

# Atrocity, memory, photography: imaging the concentration camps of Bosnia – the case of ITN versus *Living Marxism*, Part 1

DAVID CAMPBELL

Among the many images of atrocity that emerged from the Bosnian War, the picture of Fikret Alić and others imprisoned at the Trnopolje camp in the Prijedor region stands out. Taken from a 1992 British television report that detailed the role of camps such as Omarska and Trnopolje in the ethnic cleansing strategy of the Bosnian Serb authorities, the image of Alić has become the focal point of a controversy about how the Bosnian camps were represented, and the political impact and purpose of those representations. Resulting in a legal clash between Independent Television News (ITN) and *Living Marxism (LM)* magazine, this controversy is the subject of this two-part article. In Part 1, the allegations concerning the filming of the Trnopolje inmates is considered in detail. In Part 2 (forthcoming), the argument moves beyond the specifics of the case and the camp to an exploration of the historical, political and visual context in which those specificities are located. This involves understanding the significance of the camps in terms of the Bosnian War and the history of the concentration camps, as well as discussing the question of photography and the Holocaust to question how particular atrocities are represented. The articles conclude with the issue of intellectual responsibility and the politics of critique in cases such as these.

## A story breaks

On the morning of 7 August 1992, a number of British newspapers carried a disturbing image, in which male prisoners at a camp in Bosnia were pictured behind a fence topped with barbed wire. For the *Daily Mail* (Figure 1) it was ‘The Proof’ which substantiated the ongoing stories of ethnic cleansing in the Bosnian war. For other papers, including the *Daily Mirror* (Figure 2), it was as a sign of ‘the new Holocaust’, with prisoners detained at ‘Belsen 1992’. This photograph of the distressed prisoner, later named as Fikret Alić, became an instant icon of the Bosnian war. It was featured in news broadcasts worldwide, made the cover of both *Newsweek* and *Time* magazine 10 days later, and has been endlessly replicated in a variety of media ever since.<sup>1</sup>

Stories about Bosnian Serb-run camps in which the victims of ethnic cleansing were being interred began emerging as early as May 1992, when the Bosnian government distributed documents that claimed to offer details. The nature and intensity of the conflict in northern Bosnia meant independent verification of these claims was difficult. However, beginning in July 1992, journalists such as Roy Gutman of New York’s *Newsday* and Maggie O’Kane of the *Guardian* in Britain were reporting on the testimony of civilians who had either been in or seen these facilities.<sup>2</sup>

In early August 1992, another round of international negotiations designed to bring the Bosnian war under control brought politicians from the former Yugoslavia to London. Radovan Karadžić, the Bosnian Serb leader, was amongst them. During an interview for

GO ON WINNING WITH OLYMPIC GOLD  
OUR GREAT GAME CONTINUES FOR TWO MORE WEEKS: SEE PAGE 36

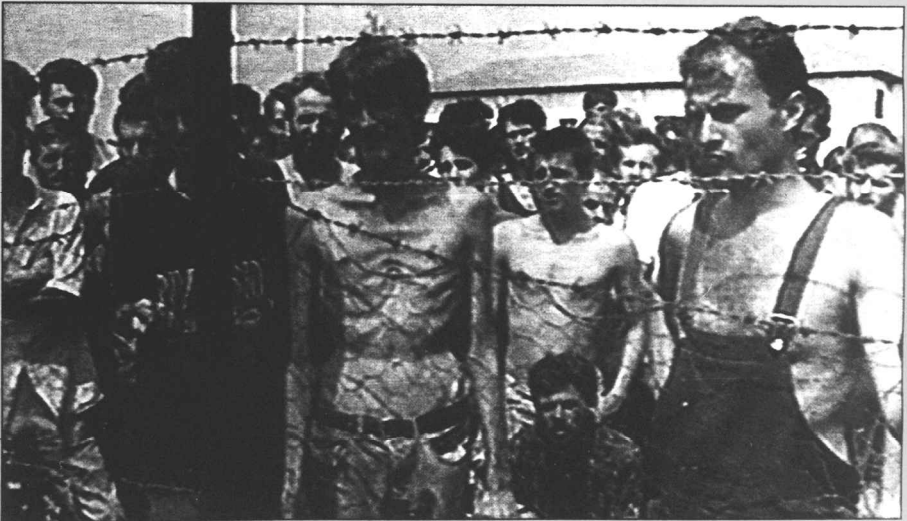


# Daily Mail

FRIDAY, AUGUST 7, 1992 30p

# THE PROOF

## Behind the barbed wire, the brutal truth about the suffering in Bosnia



Picture: ITN

**THE ribs stand out so far you can almost see the bare bone straining against the emaciated flesh.**

The sunken eyes stare with a mixture of bewilderment and beseeching

**Why the West must act, by Lady Thatcher - Page SIX**

inquiry from behind strands of barbed wire.

They are the sort of scenes that flicker in black and white images from 50-year-old films of Nazi concentration camps.

But this picture and those overleaf were taken this

week in the brutal camps that Serbs have set up to hold their hated Muslim enemies in Bosnia.

The men are so thin, explain the Serbs, because of the shortage of food in a country torn by war. They cannot explain why the guards and the officials sent by their leader Radovan Karadzic look well-fed, even plump.

The men who crowd to the wire to see if the observers might be from the Red Cross or United Nations on a

Turn to Page 2, Col. 1

INSIDE: Weather 2, Andrew Alexander 8, World Wide 10, Femal 13, Diary 23, Friday's People 25-32, TV 34-36, Coffee Break 38, City 46-48, Sport 49-56

Figure 1. Daily Mail front cover 7 August 1992

Britain's Channel 4, Karadžić was questioned about the camp stories, the substance of which he denied. In support of his claims, Karadžić expressed a willingness to permit some journalists to travel to the camps in question.<sup>3</sup> It was an opening that Independent Television News (ITN) – the makers of news broadcasts for both the Independent Television network (ITV) and Channel 4 in Britain – took up.

# DAILY Mirror

Friday, August 7, 1992

NEWSPAPER FOR THE NINETIES

Last month's daily sale: 3,596,544  
Subscription price: £4.95 per week

27p

## **THE PICTURE THAT SHAMES THE WORLD**



STARVING AND DESPAIRING: Bosnian prisoners at the Omarska concentration camp run by Serbs dedicated to their barbaric policy of "ethnic cleansing" Picture: ITN

# BELSEN 92

HOLLOW-EYED and haggard, row upon row of men without hope stare out from a barbed wire cage. The haunting picture of these skeletal captives evokes the ghosts of the Nazis' Belsen concentration camp during the Second World War. But this is European bar-

**By MARK DOWDNEY**  
Foreign Editor  
barism in 1992, filmed at one of the Serbian "detention" centres in northern Bosnia. The picture was part of a harrowing ITN report by newsgirl Penny Marshall, screened last night. Many

prisoners at the Omarska camp are thought to have futures no brighter than an executioner's bullet. Others face the agony of slow death by starvation. And as the men die, world leaders dither about what - if anything - they will do to halt the unspeakable atrocities which shame humanity.

**HORROR OF THE NEW HOLOCAUST PAGE 2 AND CENTRE PAGES**

**Figure 2. Daily Mirror front cover 7 August 1992**

ITN dispatched two film crews to Belgrade, led by the journalists Penny Marshall for ITV and Ian Williams for Channel 4. Although Karadžić and his staff promised assistance, it was slow in coming and given begrudgingly. Nonetheless, once provided, the crews travelled by aircraft with Bosnian Serb assistance to Pale, the Bosnian Serb 'capital' not far from Sarajevo, and then by road to Banja Luka in the Prijedor region. On 5 August 1992,

after three days of constant haggling with their minders, they were taken to Omarska before moving on to Trnopolje. In each place they filmed under restrictions, and were shadowed by uniformed soldiers who were themselves taping the journalists' progress. After an hour in each location, the journalists were driven back to Belgrade, from where they travelled the next day to Budapest to edit and file their stories.<sup>4</sup> Both reports were broadcast on their respective channels on the evening of 6 August 1992. Being the first visual evidence of the camps' place in the Bosnian Serbs' ethnic cleansing strategy, and the first accounts by outsiders of the conditions in these camps, the ITN reports caused a considerable stir.

