

# Women's law-making and contestations of "marriage" in African conflict situations

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## Abstract

International criminal law has developed significantly over the past 20 years since the establishment of the ad hoc Tribunals and International Criminal Court. Much scholarly attention has focused on the politics and jurisprudence of these courts, with particular focus on the prosecution of sexual and gender-based violence. This article adds to the literature with comparative, qualitative research with survivors of conflict-related forced marriage in Liberia, Sierra Leone, and Uganda, revealing context-specific understandings of marriage, consent and harm. We argue women exercise "tactic agency" in captivity in ways that are, taken together, "law-making" in their contestations over the socio-legal categories of marriage. Their contestations of marriage impact the norms within rebel groups as well as the development of new crimes against humanity in international criminal law. Building on the empirical findings, we argue that prosecution of crimes against humanity and reparation programs ought to be flexible and responsive enough to capture the varied experiences of women and girls abducted in war for purposes of sexual exploitation.

## INTRODUCTION

On February 4, 2021, Dominic Ongwen was found guilty of a total of 61 crimes committed while he was a commander in the Lord's Resistance Army (LRA) in Uganda (*The Prosecutor v. Dominic Ongwen ICC-02/04-01/15*). These crimes included rape, sexual slavery, and, for the first time at the International Criminal Court (ICC), forced marriage and forced pregnancy. The written verdict included excerpts from women's testimonies, detailing the specific nature of harms they have suffered as a result of being ascribed the status of "wife" by Ongwen and impressing upon the court that this violation supersedes sexual violence and forced labor; that there is a unique offense in being forcibly labeled a "wife." These findings echo those from the Special Court of Sierra Leone (SCSL), the first in the world to try and successfully prosecute forced marriage as a crime against humanity,

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of other inhumane acts. What these verdicts make clear is the role women's experiences and articulations of violence can sometimes play in international criminal law: the ways that women survivors contribute to law-making, nuancing, and developing international law's engagement with gendered crimes. What is less clear is how the ascription of forced marriage operates within armed groups in a legalistic fashion, simultaneously acting as a mode of social organization and relational violence.

By engaging with survivors' voices, we analyze how two levels of "law-making" are interrogated, contributed to, and contested by women—in captivity and in international criminal law. We argue that the first level occurs during conflict in the ways that "marriage" operates as a category of governance within rebel groups (Provost 2017), as well as how it impacts both individual and communal conceptions of harm and violence. We center women's experiences to explore conceptions of harm and violence, uncovering how forcible marriage operates in a way to extend conflict-related violence into the post-conflict period, impacting and constraining women's present situations and their futures. The category of marriage in war operates legalistically, imposing specific gendered expectations on women during conflict and into the post-conflict period to limit access to resources, land and social support. We intersect this first level of law-making with the development of international criminal law in relation to forced marriage and the ways that women's experiences have helped shape the development of the crime of forced marriage, while also being constricted by the legal category.

The jurisprudence of international criminal law did not include a separate crime for the practice of abduction for forced sexual and other labor under the auspices of status of "marriage" until 2008. Like other sexual and gender-based crimes, the criminalization of this set of harms has evolved rapidly over the past decade. Forced marriage was characterized and prosecuted before the Special Court for Sierra Leone (SCSL) as a distinct crime encapsulating a variety of both sexual and non-sexual acts which in themselves are criminal and may be regarded as crimes against humanity (SCSL AFRC 2007, 2008). Some of the distinct components of forced marriage are kidnapping, enslavement, sexual slavery, forced labor, rape, and forced pregnancy committed in a systematic and/ or widespread manner. The Rome Statute of the International Criminal Court (ICC), like the statutes of previous international criminal tribunals and courts, does not specifically criminalize the crime of forced marriage but in several of the cases before the ICC, there have been reports of forcible abduction, continued rape, forced domestic chores, and the imposition of marital status on women and young girls. In each of the cases of *Prosecutor v. Thomas Lubanga Dyilo* (Lubanga's case), *Prosecutor v. Germain Katanga* (Katanga's case) and *Prosecutor v. Dominic Ongwen* (Ongwen's case), evidence of the practice of forced marriage has been presented before the ICC. The Extraordinary Chambers in the Courts of Cambodia, the tribunal set up to adjudicate crimes committed during the Khmer Rouge regime, found the accused guilty on charges of forced marriage for the systematic ascription of conjugal status on unwilling women and men.<sup>1</sup> Related charges include forced pregnancy and rape (Bunting and Ikimiukor 2018). Through these criminal proceedings, the crime of forced marriage has become articulated, clarified, and challenged, with victim-survivors and witnesses testifying as to the nature of the harms suffered within forced conjugal unions.

Take, for example, the testimony from witness NN during the *Prosecutor v. Jean-Paul Akayesu* trial (1998) before the International Criminal Tribunal for Rwanda (ICTR). This was the Tribunal's first judgment and included the precedent-setting finding of rape as a tool of genocide for which Akayesu was found guilty. During her testimony, among other crimes, "Witness NN said Rafiki, the Interahamwe who had locked her in his house, took her out of the group and said that she was his

<sup>1</sup>Importantly, the judges convicted on charges of forced marriage against men, as well as women—a first in international criminal law. Rape, specifically non-consensual sex within the forced marriages, was recognized only against women and not men. The reasoning outlined in the decision explains that sexual crimes against men were not recognized in domestic or international law during the time period in which the events being tried occurred although men were arguably victimized in similar ways to women in these particular cases. See Grey, Rosemary, 2019, Gendering the Khmer Rouge period: last Friday's judgment. IntLawGrrls <https://ilg2.org/2018/11/19/gendering-the-khmer-rouge-period-last-fridays-judgment/> for a detailed discussion. *Prosecutor v. NUON Chea and KHIEU Samphan*, 16 November 2018, CASE 002/02 JUDGEMENT, Case File 002/19-09-2007/ECCC/TC ("Case 002"). And see the CSiW amicus brief: <http://csi-w-ectg.org/amicus-brief-to-eccc/>

wife" (ICTR-96-4-T para. 435). As Bunting (2017) discussed, reports emerging during and shortly after the Rwandan genocide detailed practices of forced marriage, with young women abducted and distributed among fighters as "wives" (Africa Rights 1994; Human Rights Watch 1994 in Bunting 2017). Despite the weight of evidence demonstrating the practice of forced marriage, the ICTR did not include indictments of enslavement for purposes of forced marriage (Bunting 2017).

