children in different circumstances in the study area.<sup>205</sup>

Among the activities performed by Action Aid Ethiopia Semen Bench *Woreda* Project specifically includes providing training and discussion forums for religious fathers, elders, clan leaders, women associations, police officers and *Woreda* and *Kebele* executive bodies to tackle bride price and to put into practice the adopted bride price regulation. And currently widespread public discussion was also organized about the challenges of bride price for marriage. As a means of empowering with the support of these NGOs three credits and saving associations are established which only provide special service for women. Besides, to achieve the goal of quality education for all, these organizations provide different support for needy female students. The other important work which is done by Action Aid Ethiopia in the study area is giving financial support for the *Woreda* justice office to provide special training called Para-legal for justice bodies to get legal partnerships to reduce harmful traditional practice using law as instrument. The organization still planned to achieve change with regard to protecting women's human rights in the study area as explained by the manager of the organization as follows;

*“Our organization exert maximum possible effort to uproot old aged attitudes and practices that perpetuates and hinder the participation of women and marginalized communities in the local development process mostly through introduction of genuine participation of all development actors and in*

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<sup>205</sup> Interview result with Semen Bench *Woreda* Women and Children Affairs Bureau Officer conducted at *Bire* on February 22/02/2018

*collaboration with the community, community organizations, the local government bodies, clan and spiritual leaders.*”<sup>206</sup>

The problem of domestic violence against women and girls are inherent in the socio-cultural system of the *Bench* community. The embeddedness of the serious problem goes to the extent that neither the victim nor the local people report domestic violence case to law enforcement bodies. To address this problem the establishment of Women Watch Group or *Yesetoch Tikat Tekelakay* was taken as a remedy which has 60 members at the *Woreda* level and 2 members in each *Kebele* they are called *Yesetoch Enat* (Women’s Mother) basically responsible to follow-up violence against women in their *Kebele* and they report the problem to *Kebele* administrators to alleviate the case and if the problem is not solved at the *Kebele* level they present case to *Woreda* Women’s Affairs Office. Based on the available evidence from Women’s Watch Group, the Office either recommend the *Kebele* executive to address the problem or brought the case to the court and members of this group get necessary training about how to fight violence against women and procedures of presenting the case to the law. With the support of Women Watch Group the trend of reporting different human rights violations against women within marriage is improving now. As per the data available from Semen Bench *Woreda* Court president office in the last six month a total of 105 cases (both in criminal and civil) are presented before the *Wordea* court.<sup>207</sup> Similarly, at Zonal level in the last six months a total of 173 (one hundred seventy three) women’s cases are reported to Bench Maji Zone Justice and Administration Bureau particularly to Gender Office. Among this 160 cases are directly presented before the court and the court pass decision on 150 cases as guilty.<sup>208</sup>

The other vital activity that carried out to improve the marital rights of women in the study area is training for the community about rural land use proclamation, inheritance law, SNNPR State Family Code particularly about marriage and women’s property rights

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<sup>206</sup>Key informant interview result with Action Aid Ethiopia Semen Bench *Woreda* District Officer conducted at *Bire* on March 03/2018

<sup>207</sup>Key informant Interview result with Semen Bench *Woreda* Court President conducted at *Bire* on March 01/2018

<sup>208</sup>Interview Result with Bench- Maji Zone Justice and Administration Bureau Gender Office Expert conducted at Mizan Town on February 02/2018.

are also provided by legal experts with the financial support of Action Aid Ethiopia NGO coordinated by Semen Bench *Woreda* Women and Children Affairs Office. All these efforts play a vital role to improve the human rights of women in general and marital rights in particular as well as some aspect of changes are witnessed relating to the culture of bride price among *Bench* people.

