



# Forced Marriage Case Notes

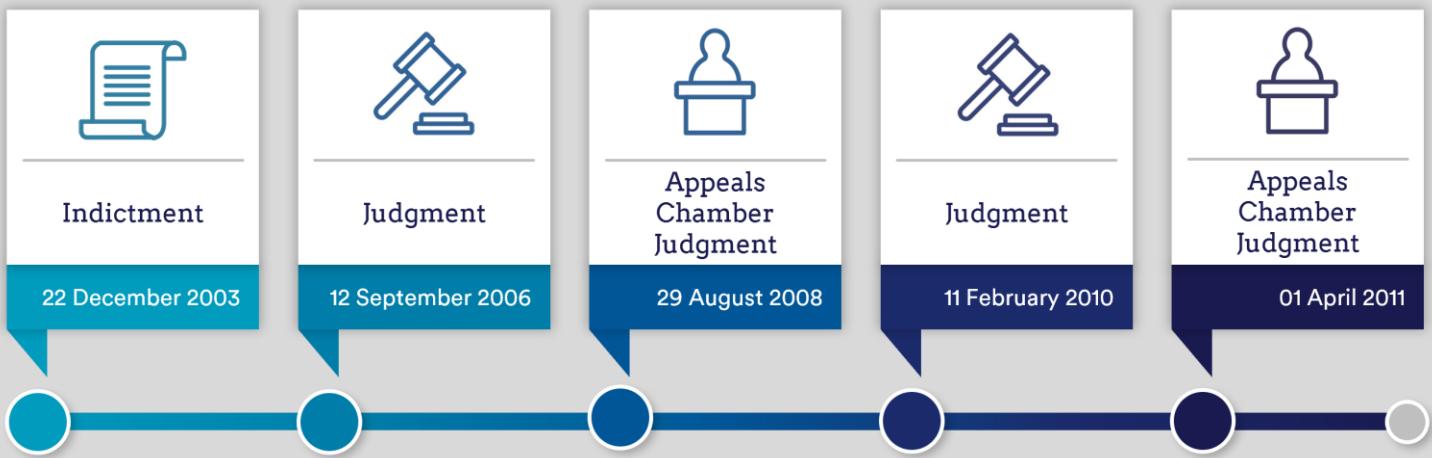
## *Muvunyi Case*

*The Prosecutor v Tharcisse Muvunyi*

ICTR-00-55

July 2021

## Key dates of the case



## What happened?

### The Genocide

The Rwandan genocide took place in 1994. Triggered by the assassination of President Juvenal Habyarimana, soldiers, gendarmes, politicians, Hutu militias and ordinary citizens perpetrated acts of genocide, crimes against humanity and war crimes primarily against Tutsi civilians and moderate Hutus.

Tharcisse Muvunyi was a Lieutenant Colonel in the Rwandan army and therefore the most senior military officer in the Butare Préfecture (in Southern Rwanda) and Commander of the École des sous-officiers (ESO) in Butare (the second-largest city in Rwanda). Together with other authority figures, Muvunyi incited, ordered and armed the local population, *Interahamwe* and the ESO officer corps to perpetrate acts of genocide against Tutsis.

### The International Criminal Tribunal for Rwanda

The United Nations Security Council established the International Criminal Tribunal for Rwanda (ICTR) to prosecute persons responsible for genocide and other serious violations of international humanitarian law. Until its closure in 2015, the Tribunal was located in Arusha, Tanzania, and had offices in Kigali, Rwanda. Its Appeals Chamber was located in The Hague, Netherlands.

Tharcisse Muvunyi was charged with, and found not guilty of, rape. The Trial Chamber heard reliable evidence to support the charge but found that the Prosecution did not prove beyond reasonable doubt that Muvunyi could be held responsible for the crime. However, eventually he was convicted of direct and public incitement to commit genocide and sentenced to 15 years imprisonment.



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

While Muvunyi was not charged with forced marriage or sexual slavery, the Tribunal heard related evidence under the charge of rape. The [Trial Chamber](#) considered evidence that, after QY, a female Tutsi refugee, had been raped by soldiers from the prefecture office on several occasions, a man dressed in civilian clothes took her to *Chez Mahenga*, a bar that also had rooms. The man locked QY in one of the rooms and repeatedly raped her for days.

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QY stated that she ““became a sort of ‘wife’ to her captor” and that “soldiers who had ‘forcibly married girls’ [also] kept them at that location” (para 392).

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According to QY’s testimony, some of those women became pregnant, and some died. As for QY, her captor took her back to the prefecture office after an announcement that *Chez Mahenga* would be searched.