International criminal law has made significant advancements in normative understandings of the harms associated with forced marriage and related gender violence since *Akayesu*, and the testimony of victim-survivors has been preserved as important public records in articulating these harms (Grey 2019; Grey and Chappell 2019). There are important critiques, however, of the limitations of victim testimony in demanding narrative structures that may limit survivors' opportunities in communicating their experiences (Bunting 2018; Viebach 2017). Elements of the crimes that are most important to survivors may sometimes be left out as they are deemed unintelligible or irrelevant in criminal proceedings. Critical scholars such as Clarke (2009), Engle (2018), Buss (2009, 2014a), Halley (2008), and Henry (2016) have challenged that international criminal law reinforces particular gendered and racialized relations that may run counter to feminist projects, and that an over-emphasis on penetrative rape occludes the myriad of gendered harms experienced in war. Further and in considering women's engagement with law-making at the international level, it is important to attend to the ways that international law imposes its own limitations on what stories may be told, when and by whom, with victim-witnesses required to shape their testimony within these scripts (Buss 2014b; Viebach 2017). Qualitative research grounded in the experiences of victim-survivors, then, is necessary to draw out the elements of harm and violence in conflict and how these continue to resonate and have effect in post-conflict contexts.

By intersecting these perspectives, we examine the ways that women have contributed to the development of international criminal law, and the potential for their perspectives and experiences to further inform understandings of the crime of forced marriage in ways that have not yet been fully recognized. Since the crux of the issue of this crime is the ascription of the status of spouse/wife, we analyze the ways in which women articulate the contours of the harms they experienced and how these articulations map onto and intersect with the debates around definitions of legitimate marriage, forced marriage and international crimes against humanity. In order to meet the needs of survivors of conflict violence, reparations and transitional justice programs need to be grounded in more nuanced understandings of victimhood and perpetration (Baines 2017). Based on our analysis of 170 original interviews from Liberia, Sierra Leone, and Uganda, we argue that prosecution of crimes against humanity ought to be flexible and responsive enough to capture the varied experiences of women and men, boys and girls abducted for forced labor, including domestic and sexual exploitation, in war (Dolan, Eriksson Baaz and Stern 2020). This is not only an exercise in including the voices of victim survivors in the record of international criminal law—this is a practice of law-making by victims and non-governmental organizations.

Women's conceptions of violence and the ongoing impact they experience are inextricable from the nature of the violence inflicted. Through the interviews conducted, it became clear that certain experiences led to stronger feelings of "wrongness" that women continue to struggle with. This article explores the factors that lead to ongoing suffering, the elements of forced marriages emphasized as most important to victim-survivors (age, consent, violence, resistance, and abandonment) and how women continue to be impacted by particular modes of violence, at once interpersonal and structural. After describing our research methods and settings, we turn to the ways in which women experience and contest being abducted and forced into conjugal unions in conditions of captivity—their agency, subjectivity, and law-making. We argue that survivors and witnesses, like NN quoted above, have shifted and are shifting the legal understandings of marriage and crimes against humanity in ways that contribute to law-making at the international level.

## METHODS AND CONTRIBUTIONS

This article is part of the Conjugal Slavery in War (CSiW) Project—a multi-partner research grant comprised of research teams in Uganda, Sierra Leone, Nigeria, Liberia, Rwanda, and Democratic Republic of Congo. This SSHRC-funded Partnership Grant (2015–2021) documents cases of forced marriage in conflict situations, places this data in historical context, and tries to impact the international prosecution of crimes against humanity as well as local reparations programs for survivors of violence. With the central participation of community-based organizations, the project works to strengthen individual's and organizations' capacity to prevent violence, and advance understanding of the use of conjugal slavery as a tool of war through evidence-based research.<sup>2</sup> In this article, we focus on 170 interviews collected by research teams in Uganda, Sierra Leone, and Liberia between 2013 and 2015. A standard interview question guide was developed collaboratively with the country team leads. We worked with local community-based partners to conduct interviews in different communities within each country. These interviews were translated, transcribed, and coded using first open and then thematic coding.

We partnered with ADWANGA in Liberia (Amelia Cooper), the Women's Forum in Sierra Leone (Rosaline Mcarthy), and Teddy Atim and Grace Acan (Women's Advocacy Network) in Uganda. Each of these organizations offers service provision as well as conducting research. It is through the organizations' established community networks that this research was possible, but collecting interviews with those who also rely on the organization for services is not without challenges and ethical considerations. While the researchers impressed upon participants that the interviews were entirely voluntary and would not impact relationships with the organization, it is difficult to know how pre-existing connections affected the choice to give an interview. Relatedly, participants may have felt more comfortable with the interviewers and trusted that they had the participants' best interests in mind.

The coding and analysis of the interviews was conducted by the authors, after preliminary analysis by the country teams.<sup>3</sup> It is important to acknowledge that, in this division of labor, from data collection to analysis and writing, meaning is not straightforward and that positionality impacts what is seen and understood. Thanks to our ongoing partnership with the researchers and organizations who conducted the interviews, conversations about interpretation, contextual nuance, and translation continued well beyond the interview design. While our positionality as white, Global North-based, female researchers undoubtedly influenced how the interviews were read and what was considered important to include herein, we validated the findings with our partners. Our analytic process was not abstracted from their analysis and their perceptions of the central elements of the interviews informed how we read and understood what women chose to share.

Researchers in Liberia interviewed 78 women in six communities across three districts in Nimba County, Liberia. In Sierra Leone, 44 interviews were collected in Bo, Kailahun, Kanema Town, and Mattru Jong. Researchers in Uganda collected 48 interviews in Lango and Acholi sub-regions in northern Uganda. The demographics of women and girls abducted by rebels varies significantly across the three countries: the average age of abduction of interviewees in Uganda was 13 years; in Liberia women were anywhere between 13 and 40 when they were abducted; in Sierra Leone most women were abducted as teenagers or while in their early 20s.<sup>4</sup> The length of time spent in captivity also varied for the participants in our study: in Sierra Leone it was from 2 days to 11 years while in

<sup>2</sup>Please see the Conjugal Slavery in War Partnership for more information: <http://csiwi-ectg.org/>

<sup>3</sup>The country reports for Uganda, Sierra Leone, and Liberia are available online through the Conjugal Slavery in War (CSiW) Research Partnership: <http://csiwi-ectg.org/resources/publications/>

<sup>4</sup>Due to variations in interview style and responses from participants, it is impossible to know exactly how old women from Liberia and Sierra Leone were when they were forced into "marriages," we can only infer approximate ages based on current age and details from their stories (Ex: "I was 17 years old when war broke out. I know that the war started in Kailahun. It took a long time before it got to our region. My home was attacked by rebels. I do not know which group was involved. I was abducted and raped by three men. I was pregnant by then. As a result I had a miscarriage" (Sierra Leone, Interview #7). Likewise, we were unable to determine the average length in time Liberian women spent in captivity.

Uganda the average time was 3.5 years. Finally, while we will focus on their experiences as "spouses" in this article, our results show that women, like men in rebel forces and state-based armed groups, had many roles including spies, fighters, porters, and cooks. Abduction for the purposes of forced sexual and domestic labor was not a uniform practice across these different contexts and the expectations placed on women forced into marriages varied considerably.