It was from Penny Marshall's and Ian Williams's video reports that the newspapers took ('frame-grabbed') the image of Fikret Alić to produce what would become an iconic photograph. Despite its subsequent prominence, the image of prisoners at Trnopolje's wire fence, and the image of Alić in particular, comprised but a fraction of the television stories. Marshall's ITV report ran for six minutes, in which the opening two minutes and 35 seconds dealt with Omarska, with the balance (three minutes 25 seconds) covering Trnopolje. In that portion of Marshall's story, the images of Alić and others at the fence run for twenty seconds (from 2:40 to 3:00). In William's report, which ran for just over six and a half minutes, Omarska took up the first two and a half minutes. When the report shifted to Trnopolje, footage of various prisoners, many of them very thin, behind a variety of fences, ran for one and a half minutes. During this sequence, the image of Alić at was on screen for only a few seconds (4:51–4:56).<sup>5</sup>

## The Holocaust photograph

In the press coverage that followed the ITN television reports, when the link to the Holocaust was invoked, historical photographs were sometimes employed. In the *Daily Mirror*, for example, a shot of Alić at the wire was paired with a grainy image (untitled and unattributed) from 1945, showing what the paper called 'pathetic victims of the Nazi Holocaust caged by barbed wire'.<sup>6</sup> This picture recalled one of the most famous photographs from World War II. In Margaret Bourke-White's image, captioned 'The Living Dead at Buchenwald, April 1945' (Figure 3), a group of some 20 men in prison camp garb gaze querulously at the camera from behind barbed wire. According to one account, Bourke-White's photograph:

... is surely the best of the thousands of Goyaesque images made of death camps. Stitched across the picture surface, the menacing barbed wire establishes a distinct separation of viewer and prisoners. Figures in a macabre frieze, the emaciated men beyond hope, despair or even life itself; indeed they seem unaware of the camera's presence and of the fact that they are free. The picture remains a lasting testimony to the kind of hell-on-earth that only humans can create.<sup>7</sup>

Bourke-White's Buchenwald photograph has become an iconic image, one that stands out in our collective memory of the Holocaust. However, it was not published anywhere in 1945, appearing first in the 1950s, which means it has 'come to represent the Holocaust even though it was not tied to the initial revelation'.<sup>8</sup> This has enabled hagiographic renderings, like the one quoted above, which obscure the way in which the iconic image does not represent the circumstances to which it has been linked. As a result, a number of important dimensions are overlooked by the photograph's status as icon.



**Figure 3. Margaret Bourke White, ‘The Living Dead at Buchenwald, April 1945’**

Most obviously, although a concentration camp with appalling conditions, Buchenwald was not a death camp along the lines of the Nazi’s extermination centres located in Poland.

Likewise, the subjects of the photo do not appear to be ‘emaciated men beyond hope, despair or even life itself’. Inmates of the camps whose condition was so poor that they were understood to be the ‘living dead’, who had entered a stage of existence in which they were little more than cadavers that were yet to finally expire, were often named by other inmates the *Muselmänner* (Musilmen, or Muslims). Whether because these purposeless, silent non-humans were thought to have imbibed the fatalism of Muslims, the swaying body motion of Islamic prayer rituals, or because they resembled the famine victims of the Middle East observed in pre-war newsreels, they were often shunned by other better-off prisoners.<sup>9</sup> Bourke-White’s subjects resemble those better-off prisoners in being well clothed and not obviously malnourished.

Nor could her subjects be ‘unaware of the camera’s presence and of the fact that they are free’. Like other photographers accompanying Allied forces, she had entered the concentration camps in Germany after their liberation as part of an organized strategy to document the atrocities of the Nazis, designed to persuade a sceptical public at home that the stories of mass death were not merely propaganda, and hold the German population accountable for their leader’s crimes.<sup>10</sup> Although this documentation came to provide the basis for the later rendering of the Holocaust as an almost exclusively Jewish experience, Bourke-White’s account of photographing the camp did not specifically include any overt reference to Jews, focusing instead on the multinational character of what the American military authorities understood to be political prisoners. In large part, this was because the

majority of prisoners – at Buchenwald it was something like four-fifths – the Americans liberated were not Jews.<sup>11</sup>

Even more importantly, Bourke-White's Buchenwald photograph was in all likelihood posed. Although Bourke-White was regarded as a fine photographer, she had a reputation for being an 'uneven documentarist'. In some cases she was 'notorious for arranging and rearranging her victim-subjects, even when her relentless search for the "great" picture would cause them severe distress'. Given this background, and the particular depiction of the Buchenwald photograph, Dagmar Barnouw argues that it was 'clearly staged'.<sup>12</sup>

To observe as much, however, is not to argue that – as was often the case with the photographs of the consequences of the Holocaust, particularly by disbelieving citizens on the home front – Bourke-White's photograph was faked or forged.<sup>13</sup> Even if posed, the Buchenwald photograph can credibly be described, as it has been by Brown, 'a lasting testimony to the kind of hell-on-earth that only humans can create'. As Barnouw contends, 'in the picture of the camp inmates the staging arguably helped to illuminate the painful, alienating "truth" of the results of inhuman treatment – a truth the inmates would presumably have wished to make clearly visible so that it would not be forgotten. If the picture was staged without their explicit and fully comprehending consent, it was still done in the spirit of their own, if dim, perception of their situation.'<sup>14</sup> As a result, calling attention to the problems of referentiality in Holocaust photographs offers no comfort to revisionists who might want to use specific discrepancies to delegitimize larger claims.

### **Controversy around an image of contemporary atrocity**

Nearly 50 years after Bourke-White's photograph of so-called *Muselmänner* at the fence of Buchenwald, the image of Fikret Alić and other Muslims behind a barbed-wire fence at Trnopolje developed into an icon of contemporary atrocity. This prominence attracted some criticism. Four and a half years after the original broadcast of the ITN reports – from which others produced the photograph of Alić – the television reports were publicly questioned for their veracity. However, whereas the documentary problems with Bourke-White's Buchenwald photograph are accepted by knowledgeable commentators, the questioning of the ITN reports was pursued by writers who had a particular agenda to follow.

Both Penny Marshall's and Ian Williams's reports – which had been recognized with industry awards in Britain – were said to have 'fooled the world' through their focus on this single image of Alić at the fence. An article by Thomas Deichmann, 'The Picture That Fooled the World', published in the February 1997 issue of *LM* magazine (formerly *Living Marxism*, and edited by Michael Hume), charged that Marshall and Williams had constructed misleading reports centred on the image of Alić by virtue of camera angles and editing.<sup>15</sup>

In January 1997, after Deichmann and Hume had promoted the article to London-based media, lawyers acting on behalf of ITN, Marshall and Williams demanded that *LM* retract its suggestion that the ITN journalists acted improperly, and cease publication and distribution of the issue containing Deichmann's report. Deichmann, Hume and *LM* refused, and ITN began legal proceedings for libel. Three years passed before the case came to trial in February 2000, during which time Deichmann and *LM* continued to promote and publicize their claims. After a trial lasting three weeks, a jury of the High Court in London determined that Deichmann and *LM* had not proved their case and were therefore guilty of libelling ITN and the two television journalists. The jury awarded ITN, Marshall and Williams the maximum amount of damages previously indicated by the presiding judge as appropriate for a malicious libel.

