



University of
Nottingham
Rights Lab

Forced Marriage Case Notes

Taylor Case

The Prosecutor v Charles Taylor

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This case note was prepared by Dr Hannah Baumeister as part of AHRC-funded project “To Have and To Hold”: Understanding the Relationship between Forced Marriage and Modern Slavery, led by Dr Helen McCabe



Arts and
Humanities
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Key dates of the case



Second
Amended
Indictment

29 May 2007



Trial Judgment

26 April 2012



Sentencing
Judgment

30 May 2012



Appeals
Chamber
Judgment

26 September 2013

What happened?

The Revolutionary United Front

The armed conflict in Sierra Leone lasted from 1991 until 2002.

Charles Taylor, the former president of Liberia (1997-2003), provided arms, ammunition and fighters as well as operational, financial and moral support to two Sierra Leonean anti-government fighting groups, the Revolutionary United Front (RUF) and the Armed Forces Revolutionary Council (AFRC), with the aim to destabilise the country and gain access to its natural resources, especially diamonds. With Taylor's vital support, the RUF and AFRC created an atmosphere of terror by targeting civilians, humanitarian personnel, and United Nations peacekeepers for acts of abduction, enslavement, murder, mutilation, pillage, forced labour, forced participation of children in hostilities, rape, sexual slavery and forced marriage.

The Special Court for Sierra Leone

In 2000, the Government of Sierra Leone sent a request to the United Nations Security Council to establish a Special Court to prosecute those most responsible for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law and Sierra Leonean law. The [Special Court for Sierra Leone \(SCSL\)](#) was created in 2002 and dissolved in 2013. It was based in Freetown, Sierra Leone, with offices in Freetown, The Hague, and New York City.

Charles Taylor was indicted and later found guilty as a secondary perpetrator, i.e. as a planner and aider and abettor, amongst others, of rape and sexual slavery as acts of terrorism, rape, sexual slavery, outrages upon personal dignity, physical violence as other inhumane acts, the use of child soldiers, and abduction and forced labour as enslavement perpetrated by the RUF and AFRC. He was sentenced to 50 years imprisonment.



What does the case say about forced marriage and modern slavery?

While Charles Taylor was not charged with forced marriage as an inhumane act amounting to a crime against humanity, the [Prosecutor](#) did introduce related evidence and the [Trial Chamber](#) took the opportunity to opine on the issue. It found that, before being forced into marriage, some women and girls were raped, often publicly, and forced to witness acts of violence perpetrated against their families. The Trial Chamber noted that forced marriage itself involves interrelated sexual and non-sexual elements such as abduction, selecting women and girls based on their beauty and forcing them into a marriage with junior or senior fighters against their will and without regard for their age or marital status, rape, forced pregnancy, forced motherhood and forced domestic labour for their forced husband, co-wives or other family members, including cleaning, farming, finding food, cooking and carrying loads. The Trial Chamber also indicated that some forced wives were forced to take drugs, trained as fighters, and forced to perform combat support tasks and to participate in active combat. Some were used to perform other forms of labour for the fighting group with the permission of their forced husband. In return for their services, forced husbands would provide their forced wives with food and protect them from acts of physical and sexual violence by other fighters. However, the Trial Chamber stressed that, despite receiving these relative benefits, forced wives could not refuse their marriage or acts of violence perpetrated in its context. They feared violent reprisal including being killed, beaten, imprisoned, or having 'AFRC' or 'RUF' carved into their bodies by the fighting group or the police. Additionally, continuous monitoring and manipulation prevented disobedience or escape.

While the Trial Chamber stated that the sexual and non-sexual elements of forced marriage cannot be considered separately, it did just that when it considered,

“the term ‘forced marriage’ to be a misnomer for the forced conjugal association that was imposed on women and girls in the circumstances of armed conflict, and which involved both sexual slavery and forced labour in the form of domestic work such as cooking and cleaning” (para 425).