## MAPPING CONJUGAL UNIONS IN WAR

While we are comparing and drawing out commonalities of experience among women from different national contexts, it is important to ground this work in attention to the contextual specificities of the conflicts in which forced marriage was utilized. The war in Northern Uganda began in 1986 and was fought primarily between the Lord's Resistance Army and Museveni's National Resistance Army, later the Uganda People's Defense Force. Museveni had recently assumed power in Uganda, and was fiercely contested by actors in the Northern regions of the country, long considered to be marginalized and exploited by the central government, most notably the Acholi ethnic groups. Joseph Kony, leader of the LRA, was first positioned as somewhat of a spiritual leader but his movement soon shifted into one of active war-making to promote the creation of an Acholi nation distinct from the rest of Uganda (Baines et al. 2018). During the decades of conflict, both sides committed atrocities, including sexualized violence (Dolan 2009).

The practices of forced marriage developed and implemented by the LRA are well-researched due to the young age of many abducted girls, the highly systematic nature of the forced unions, and the strong ethnically driven components that prioritized high birth rates (Annan et al. 2009; Baines 2014; Kiconco & Nthakomwa 2018; Kramer 2012). Marriages were typically determined by high ranking commanders who would then "distribute" girls and women to soldiers. Receiving a wife was often treated as a reward for discipline and adherence to LRA rules, and the more senior commanders would choose women for themselves first (Atim et al. 2018; Baines 2014; Kiconco 2021). Grace Acan (2017) and Evelyn Amony (2015), both women abducted and forced into marriage by the LRA as young girls, detail their experiences in their respective memoirs in heart-wrenching detail, drawing out the complexities of this system of forced marriage as well as the myriad of violences, not all of them sexual and not all perpetrated by men, endured by forced wives.

During the two successive wars in Liberia, from 1989 to 1996 then 1999 to 2003, gender and sexual violence was rampant and committed by members of most armed groups and the national army.<sup>5</sup> Bamidele (2017) reports that over 50% of women in Liberia were raped during the wars and many were abducted. The conflict in Liberia was predicated partly on historic power differentials between descendants of Liberians who relocated to the country from the United States following the abolition of slavery and those considered indigenous Liberians. Charles Taylor returned to Liberia in 1989 from the United States to lead the National Patriotic Front of Liberia to overthrow the existing government. Numerous rebel groups emerged, some in support and some in opposition to Taylor, and allegiances, leadership, and names changed frequently (Hoffman 2011). The first Liberian war ended in 1997 when Taylor assumed the role of president, but conflict began again shortly thereafter, merging with fighting in Sierra Leone which began in 1991 and continued through the formal peace agreement in 2002.

Taylor has been convicted at the Special Court for Sierra Leone (SCSL) for being directly involved in atrocities in Sierra Leone, contributing to wider regional instability and violence (SCSL-03-01-A). In Sierra Leone, particular attention has been paid to the atrocities committed by the Revolutionary United Front (RUF) in relation to child soldiering and sexual violence (Marks 2014), the Armed Forces Revolutionary Council (AFRC), and Civil Defense Forces (CDF) (Oosterveld 2009).

<sup>5</sup>See the Final Report of the Truth and Reconciliation Report, Liberia, in particular Volume 3. The TRC was established in 2005 and reported in 2009: <http://www.trcofliberia.org/index.html>.



Hoffman (2011) argues that the wars throughout the Mano River region were so entangled that a distinct analysis based on state lines does not make sense. Indeed, the armed groups accused of committing sexual violence are sometimes common between Sierra Leone and Liberia and the trial of Charles Taylor, the former president of Liberia, and the decisions from the SCSL were viewed by some as justice rendered for both countries. Others, however, considered Liberia to not have achieved the justice deserved due to a lack of specific attention to atrocities committed against Liberians (Ruggariza 2019).

Little is known about Liberian women's experiences of forced marriage as a particular mode of gendered violence. There has been more scholarly research on women's experiences of forced marriage in Sierra Leone due to dedicated studies by scholars such as Coulter (2005; 2009), Ferme (2013; 2018), and Marks 2014, as well as through the convictions for forced marriage secured by the SCSL (Bunting 2012; Oosterveld 2009, 2011). These scholars have discussed sexual violence in Sierra Leone as operating on a continuum between war and peace, but caution against positioning war-related harms as merely an extension of "cultural practices," emphasizing the importance of carefully considering internal gender dynamics within the various armed groups, as well as the political and economic imperatives driving the war (Marks 2014). There is a temptation to extend these findings to women in Liberia, but this may in fact occlude specificities of Liberian women's experiences and further contribute to rather than help address a dearth in research on forced marriage as a distinct gendered harm in Liberia.

Despite the different historical and conflict contexts discussed in this article, the categories of "marriage," "wife," and "husband" were mobilized by armed actors operating in highly diverse armed groups with different methods, political aims, and organizational structure. At one extreme, we can consider the highly systematic and centrally controlled LRA in Uganda. LRA commanders assigned women as wives to soldiers, and forced marriages were a factor considered to be central to the construction of an Acholi nation (Amony 2015; Baines 2017). Conversely, we can consider the individualized and opportunistic violence of some rebel soldiers in Sierra Leone, such as in the instance described by one interview participant: "One of them brandished a knife and said, you all stay away. This woman is my wife, keep off or I will kill you" (Interview 31, Sierra Leone). Indeed, many participants from Sierra Leone and Liberia described being taken as a wife by an individual or by multiple soldiers without mention of this being an organized or necessarily strategic method of war. It is noteworthy, however, that in all cases the language of "marriage" was invoked by participants. This terminology was used by women to describe situations of systematic forced marriage, as in cases where commanders assigned women as wives to particular soldiers, as well as something individual soldiers told the woman to express a sense of ownership, expectation of domestic and sexual servitude, and/or exclusivity. Therefore, despite the contextual variation across regions, it is important to attend to the utility and importance of forced "marriage" within war.

The interview data below also demonstrates that women chose different terms to describe their time in rebel captivity such as "rebel husband," "bush husband," "sex wife." The mimicry and language of marriage did not, in the minds of the women interviewed in this project, make the assignment of conjugal status valid or "legal." In some circumstances, women were assigned to a particular rebel as his wife, others were forced into it by one or several rebels. As one interview participant describes it, "I was not assigned, but taken as a wife and raped" (Interview 8, Liberia). Another woman described her role as a "sex wife," noting: "No, I was not assigned but was arrested and kept as a sex wife" (Interview 7, Liberia).