At the time of its original publication, largely thanks to *LM*'s lobbying and publicity efforts, Deichmann's claims had a considerable effect within selected circles. For example, on hearing of the allegations, CNN's London Bureau chief contacted a senior ITN executive to express his organization's serious concern about having broadcast misleading images. The claims also spread to Bosnia itself, where an official from Human Rights Watch, on presenting her credentials at the United Nations office in Banja Luka 1999, was given a copy of Deichmann's article told and that she 'would find it very interesting'.<sup>16</sup>

Despite their legal loss, *LM* magazine and like-minded supporters throughout the world have not let the issue rest. Hume denounced the court verdict in an unapologetic statement that restated his faith in Deichmann's claims, the key element of which he maintained was never seriously challenged in court.<sup>17</sup> Nick Higham, the BBC's media correspondent, who had told various journalists after the publication of Deichmann's article he believed ITN's pictures were misleading, reported the trial's outcome for the *Six O'Clock News* on BBC1.<sup>18</sup> In his report, Higham noted that 'the judge, Mr Justice Morland, told the jury *LM*'s facts might have been right, but he asked, did that matter?'. This summary was subsequently deemed by the Broadcasting Standards Commission to be misleading and thus unfair to ITN and its journalists.<sup>19</sup> Despite the censure, subsequent postings on Internet discussion groups dealing with war crimes and Bosnia show clearly that many have seized upon Higham's statement and believe strongly that Deichmann was correct regardless of the court verdict.<sup>20</sup> And a community of 'cyber-revisionists', whose aim is to revise the history of the Bosnian war by denying the violence of the Bosnian Serbs' ethnic cleansing strategy, have widely advertised for sale a video purporting to show how Penny Marshall 'lied' in her 'faked' and 'fabricated' report of Omarska and Trnopolje.<sup>21</sup>

It would be possible to discount at the outset much of the Deichmann argument on the grounds that, in their supposedly comprehensive pursuit of the truth, neither he nor anyone else at *LM* interviewed the journalists involved.<sup>22</sup> Equally, much of the argument could be dismissed on the grounds that Deichmann failed to interview any of the camp inmates present in Omarska or Trnopolje at the time ITN filmed, despite the fact that many of them were subsequently refugees in Germany and thus easily traceable.<sup>23</sup> Among those ignored was Fikret Alić, whom Deichmann did see at a meeting in Germany after the original *LM* article was published.<sup>24</sup>

Nonetheless, the case of the controversy surrounding the television images of Omarska and Trnopolje raises a number of significant issues, not least because the persistence of the revisionist claims, despite the verdict in the libel trial, means there is more to this story than first meets the eye. Although *LM*, Deichmann and Hume have attempted to argue that they are interested only in the truth or otherwise of a few very specific details about a single Bosnian Serb camp – namely, whether Trnopolje was ringed by barbed wire as they allege the ITN reports claim – there is little doubt that there is more to this controversy than questions about the material existence of a particular kind of fence. At stake is how we understand the nature of the war in Bosnia, the specific Bosnian Serb war aims in the Prijedor region, and the place of the camps in the fulfilment of those aims. Furthermore, there are issues which can be located in but exceed the war in Bosnia: among them, questions about how specific images of atrocity are interpreted, the way in which the Holocaust has become the benchmark for evil in the modern world, and the relationship between pictures, moral indignation and the course of international policy.

I have been following this case since the first publication of the *LM* article in February 1997, collecting documentary evidence throughout the last three years. This archive of material includes all the relevant articles in *LM*, including the contents of their website (*LM* On-line, with its special 'ITN-vs.-*LM*' section), which were downloaded before the site was

suspended during the libel trial and closed thereafter; the complete transcript of the libel trial held at the High Court in London between 28 February and 14 March 2000; the video footage taken by the ITN crews at Omarska and Trnopolje on 5 August 1992 – that is, the rushes that were shown repeatedly as evidence to the court in the libel trial – as well as video copies of the broadcasts ITN aired between 6 August and 12 August 1992 which dealt with the Bosnian Serb-run camps and their reporting; <sup>25</sup> the Radio Television Serbia (RTS) video footage from Trnopolje which claims to prove how Penny Marshall ‘lied’; as well as all academic and media commentary on the case.

Because of the length and breadth of this investigation, the argument is presented in two parts. In this paper, Part I, the focus is on the allegations made by *LM*, and the specific issues involving the prisoners at Trnopolje at the time ITN filmed there in 1992. I detail the case Deichmann makes through the various documents and reports *LM* has published. I consider the video footage from ITN and RTS, and I draw upon the transcript of the High Court trial so as to understand the detailed arguments of all the protagonists.

In Part II, I move beyond the specifics of the case and the camp to an exploration of the historical, political and visual context in which those specificities are located. I bring to bear some of the documentary evidence about the war in Bosnia in order to understand the significance of Omarska and Trnopolje in their wider context, and use some of the literature dealing with photography and the Holocaust to illuminate the larger questions of how particular atrocities are represented. I conclude by examining the difficult issue of intellectual responsibility and the politics of critique, when, as in this case, the defence of *LM*'s allegations in terms of the defence of ‘free speech’ obscured the ways in which an argument, presented in terms of the legitimate process of historical revision, slid into the dubious domain of historical denial.

### **Thomas Deichmann**

As a freelance journalist based in Germany, and editor of a small left-wing journal called *Novo*, Thomas Deichmann was particularly concerned with what he saw as anti-Serb bias in the German media. For example, in a review written in Frankfurt in September 1994, he praised a collection of essays, published with the ironic title *Serbia Must Die*, for their efforts to illustrate and overcome this perceived bias he saw in, for example, the reporting of Roy Gutman.<sup>26</sup> *LM* shared this concern. While maintaining that it took no sides in the Yugoslav ‘civil war’, its preoccupation was with what it saw as the West’s unfair demonization of the Serbs. Among its earliest efforts to redress this bias, and overcome instances such as the 1992 ‘reporting of non-existent Serbian “death camps” in Bosnia’, *LM* published and distributed exhibits from a photographic exhibition staged in Belgrade entitled ‘Genocide Against the Serbs’.<sup>27</sup>

Deichmann’s views were the probable reason that led him to be hired as a media expert by the legal team defending Duško Tadić at the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the Hague. Tadić had been arrested in Germany and charged with a series of crimes against humanity for his role in the ethnic cleansing of Bosnian Muslims from parts of the Prijedor region in northern Bosnia, including his activities at the Keraterm, Omarska and Trnopolje camps. At Tadić’s trial, which began in 1996, the prosecution called a range of witnesses to his activities. Nearly half those witnesses were themselves refugees in Germany, and Tadić’s legal team sought to discredit their identifications of Tadić by suggesting that the extensive media coverage in Germany, rather than first-hand experience in Bosnia, was the source of their knowledge of the defendant.



Deichmann's content analysis of the German media provided the empirical basis for this part of the defence strategy; his report demonstrated that between February 1994 and October 1996 there were 82 articles that mentioned Tadić.<sup>28</sup> Although the judges were reportedly impressed by Deichmann's testimony, the defence's argument failed and Tadić was convicted and sentenced to 20 years in prison.<sup>29</sup>

Deichmann's role as author of the media report for Tadić's legal team gave him access to the ITN television reports of 1992. ITN had supplied all the available rushes from which the August 1992 reports were compiled in response to a request from the ICTY in The Hague. Tadić's legal team then handed the rushes over to Deichmann – who copied them, albeit without the knowledge or the express permission of the legal team – as part of a series of videotapes dealing with the coverage of the war in Bosnia.<sup>30</sup>