The Trial Chamber elaborated that conflict-related forced marriages in Sierra Leone were not marriages “in the universally understood sense of a consensual and sacrosanct union” (para 426).

Instead, they were a conjugal form of enslavement in which forced husbands exercised powers attaching to the right of ownership over forced wives by controlling them, their movement, and their sexuality, depriving them of their liberty for long periods of time, treating them like mere objects and bartering them like commodities. This way, forced husbands coerced their forced

wives to perform a variety of conjugal duties including sexual intercourse resulting in forced pregnancy and forced motherhood as well as forced domestic labour.

Here the Trial Chamber highlighted that forced marriage is not limited to sexual forms of slavery but nevertheless satisfies the elements of sexual slavery. Therefore, it concluded that conjugal slavery best describes these acts.

Rather than constituting a new crime, the Trial Chamber was of the view that conjugal slavery is better conceptualised as a distinctive form of the crime of sexual slavery, with the additional descriptive, not definitional, element of forced conjugal labour. To illustrate this point, the Chamber drew a comparison to gang rape as a distinctive form of rape that nevertheless falls within the scope of the crime of rape. The Trial Chamber elaborated that, in addition to forced domestic labour, additional and distinctive features of conjugal slavery relate to the conjugal aspects of the relationship and include the use of the label “wife” and the practice of sexual exclusivity on the part of the forced wife.

In addition to subsuming forced marriage under sexual slavery, the Trial Chamber also clarified that sexual slavery as well as forced marriage and forced labour are forms of enslavement. Moreover, it found that rape, sexual slavery, forced marriages and outrages on personal dignity amount to an act of terror when committed against a civilian population with the specific intent to terrorise. Based on evidence related to forced marriage and the use of child soldiers, the Chamber found that active participation in hostilities includes food-finding missions during which forced wives used weapons, killed civilians, and looted civilian property but excludes the performance of domestic chores because they are not related to the hostilities and do not directly support the military operations.

The Taylor case highlighted that forced marriage as a form of sexual slavery was an accepted, open, and endemic practice organised and administered by specific personnel. Together with looting and rape, it was used as a means to motivate and reward fighters.

The Trial Chamber heard evidence that, contrary to tradition, forced husbands did not pay a bride price, did not ask the wife’s parents for their consent, and did not perform marriage rites. There also was no marriage ceremony. This break with tradition created a sense of social stigma for (ex-) forced wives.



Significance and points to note

In the Taylor case, the SCSL advanced a new, third approach to forced marriage. First, the Trial Chamber in the AFRC case against Alex Tamba Brima, Ibrahim Bazy Kamara and Santigie Borbor Kanu completely subsumed forced marriage under the crime of sexual slavery. Then, the Appeals Chamber in the same case established it as another inhumane act. And in Taylor the Trial Chamber constructed the constituting elements of forced marriage as two forms of enslavement, namely sexual slavery and forced labour.

Making use of the context of historical and modern slavery and the struggle for its abolition and decolonisation, this approach confirms that the acts of violence perpetrated against forced wives are serious crimes. It also avoids the drawbacks of classifying forced marriage solely as a form of sexual slavery which overemphasises the sexual elements of forced marriage and neglects the gendered ones, the forced exclusivity, intimacy and loyalty to, and dependency on, a person who committed violent crimes against oneself and one's family, and the stigma attached to being a forced wife. Instead, understanding forced marriage as a form of sexual slavery and forced labour as enslavement highlights that forced marriage includes sexual and non-sexual aspects. However, a disadvantage of this approach is that, like sexual slavery, enslavement does not immediately highlight the gendered dimension of the crime. Moreover, as Valerie Oosterveld argues, the experiences of forced wives are fragmented into different forms of enslavement when forced marriage actually is an interrelated, whole conduct that results in distinctive harm. Forced marriage is more than the sum of its parts and the totality makes it a distinct crime that is not fully captured by other internationally criminal law terms or in a collection of separate charges.