The purpose of our article is not to re-hash academic or legal debates<sup>6</sup> about the application of the terms slavery or forced marriage, but rather to foreground the voices of women themselves who indeed used various terms to describe what happened to them; language that, at times, have

<sup>6</sup>There has been extensive debate within international criminal law as well as in the academic literature about the relative merits of labelling experiences such as those described by our participants as forced marriage, conjugal slavery, or sexual slavery (Bunting 2012, 2018; Bunting & Ikimiukor 2018; O'Brien 2016; Oosterveld 2009, 2011, 2018).

influenced the development of the category of forced marriage as a crime against humanity. In this regard, it is important to note that the women described their experiences as forced marriage and/or sexual slavery, while emphasizing that in addition to sexual violence they were also forced to perform domestic tasks such as cooking and cleaning, carrying heavy loads, and in some instances participate in fighting. This seems to extend their abuses beyond what is encapsulated by the criminal category of sexual slavery and the ascription of "marriage," "husband," and "wife" were prevalent throughout these contexts.

## PERCEPTIONS OF HARMS IN FORCED "MARRIAGE"

In the subsections that follow, we explore the ways in which women talk about and contest the constraints on their agency and consent in the context of captivity. The factors that were most important in survivors' conceptions of violence included age (most notably virginity and menstruation), lack of familial and community participation in the so-called marriage, the nature of the violence, sexual exclusivity, the context of war, and lack of alternatives or imagined futures. The constraints on women's agency and ability to determine their own life courses were imposed through the social ordering inflicted by the armed groups, with women forced to navigate within both tactical and opportunistic social structures.

In response to their situation, women expressed a range of emotions, including sadness, fear, hopelessness, anxiety, surprise, and feelings of being trapped. As one woman expressed it, "I felt very sad and afraid; the killers of my father were taking me to be with them. Only God knows what was going to happen to me" (Interview 5, Liberia). Another woman from Sierra Leone felt both trapped and sad: "My rebel 'husband' repeatedly told me that I was his wife and that nobody was going to take me away from him. I was deeply hurt by his constant demand for sex" (Interview 32 #, Sierra Leone). As has been well documented by scholars (Baines 2014, 2015; Baines and Stewart 2011; Bunting, 2018; Coulter 2009; Denov et al. 2018; Utas 2005), women from Uganda, Sierra Leone, and Liberia, often and strongly expressed their rejection of the bush marriages they were forced into during the conflict. While lack of consent was a strong theme coming out of interviews from all three countries, women from Sierra Leone in particular used specific language around lack of consent.<sup>7</sup> This is captured by the following quotes from interviewed women:

I was assigned to a particular rebel. He said that I was going to live with him as his wife whether I liked it or not... I was now fully under the control of this rebel... I had no choice but to obey his every command. I reflected on my marriage before the war and thought that this was a very different arrangement because *nobody's consent was sought* [emphasis added] (Interview 28, Sierra Leone).

I did not understand how he could take me for his wife *without my consent* [emphasis added] (Interview 21, Sierra Leone).

While women referred to their status in captivity as "a wife," they were emphatic that theirs was not a valid customary marriage. Here we do not take for granted a liberal notion of individual consent, which holds that "real" consent can only be given in the absence of power relations (Mahmood 2004) through the negation of collective and family structures of consent and customary norms. Instead we insist that it is important to interrogate the appropriateness of the concept of

<sup>7</sup>While one cannot be sure why interview participants in Sierra Leone used language of consent more than in other countries, it is noteworthy that the decisions of the Special Court for Sierra Leone and the legacy of the Special Court are the stuff of public discourse. The customary law of marriage was changed to include a requirement of explicit consent after the decision from the Special Court on forced marriage as a crime against humanity. While Liberia had a Truth & Reconciliation Commission like Sierra Leone, there was no hybrid international crimes tribunal. In Uganda, only recently have trials of the International Crimes Division of the high court begun.

consent and its existence on a continuum. Doezeema's suggestion (2010) to complicate consent past rigid boundaries is useful in the context of the narratives emerging from the interviews with women from Uganda, Sierra Leone, and Liberia where some women used the language of acceptance and "consent" in reference to their forced marriages. A simplified dichotomous reading of this "consent" may challenge the women's position as survivors in ways that fail to capture the complexity and coercion inherent in contexts of conflict. For some women, the lack of consent, as well as the coercive and violent contexts of the forced marriage led many women to liken their experiences to those of slavery:

Life in the bush was completely difficult and different; all freedom was seized. I was treated like a slave (Interview 3, Liberia).

Ezekiel was very rude and abusive to me, he just treated me like a slave and didn't have no regard for me. I took him as someone who was forcing sex on me because I didn't agree to his love. He forced me because he had a gun (Interview 5, Liberia).

I was sex slave and a 'forced wife'. I cooked meals and other household chores. Sometimes I fetched water. When we were trekked, I carried heavy loads (Interview 35, Sierra Leone).

Other women used the language of "consent" to describe a situation where lack of options, threats of violence and survival were often the reasons that they resigned into these forced marriages. As one woman from Liberia recalls, "I wept bitterly for mercy at first, but as time went on I had to *accept* it. Because it was a do or die affair. Agree or be killed" [emphasis added] (Interview 3, Liberia). Another participant from Sierra Leone notes a similar story, "I was told that two of them will marry me. I thought there was no one to help me as if there was no government. I had to *accept* because they threatened to kill me" [emphasis added] (Interview 41, Sierra Leone). What we see then is that the concept of "consent" must be complicated beyond the dichotomous boundaries and to take into consideration the context within which this consent and acceptance is taking place.

For instance, for some women, being taken as a "spouse" provided protection from sexual violence from other men and the risk of other forms of violence. One of the participants taken by the LRA explained "I was afraid because I thought I was going to be killed but when I realized to be his wife, I did not run" (Interview 16, Uganda). A survivor of armed-conflict in Liberia expressed similar resignation to her assigned status as "wife" out of a promise of protection noting, "I did not escape because he promised to take care of me as a wife" (Interview 6, Liberia). A second survivor in Liberia explained accepting her forced conjugal status sharing, "He told me he will help save my life, but I will be his wife if I agree. I accepted and he brought me to Nimba. I was feeling at some point he will kill me but he did not" (Interview 6, Liberia). In these instances, not actively resisting the situation did not negate the violence endured by the women in these situations, rather the decision was one of survival and limited protection from harms in addition to those endured through and within the forced marriage.

## Age

Through our analysis it became clear that many women considered their young age at the time of abduction as having impacted experiences with marriage and sexual violence in captivity, as well as establishing its perceived violence and illegality. This was often interpreted in relation to whether the girl was prepubescent. Some women who were quite young when they were raped and forced into "marriage" described the fear and confusion they experienced at the time as being due to their youth, demonstrating that age was an important factor aggravating feelings of victimization. For instance,



one survivor from Liberia who was abducted when she was 15 shared, "I was very afraid to the point that I lost my senses. I was just living numbly and in total fear. I felt these guys were going to kill or do any wicked thing to me (Interview 57, Liberia). Another woman in Uganda expressed similar feelings explaining "Even though eventually I did [accept the marriage], I didn't feel like it because he was an old man. He was not my size and I was still young and afraid to be sexually involved" (Interview 6, Uganda).

