

Veronica's Story: Implications of Dowry on Burial Disputes

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This article is a philosophical reflection on dowry and how it bears on burial disputes among the Luo people of East Africa. Part one offers preliminary remarks to convey my position on dowry. Part two describes the implications of dowry on the burial dispute of a Luo woman named Veronica, as a way of illustrating the far-reaching effects of the dowry system. I have utilized Bernard Lonergan's Transcendental Method in my thought process about dowry.¹ This method is derived from Lonergan's cognitional theory—experiencing, understanding my experience, judging the understanding of my experience, willingness to act informed by the judgment of the understanding of my experience, and finally leading to intellectual, moral, and religious conversion. In our efforts to raise consciousness about dowry, we can transpose the method into an invitation to engage in the following five imperatives: be attentive, be intelligent, be reasonable, be willing, and be loving in our discourse on dowry and its long term implications.²

Preliminary Remarks

The word “dowry” is derived from cognate Greek (*dosis* noun, *didōmi* verb) and Latin (*dōnum* noun, *dō* verb) terms from the semantic domain of giving. Dowry is therefore a gift that is given. It is a symbolic gesture of simultaneous gratitude and benefaction to another.

In Western and some Asian societies dowry is a portion of wealth given *to the bride by her family* at the start of her marriage. It can take the form of real estate, money, gold, diamonds, or other precious metals or gemstones.³ In a different context, dowry can also refer to the sum of money, gold, silver, etc., required of postulants by some religious communities of cloistered nuns before a candidate enters the convent.

In contrast, in most African societies dowry takes the form of benefaction *to the bride's father by the groom*. It is a goodwill gesture, a generous gift without strings attached, and if the father is deceased the dowry is received by her brothers or older male relatives. Among the Luo tribe of western Kenya the customary dowry is a negotiated amount in the form of live cows. A minimum of two is the norm; in some instances, even if additional cash has been given, the symbolic two cows are non-negotiable.

For purposes of this study, let us make a distinction between bride-wealth and dowry. The former refers to resources brought into a marriage by the bride, while restricting the term dowry to the gift the groom gives to the family of the bride, also referred to as bride-price.

What, therefore, is the significance of dowry? In marriages arranged or agreed to by parents it is of major significance; indeed, it is what legitimizes an African marriage.⁴ Once a family has received dowry from the groom they cannot give the girl to another man, even if the other potential suitor is richer

and offers a higher amount of dowry; nevertheless, the groom will likely receive pressure to give more in such a situation. Among the consequences of dowry payment are that the girl cannot return to her father's home in the event of a failed marriage and, in the event of death, her family of birth cannot claim her remains.

Luo society is patriarchal. It is the male members who give and receive dowry; they are therefore the ones who *marry* and, in contrast, females *are married*.⁵ Because of dowry, the bride is the one who leaves her family, renounces her maiden name, and takes on the groom's family name. Because of dowry, a traditional Luo marriage does not begin on equal footing. Within this context, the Genesis claim that “a man leaves his father and his mother and clings to his wife” is unattainable (Gen 2:24 NIV), and the NT ideal of marital equality remains both a challenge and, in most instances, a value yet to be realized.

In some instances, if the negotiated dowry is more than the proverbial two cows, the balance is provided after the woman has given birth, preferably to a male offspring. In the event that a woman is barren, a portion of the dowry is demanded back or a younger sister of the barren woman is given in marriage to the man who paid dowry.

Dowry has been commercialized. Evidence for this is in our vocabulary; most of the terms we use in connection with dowry have more to do with payment in the sense of a monetary economy and less to do with benefaction or gift. The consequence has been a gradual dehumanization of our mothers, sisters, and daughters. They are considered the property of their fathers, brothers, and other male relatives. They are married off in exchange for quantifiable goods. Evidence of this commercialization is the fact that, the higher the education level of a girl, the more the dowry.

Consider another example of the commercialization of dowry: If dowry has not been given, yet a woman cohabits with a man at his behest, she is not considered married but one who has eloped. A female child born from such a relationship will belong to the man, and hence be considered acquired property, once he has paid dowry. In the event that a woman who has eloped dies, the man will have to pay dowry in order to bury her. Furthermore, if a woman cohabiting with a man dies, leaving behind female children, the man will make every effort to pay dowry before the burial takes place lest he forfeit dowry later owed to him for his daughters.⁶

Commercialization of dowry dehumanizes women, reducing them to the level of merchandise to be bartered in exchange for a pair of animals. As a further example, in the same way that animals are beasts of burden, analogically a rural married woman is at times treated like a glorified slave: she does all the housekeeping, tills the fields, fetches water, gathers firewood, forages for food, etc. She also must satisfy the sexual desires of

her husband. Failure to do any of these will earn her a thorough beating, for she is expected to endure various forms of violence visited on her person.