Related to the discussion on how to categorise forced marriage, evidence in the Taylor case suggests a strong connection between forced marriage and rape. The Trial Chamber heard evidence that "to take as [...] wife" meant "they will take them to go and sleep with them" (para 918). Other cases such as that against Mikaeli Muhimana dealt with by the International Criminal Tribunal for Rwanda include similar testimonies. They can be interpreted in different ways. The term 'marriage' could be used as a euphemism for rape, as an easier, more acceptable way to talk about one's experiences. It could also indicate that forced marriage predominantly is a sexual crime after all. This might justify the approach taken in the Taylor case which dealt with marital rape separately from other, non-sexual elements of forced marriage.

In addition to a connection between forced marriage and rape, the Taylor case indicates a strong link between forced marriage and the use of child soldiers. The Trial Chamber heard evidence that forced wives, many of whom were under the age of 15, were trained as fighters and forced to perform combat support tasks and to participate in active combat. However, the Chamber does not appear to have taken these tasks into consideration in its deliberations on forced marriage. Instead, it focused on forced domestic labour and conjugal duties. Those, in turn, are not considered to be a form of active participation in hostilities. Again, this shows that the fragmentation of forced marriage into different existing international crimes does not fully capture the experience of forced wives. Categorising forced marriage as another inhumane act amounting to a crime against humanity, or developing it as a crime in and of itself, might address this

limitation and capture the experiences of forced wives more adequately. Moreover, it might also help to address more explicitly and in a more nuanced way the experience of women and girls who were abducted and used as labourers and/or raped by many different fighters without being forced into an exclusive conjugal association.

In addition to deliberating the categorisation of forced marriage and how it relates to other crimes, the Taylor case demonstrates the systematic nature of the perpetration of forced marriages. Fighters kept lists of captured civilians and registered their transfer within or outside the fighting groups, including the transfer of forced wives to their forced husbands.



Learning from other institutions and decisions in the Trial Judgment

Rape

- Assembly of States Parties to the Rome Statute of the International Criminal Court 'Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002' (09 September 2002) ICC-ASP/1/3 (Part II.B) (International Criminal Court Elements of Crime): para 416
- Commission on Human Rights 'Final Report of the Special Rapporteur on the Situation of Systematic Rape, Sexual Slavery and Slavery-Like Practices during Armed Conflict' (22 June 1998) UN Doc E/CN.4/Sub.2/1998/13: para 416
- Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu (Trial Judgment) SCSL-04-16-T "AFRC Case" (20 June 2007): para 415, 416
- Prosecutor v Sylvestre Gacumbitsi (Appeals Chamber Judgment) ICTR-01-64-A (07 July 2006): para 416
- Prosecutor v Issa Hassan Sesay, Morris Kallon and Augustine Gbao (Appeals Chamber Judgment) SCSL-04-15-A "RUF Case" (26 October 2009): para 416
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Appeals Chamber Judgment) ICTY IT-96-23 and IT-96-23/1-A "Foča case" (12 June 2002): para 415, 416
- Prosecutor v Mikaeli Muhimana (Appeals Chamber Judgment) ICTR-95-1B-A (21 May 2007): para 416

Sexual Slavery

- Commission on Human Rights 'Systematic Rape, Sexual Slavery and Slavery-Like Practices during Armed Conflict: Update to the Final Report Submitted by Ms. Gay J. McDougall, Special Rapporteur' (06 June 2000) UN Doc E/CN.4/Sub.2/2000/21: para 420
- Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu (Trial Judgment) SCSL-04-16-T "AFRC Case" (20 June 2007): para 418, 420, 423, 424
- Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu (Appeals Chamber Judgment) SCSL SLS-2004-16-A "AFRC case" (22 February 2008): para 426, 427
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Trial Judgment) ICTY IT-96-23-T and IT-96-23/1-T "Foča case" (22 February 2001): para 419, 420
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Appeals Chamber Judgment) ICTY IT-96-23 and IT-96-23/1-A "Foča case" (12 June 2002): para 419
- Prosecutor v Issa Hassan Sesay, Morris Kallon and Augustine Gbao (Trial Judgment) SCSL-04-15-PT "RUF Case" (02 March 2009): para 420, 421