Although all the above mentioned efforts are carried out, still the marital right situation of *Bench* women is not fully addressed. The available data shows that, the adopted *Tilosh* Regulation is not properly implemented and it is possible to say almost ignored. *Kebele* administrators who are entrusted to execute the *Tilosh* Regulation are themselves the violators of the Regulation. The following key informant interview result with women at *Kasha Kebele* asserts this idea as follows; “*Even though the Tilosh Regulation sets 5500 Birr officially, in practice currently it is more than 10,000 birr paid as a Tilosh. When we report the case to Kebele administrators, they keep silent from interfering on the issue. They are also the supporters of high Tilosh payment for marriage.*”<sup>209</sup> These days, the society came up with new justifications to legitimize additional bride price payment like “*her mother is shocked when she saw elders who came to arrange marriage, her father is fell and injured or broken, and so for medical treatment they require extra payment.*”<sup>210</sup> All these problems are caused by lack of committed responsible law enforcement bodies that follow-up the implementation of the *Tilosh* Regulation. The other serious challenge of addressing violations against the marital rights of women is women’s lack of willingness to attend different awareness creation programs and training. It is difficult to get the expected number of women participant in every training, awareness creation program and discussions organized by either Women Office or NGOs. Besides, lack of skilled man power that are capable of speaking *Benchnon* language is a serious challenge that hinder locally operating NGOs to penetrate and work at the grassroots level.<sup>211</sup>

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<sup>209</sup> Key Informant Interview Result with *Kasha Kebele* Women’s Watch Group member conducted at *Bire* on February 28/2018

<sup>210</sup>Key Informant Interview result with *Gola Kebele* Women’s Watch Group member conducted at *Bire* on February 28/2018

<sup>211</sup>Interview Result with Meserete- Mizan Children Care Charity Organization officer conducted at Mizan-Aman Town on March 05/2018

All the above mentioned intervention measures to address HTPs in general and payment of *Tilosh* in particular in the study area are not sufficient. As a result, the violations of women's and girls' marital rights are still prevalent and continue. Therefore, all stakeholders should be responsible and show their permanent pledge to address the problem. In this case State should take the lion share responsibility to mitigate the problem and improve the marital rights of women. According to CEDAW, State parties are recommended: *"To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women."*<sup>212</sup> Moreover, the African women's right protocol also stipulates that: *"States parties shall adopt and implement appropriate measures to ensure the protection of every women's right to respect her dignity and protection of women from all forms of violence."*<sup>213</sup> In addition, the FDRE Constitution Article 35(4) also stated that: *"The State shall enforce the right of women to eliminate the influence of harmful customs. Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited."* Similarly, SNNPR State Constitution at article 35 (4) stipulated that: *"the State shall enforce the rights of women to eliminate the influence of harmful customs. Law, customs and practices that oppress women or cause bodily or mental harm to women are prohibited."*

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<sup>212</sup>See CEDAW Article 2(b) , 1979

<sup>213</sup> See African Protocol on the Rights of Women, Article 3(4) adopted in Maputo , Mozambique 2005

## Chapter – Five

### 5. Conclusion and Recommendation

#### 5.1. Conclusion

This study basically deals with assessing the effect of bride price payment on the marital rights of women among *Bench* people the case of Semen Bench *Woreda*. In order to address the basic objectives of this study, it has started with the critical questioning of the cultural justification of the payment of higher bride price for marriage among *Bench* people. The study also investigates the multifaceted challenges women encounter within marriage specifically looked at different dimensions of violations of rights within marriage including polygamous marriage, widow inheritance , reproductive rights, right to education , early marriage, access and ownership of property , labor exploitation and decision making role in households. Moreover, the treatment of women’s problem within marriage before traditional customary courts has been examined. It also looked at the different intervention mechanisms adopted by the government and NGOs in an attempt to minimize the practice in the community also studied.

The finding of the study has shown that establishing marriage within the same clan and FGM is totally prohibited among *Bench* socio-cultural practices which are a good thing and go together with various human rights instruments. Another finding of the study is that marriage among *Bench* people is often established through arranged way by passing necessary socio-cultural rituals especially *Tilosh* payment. As a result, women are mostly forced by their close relatives to marry without their free and full consent. The main reason that motivates parents to arrange marriage for their daughters early is the customary practice of bride price. The study found that the rationale of *Tilosh* during marriage among *Bench* people has more of an economic motive even if the issue is justified as a socio-cultural practice. Moreover, the study finds that parents (both father and mother), elders and traditional spiritual leaders demanded the continuity of the practice. The study also identifies the payment of bride price has causes very complex problems for both men and women’s even though mostly its effects on the side of men is not gets its attention. *Tilosh* impedes totally women from access to divorce when they

