

Interview

WHEN THE COURT TALKS TO THE CITIZENS

Binta Mansaray *COORDINATOR OF THE OUTREACH PROGRAM OF THE SPECIAL COURT FOR SIERRA LEONE*



The UN did never really want a tribunal for Sierra Leone which would work forever, but rather a court that will assist the peace process during ten years and then end its work. The people understand what we are telling them, but they do not accept it.



Members of the UN peace forces brought the former Liberian President Charles Taylor to the detention of Sierra Leone's Tribunal on March 29. Taylor was arrested on March 28 in Nigeria upon a 17-point indictment which accuses him of committing crimes against humanity. Nine days before Binta Mansaray, Coordinator of the Outreach Program of the Special Tribunal for Sierra Leone, was in Belgrade upon invitation of the Youth Initiative for Human Rights and the OSCE Mission in Serbia and Montenegro. As a special guest, with a distinct, informal status, during a conference on transparency in regard to war crimes trials and later on during a panel at the Center for Cultural Decontamination she presented her extraordinary experience with the outreach program. When asked about the details in regard to the communication of

the Special Tribunal for Sierra Leone with the public, about the difficulties and the challenges, Binta Mansaray stressed that the precondition for success of the Outreach Program (which includes thirty persons) is a two-way communication of the Tribunal with the population of this West-African country with a tragic past, which is facing both the rare court trials for war crimes and the precious achievements of the Truth Commission. And all this – on the eve of the new challenge, the forthcoming elections in 2007.

It is our job to inform the public on the work of the Tribunal, but also to inform the Tribunal how the people feel about its decisions and about its work. Namely, the people ask, they comment the work of the Tribunal. This is a two-way communication, this is what differs us from the media, the press. The information that we get from the people, the search for feedback – this is equally important as giving information, explains Binta Mansaray.

Is the Tribunal sufficiently perceptive to hear what the citizens think of its work?

Yes. The Tribunal is concerned because we do want to know what the people think of the justice that we administer. Do the people believe in what the Tribunal is doing, is justice applied, are the trials fair, are the rights of the defendants respected, are the witnesses and victims protected. The Tribunal also wants to hear the questions that the public has to ask and what the people are interested in, and it is concerned about justice in transition.

What are the most frequent questions that the citizens ask the Tribunal?

For instance, they are interested in the mandate of this Tribunal. The Tribunal for Sierra Leone has a mandate to try those who bear the greatest responsibility, which means that we are talking about a very, very high level, about the highest commanders, whilst those of a middle or lower rank do not fall within our jurisdiction. So that one of the most frequent questions that the citizens are asking is why the jurisdiction of the court is such a limited one. The people see somebody who committed crime against them as somebody who is living in the community with them, somebody who is seen to be walking around the whole time. Hence, people are very confused in regard to the jurisdiction and the mandate of our Tribunal.

Who, then, has the mandate to judge lower ranking perpetrators?

National courts cannot try crimes committed during the war. Unconditional amnesty was declared for all warriors after the Special Tribunal was established. The only thing that those working on reconciliation can do is pay full attention to common life in the community, where both the victims and the perpetrators are living together. Some of them apologize for the crimes they committed. In case that in the community there is a rise of tensions and incidents, the police intervenes. Hence, these are regular activities, efforts of the citizens and the organizations for human rights and peace organizations.

What is the strategy of the Tribunal for Sierra Leone? Are new indictments expected, because there are not so many accused ones, or those standing trial?

The Special Tribunal was established by both the Government of Sierra Leone and the United Nations. Since it was established 13 persons were indicted, and there are ongoing trials. The Prosecution completed presentation of evidence in two cases, we have three trials for accused members of the armed forces of the Revolutionary Council (Armed Forces Revolutionary Council - AFRC) and trials were the members of the forces of civil resistance (Social Democratic Front - SDF) are accused. There is an ongoing third trial, the Prosecution has not yet brought all witnesses to the stand. But major progress was achieved and, judging by the exit strategy, the Tribunal will end its work in 2007.