While the experiences varied across different contexts, a number of survivors shared stories about cultural beliefs about virginity and menstruation and how these beliefs impacted their experiences and sometimes served as aggravating factors for how they conceptualized the violence they experienced. The rules of governance set by Joseph Kony for the LRA outlined menstruation as a key determining factor marking when a girl had become a woman and could be taken as a wife sexually (Acan 2017), though our interviews demonstrate that this was not always adhered to by either Kony or other commanders. Many women from Uganda explained this to our research team. The following quote emphasizes this:

Since I hadn't started seeing my periods, the commander I was assigned to wanted me to start menstruating, so he sent me to a local herbalist in the group to take local herbs so I can start menstruating and be able to conceive. But I refused and he didn't do anything about it and he didn't punish me at all for that (Interview 4, Uganda).

Some women explained their experiences of being given to men before they had begun menstruating. One participant shared, "Kony told his escort that I will be his wife, then that particular escort took me by force for his wife before I was old enough before my first menstrual period" (Interview 8, Uganda). Another survivor explained, "He told me that I was given to him as a wife and asked me that whether I know how to have sex. He raped me and I cried all night and the next day he threaten to kill me and later advised me to get used to the situation. After 2 months I started my menstruation period" (Interview 15, Uganda).

For these women, being made a wife before they considered themselves to have reached womanhood contributed to the enduring harm of the violence. This was also expressed by some women who placed great emphasis on the fact that they were virgins when raped by rebels. In the Liberian context, virginity seemed to be a determining factor in classifying the sexual violence that some participants experienced as rape. This came up in discussions with three survivors. One woman explained, "They were very cruel and rude to me, I considered them to be rapists because at the time I was still a virgin" (Interview 9, Liberia). Another stated, "He was very cruel to me, he did not give me chance to rest from sex because he was not a major frontline soldier. I always considered him a rapist. I was still very young at that time and still a virgin. Everything he did to me was forced upon me" (Interview 52, Liberia). A third woman explained, "He said if I didn't agree to have sex with him he would kill me. I was a virgin at that time, he raped me right before his fellow soldiers. I considered him to be a rapist" (Interview 68, Liberia). The connections made between rape, a legal category, and virginity emphasizes that experiences of sexual violence were not wholly determined by lack of consent but rather draw on culturally relevant connections between age, virginity, consent, and violence to determine what is understood as a particularly grievous harm.

## Consent

Consent is further complicated by the perception that in some socio-legal contexts it is the consent of the family that determines the legitimacy of the marriage. This was particularly salient for women in Sierra Leone who explained to our research teams that being called "wives" by rebels despite their parents not consenting to the "marriage" was significant:

As we moved along, one of them opted to be my husband. He told me harshly that from now on I was his property. I was taken aback because I could not imagine a strange man taking me as a wife without my family's consent (Interview 6, Sierra Leone).

I did not consider my 'marriage' with the rebel as a lawful one because my consent was not sought. Also my parents were not involved in the arrangement (Interview 4, Sierra Leone).

Similarly and in relation to Uganda, Porter (2013) discusses how sex considered unsanctioned by the community or that was otherwise clandestine carried stigma for the Acholi people in times of relative peace. For example, sex that occurred outside the village, "in the bush", was seen to be done in secret and was largely disapproved of. Both Ferme (2016) and Porter describe "the bush" as an interstitial, liminal space, outside the community and society. It is possible that the lack of community approval of sex and "marriages" that occurred in the LRA in Uganda and the RUF, AFRC in Sierra Leone after girls and women were abducted contributes to some of the stigma women experience upon returning to their community, but this requires further investigation.

In Uganda, we can see a similar emphasis on the lack of community sanctioning in forced marriages as being a central component of harm suffered. We can compare the crime of virgination with payment of "luk," or bridewealth, following sexual assault among Acholi people: both emphasize the social regulation aspects of sexuality over liberal understandings of consent by girls and women. Porter (2019) explains that the commonly shared perspective that rape did not happen before war is not to say there was not sexual violence and forced sex. Rather, these instances often happened within systems of established or soon-to-be-established kinship ties, facilitated through the expectation of luk payment following non-consensual sex, meaning they did not create enduring social ruptures and were thus broadly accepted (see also Apio). Similarly, Ferme (2016) explains that accusations of virgination are primarily based on unsanctioned sex having occurred with a girl who was still virgin; the social issue lies less with whether the girl provided consent, and more with the potential impact on future marriages and bride wealth.

Thornhill's (2017) work with post-war survivors in Liberia analyzes how some people conceptualize rape as an act committed against a child. Thornhill, in citing Fassin (2012), discusses the social utility of emphasizing the offense of child rape in that it has a regularizing effect on sexual and gender based violence more broadly as rape of a virgin is viewed as outside social norms of acceptability, whereas rape of older girls and adult women is viewed as largely the fault of the woman herself. These beliefs are sometimes shaped by customary laws around virginity and sexual violence.

Relatedly in discussing Sierra Leone, Ferme (2016) draws attention to the fact that many customary courts consider sex, consensual or otherwise with a virgin to be a distinct criminal category ("virgination"), whereas rape is not a prosecutable offense. For example, it is a particular criminal offense to have sex with an unmarried virgin (Ferme 2016). The crime is "virgination" and it remains in use within some customary courts and, while described as rape, can also be applied in cases where sex is consensual (Ferme 2016). Others have also documented how the process of "virginating" was committed by combatants against young women and girls<sup>8</sup> (Batick, Grimm, and Kunz 2007; Human Rights Watch 2003). Some of the women who participated in our research in Sierra Leone used the same language. For example, one survivor explained, "The rebels virginated me" (Interview 5, Sierra Leone). Another linked the process with "marriage" explaining, "After virginating me, one of them took me as his wife" (Interview 9, Sierra Leone).