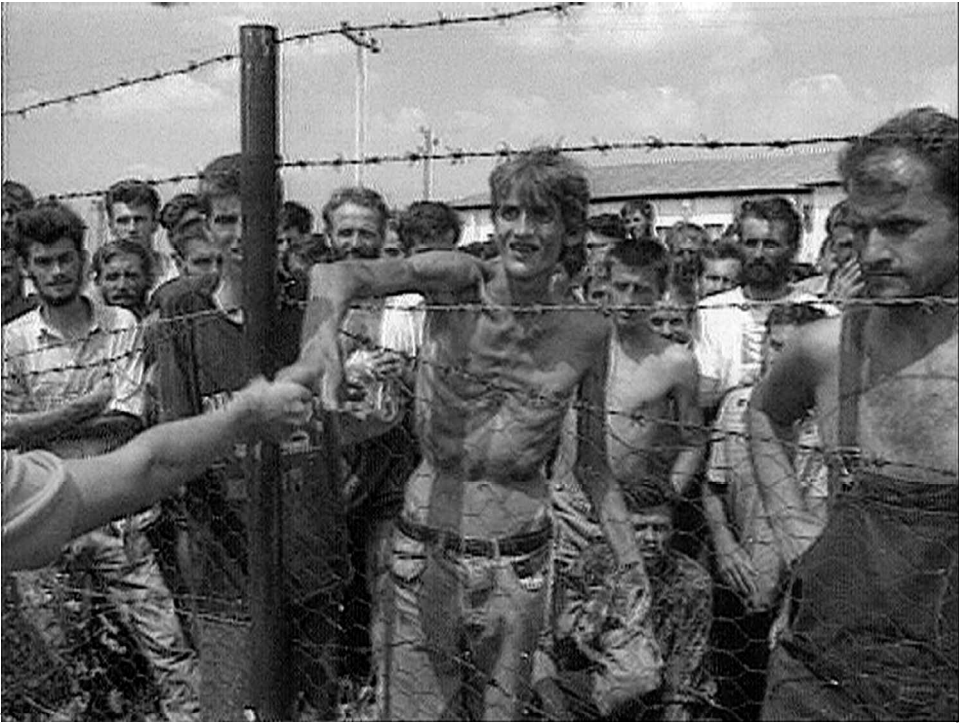
Deichmann's role as a consultant to Tadić's legal team also enabled him to claim credibility and legitimacy for his subsequent allegations. Indeed, Deichmann and *LM* made some play of his role at the ICTY in this regard, despite the fact that in other articles *LM* viewed the ICTY as a politically inspired kangaroo court designed largely to serve US interests.<sup>31</sup> In the press release accompanying the article prior to publication, Hume declared that the ITN reports had been 'condemned by an expert witness to the UN War Crimes Tribunal at the Hague'.<sup>32</sup> As Deichmann himself wrote:

It was through my role as an expert witness to the War Crimes Tribunal that I first realized that something was wrong with the famous pictures from Trnopolje. As a journalist with a track record of reporting on Bosnia, I was asked to present the tribunal with a report on German media coverage of Duško Tadić, a Bosnian Serb accused of war crimes. Reviewing press articles and videotapes that had been shown on German TV, I became aware of the major importance of the Trnopolje pictures.<sup>33</sup>

These statements claim the mantle of independent and impartial authority for Deichmann's arguments through the erroneous suggestion that it was the ICTY itself, rather than Tadić's legal team, that had commissioned Deichmann's report. When this issue kept being raised, Deichmann stubbornly declared: 'to set the record straight, I gave evidence at the International War Crimes Tribunal at the Hague as an *expert witness*'.<sup>34</sup>

### **Deichmann's allegations**

What, then, were the specifics of Deichmann's allegations about the reports of Marshall and Williams from 6 August 1992? Although Penny Marshall's report for ITV and Ian Williams's report for Channel 4 covered both the Omarska and Trnopolje camps, Deichmann's concern is restricted to the portrayal of Fikret Alić, the emaciated man pictured behind a fence topped with barbed wire, at Trnopolje. In Marshall's report, Alić and others appear nearly halfway into the account, in a scene which shows Marshall walking to a wire fence and shaking hands with him (Figure 4). The camera lingers on Alić and his compatriots, some of who are bare chested and emaciated, some of whom are clothed and look better off, for 20 seconds, before other scenes from Trnopolje are shown. Two subsequent segments, of approximately 15 seconds each, show other prisoners behind the fence (Figure 5) as does Williams's report (Figure 6). Some prisoners are interviewed, though their reluctance to speak openly is obvious. (That they are reticent is not surprising, given that the ITN crews were accompanied by uniformed Bosnian Serb soldiers who remained in the background while the journalists questioned the men [Figure 7].)<sup>35</sup> In Williams's report,



**Figure 4. Penny Marshall, ITN, 6 August 1992**



**Figure 5. Penny Marshall, ITN, 6 August 1992**



**Figure 6. Ian Williams, ITN, 6 August 1992**



**Figure 7. Journalists' convoy, with armed escort, at gates to Omarska.  
Penny Marshall, ITN, 6 August 1992**

the image of Alić comprises approximately five seconds of airtime. However, for both reports the figure of an emaciated man behind barbed wire was described by the news-reader in London who introduced the stories. Equally, for each, the still image of an emaciated man behind barbed wire appeared behind the newsreader, though in the case of ITV's *News at Ten* it is not Alić who was shown. All of which questions Deichmann's contention that 'the broadcast centred on shots of the journalists talking to Fikret Alić and the group of Bosnian Muslims through the barbed wire'.<sup>36</sup>

According to Deichmann, the specific problem with the portrayal of Alić relates to the existence and nature of the fence. Deichmann claims that:

The fact is that Fikret Alić and his fellow Bosnian Muslims were not imprisoned behind a barbed wire fence. There was no barbed wire fence surrounding Trnopolje camp.<sup>37</sup>

The barbed wire in the picture is not around the Bosnian Muslims; it is around the cameraman and the journalists. It formed part of a broken-down barbed wire fence encircling a small compound that was next to Trnopolje camp. The British news team filmed from inside this compound, shooting pictures of the refugees and the camp through the compound fence.<sup>38</sup>

In the eyes of many who saw them, the resulting pictures left the false impression that the Bosnian Muslims were caged behind barbed wire.<sup>39</sup>

Deichmann's allegations go beyond the question of the fence, however. Doubts about the fence lead him to question the nature of the facility at Trnopolje and the way others have interpreted it. He argues that:

Whatever the British news team's intentions may have been, their pictures were seen around the world as the first hard evidence of concentration camps in Bosnia.<sup>40</sup>

It was not a prison, and certainly not a 'concentration camp', but a collection centre for refugees, many of whom went there seeking safety and could leave again if they wished.<sup>41</sup>

According to Deichmann, while the ITN journalists are not wholly responsible for the subsequent interpretations, they have contributed to the problem he sees because they have failed to correct them:

Penny Marshall, Ian Williams and Ed Vulliamy [a journalist for *The Guardian* who accompanied Marshall and Williams and wrote about the camps] have never called Trnopolje a concentration camp. They have criticized the way that others tried to use their reports and pictures as 'proof' of a Nazi-style Holocaust in Bosnia. Yet over the past four and a half years, none of them has told the full story about that barbed wire fence which made such an impact on world opinion.<sup>42</sup>

## **Deichmann's evidence**

In many ways, to follow Deichmann's argument to the letter, and concern ourselves with the nature of a specific fence, is to become entangled in a questionable logic that obscures

the larger and more important issue of who was imprisoned at Trnopolje and how they came to be there. This issue will be addressed in some detail at the end of Part I. In the meantime, while being cognizant of the problems associated with this potential entanglement, this section will sort through the details of Deichmann's argument to show that, even in its own limited terms, it is seriously flawed.