Child Soldiers

- Assembly of States Parties to the Rome Statute of the International Criminal Court ‘Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002’ (09 September 2002) ICC-ASP/1/3 (Part II.B) (International Criminal Court Elements of Crime): para 439
- Preparatory Committee on the Establishment of an International Criminal Court, ‘Report’ (14 April 1998) A/CONF.183/2/Add. 1: para 444
- Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu (Trial Judgment) SCSL-04-16-T “AFRC Case” (20 June 2007): para 439, 441, 442, 444
- Prosecutor v Moinina Fofana and Allieu Kondewa (Appeals Chamber Judgment) SCSL-04-14-A “CDF case” (28 May 2008): para 439, 442
- Prosecutor v Thomas Lubanga Dyilo (Decision on the Confirmation of Charges) ICC-01/04-01/06 (29 January 2007): para 439, 442, 443
- Prosecutor v Issa Hassan Sesay, Morris Kallon and Augustine Gbao (Trial Judgment) SCSL-04-15-PT “RUF Case” (02 March 2009): para 439, 422
- UNSC, ‘Report of the Secretary-General on the Establishment of the Special Court for Sierra Leone’ (04 October 2000) S/2000/915: para 411

Enslavement (Forced Labour)

- Preparatory Commission for the International Criminal Court, ‘Report, Finalised Draft Text for the Elements of the Crimes’ (02 November 2000) PCNICC/2000/1/Add.2: para 446
- Prosecutor v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu (Trial Judgment) SCSL-04-16-T “AFRC Case” (20 June 2007): para 445, 446, 447, 450
- Prosecution v Milorad Krnojelac (Trial Judgment) IT-97-25-T (15 March 2002): para 446
- Prosecution v Milorad Krnojelac (Appeals Chamber Judgment) IT-97-25-A (17 September 2003): para 448
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Trial Judgment) ICTY IT-96-23-T and IT-96-23/1-T “Foča case” (22 February 2001): para 445, 447
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Appeals Chamber Judgment) ICTY IT-96-23 and IT-96-23/1-A “Foča case” (12 June 2002): para 445
- Prosecutor v Issa Hassan Sesay, Morris Kallon and Augustine Gbao (Trial Judgment) SCSL-04-15-PT “RUF Case” (02 March 2009): para 445, 447, 448

Additional reading and resources

Human Rights Watch, ‘Charles Taylor: Q&A on The Case of Prosecutor v. Charles Ghankay Taylor at the Special Court for Sierra Leone’ (16 April 2012) ([available here](#))

International Crimes Database, ‘The Prosecutor v. Charles Ghankay Taylor’ ([available here](#))

International Justice Monitor, ‘Charles Taylor at the Special Court for Sierra Leone’ (2015) ([available here](#))

La Haye E, ‘Article 8(2)(b)(xii): Rape, Sexual Slavery, Enforced Prostitution, Forced Pregnancy, Enforced Sterilization, and Sexual Violence’ in Roy S Lee (ed), *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (Transnational Publishers 2001)

Meisenberg MS ‘Charles Taylor Case’ (2014) *Oxford Public International Law* ([available here](#))

Oosterveld V, ‘Forced Marriage and the Special Court for Sierra Leone: Legal Advances and Conceptual Difficulties’ (2011) 2(2) *Journal of International Humanitarian Legal Studies* 127

Oosterveld V, ‘Gender and the Charles Taylor Case at the Special Court for Sierra Leone’ (2012) 19(1) *William & Mary Journal of Women and the Law* 6 ([available here](#))

Oosterveld V ‘Gender Justice and the Charles Taylor Judgement’ (2012) ([available here](#))

Oosterveld V, ‘Taylor Trial Judgment Analysis: Gender Issues’ (2012) ([available here](#))

Open Justice Initiative ([available here](#))