We draw on these examples to emphasize that rape and sexual violence are, like marriage, socially constructed and defined, as well as historically and contextually specific. As Porter (2018)

<sup>8</sup>Human Rights Watch (2003) "We'll Kill You if You Cry": Sexual Violence in the Sierra Leone Conflict". Available online: <https://www.hrw.org/report/2003/01/16/well-kill-you-if-you-cry/sexual-violence-sierra-leone-conflict>

writes, "the law, particularly as it has developed in the context of war, wrestles with the individual and relational dimensions of the transgression of rape which animate the central question of what rape is" (597). In this analysis, Porter is drawing out complications arising in international law's contending with issues of sexual violence as individualized, as is central to liberal notions of consent, and a more culturally nuanced and contextually grounded conception of rape as a social as well as interpersonal crime (Bunting, Lawrance and Roberts 2016). For participants in our interviews, questions of consent extended beyond the individual to include the family and the community, with women explaining that as no consent was given they considered their experiences to be rape. Women are exercising agency in their explanations of *why* they considered the violence they experienced to be rape, extending beyond legal definitions that emphasize a liberal and individualized notion of consent. While there are few who would argue that the details given do not constitute sexual violence, the "why" is nonetheless important here to show the multiple ways of understanding violence and the elements necessary for marriage to be consensual.

Women's understandings of violence and forced marriage, as we have demonstrated, are informed by their local customary laws as well as, potentially, international legal norms. It is important here to again emphasize the relationality in these processes. The women interviewed would, in some cases, be aware of the prosecutions for forced marriage at the Special Court for Sierra Leone and the charge of forced marriage in the Ongwen case at the ICC. The lack of reliance on a strictly liberal notion of consent and the invocation of age, virginity, and lack of family/community consent, then, can be read as complicating notions of what constitutes sexual violence; the factors influencing their experiences extend beyond the fact that they did not consent to sexual relations. It is an insistence on the complexity and contextual specificity of what is considered a particular wrongdoing, rather than a reliance on a general set of harms codified within criminal law.

## RESISTANCE

Most women forcefully emphasized that they did not consent to marriage and were forced to abide by the demands of the rebels to survive. A number of women also resisted and some described rejecting the rebel's demands of marriage. As one woman who was abducted by the LRA in Uganda stated,

That month, he left me and his senior wife pleaded with me to go and make his bed the next month. He even called other senior women from Kony's homestead and others to talk to me to behave and accept to take him as his wife ... I found it hard (Interview 6, Uganda).

Such explicit rejections, although seemingly rare, took place in cases where the demands were made by a "small," low ranking, rebel. The small rebels were considered unable to provide the same protection as commanders or higher-ranking soldiers, and therefore were less preferred by women, even in these confined circumstances. This is captured by the following quote:

One of the rebels, a lower ranked asked me that he wanted me to come and live with him just like a wife and a husband, I told him that no, I do not want to be his wife because he was also a new abductee and with lower rank, I thought this would create problems between the commanders because he had not lived there for long just like me (Interview 2, Uganda).

As the above quote suggests, the woman's decision to reject the small rebel was also tied to his recent arrival and the potential problems this could create with the commander. Another participant describes her initial rejection of the rebel as her husband and her refusal to do tasks that he

demanded of her. This recalls the notion of tactic agency and acts of resistance can be subtle and private refusals. She explained,

After a week in the evening he said I was given as his wife and he told me to cut grass and prepare a bed but I refused then I was threaten to be beaten with machete. I was beaten. In fear, I went and slept with the man. I was not willing to be his wife, I was still young and not ready to be with a man (Interview 12, Uganda).

This comment links to the earlier narratives about conceptions of violence intensified through notions of age and lack of readiness for sex, as well as the physical harm suffered by women who resisted. In this context, the woman shared her initial rejection of the rebel's demands but his constant threats of violence frustrated her ability to refuse him sexually. Similarly, another woman from Sierra Leone notes "I was assigned to a small rebel. He told me to be his wife. I was given treatment for my wound. I was discouraged and refused to accept him as my husband" (Interview 8, Sierra Leone).

Indeed, a few women stayed with the rebel even after the conflict was over; "I still live with 'D' as my husband ... and I feel satisfied to live with him because he saved my life" (Interview 8, Liberia). Some women accepted their marriage perceiving it, in the words of one participant, as a "normal husband and wife family relationship". One woman in Uganda explained,

It was a husband and wife relationship. Men with women because he takes you as a wife he wants to make love to you although during the day he was so harsh and rude. He would even order that you be beaten or punished for any acts. I kind of got confused what the arrangement was like, although for me it was like a normal husband and wife family relationship (Interview 43, Uganda).

Thus, despite the harshness, rudeness, and violence of the rebel, this woman saw her marriage as any other. Similarly, another woman from Liberia described her relationship as having turned from a forced one to a willing one: "When [he] met me he was different from the other guys who came across me. He was kind to me and took me as his wife. At first, I took it as a force relationship because he had gun. But later on I began to accept his relationship willingly" (Interview 50, Liberia).

These quotes demonstrate the complicated and ambivalent feelings of some women toward their forced husbands. Despite the violence and abuse, women also received protection, and some described genuine feelings of affection developing. These nuances do not negate the initial, and often ongoing, violence inflicted and does not mitigate its seriousness. It does, however, demand increased attention to the complicated relationships that develop during constrained and difficult circumstances marked by conflict (Bunting 2018).

## Escape

Violence occurred often for the women interviewed, but there were certain experiences of wrongdoing that led to a great sense of violation and sometimes prompted responses such as escape attempts, refusal to perform domestic duties, and attempts to secure a safer position or a higher status.

As one woman from Liberia describes it, "I tried on several occasions to escape but I was always caught by them. I was not successful because I did not know the area well" (Interview 5, Liberia). Another woman from Liberia tells a similar story: "I tried on several occasions to escape. Any time I make an attempt they will grab me and beat me unmercifully. I wanted to escape because of the bad treatment I was receiving from the rebels" (Interview 12, Liberia). A woman from Uganda attempted escape despite the consequences she had to bear, "I tried all my best to escape and when they caught me, they beat me 50 strokes of cane. In fact, they told me they had just pardoned me, I should have

been killed. I couldn't do much, so I just gave up" (Interview 47, Uganda). Successful escape stories also reveal the careful planning women put into their escape attempts:

Yes, I did escape. Some friends who were making business came to him and we all beg him so that I can join them to sell some small food items the like them. He agreed. When we went for the items in Taylor control area, we heard information that Prince Johnson base will be attacked. We all decided to remain. After some days we made our way to Nimba (Interview #17, Liberia).

Women's decisions not to escape were also enacted to avoid bringing harm to themselves and/or their children. As a Liberian woman describes it, "I did not run away because the soldier advised me not to before someone kills me" (Interview #8, Liberia). Another woman also from Liberia cites similar reasons for her decision not to escape: "No, I did not run away. I was told if I am caught running away, I would be killed" (Interview 15, Liberia).

## Abandonment

By looking at different experiences through the lens of wrongdoing and harm caused, we can move toward understanding some women's sense of abandonment and feelings of betrayal by men with whom they were forced into conjugal relationships. Language of abandonment was particularly strong in Liberia where many women expressed resentment toward rebel husbands who left them without resources and protection.