How did Deichmann arrive at these conclusions about the fence at Trnopolje? There are three sources for his argument. The first involves his 'gardener's knowledge':

One night, while I was going through the pictures again at home, my wife pointed out an odd little detail. If Fikret Alić and the other Bosnian Muslims were imprisoned inside a barbed wire fence, why was this wire fixed to poles on the side of the fence where they were standing? As any gardener knows, fences are, as a rule, fixed to the poles from outside, so that the area to be enclosed is fenced in. It occurred to me then that perhaps it was not the people in the camp who were fenced in behind the barbed wire, but the team of British journalists.<sup>43</sup>

The second source was the tip-off provided by Tadić's lawyer Wladimiroff. According to Deichmann's account of an interview he conducted with Wladimiroff at the Hague in November 1996, the question of the barbed-wire fence had come up in the testimony of witness 'L' during Tadić's trial. This witness, whose identity was first concealed for security reasons but who was later identified as Dragan Opačić, was a Bosnian Serb who had allegedly been a guard at Trnopolje. Opačić had drawn a map of Trnopolje on which he had indicated a barbed-wire fence encircling the entire facility. However, Opačić recanted his testimony for the prosecution, and alleged that he had been pressured by the Bosnian security service in Sarajevo into testifying against Tadić. Opačić told Wladimiroff after his change of testimony that he had been shown a series of videotapes in Sarajevo, amongst them Penny Marshall's report. Wladimiroff thus offered the conjecture that it was from that report that Opačić had derived the image of emaciated men standing behind barbed wire.<sup>44</sup>

The third source for Deichmann's argument came from a trip to the site of the Trnopolje camp, and interviews with local residents around Trnopolje, in late 1996. The testimony of a member of the Serbian Red Cross who was involved with the camp four years previously, as well as a former guard at the camp, convinced Deichmann that no barbed-wire fences were constructed around the camp. His own observations in 1996 led him to conclude that 'the only fences around parts of the camp were little more than a metre high'. Moreover, 'everybody I spoke to confirmed that that the refugees could leave the camp area at almost any time'.<sup>45</sup>

None of these sources is compelling. Leaving aside, for the moment, the larger issue of whether the material specifics of a single fence can determine our understanding of a political conflict, even the basis for knowledge about the specifics of the fence can be queried. Most easily questioned is the first source, because the folk logic of the gardener and his fences has no bearing on how the fence in Trnopolje was or was not constructed. The facilities used as camps in Bosnia were not purpose built as detention centres. Instead, existing buildings – a mining complex, as in the case of Omarska, or former community buildings and a school as in the case of Trnopolje – were redeployed as part of the ethnic cleansing campaigns. This means that while the fence at Trnopolje was originally built in a particular way for agricultural use, it was, in August 1992, being used for something completely different.

The second source for Deichmann's argument depends on a number of associations

and assumptions that do not offer the proof claimed. Deichmann argues that ‘the story of the barbed wire fence at Trnopolje featured prominently’ in Tadić’s trial, but this is not the case.<sup>46</sup> The trial was dominated by witnesses testifying to Tadić’s presence and activities in the Prijedor region, none of whom had much if anything to say about a fence at Trnopolje. Michael Scharf’s detailed account of the trial proceedings makes no mention of the Trnopolje fence, let alone suggests it was prominent in the case.

The fence can only be construed as an issue in the Tadić trial by supposing a series of connections involving a witness for the prosecution who was later discredited and withdrawn by the prosecution. Witness L was to have been a key witness for the prosecution. As a Bosnian Serb who was said to be a guard at Trnopolje, Opačić originally testified that he had seen Tadić commit atrocities at the camp in the fall of 1992.<sup>47</sup> As part of his overall testimony – but incidental to the central allegations against Tadić – Opačić drew a map of Trnopolje which included a fence surrounding much of the camp.<sup>48</sup> However, the prosecution, who had called Opačić, began to have doubts about his testimony, and investigated him further. In the course of the prosecution’s investigation, Opačić claimed that he had been trained by the Bosnian authorities in Sarajevo, and threatened with murder if he did not testify against Tadić. Part of that training apparently involved Opačić being shown videos of Trnopolje.<sup>49</sup>

According to Tadić’s lawyer, the videos used in training included Penny Marshall’s ITN report, which, says Wladimiroff, is how Opačić got the idea of men imprisoned behind barbed wire.<sup>50</sup> This makes it appear that Opačić’s alleged perjury is based on the supposedly false nature of the ITN report, which, in turn, makes it appear that it was the nature of the fence conveyed in that report which is false. However, any challenge to the veracity of the ITN report, and the suggestion that the nature of the fence was central to Opačić’s perjury, and thus central to the Tadić case, is a reversal of logic based only on guilt by association.

The prosecution clearly doubted Opačić’s testimony sufficiently to withdraw it from the case. Tadić’s defence team played no part in the investigation of Opačić, and only interviewed him with regard to these issues after he had changed his testimony. The only evidence that supported the prosecution’s doubts about Opačić came from Opačić himself. Was he lying in his original testimony, or lying when he said his original testimony was coerced? To be sure, as Scharf observes, whichever of Opačić’s statements was true, the impact was equally negative for the prosecution.<sup>51</sup> To question Marshall’s report and the status of the fence on the basis of the controversy surrounding Witness L in the Tadić case requires us to accept the logical associations proposed by Tadić’s lawyer based, in the absence of corroborating or independent evidence, on interviews done with a witness whom that same lawyer discounts as a perjurer whose testimony is otherwise to be ignored.

In their efforts to discredit the ITN reports of Trnopolje, and to employ the specifics of that case to make a larger political point, *LM* used the verdict of the ICTY against Tadić in a very selective manner. In a statement issued on 7 May 1997, entitled ‘The Truth Behind the Tadić Trial and the Trnopolje Camp’, *LM* noted but passed over the fact Tadić was convicted of 11 counts of persecution and beatings.<sup>52</sup> Instead, they focused on the one element related to Opačić, in order to claim that the stories about Trnopolje and conditions depended on Opačić, that Opačić’s stories were a ‘pack of lies’, and that because the source of those lies was the ITN report, their own position in the libel case against ITN had thus been supported.<sup>53</sup> In addition to the fact that the association between Opačić’s perjury and the ITN report depends upon highlighting but a fraction of Opačić’s testimony, and using the subsequent doubt about his credibility to claim that all the issues that could be

associated with his testimony were thus false, this claim also overplays the significance of Opačić's testimony to the Tadić case and the general understanding of Trnopolje.

In finding Tadić guilty of count 1 (persecution), the Trial Chamber of the ICTY concluded:

The accused's role in, *inter alia*, the attack on Kozarac and the surrounding areas, as well as the seizure, collection, segregation and forced transfer of civilians to camps, calling-out civilians, beatings and killings described above clearly constituted an infringement of the victims' enjoyment of their fundamental rights and these acts were taken against non-Serbs on the basis of religious and political discrimination. Further these acts occurred during an armed conflict, were taken against civilians as part of a widespread or systematic attack on the civilian population in furtherance of a policy to commit these acts, and the accused had knowledge of the wider context in which his acts occurred.<sup>54</sup>

The acts committed by Tadić, which were named as part of the systematic campaign of ethnic cleansing by the ICTY, took place in Kozarac, and the camps at Omarska and Keraterm. And when it came to Trnopolje, the ICTY's verdict was not as clear cut as *LM* maintained.