Biography of a Woman

Before she became head of the Outreach Program of the Special Tribunal in Sierra Leone, Binta Mansaray was a well known peace activist. Now, as she points out, she is responsible for the establishment and strengthening of the "two-way communication" between the Court and the local population. She leads and coordinates the Special Tribunal's public relations, as well as public education. Her engagement in the strengthening the role of the Special Tribunal and the promoting of greater understanding of the rule of law in Sierra Leone brought her international recognition. Binta Mansaray was the state representative in the Women's Commission for Refugee Women and Children in Sierra Leone, which acted from 2001-2003. She made research on the violation of rights of refugees and internally displaced persons, particularly women and children affected by the long-lasting war, and she began to represent them on the local and international level on the basis of her findings. She did research related to sexual violence in West Africa, enabling thus concrete action and recommendations of the

Women's Commission to the UN High Commissioner for Refugees. She monitored the participation of internally displaced women in national elections in Sierra Leone in May 2002, accentuating women's' voting rights, the expectations of the voters in regard to the government, including access to education and the improvement of healthcare. She encouraged local humanitarian organizations and groups to form a coalition which was to monitor and represent the needs of Liberian refugees.

And this is not all. Binta Mansaray was a partner and a consultant of the organization "Witness" from 2001 to 2002, which produced the documentary film "Operation Fine Girl – Rape Used as a Weapon of War". Thus she initiated and implemented a campaign which will enable public understanding and recognition of the needs of those who experienced sexual violence, using video as a tool. She also was the master-mind of numerous workshops for representing women and other groups.

She also was doing research and consulting at the UN Mission for Sierra Leone (UNAMSIL, 2001-2002). She documented, judged and analyzed testimonies of more than 700 victims who survived rape and sexual assault during war, which became part of the official report of the Truth and Reconciliation Commission, as well as the report of Physicians for Human Rights (PHR) of UNAMSIL related to sexual violence during the war in Sierra Leone. She monitored training and specialization for local monitoring of human rights, members of peace missions and national research on sexual violence in war.

She also was an active member of the National Human Rights Forum, The Women's Forum and working groups for transitional justice, she actively participated in the peace movement of Sierra Leone during this period.

How many judges and prosecutors are there with the Special Tribunal for Sierra Leone?

We have eleven judges in the appeals and court chambers. There are two trial chambers with three judges each, and five judges dealing with appeals. These are international and domestic judges. Some of them were appointed by the United Nations, whilst the others were appointed by the Government of

Sierra Leone. They are very good judges, their appointment is based upon their qualifications and moral standards, as well as their professional reputation. Hence, we have particularly competent judges. The prosecutor has his deputies, they are all foreigners, we have the office of the defense, which secures the defendants' rights. The competence of our judges and of our Tribunal is on an international level. The competence of our judges is recognized.

How does a society function when only a few of the high ranking perpetrators are available to the judicial organs, whilst the majority of the perpetrators are living side by side with the victims?

Such a society has many demands, and different actors have to fulfill them in order to have the society continue living in peace. People do live together, but this does not mean that these communities should not be taken care of. We do hope that the tensions will diminish, and in some places even vanish in time. If the communities work together, if development aid penetrates these communities, if the people continue with their lives, there is hope that the time will come when they will live together peacefully. We have peace, the arms are silent, but obviously the victim who sees the perpetrator in the community every day asks why this person is not prosecuted. The Tribunal cannot indict everybody, as I have already said this is the most frequent question that we are asked. We answer it through our Outreach Program, explaining the people the mandate of the Tribunal, why it is so limited – also due to financial and other conditions, to bring things to the extreme. The United Nations did never really want a tribunal for Sierra Leone which would work forever, but rather a court that will assist the peace process during ten years and then end its work. The people understand what we are telling them, but they do not accept it.

In this context, what are the achievements of the Truth and Reconciliation Commission for Sierra Leone? Is this a compatible process, parallel to the Special Tribunal?