The good Luo woman is blindly obedient. Like animals, women are mute; they are to be seen and not heard. She is resilient and acquiesces to the demands of her husband—hence a true Luo, for the literal meaning of the term “Luo” is “one who follows norms, traditions, customs, rituals, etc.”

The misleading claim has been made that there is no divorce in Luo society. Among traditional Luos, a woman cannot initiate a divorce. For divorce to take place, a portion of the dowry must be returned, and in some instances it is required that the very same cows which were given as dowry be returned! This unrealistic expectation makes it doubly difficult for a woman to be freed from a toxic marriage.

In Christian marriages, where the ideal basis is love, a marriage is valid if there is free consent between two free adults in the presence of witnesses, pending procreation. Even though dowry has been enculturated in the pre-nuptial phase of marriage preparation, Christian theologians ought to re-examine the understanding of dowry in light of the abuses that have crept in and follow the spirit of the Bill of Rights in the Constitution of Kenya 2010, and the Marriage Act of 2014, which make no explicit requirement for dowry for a marriage to be valid. Should one persist in a desire to give dowry, it should be clearly considered a *gift to* and not a *payment for* the bride.

Veronica’s Story

On September 10, 2009, there was an accident along the Katito-Sondu Road in western Kenya. One of the victims, Veronica, was pronounced dead on arrival at the Aga-Khan Hospital in Kisumu. Even before her body had grown cold, a heated burial dispute emerged right outside the mortuary, between Veronica’s estranged in-laws from Kamagambo-Rongo and her brothers from nearby Gem.

Veronica had risen through the ranks and had become a District Commissioner for Rachuonyo North. Veronica, a Roman Catholic, and her husband Denis, an Adventist, had wedded in the Catholic Church. Six years into the marriage, Denis had been involved in an automobile accident which left him a paraplegic. Their two children, Fred and Sam, were both afflicted with Canavan’s disease, which manifested as a combination of cerebral palsy and polio. The children’s limbs were deformed, and they did not live beyond age twelve. According to court records and findings, Veronica was blamed and demonized by her father-in-law for having given birth to children with special needs; he often insinuated that Veronica was jinxed and was the root-cause of the family’s misfortune. The father-in-law separated the two by abducting Denis from

Veronica’s duty house in Kakamega and taking him south to their matrimonial home in Kamagambo. He further ostracized Veronica, making it clear that she was no longer welcome in the Kamagambo home. By the time Veronica died, she had been living alone, separated from her husband, for twelve years.

Veronica decided to start a new life. She bought a piece of land in Kakamega, on which she constructed her new home. She made it known to her brothers and her friends that, in the event of death, she should be buried at the said piece of land rather than at her matrimonial home—contrary to Luo burial custom.

After Veronica’s death, the two families engaged in mediation talks on two occasions, yet could not come to an agreement. The intervention of Riaga Omollo, head of the Luo Council of Elders, and of the council itself, was sought, but their wisdom on Luo culture and Omollo’s high status could not sway the brothers of Veronica in their defense of her wish and will to be buried in Kakamega rather than Kamagambo.

The two parties then subjected themselves to an arbitration process organized by Nyanza Provincial Commissioner Francis Mutie and presided over by three respected lawyers. After listening to both parties, they ruled in favor of Kamagambo. In their ruling they asserted that, whenever there is a conflict between common law and customary law, the latter takes precedence. Thus the customary Luo law, that a married woman whose dowry had been paid belongs to her husband’s people, was upheld—and this includes her body as well.⁷

Because the arbiters failed to take into account the several injustices done to Veronica by her in-laws, one of her brothers moved the matter to the High Court.⁸ Eight months later, on April 9, 2010, the High Court sitting in Kisumu made a landmark ruling *in favor of* Veronica’s wish and will and ordered that her remains be interred on her land in Kakamega, where she had established her new home, as per her wishes.⁹ Veronica’s burial took place the following week, but a few weeks later the Kamagambo party filed a petition for judicial review with the Court of Appeal, seeking that Veronica’s remains be exhumed from Kakamega and be re-interred in Kamagambo. On June 18, 2015, five and a half years since Veronica was buried, the Court of Appeal made a ruling upholding the High Court decision, thus definitively setting precedence in Kenyan law with regard to burial disputes involving a woman’s oral will.

What has Veronica’s Story to Do with Dowry?

In every instance, Veronica’s in-laws emphasized that she was *their* wife. At the first mediation talks, mzee A made the claim in Dhuluo, *wabiro kawo chiwa wadhi-iko, ne wanyuomo dhok*. (“We have come to claim the body of our wife for burial; the basis of our claim is a right derived from the dowry we gave in the form of cows.”) Both before and after the arbitration process, the Kamagambo spokesman made it clear to the brothers of

Let us be reasonable and responsible by not turning a blind eye to the ramifications and abusive claims associated with dowry which, in some instances, have led to the enslavement of our sisters.