face challenges and they are forced to stay within abusive marriage. Because women access to divorce is permitted only when the paid *Tilosh* is returned back. In fear of this, parents often forced their daughters to stay within violent marriage. As a result, women are exposed to inhuman treatment within marriage. The CEDAW, Gen. Rec. No. 29, Para 39 recommended State Parties to revise any provision that violate women's access to divorce as follows; "*Revising any provisions linking grounds for divorce and financial consequences to eliminate opportunities for husbands to abuse these provisions to avoid any financial obligations towards their wives.*" Another finding of the study is that currently payment of bride price affects the right to marry of both men and women equally. Because, girls parent are demanded to be paid high *Tilosh* either in the form of cash or kind while boys are incapable to pay this money. As a result both men and women are live for long years out of marriage. In fear of calumny and stigma of the society many girls are migrated to towns as a solution and engaged in prostitution which is a strange incident for the *Bench* people. This is noticed both at *Bire* and *Mizan-Aman* towns. Awareness of HIV/AIDS and other STD were almost nil among these girls that engaged in commercial sex work. This low or lack of awareness has lead them engaged even in a very risky sexual practice. Most girls think that AIDS is the disease of *Amhara* and the urban community. This gives confidence for many of the girls and boys to engage in unsafe sex. The idea that "*Condom is for urban Amhara Commercial sex workers*" was aggravated the problem. There is also a high level of unplanned pregnancies and which is most of the time followed by unsafe abortion that cause danger to their life and health. At this time, it is a common daily practice founding cast aside infants within towns. The other finding of this study is that the customary practice of *Tilosh* also equally affects young boys' right to marriage and they are exposed to various problems including death. In the effort to pay the demanded *Tilosh* boys strives all options including looting from neighboring communities. In the process there are conflicts which lead to body injury and even death. In other days, those communities who are looted do the same thing as revenge. In the case of abduction marriage, conflicts are common with girl's relatives who cause physical damage and life death since her relatives see this practice as they are disrespected and their clans' dignity is degraded. The other finding of this study is, even if the groom is capable of paying the requested

*Tilosh* payment, it is difficult to secure better life after marriage and most of the time exposed to poverty including their parents and close relatives. Furthermore, the study finds another spillover effect of bride price on *Bench* women during deaths of wives before delivering daughter entitle her husband and his parents to claim her younger sister which is still a very risky practice on the human rights of the second wife. She is arbitrarily forced to marry her sister former husband and completing all the unfinished tasks of her sister which is totally against her human right to marriage and found a family.

In relation to the practice of customary conflict resolution mechanisms to deal with women's marital problems, the study found that there is no special customary court or conflict resolution mechanism that defends the rights of women among *Bench* people. Most problems of women are considered by traditional conflict resolution mechanism usually dominated by elder members of community. Women are not allowed to be a member of the committee and participate on behalf of applicant women. The overall mechanism of resolving conflicts especially women cases within marriage encourage the abusive behavior of husbands and perpetuate the violation of women's marital rights than addressing the problem. The other finding of this study is various interventions are performed to minimize the customary practice of *Tilosh* among the *Bench* people both by government and NGOs that works on the empowerment of women and childcare in the study area. All the attempts are good but they are not sufficient in relation to the extent of the practice and its adverse effects on the marital rights of women and girls. The intervention from the government includes both legislative, administrative and judicial measures are taken, even though their effectiveness is still insignificant. While the NGOs attempt is better effective than government intervention. They work on mainly awareness creation, training, empowerment of women and supporting women's access to justice when their rights are violated within marriage. In this case, one of the appreciable efforts of NGOs to address violence against women and improve the marital rights of women is the establishment of Women Watch Group has a significant contribution and should be encouraged more. The members of this group plays a vital role by reporting human

rights violations against women to get legal remedy and support women's access to justice.

In general, culture is one of the human rights of people recognized under various human rights treaties and peoples have the right to promote and protect it, if it not affects the dignity, freedom and equality of individuals either directly or indirectly. But, the study found that the customary practice of *Tilosh* among *Bench* people the case of Semen Bench *Woreda* has a multifaceted challenges against marital rights of women and it is one of the harmful traditional practice that directly denies the right to dignity and equality of women within marriage and indirectly expose women to various other violations since the payment gives the men confidence to do what they want arbitrarily on their wives. But its effects on the marital rights of women and girls are not well understood and get the required attention of stakeholders to address the problem. As a result, the practice still continue defying the marital rights of women and girls within marriage and their participation and decision making role in the political, economic, social, and cultural as well as other important issues that affect their day to day life is limited in the study area.