The Commission for Truth has just completed its report. One of its aims was to make a precise historical cutting related to the conflict. And this is what they accomplished. They talked to a big number of people, they wrote down their testimonies from the days when the war began. They made significant recommendations on how to avoid repetition of such conflicts. How, for instance, to reform the government, the levers of power such as the judiciary, how to reform the judiciary to make sure that the rule of law will give hope. How to protect minorities in the communities, how to secure education and healthcare for the population, how to deter social problems which can develop into a new war. The Truth and Reconciliation Commission was in the position to reveal these problems and make recommendations for Government's action.

You were also the state representative in the Women's Commission for Refugee Women and Children. You were reporting on sexual violence during war. Would you tell us something on your professional experience from this period?

Working with people who underwent sexual violence is of great help in my work as coordinator for informing the public, because now I understand the specific experience of women during war. There is big difference between listening to people who speak of the destruction of their property, the destruction of life the whole time, and when you work with women, particularly those women who experienced sexual violence, when you start respecting the specific experience of these women, experience which they had just for being women, we are certain that we can communicate with women in the two-way communication of the Outreach Program. Hence, women have the chance to speak out their views in regard to the Special Tribunal. And we also want the women to understand what the Tribunal is doing in regard to war related sexual violence, because the Tribunal's statute mentions in Article 2 that sexual violence is a matter for the court. It is good for the women to know that what happened to them will be brought to the court. It is good for the court to know exactly what are the specific concerns of women in regard to justice. For instance, the women want to be sure that they will be protected if they testify, hence it is also good for the court to know about that.

Who was indicted, and is there any ongoing trial for rape during the conflict?

The majority of the indictments accuse people for sexual violence, not all of them. For the time being, as you know, the indictments in this regard are only something that the Prosecution is claiming, and all that has yet to be proven in the court. But there are ongoing trials and eventually there will be the final statements. This is the time when we shall be in the position to say – yes, the prosecutor indicted people for sexual violence.

How do the victims come in front of the court? Are they protected?

In the Special Tribunal we have the unit for support to victims and witnesses, which makes sure that both the victims and witnesses are protected, regardless of whether it is a witness for the prosecution or

a witness for the defense. There are numerous protective measures, there are for instance witnesses who are protected from the public. The victims can testify so that you only hear their voices, but do not see their faces. But the defendants see the witness, the lawyers see the witness. There is also voice distortion.

In your Outreach Program we saw interesting ways of communication with the population, such as gatherings within communities.

This means going into the communities and talking about the Tribunal. But it is much more important to hear what they have to say, to give them the opportunity to ask questions and then give them the answers which will help them with their dilemmas. Namely, the war crime trials are complex trials. People do not trust them, they are concerned whether the judges will be fair in their work. They have their doubts which are scaring them. If you go to the communities and gather the people, talk to them on details related to the Tribunal's work, build confidence between the tribunal and the citizens then the people are in the position to say "we were talking with the court". They also see that they take part in what the Tribunal is doing. The Tribunal wants to hear them, the Tribunal takes care about their feelings, this is more or less confidence building, the establishment of understanding between the court and the population. The only way in which you can do this is to have a dialogue, not only to give information. You can transmit information, but you do not know how the information was accepted. Therefore, feedback is of particular importance for the Outreach Program.

Challenges of the 2007 Elections

The government of Sierra Leone has reestablished power after a decade-long civil war (1991-2002), which resulted in tens of thousands of casualties and more than a two million displaced persons (around a third of the population). The last members of the UN Peace Mission left the country in December 2005, leaving full responsibility to national forces, but the new civil office of the United Nations is continuing to support the Government. On the eve of the planned elections in 2007 tensions are growing, aggravating the political and economic conditions in Guinea, as well as the delicate security situation in neighboring Liberia, which can represent a challenge to a continuous improvement of stability in Sierra Leone.



How do the transition problems – economic, social, political - reflect upon the society of Sierra Leone? Where is the interest of the Tribunal in this regard?