Veronica that *un uyalo wish wanto wayalo culture . . . nyakanene wish ne pok oloyoga culture*. (“You are championing wish and will, but we are defending [the Luo] culture; wish and will has never triumphed over culture.”)

Throughout the arbitration process, the Kamagambo party aimed to prove that Veronica was married according to Luo customary law; thus, according to the transcript of the arbitration proceeding, each of the four elders, though they contradicted each other, narrated the part they played during the dowry payment. One could not recall the number of cows given but insisted that they had been transported by a lorry (truck) to Nairobi and given to the girl’s mother. Questioned separately, like the proverbial story of Susanna and Daniel, another alleged that they took two cows to Veronica’s home in Gem but could not recall to whom they gave them. The father-in-law produced two receipts as evidence for the purchase of the cows that were given as dowry for Veronica. When the case moved to the High Court, the Kamagambo party clung to the claim that they had paid dowry, and produced the two receipts as exhibits. They could not explain, however, why they were still in possession of the receipts. (When dowry is paid, the suitor’s party hands over receipts to the one receiving dowry as proof that the cows were not stolen.)

In all four sets of proceedings, the Kamagambo party refused to acknowledge the various forms of domestic violence, verbal abuse, public humiliation, witch-hunting, and demonizing visited upon Veronica by her father-in-law and mother-in-law, precipitating the separation. The claim of the brothers was simple: because of the subhuman conduct of the in-laws towards the deceased, they were undeserving of being given her body for burial; doing so would have been a final act of spite.

The brother’s position was informed by a *dynamic* notion of culture, while the in-laws’ position was a *classical* notion of culture. If culture is perceived classically, then there is but one culture, to whose norms all must conform; it is static and cannot change: The way things were done by our ancestors is the way they are to be done in the present and forevermore. But if culture is perceived dynamically, then it admits the possibility of growth, development, and transformation. A dynamic notion of culture is a way of thinking historically, learning to retrieve what has been deemed significant, and looking for new authentic modes of expression in keeping with the times.¹⁰ A dynamic notion of culture recognizes that a certain cultural norm, which by a classical notion of culture is defended as permanent, was itself new at one point.¹¹

Even if the in-laws of Veronica had paid dowry and thus had a “rightful” claim on Veronica as their wife, according to the brothers it would not justify the inhuman treatment she had endured at the hands of her father-in-law, the chief claimant in this case.

Essentially, if Veronica’s brothers had not put up a stiff fight for her wish and will to be respected, they would have acquiesced to a repugnant cultural norm that condones violence visited on married women whose voices are muzzled, all in the name of

dowry. There are many Veronicas in Luo society, and because of the cost and time that litigation involves, many shy away from championing the cause.

This burial dispute is an instance of how gender based violence continues to be visited upon women even after death. Thank God the High Court ruling of April 9, 2010, which was upheld by the Court of Appeal decision of June 18, 2015, set a new precedent in Kenyan law regarding the wish and will of a married woman; until overturned, regardless of dowry, a woman’s last wishes, if realistic, will be accorded by the laws of Kenya.

Let us be attentive by recalling and engaging our individual and collective experience of dowry. Let us be intelligent by applying our understanding to the meaning and significance of dowry. Let us be reasonable and responsible by not turning a blind eye to the ramifications and abusive claims associated with dowry which, in some instances, have led to the enslavement of our sisters. We will be loving if we make a genuine effort to retrieve the symbolism of dowry as both benefaction and gift and not a barter trade that inadvertently sells the female members of our households into a form of indentured slavery.

Notes

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3. Stephanie Coontz, *Marriage, a History: How Love Conquered Marriage* (New York: Penguin, 2005).
4. John Mbiti, *African Religions and Philosophy* (Oxford: Heinemann, 1969).
5. Paul Mboya, *Luo Kitgi gi Timbegi (The Nature of the Luo and their Culture)* (Kisumu: Anyange, 1969).
6. Mboya, *Luo Kitgi gi Timbegi*.
7. B. Singanga, D. Otieno, and A. Olago, “Arbitration Proceedings: Veronica J. A. Wambi Burial Dispute. Kisumu” (Oct 2009).
8. Oduke v. Onindo, Civil Suit 143 of 2009 (High Court of Kenya, Oct 2009).
9. Ruling on Oduke v. Onindo, Civil Suit No. 143 of 2009 (High Court of Kenya, Apr 9, 2010).
10. Lonergan, *Method in Theology*.
11. Kwame Gyekye, *Tradition and Modernity: Philosophical Reflection on the African Experience* (Oxford: Oxford University Press, 1997).

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