The Trial Chamber found 'beyond reasonable doubt that the accused [Tadić] participated in the transfer to and in the initial confinement of non-Serbs in camps generally, and in the Trnopolje camp in particular'. That finding was made possible because witnesses other than Opačić placed Tadić at Trnopolje; the prosecution had called 48 witnesses who testified to seeing Tadić at the site of war crimes (of which Trnopolje was one) or actually committing those crimes.<sup>55</sup> However, none of those witnesses gave evidence that substantiated the charges which suggested that Tadić engaged in the same acts of persecution at Trnopolje as he had perpetrated at Omarska and Keraterm. The only witness that the prosecution had offered to substantiate those specific acts against inmates at Trnopolje was Opačić. Therefore, although significant for one aspect of one count of the 34-count indictment against Tadić, 'from a legal point of view, Opačić's admission had little effect on the outcome of the trial since his testimony was used only to support count 1 – the general persecution count – rather than any of the specific charges of rape and murder contained in the indictment, and there was plenty of other evidence on the persecution count'.<sup>56</sup>

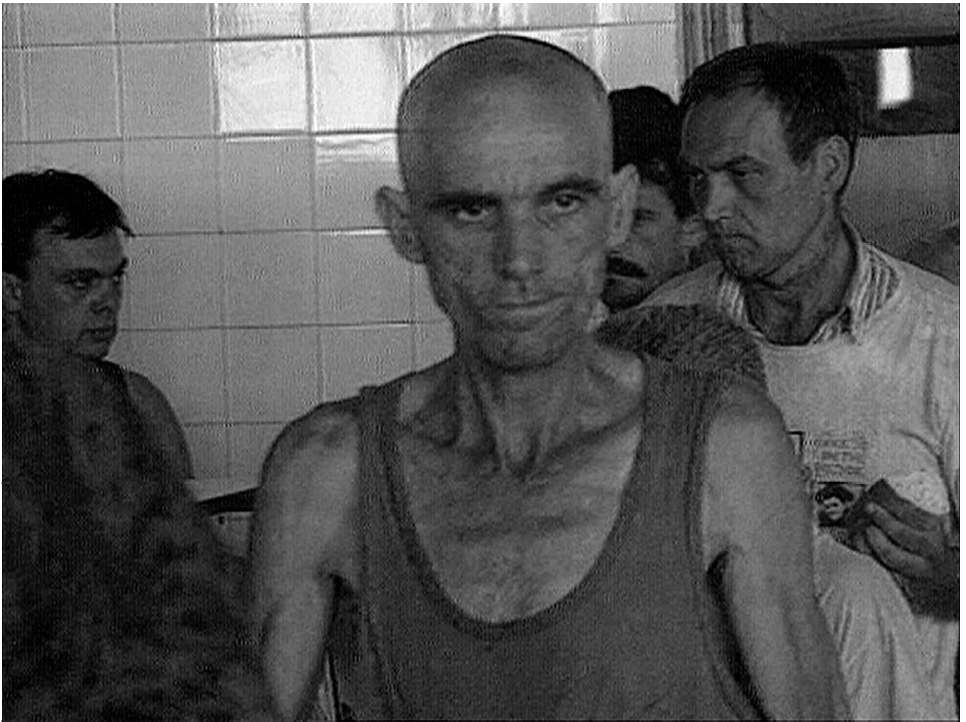
Accordingly, the controversy surrounding Opačić led the court to note in its judgment – this being the sole point from the lengthy judgment that *LM* chose to quote in their press release – that when it came to the events alleged to have involved Tadić at Trnopolje, 'most of the allegations were supported only by the testimony of Dragan Opačić, whose testimony under the pseudonym Witness L was later withdrawn'. This led the court to conclude that, although Tadić had played a role in the ethnic cleansing of non-Serbs in the Prijedor region, and in the internment and initial confinement of non-Serbs in Trnopolje (amongst other camps), 'the Trial Chamber finds that the accused did not take an *active role* in the *continued confinement* of non-Serbs in the Trnopolje camp'.<sup>57</sup>

All of which casts a rather different light on the Tadić case and Opačić's significance from that painted by *LM* in its efforts to question the ITN report. Opačić's map with the fence was not in any way central to his testimony about Tadić, and his testimony was not central to the case against Tadić for war crimes committed at the camps. The evidence pertaining to the camps goes well beyond Opačić and Tadić: witnesses other than Opačić placed Tadić at the camps, including Trnopolje, and perpetrators other than Tadić were involved in the abuses at Keraterm, Omarska and Trnopolje.

Moreover, far from calling into question the ITN reports, the trial and conviction of Tadić has served to corroborate and legitimize their portrayal of the camps. That is because the outcome of the Tadić trial, during which the ITN reports were screened as illustrations and deemed ‘particularly persuasive’,<sup>58</sup> confirmed that Tadić (and others) committed war crimes at Omarska as part of an organized and over-arching strategy of ethnic cleansing. Omarska was a subject covered at length in the ITN reports *LM* sought to dispute (indeed, it was the first item dealt with by both Marshall and Williams) (Figures 8, 9), but *LM*’s press release on the Tadić verdict simply overlooked the larger issue of Omarska, an act of omission it has maintained throughout the course of the dispute.<sup>59</sup>

To this point we have dealt with the problems surrounding two of the three sources of evidence for Deichmann’s allegations: the ‘gardener’s knowledge’ claim about the how barbed wire was attached to the poles at Trnopolje, and the guilt by association argument which uses the problems with Witness L in the Tadić case at the ICTY to discredit the ITN footage. Now we need to consider the third source – the interviews he conducted in late 1996 with people who remained in the village of Trnopolje, one of whom was a member of the Serbian Red Cross, and another who claimed to be a guard at the camp.

Deichmann’s visit to Trnopolje, and random interviews with participants in the ethnic cleansing of Prijedor, four years after the event, are far from being a secure source for independent verification given that Prijedor lies within Republika Srpska as a result of ethnic cleansing. Moreover, the way Deichmann used even these flawed interviews is an issue. Consider the statements attributed to the leading Serbian Red Cross official, Pero Čurguz, in Deichmann’s article. Čurguz, who worked at the camp while the International Red Cross



**Figure 8. Omarska prisoners at staged lunch. Penny Marshall, ITN, 6 August 1992**





**Figure 9. Armed guards oversee staged lunch at Omarska. Ian Williams, ITN, 6 August 1992**

was barred from the facility (the Serbian Red Cross having been an instrument in the ethnic cleansing of the region),<sup>60</sup> is cited as saying that ‘no fence had been erected’ during the entire operation of the camp. Even if Ćurguz’s quote is taken at face value, given that the camp used fences which pre-existed its function as a detention centre, this is hardly surprising.<sup>61</sup> However, Ćurguz’s quote was misleadingly used by Deichmann. In a transcript of the full interview Deichmann conducted in 1996, Ćurguz says ‘during the operation of the camp no fence was built. The short fence already existed, as did the barbed wire fence’.<sup>62</sup> In Deichmann’s article, this quote is paraphrased to read ‘he told me that, during the entire operation of the camp, no fence had been erected’. Although Deichmann refused to concede that there was any significant difference between the statements, the judge presiding in the libel trial referred to the paraphrasing as being ‘completely untrue’.<sup>63</sup>

Serious problems are also evident in the case of statements attributed to Veljko Grmusa, who is identified as a former guard at Trnopolje, and thus allegedly able to comment authoritatively on Alić and his image. Deichmann noted that Grmusa was a guard briefly in ‘mid-August’. This time period is significant. Grmusa was a guard for a couple of days from 15 August onwards, some 10 days *after* the ITN crews had been at the camp, and could thus not offer first-hand evidence about Alić and his situation. Moreover, in the period after the camp was first filmed by ITN, Trnopolje was radically changed – all traces of barbed wire were removed, the International Red Cross was granted access, and the tension eased greatly.<sup>64</sup>

## The enclosure and the fence

The existence and extent of the barbed wire fence at Trnopolje, and its relationship to the inmates such as Alić, and the ITN journalists, is, as we have already seen, at the centre of *LM*'s argument. In Deichmann's original article, it was argued that Alić and others were not imprisoned behind barbed wire, there was no barbed-wire fence surrounding the camp, and the barbed wire that was evident in the ITN reports surrounded the journalists rather than Alić and his compatriots. Deichmann contended that, although it appeared Alić was penned in, it was actually the journalists who were fenced in; the two ITN reporters, their camera and sound crews, along with *Guardian* reporter Ed Vulliamy (presumably accompanied by the armed Bosnian Serb military escort showing the journalists around, as well as the RTS film crew who tagged along) were alleged to be in a compound or enclosure, the wire of which they filmed through to get the images of Alić.<sup>65</sup>