When asked about the hardest part of the time period immediately after captivity in the bush, one woman explained "There was no money to take care of the pregnancy when he abandoned me. I seriously needed money" (Interview 2, Liberia). Another explained how her time with the rebels came to an end noting "He abandoned me after ill-treating me for some years and gets new women" (Interview 12, Liberia). Another shared her experience of being abandoned by her rebel husband during childbirth stating "When I was in labor pain the man abandoned and I was helped by one midwife where I was" (Interview 19, Liberia). And another highlighted both the experience of being protected by a rebel by being made his wife but also feeling abandoned by him when he got another woman: "After capturing Gbanga the rebels were killing people when they came across me, commander (x) said I should not be killed and he took me as a wife and brought me to Nimba. I had eight children by him and three died. There after he abandoned me and the children, got new woman and was gone" (Interview 20, Liberia).

These feelings are also often linked to a sense that the men who forced women to have children should continue to maintain responsibility for them. Not only is there a lack of financial and material support from fathers abandoning their children, which was important for women across contexts, but there was also a rupturing of patrilineal kinship relations whereby children are cut off from their paternal families and from accessing land inheritances. This was a particular concern for women from Uganda.<sup>9</sup> Compounding this lack of direct paternal support is the very limited state support for survivors and, indeed, the further abandonment of women by their governments who have not provided adequate reparative measures. Reparations for survivors are crucial, as emphasized by many participants: school fees for their children, medical care, housing and economic support, as well as psycho-social reintegration and community education cannot alter the harms suffered, but can contribute to survivors' rebuilding their lives, families, and communities in the aftermath of conflict.

Women's sense of abandonment following return to their communities is interrelated to our contention that women are law-making in their engagement with experiences of forced marriage.

<sup>9</sup>See CSiW's Children Born of War bibliography <http://csiw-ectg.org/resources/bibliography/>

The “marriage,” despite being forced, marked by often extreme violence, and resisted by women, nonetheless carries with it the belief that the ascription of the status of wife necessarily elicits expectations from the “husband.” To negate these responsibilities, then, runs counter to the expectations that accompany the title of “husband,” distinct from the lack of expectations for the perpetrator of other forms of sexual violence. Here, women demonstrate not only agency in rejecting the legitimacy of the marriage, of describing their wartime experiences as “forced marriage,” but also holding their forced husbands to a standard of support and responsibility that they consider to accompany any conjugal union, forced or consensual. This serves to reinforce the obligations inherent within the socio-legal category of marriage within the post-conflict context, despite the lack of consent within the forced conjugal association.

## DISCUSSION: CRITICAL LEGAL PLURALISM AND WOMEN’S LAW-MAKING

In foregrounding and analyzing the lived experiences of survivors of abduction for forced marriages in conflict, we understand survivors as having exercised “tactic agency” to contest the taken-for-granted norms of so-called marriages in conditions of captivity. While the norms within the insurgent groups such as the Lord’s Resistance Army (LRA) in Uganda, the Revolutionary United Front (RUF) in Sierra Leone, or other rebel groups are neither state law nor customary law, they are a type of social ordering, as understood in the field of legal pluralism (Falk Moore 1978). Legal pluralism, as law and society scholars know well, pays attention to overlapping normative orders and draws our analytic lens to the ways in which state-promulgated laws intersect with and are interpreted through other scales of legal normativity (Merry 1988; Tamanaha 2010). As Provost (2017) argues in his analysis of Revolutionary Armed Forces (FARC) justice in Colombia,

legal pluralism emerges as an especially promising perspective for the analysis of the administration of justice by insurgents. This is so both because such norms and practices do not derive any legitimacy from the state, quite the opposite, but also because in many if not most civil wars the official law of the state will cohabit with norms established by armed opposition groups. (5).

Legal pluralism has evolved from an approach that sought to de-center state law, taking seriously the religious, non-state, business, or community-based legal systems, to an approach that now includes global (Berman 2012; Darian-Smith 2013) and critical legal pluralisms, going “beyond social ordering” (Tamanaha 2010). Kleinhans and Macdonald (1997) lay out the key elements of critical legal pluralism drawing on poststructuralism, with a focus on individuals’ agency and subjectivity in relation to legal knowledge. These key insights from critical legal pluralism are those on which we rely to understand women’s law-making capacity within and following captivity and forced marriage.

Women abducted by the LRA, RUF, or other groups and assigned to commanders and soldiers as forced wives are participating in and negotiating “multiple normative communities”, that is, drawing on their understandings of customary or statutory family law but extending “beyond customary law” (Blackett 2019, 42) to interpret the normative ordering within the armed group and their lived experience (and that of other wives) of competing norms. In other words, we build on Provost’s analysis of “insurgent jurisprudence” (2017) to include internal contestations over socio-legal expectations of marriage and gender (Amony 2015, 38–9). Provost reminds us “[r]ebel governance, indeed all forms of governance, must be grounded in some degree of symbiotic relation between those wielding power and those subject to it” (11). Take, for example, the reflections of one woman who was abducted during the civil war in Sierra Leone:



I was not assigned to a particular rebel. Many of the rebels had sex with me much against my will. I thought my life had come to an end. I was made to perform all wifely roles even though my consent had not been sought. The rebels told me I was *their wife* (Interview 27, Sierra Leone) [emphasis added].

Despite conditions of captivity, women are negotiating marriage norms not just within rebel groups but also within their home communities and, therefore, are "law inventing" not merely 'law abiding'" (Kleinhans & Macdonald: 39, referring to de Sousa Santos). We found women's understandings of the expectations of "marriage in the bush" are structured but not "wholly determined" (Kleinhans & Macdonald 1997) by customary and rebel marriage practices. This goes beyond reactive resistance as women are mobilizing understandings of legal marriage or legitimate marriage in order to challenge social understandings. A second woman from Sierra Leone stated, "I was virtually the rebel's slave. He made me do things without my consent. He said that I was his wife all the time. He said he was never going to let go of me." (Interview 33, Sierra Leone). Women recount how they contested more than consented to relationships in captivity.

Evelyn Amony (2015), for example, had been taken into the house of LRA top commander Joseph Kony and then, at 40 years old, Kony took her forcibly as his wife (38). Amony wrote that when Kony refused to let her seek medical attention for her firstborn daughter, she effectively went on domestic strike: "I stayed for three months without doing anything for Kony. I never made him even a cup of tea when he came to my home [compound in the LRA camp]. I never greeted him or responded when he talked to me [...] I refused to bring him water when he sent me to do so; that is work for a wife." (52–3) Further, the LRA had a complex chain of command that responded to social or relational, as well as military, disputes within the group. The senior commanders, the "elders" in her words, heard her complaints and supported her (56), effectively acting as mediators between Amony and Kony.