## Significance and points to note

The evidence presented in the case against Muvunyi suggests a strong connection between forced marriage and rape. This can be interpreted in different ways. The label ‘wife’ could be used as a euphemism for rape, as an easier, more acceptable way for victims and survivors talk about their experiences. It could also reflect the everyday reality of intimate partner violence in Rwanda at the time. It could also indicate that forced marriage predominantly is a sexual crime. This might justify the categorisation of its sexual elements as a form of sexual slavery.

In the [Kunarac Case](#), the Trial Chamber established the following factors to be taken into consideration in determining whether enslavement was committed,

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“the control of someone’s movement, control of physical environment, psychological control, measures taken to prevent or deter escape, force, threat of force or coercion, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour” (para 543).

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Considering that the evidence suggests that QY’s captor controlled her movement, physical environment; sexuality and took measures to prevent her escape; and subjected her to acts of a sexual nature by raping her, his conduct could also therefore have been considered as an act of sexual slavery.

# Learning from other institutions and decisions in the Trial Judgment

## Rape

- Prosecutor v Jean-Paul Akayesu (Trial Judgment) ICTR-96-4-T (02 September 1998): para 516, 517
- Prosecutor v Ignace Bagilishema (Trial Judgment) ICTR-95-1A (07 June 2001): para 516
- Prosecutor v Tihomir Prosecutor v Blaškić (Trial Judgment) IT-95-14-T (): para 516
- Prosecutor v Tihomir Blaškić (Appeals Chamber Judgment) IT-95-14 (29 July 2004): para 516
- Prosecutor v Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo (Trial Judgment) T-96-21-T “Čelebići case” (16 November 1998): para 517
- Prosecutor v Anto Furundžija (Trial Judgment) ICTY IT-95-17/1-T (10 December 1998): para 518
- Prosecutor v Sylvestre Gacumbitsi (Trial Judgment) ICTR-01-64-T (17 June 2004): para 516
- Prosecutor v Juvénal Kajelijeli (Trial Judgment) ICTR-98-44A (01 December 2003): para 516
- Prosecutor v Jean de Dieu Kamuhanda (Trial Judgment) ICTR-99-54A (22 January 2004): para 516, 522
- Prosecutor v Clément Kayishema and others (Trial Judgment) ICTR-95-1-T (21 May 1999): para 516
- Prosecutor v Dario Kordić and Mario Čerkez (Trial Judgment) IT-95-14/2 (26 Februar 2001): para 516
- Prosecutor v Dario Kordić and Mario Čerkez (Appeals Chamber Judgment) IT-95-14/2 (17 December 2004): para 516
- Prosecutor v Milorad Krnojelac (Trial Judgment) IT-97-25-T (15 March 2000): para 516
- Prosecutor v Radislav Krstić (Trial Judgment) IT-93-33-T (02 August 2001): para 516
- 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 518, 519
- 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 519
- Prosecutor v Zoran Kupreškić and others (Trial Judgment) IT-95-16-T (14 January 2000): para 516
- Prosecutor v Michaeli Muhimana (Trial Judgment) ICTR-95-1B-T (28 April 2005): para 516, 517, 520
- Prosecutor v Alfred Musema (Trial Judgment) ICTR-96-13-T (27 January 2000): para 516, 517
- Prosecutor v Emmanuel Ndindabahizi (Trial Judgment) ICTR-01-71-T (15 July 2004): para 516
- Prosecutor v Eliézer Niyitegeka (Trial Judgment) ICTR-96-14-T (16 May 2003): para 517
- Prosecutor v Elizaphan Ntakirutimana and others (Trial Judgment) ICTR-96-17-T (21 February 2003): para 516
- Prosecutor v Elizaphan Ntakirutimana and others (Appeals Chamber Judgment) ICTR-96-17-T (13 December 2004): para 516
- Prosecutor v Georges Rutaganda (Trial Judgment) ICTR-96-3-T (6 December 1999): para 516
- Prosecutor v Laurent Semanza (Appeals Chamber Judgment) ICTR-97-20-A (20 May 2005): para 516
- Prosecutor v Aloys Simba (Trial Judgment) ICTR-2001-76-T (13 December 2005): para 516
- Prosecutor v Duško Tadić (Appeals Chamber Judgment) IT-94-1-A (15 July 1999): para 516

## Additional resources

The Guardian, ‘Ex-army chief denies Rwanda genocide’ (08 February 2000) (Available [here](#))

The Hague Justice Portal, ‘Muvunyi, Tharcisse’ (Available [here](#))

International Crimes Database, ‘Tharcisse Muvunyi v. The Prosecutor’ (Available [here](#))