You have people in Sierra Leone who do not want to remember, they simply want to move forward, to improve their lives. Of course, we do have economic and social problems about which the people are thinking, but there are also those people who say – because of their sufferings, because of everything they went through – that there is no peace without justice. I met young girls who suffered a lot during the war. One of the

questions they asked me was: "Listen, Miss Binta, what is going to happen to those people who suffered a lot?" I want to point out that in post-conflict societies there are all these challenges – economic, social, political – but there is also the judicial challenge because people do want to see justice being done. These people are important because it is them who can reach out for revenge if they feel that justice was not served, that it did not serve the interest of the entire society; but I am trying to explain that it did serve the interests of some members of the society. They way to accomplish this is to have all these offices and the government dealing with all these social, economic issues. Hence, justice in itself cannot bring peace, it cannot make people happy, but it can contribute to what the other actors, too, are doing for the society.

How would you describe the atmosphere in which, in 2007, elections are to be held, in a society with so many killed and displaced persons?

Yes, we are going to have elections very soon. Progress is visible, we have significant social and economic challenges, as I have already said. As a citizen of Sierra Leone I can only hope that peace will endure if there is also social and economic progress.

Can frustrations from the past reflect upon these elections?

This is hard for me to say. The frustration which I am talking about is the possibility for employment, this is the frustration of the young generation which wants to find a job, this is my frustration as a citizen

because it brings me back into the history of the war – it was actually the youth who started the war, because they did not see their future. Therefore, for me as a citizen there is progress now, but my concern are the unemployed young people.

Your experience related to collecting testimonies of the victims is also interesting, they became part of the Truth Commission. How important is this activity for the society, to have some sort of a data base, voices of the victims in radio broadcasts, documentary films? How did this reflect upon Sierra Leone?

As the coordinator for public information of the Special Tribunal for Sierra Leone I must be careful, but for the society it is very important to hear these voices. I should be neutral because I am working with both the accused ones and the victims. But all these things – documentary films, testimonies – are part of a heritage. This is the history which determines the society not to forget, but to correct the failures of the past. It is one thing to forgive, and another thing to forget.

You co-produced a very important documentary film on sexual violence over women in the war. You brought to the forefront rape as a war weapon.

When such crimes occur, it is not the same whether you listen about them, or you see them, because these crimes are invisible. The public does not see when somebody is raping a woman, this happens behind closed doors. When it is in a documentary, when you have people who say “this happened to me”, this makes the violation of human rights real. This makes the people see that these crimes happened to human beings and you want to make them visible. These people speak of their own testimonies, and they speak about consequences of what had happened to them. What do you see in the media? They tell you how many people were killed, how many mass graves were found, how many houses were burnt down, how much property was destroyed, but they will never tell you how many women were raped. Hence, this is the reason why it is important to have the experience of these women presented in a documentary film.

Special Tribunal

The Special Tribunal for Sierra Leone was formed by the Government of Sierra Leone and the United Nations. The mandate of this Tribunal is to bring to trial those who have the major responsibility for grave violations of international humanitarian law, as well as of the laws of Sierra Leone in the entire territory of this country, since November 30, 1996.

For the time being eleven persons were accused of war crimes, crimes against humanity and other grave violations of international humanitarian law. The indictments include murder, rape, destruction, terror, captivation, looting and arson, sexual slavery, recruitment of children into the armed forces and attacks against members of the UN peace missions and humanitarian workers. Indictments for two more persons were withdrawn in December 2003 because they passed away.

There is also the problem with trans-generational trauma, I have in mind the children of the raped women. We in the Balkans have similar experience, particularly in Bosnia-Herzegovina.

We in Sierra Leone have the problem of the so-called “bastards”, these are members of the community with very, very grave experience. Some of the girls speak about their experience. Some of them leave the community because they cannot let the people call their children bastards. There is concern for children growing up in a community which does not treat them as human beings.

When the war started, in 1991, you were very young. How did this period influence you, you were only fifteen?

This was immediately after college. The conflict did not have religious origins, it was not based upon ethnic divisions, it was basically a conflict provoked by corruption, more or less by political frustration and socio-economic frustration. We have different tribes, there were passions because the people was against the Government, and the Government reacted. This was intense and someone could say that this was a conflict over political power. When it became violent, it resulted in many sad things which happened to the people in Sierra Leone. This was an extremely grave conflict, maybe one of the worst conflicts of the modern age.

Jasna Sarcevic-Jankovic