This analysis combines the insights of tactic agency in war with critical legal pluralism's process of legal subjectivity. In distinguishing tactic agency from strategic agency, Utas (2005) argues that, "the social navigation tactics of young women in war include establishing and carefully managing relations with boyfriends, commanders, co-wives, peacekeepers, NGO staff, and other categories of marginalized civilians. It may include both the taking of humanitarian aid and the taking up of arms at different times and under different circumstances" (408). This is closely indebted to Michel de Certeau's work (1980/84) on strategies and tactics (34–37) and to what James Scott (1985) refers to as the "weapons of the weak" in their "everyday" resistance (29, 31).<sup>10</sup> Sometimes acts of public refusal or resistance, by contrast with tactics, can have deadly consequences for women, as in the story of Stella narrated in Amony's memoir (2015). Stella had tried to escape the LRA after being "taken to live with another senior commander, Ocan Bunia" (60) but was severely beaten and shot by LRA commanders. This example, alongside experiences relayed by interview participants in this study, demonstrates the extreme violence experienced by women, but also the constraints on individual refusal (tactic agency). Women's law-making, thus, is not necessarily grounded in individual acts of strategic resistance but rather arises from patterns in how experiences are articulated across relationships and contexts and how these come to shift legal norms through the sum of the parts of resistance.

On returning home, women enter into negotiations around marriage and gender norms with their parents, extended families and communities (see Amony 2015, Epilogue; Baines 2011). As Apio (2016) found in the Ugandan/ LRA context, sometimes these reintegration negotiations reinforce the existing gender hierarchies in order to achieve acceptance for themselves and their children: the post-conflict space was "largely shaped by patriarchal idioms of identity which assigned and

<sup>10</sup>Here is Certeau (1984): "By contrast with a strategy [...], a *tactic* is a calculated action determined by the absence of a proper locus. No delimitation of an exteriority, then, provides it with the condition necessary for autonomy. The space of a tactic is the space of the other. Thus it must play on and with a terrain imposed on it and organized by the law of a foreign power. [...] It is a guileful ruse. In short, a tactic is an art of the weak." (37)

enforced gender roles by which girls and boys were perceived" (175). Their legal subjectivity is in constant development, therefore, reflecting back in time to pre-conflict norms, and looking forward in time, imagining possible futures marked by their experiences in captivity. It is through these reflections that women are shaping international criminal law as well: victim survivors' articulation of the harms of forced marriage in conflict situations and the violence of forced labor, the ascription of the status of "wife" and other violations has led to the recognition of forced marriage as a new crime against humanity of other inhumane acts (SCSL 2008). This development indicates a recognition of women's experiences of being forcibly ascribed the role of "wife" as a unique set of harms beyond those of forced labor and sexual violence, one that elucidates complex interrelationships between violence, social ordering, conjugal associations, and war.

As we explored, one cannot take for granted how victims experience violations and violence. Through an interpretive and reiterative process, experiences become known to a person as a harm, as wrong. Some of these harms are violations of cultural norms but do not necessarily bring in legal prohibition, while others come to be known as violations that demand specific definition within law and legal redress. It is another matter, of course, whether international, domestic, or customary law can respond to the complex experiences of violence in conflict situations – sometimes so masked in repetition or the language of marriage as to be made mundane. The terms "marriage," "bush wife," or "rebel husband" serve to normalize the violence over time for participants in the conflict; and, for women in our study, "forced marriage" serves as an alternative explanation to accusations of their consensual participation in the conflict. For example, in part due to post-conflict stigma, women may feel compelled to refute the narrative that they willingly volunteered to fight for the LRA or other armed groups. Paradoxically, while "marriage" is employed as a shorthand for a set of expectations in conflict situations and often crudely mimics the social institution from times of relative peace (Ferme 2016; Hynd 2016), women insist it is not a "real marriage."

These findings have implications for humanitarian policies and reparations programs. Important dimensions of transitional justice programs include contending with psycho-social needs as well as stigma experienced by survivors and their children. In order to meet their needs, policy and programs ought to be grounded in solid empirical foundations that do not shy away from the complexity and nuance associated with gendered violence and forced marriage in conflict situations. For example, to see women's victimization as all-encompassing is not respectful of the ways in which women exercised their agency in captivity and may contribute to further disempowerment and community stigma. Further, without a clear sense of the harms of the ascription of the term "wife" nor the intergenerational implications of identity, nationality, and trauma for their children born in captivity, reparation programs will fall short of meeting their needs and justice expectations. Support and reparations programs will be more effective if they work in partnership with community and survivor-led organizations to address the complex and multi-faceted needs of survivors through locally appropriate, feminist, and transformative approaches.

## CONCLUSION: "HOW CAN I BE A WIFE TO ALL THESE MEN?"

In complicating conceptions of victimhood, it is important to consider the lack of a definite end date to suffering and understandings of violence. Through experiencing ongoing pain, social suffering, and lack of recognition for harms, women continue to live the war through social and structural violence in post-conflict contexts. While formal law alone cannot mitigate these harms, these are important considerations for the jurisprudence on forced marriage. Beyond abduction and sexual violence, survivors of forced marriage experience a myriad of social impacts, labor exploitation, and the distinct sense that social and cultural marriage customs were perverted in furtherance of the war. As one participant explained, "They told me I was their wife. I thought how can I be their wife when I did not give my consent. How can I be a wife to all of these men? I turned these thoughts in my mind not daring to utter them" (Interview 26, Sierra Leone).

Through our research, we found that survivors make sense of the violence they experienced in the conflicts in Liberia, Sierra Leone, and Uganda against the backdrop of cultural understandings of marriage, consent, wrongfulness, and responsibility. Further, we demonstrate how women are contesting these concepts, though within structures of constraint. As Utas' (2005) argues, this "suggests a need for a far more complex understanding of women's experience in African and other wars than prevailing depictions that deduce from women's accounts of victimization that they have no agency" (409).

For the participants in our research, the context of conflict mattered to them as it was marked by the compromised conditions of "the gun," violence, or threat of death. Nonetheless, women are "law-making" through their lack of consent or refusal to accept the male ascription of the status of wife and definition of legitimate marriage, as well as through their articulation of the specificities of harms suffered within systems of rebel governance. In our interviews, women contested the armed groups' sanctioning of the relationship in favor of community or customary legitimation of the marriage, thereby re-establishing the roles of parents, family, community to sanction the marriage or conjugal relationship. They further expressed that age and menstruation were important factors in legitimate marriage, and violations of these norms denoted a particular mode of violence. Importantly, their perspectives have been accepted by international courts and tribunals, albeit on a limited basis. Women have provided the experiential grounding for the legal argument that abduction for conjugal enslavement is a crime against humanity, not a customary marriage nor the legitimate spoils of war. What comes next must be the development of reparative actions to recognize, understand, and redress the long-term impacts of this violence on women, their children, and communities.

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