## 5.2. Recommendation

Based on the analysis of the findings of this study, the researcher recommends that the payment of *Tilsoh* is a harmful customary practice that affects women's human rights specifically their marital rights. Although total abolishment of the practice within short time is unthinkable since the community accepted it as a culture and gives great value, it is possible to improve the situation if effective and coordinated intervention activities are carried out. In this regard, the duty of government is lofty than lip service since the country ratified major international and regional human rights instruments that are adopted for the protection of women's human rights. Hence, government must adopt legislative measures that regulate the customary practice of bride price payment among *Bench* people and the extent in which traditional spiritual leaders' role or freedom to decide on cultural life of community. The former adopted bride price regulation is simply paper value. Adopting legislative measures to promote human rights is one step but not the sufficient until effectively implemented on the ground to achieve the expected goals. To execute the adopted bride price regulation, government must appoint committed leaders and there should be serious follow-up. In addition, strong judiciary measure including punishments should be taken on the perpetrators of the Regulation. Initiating more NGOs to work on the issue is equally vital to change the practice of bride price and its effects on the marital rights of women among *Bench* people. Moreover, empowering the members of Women Watch Group in the study area is also a good mechanism to protect women from domestic violence and helps women access to justice. The requirement of the refund of *Tilosh* should be outlawed and criminalized. And *Tilosh* should be replaced with couple gift from parents to couples.

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## Appendix One

### **Interview and focus group discussion guidelines for key informants of BMZ and North Bench Woreda women and men**

This research questions designed for an in-depth interview and focus group discussions to conduct a research on “*Marital Rights of Women: Assessing the culture of bride price among Bench People. The case of Semen Bench Woreda.*” This is for the partial fulfillment of MA degree in human rights. So, in order to accomplish this study your response and information is necessary. Therefore, the genuine opinions and idea are very important for the following questions. Beside this, your information will keep confidentially as the study merely for academic purpose.

#### **Informants’ background**

Name.....Age..... Sex.....religion.....  
Education background.....Occupation.....Marital status.....  
Place of interview.....  
Date of interview..... Time of interview .....

### **Interview Guide Questions for Women and Men in Bench Maji Zone North Bench Woreda**

1. Would you briefly tell me about the practice of bride price in your community?
2. Is your marriage age and partner arranged with your consent? For how long have you been married?
3. Who is/ are the principal actors and decision makers in your community for the overall issues of marriage and bride price payment?
4. Why do you think is bride price practiced in your community?
5. How do you see the importance of bride price for marriage?
6. Do you accept the idea that women have equal rights with men in relation to marriage?
7. What happen if the women rejected marriage through bride price?
8. Do you have customary institutions in your community that deals with women’s problems within marriage? If yes, please mention them
9. Do you think that problems that encounter women within marriage are caused by the bride price?

10. What do you think about the continuity of the practice?
11. What do you think that the potential strategies to do with the practice of bride practice for the effective protection of women's basic human rights within marriage?
12. Are there aspects of change in magnitude of the practice? If it has become less frequent what cause this?
13. Do women have equal right with men within marriage such the right to choose marriage partner, get divorce, possess and inherit property? If no why?

### **Questions for Focus Groups Discussion with people in the community**

1. Why you practiced bride price for marriage? Or what are the different socio-cultural justifications for practicing high bride price for marriage?
2. What do you do if women refuse marriage in accordance with bride price cultural practices?
3. What are the major rights of women violated caused by the practice of bride price?
4. Do you think the practice of high bride price affect the status and rights of women?
5. What should be done about bride price? Reform, abolish or leave as it is? Why?
6. Is there any consideration for the protection of basic human rights of women's within marriage during bride price agreement?

### **Interview Guideline for key informants (Bench Maji Zone Women, Child and Youth Bureau Officials and Workers and North Bench Woreda Women Office)**

1. What are the harmful traditional practices affecting women in this Zone?
2. What are the challenges of promoting women's human rights in Bench community?
3. What are the different socio-cultural justifications of the *Bench* community for practicing high bride price during marriage?
4. Do you think bride price as common gender based violence in your area? If yes why?