According to the *Oxford English Dictionary*, an 'enclosure' is a place surrounded with a wall or fence where one is 'shut in on all sides', 'bound on all sides', or 'hemmed in on all sides', while a 'compound' is 'a large enclosed space in a prison or prison camp'.<sup>66</sup> Applied to this case, the notion that the journalists were in an enclosure or compound conveys the impression they were in a place where a complete fence contained them, such that they were prevented from moving in any direction other than through designated entry and exit points. In the site plan of Trnopolje that was part of Deichmann's article, this sense of being bounded on all sides is highlighted by the way that the 'barbed wire fence' is drawn. While other fences are lightly shaded thin lines, the barbed wire is heavily drawn, in a series of dashes and dots, without any gaps, thus forming a completely enclosed four-sided area, and suggesting that the fence is whole and unable to be passed through.<sup>67</sup> A number of phrases in the article reinforce this sense of completeness and wholeness: reference is made to 'the compound surrounded with barbed wire', 'the area fenced in with barbed wire', 'the compound's barbed wire fence', and the cameraman being 'inside the barbed wire area'.<sup>68</sup> In a later piece, Deichmann maintains that 'Marshall's team took those pictures from inside a small agricultural compound which was ringed by a barbed wire fence, erected long before the war'.<sup>69</sup>

At the same time, Deichmann's article contains a different description of the enclosure that goes against this sense of completeness and wholeness in the fence. The barbed wire in the picture of Alić is said to be 'part of a broken-down barbed wire fence encircling a small compound next to Trnopolje camp'. Similarly, Deichmann writes that when the journalists entered the compound, 'the barbed wire was already torn in several places. They did not use the open gate, but entered from the south through a gap in the fence'.<sup>70</sup>

However, the idea that the fence which made up the enclosure was broken down, torn and full of gaps is not represented on the site plan accompanying Deichmann's article. Indeed, the darkly drawn barbed-wire fence said to make up the compound contains no representation of the 'open gate' or 'gap' of which Deichmann writes. This omission is rather odd. While the site plan of the Trnopolje camp is captioned in the article as being 'based on US satellite photo, 2 August 1992, three days before British journalists arrived', what is not recorded is that all the fence lines are drawn by Deichmann, based on his visit to the site in 1996, his interviews with local residents at that time, and his interpretation of scenes from the ITN rushes.<sup>71</sup>

During the libel trial, the notion that the plan was based on a US satellite photo – or at least split line drawings depicting the layout of the buildings and authenticated with a letter from an American embassy – was not in general terms challenged.<sup>72</sup> The accuracy of Deichmann's fence drawings was, however, seriously questioned. Given the contradiction between

the map's portrayal and some of the article's descriptions, the jury posed a question directly to Deichmann: 'Did you consciously show the area on your map where Ian Williams and Penny Marshall were as complete and the area where the prisoners were with spaces in the fencing to strengthen your claim that Mr Williams and Miss Marshall were enclosed and the prisoners had freedom of movement?' Deichmann rejected this contention, and argued that the way the fence was drawn reflected no more than mapping conventions from his civil engineering training, and that his statements in the article about the condition of the fence allegedly comprising the enclosure showed his understanding of the situation.<sup>73</sup> This followed an earlier question from the jury, in which they asked of Hume: 'Don't you think Mr Deichmann's map of the camp in his article is misleading as it suggests the barbed wire fence surrounding the barn is complete and does not show the entry point used by the news teams?'<sup>74</sup> Hume rejected the suggestion and maintained that in the article 'there is no suggestion that it [the barbed wire fence] was complete around the – impossible to get in and out'.<sup>75</sup>

Although Hume's statement stood in contrast with the meaning of 'enclosure' invoked by many of *LM*'s prior descriptions, as well as the solidity portrayed by Deichmann's line drawing, it did reflect the sworn testimony of all members of the ITN teams filming at Trnopolje on 6 August 1992. The teams approached the fence that Alić and others were behind without impediment, passing through a gap between a building and a fence post that did have intact strands of barbed wire running up to it. *LM* argues this was part of the southern boundary of the compound. This sequence was shown in Penny Marshall's broadcast report. Taken by itself, this sequence would make Deichmann's case plausible, if one assumed the wire to the right of Marshall ran around the entire compound. But as Deichmann and Hume noted in their trial testimony, the wire around the rest of what they call the compound was broken down, torn and full of gaps, and thus nothing like what is evident at this point. As a result, this sequence establishes little beyond suggesting what the compound once was.

The fence that Alic was behind comprised what *LM* argued was the northern part of the compound containing the journalists, their crews of producers, cameramen, sound recordists, and interpreters, as well as their Bosnian Serb military guards. In order to sustain the idea that this large group of people was on 'the inside' entirely enclosed by barbed wire, while Alic and others were on 'the outside', to see more of the camp the next move of the group would have had to be back the way they came, exiting through the gap shown in Marshall's report. If the compound was in fact fully enclosed so that this group was on 'the inside', then the journalists and their crew would have been unable to go around from where they encountered Alic and the others to the west or east of the field containing the prisoners. If the compound was fully enclosed, then the movement of the group to the left or right of the point where they encountered Alic would have been barred by the barbed wire that Deichmann's diagram indicates would have stood in their way. But their movement, in particular to the west, which is where the Channel 4 crew went to investigate the left-hand side of the camp, was not barred.

Indeed, Ian Williams, Andy Braddel (the producer), James Nicholas (the cameraman) and Chris Hease (the sound recordist) all testified that there was no complete fence barring their way, that they did not have to go back the way they came in, and moved to the left (or west) of the northern fence Alić was behind with ease.<sup>76</sup> When cross-examined by the barrister for *LM*, during which details from the rushes were shown again and again (and the witnesses regularly commented that scenes were not self-evidently clear), all these witnesses accepted that there were on the western side remnants of an old fence, including poles from which one or two strands of barbed wire were sagging down from a height of

more than six feet. However, they reaffirmed that they did not pay heed to these remnants at the time of filming because the remnants did not form a barrier and thus constitute an enclosure which prevented them from moving.<sup>77</sup>

But if the 'enclosure' was anything but completely or fully enclosed, how is the contention that it can be described as an enclosure – such that the journalists are said to be on 'the inside' and Alić and the others on 'the outside' – maintained? In short, describing the area from which the ITN crews filmed as an enclosure depends on accepting that the area *once was* fully enclosed by a barbed-wire fence, and should thus still be referred to an enclosure *at the time ITN filmed*, even though the fence that made it an enclosure was by then broken down, torn and full of gaps to such an extent that it was no impediment to the free movement of the visitors.

Deichmann's argument that the area around the barn the ITN crews reported from was, *prior to the war*, entirely fenced in with barbed wire was not contested by members of the ITN crews. After all, one part of the fence – the northern side – made up part of the enclosed area where Alić and the others were being detained. Deichmann argued in his original article (from information he obtained in his 1996 interviews) that the area had been enclosed 'a couple of years' before the war so as to protect agricultural machinery and products. *LM's* barrister stated in his opening speech that their case was that ITN had filmed Alić from 'within an old, pre-war enclosure'.<sup>78</sup> Hume testified that it was his contention that the journalists were surrounded by 'an old, broken down in places, barbed wire enclosure'.<sup>79</sup> If by 'the war' they meant the start of the 1992 war in Bosnia, it means the fence became dilapidated very quickly, raising the possibility that it was older than locals maintained, or that parts of it were dismantled to be used elsewhere and for other purposes. Whatever, Andy Braddel, Penny Marshall, James Nicholas and Ian Williams acknowledged that, having reviewed the rushes in court, it was likely that at some stage in the past the enclosure had been fenced in on all sides.<sup>80</sup> All argued, however, that the past status of the enclosure had no bearing on its condition at the time they reported from Trnopolje. As Williams declared:

I had a reasonably clear impression of the layout of the camp. So this is an *old* enclosure. It did not appear to me *at the time* as an enclosure. I wasn't aware of it being an enclosure. It was not part of the camp in the sense of it being a place where prisoners were being kept. Certainly part of the old barbed wire was being used to enclose those men, but given the inhumanity I could see before me, frankly, the existence of an old barn and a transformer and a gate did not really seem very relevant.<sup>81</sup>

After the testimony of Ian Williams and the Channel 4 producer, Andy Braddel, the judge (in the absence of the jury) had a discussion with the barristers for ITN and *LM* about the status and meaning of the enclosure. Mr Justice Morland indicated that he had come to a conclusion about the existence of an enclosure, and suggested that both sides could and should agree that the rushes indicated there was something of an enclosure around the area from where the ITN crews filmed Alić. The judge argued the tapes showed indications of prior fencing on at least two and perhaps three sides, but noted that 'whether it was entirely continuous is another matter'.<sup>82</sup> In addition to regarding the condition of the fencing, and whether the area could be regarded as 'enclosed', as matters of fact for the jury to determine, the barrister for ITN stressed that the issue was not how the area was now to be described, but how the ITN crews perceived it at the time they filmed. *LM's* barrister offered no comment or opinion on the matter, and the judge's intervention had no effect on the course of subsequent testimony.