5. How the practices of high bride price affect the status and rights of women?
6. Do you have cases of bride price reported to your office in the last three years? If yes how many of them?
7. How about the extent of the bride price practice in your *Zone/Woreda*?
8. What do you think the major problems that encounter women's in marriage as a result of bride price?
9. What about the impacts of the practice on the protection of the basic rights of women's such as right to dignity and equality, the right to marriage and form a family, the right to access and ownership of the property and the right to health and life ?
10. What are the mechanisms that are established by your Office to eliminate the cultural practices in the *Bench Maji Zone* particularly in relation to bride price?
11. What are the different interventions carried out or planned by your office and other stakeholders working in the area to end bride price practice?
12. What are the challenges to eliminate bride price practice in the *Zone / Woreda* level?

**Interview Guideline for BMZ Justice Office and North Bench Woreda Justice Office**

1. What are the customary practices that identified as harmful traditional practices and legally prohibited by the law in your district?
2. What is the essence of law with the socio-cultural system of the society particularly bride price practice in the area?
3. Are there cases that have been seen in relation to bride price in the last two years?
4. Does women's have the opportunity to present their cases before the court for the protection of their basic human rights within marriage?
5. What measures has been taken by the court on the customary practice of bride price?
6. Do you think that the customary practice of bride price violates basic rights of women in marriage? If yes how and what are these rights?

7. Could you describe the potential strategies to be done in relation to bride price practice for the effective protection of women's basic human rights within marriage?

**Interview guidelines for NGOs and Civil Societies that works in the area**

1. What are the roles that are played by your organization to eliminate harmful customary practices such as bride price for the protection of women's human rights?
2. What do you think that the attitudes and perception of the society towards the bride price practice for marriage?
3. What kind of support do you offer for women in the district?
4. What kind of rights of women do you think are violated within marriage as a result of the customary practice of bride price?
5. What do you think are potential solutions to be done to improve women's human rights within marriage in the area?

**Interview Guidelines for head of culture and Tourism bureau of Bench- Maji Zone and Semen Bench Woreda**

Position \_\_\_\_\_ Sex \_\_\_\_ Academic status \_\_\_\_\_

1. What are the harmful traditional practices affecting women in this area?
2. Do you consider bride price as common gender based violence in your area? If yes why?
3. What are the mechanisms that are established to eliminate the customary practices in the zone, particularly in relation with bride price?
4. What are the major problems that encounter women's in marriage as a result of bride price?
5. What about the impacts of the bride price practice on women basic human rights?
6. How about the extent of the bride price practices in Semen Bench *Woreda* people socio-cultural system?
7. What do you suggest for the potential strategies to do away with the bride price practices for the effective protection of women's basic rights that complement with the provisions?

### Background of the Key Informants of the Government and NGOs

R. No	Institutions	Positions	Sex	Academic status
1	Bench- Maji Zone Women and Children Office	Head	Female	Degree
2	Bench- Maji Zone Women and Children Office	Women empowerment expert	Female	Degree
3	BMZ Women and Children Office	Women Arrangement Expert	Male	Degree
4	BMZ Justice Office	Gender Expert	Female	Degree
5	BMZ Culture and Tourism Office		Male	Degree
6	Semen Bench <i>Woreda</i> Women and Children Office	Head	Female	Degree
7	Semen Bench <i>Woreda</i> Women and Children Office	Women & Children Rights protection expert	Female	Diploma
8	Semen Bench <i>Woreda</i> Justice Office	Head and Public Prosecutor	Male	Degree
9	Action Aid Ethiopia Semen Bench <i>Woreda</i> Development Project Office	Head	Male	Degree
10	Semen Bench <i>Woreda</i> Culture and Tourism Office	Expert	Male	Degree
11	Total	Male 6	Female 5	11

### Background of Focus Group Discussants and Interviewee

Key informants	<i>Kebeles</i>						Total number
<b>FGD</b>	<i>Kasha</i>		<i>Wala</i>		<i>Gola</i>		
	Elders	5	Elders	5	Elders	6	16
	Women	7	Women	5	Women	6	17
<b>Total</b>							33
<b>Interviewee</b>	Women	3	Women	3	Women	3	9
	Clan & spiritual leader & Keble Manager	2	Clan & spiritual leader & Keble Manager	2	Clan & spiritual leader & Keble Manager	2	6
<b>Total</b>							15