The judge's opinion did become clear during his summing up for the jury, however. Mr Justice Morland declared: 'It is a matter for you, but having seen the rushes and the bundle of Mr Deichmann's photographs, is it not clear that before the civil war there was fencing surrounding the area containing the barn, the garage and the electricity transformer. Clearly Ian Williams and Penny Marshall and their TV teams were mistaken in thinking they were not enclosed by the old barbed wire fence, but does it matter?'<sup>83</sup> The first part of the judge's statement – that there was fencing surrounding the area before the war – reflected the view of the ITN crews who were at Trnopolje. However, the second part of the statement seems not only to confirm *LM*'s argument, but actually to go beyond it, for even *LM* argued that the pre-war fencing was broken down, torn and full of gaps. Indeed, Hume stated in his evidence that Deichmann's article 'describes the barbed wire compound as being broken down in places. There is no suggestion that it is a complete barbed wire surround'.<sup>84</sup>

It is not surprising, therefore, that this quote was the basis for part of Nick Higham's BBC report on the trial verdict (which, as was noted above, was criticized by the Broadcasting Standards Commission), and has been singled out from the judge's summation and used as the basis for *LM* and its supporters to claim that the facts of their case remain true despite the outcome of the libel trial.<sup>85</sup> In the context of the overall testimony in this case, such a conclusion seems unwarranted. Mr Justice Morland's view that the journalists were mistaken fails to sufficiently account for his earlier caution about the extent to which the old fencing was continuous at the time of filming, as well as the testimony from all members of the crew about their unhindered access to the left or west of the fence where Alić was standing (testimony the judge went on to draw to the jury's attention).<sup>86</sup> Which means the logical problem about the question of the enclosure remains: how can an area be described as being enclosed if it is surrounded by the remnants of old fencing which, first, do not impede or prevent the movement of a large number of people, and, second, fail to impress upon those people that they are in a location that was once enclosed? As ITN argued at the Broadcasting Standards Commission hearing of their complaint against Higham's report, 'the "mistake" made by the journalists and referred to by the judge had been the fact that they had been unaware that an enclosure full of holes had once been in a better condition before the war'.<sup>87</sup>

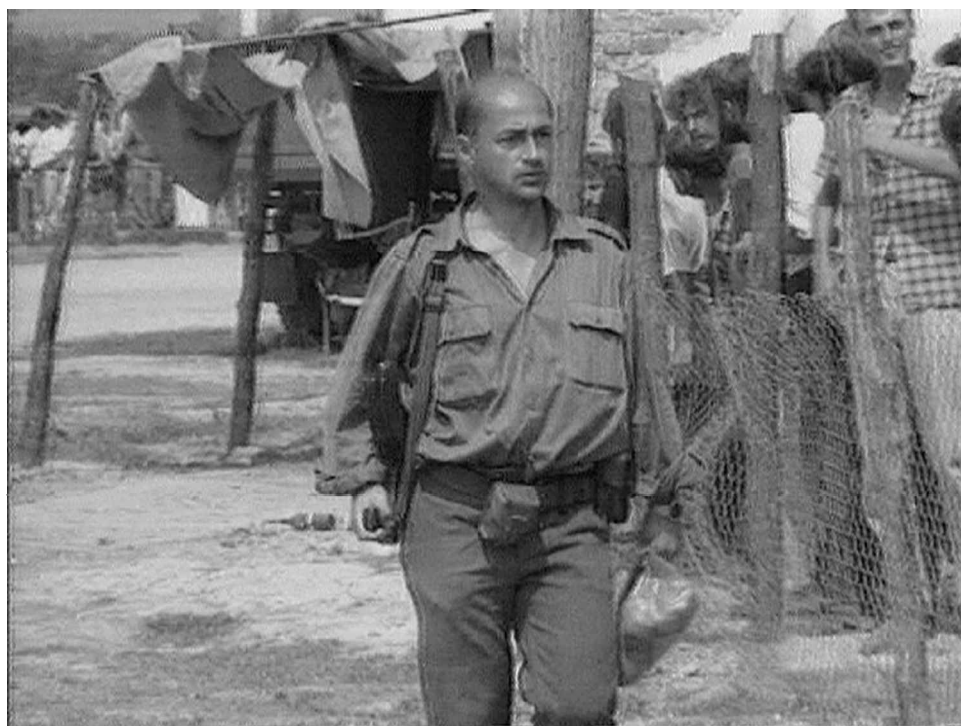
## Who was imprisoned? Conditions at Trnopolje

Of course, the issue of the fence, its condition and the meaning of 'the enclosure' would be largely without interest were more significant issues not at stake. The judge's question that follows his own view on 'the enclosure' – does it matter? – moves us on to the pivotal question of whether Alić and the others were 'imprisoned'.

Deichmann's original article was written in a way that could give the appearance of casting doubt on Alić's status as a detainee. The idea that the picture of him behind barbed wire fooled the world, and was not all it seemed, set the tone. The charge that it was the camera crew rather than Alić who were surrounded by barbed wire established the contrast between who was free and who was not, while the description of Trnopolje as a refugee collection centre that many freely came to and remained able to leave at will diminished the sense of malevolent purpose.<sup>88</sup> Deichmann's article was, however, careful to include some precisely worded caveats to this possible interpretation. On the penultimate page, for example, he noted that 'most of the refugees in Trnopolje were undernourished. Civilians were harassed in the camp, and there were reports of some rapes and murders'.<sup>89</sup>

In the course of the trial, the principal concern of *LM*'s defence was to call into question the fact that Alić was imprisoned behind a barbed-wire fence. It is perhaps somewhat surprising, therefore, to find that *LM*'s editor testified that Alić was imprisoned. When asked by the barrister for ITN whether it was his contention that Alić and the other detainees could leave Trnopolje on 5 August 1992, Hume answered: 'No, it is not my case. He is in a field surrounded on two sides by low wire fencing, outside of which there are armed guards (Figure 10), the north side of which abuts the community building and the south side of which abuts a barbed wire compound within which the ITN crews were filming and within which there are other armed guards. I think that's abundantly obvious.'<sup>90</sup> Hume also testified that conditions at Trnopolje were harsh, while Deichmann described Trnopolje as 'an awful place'.<sup>91</sup>

The terrible conditions at Trnopolje were established in the libel trial by the evidence of Dr Merdžanić, a Bosnian medic who was detained at Trnopolje and acted as one of the camp doctors. Merdžanić was interviewed by ITN in 1992, and it was he who secretly supplied the photos of badly beaten inmates to Penny Marshall, which were used in the original broadcast (Figures 11, 12, 13). In his testimony, Merdžanić made it plain that he was taken against his will from his home in Prijedor to the camp at Trnopolje and that he was not free to leave the camp. Moreover, he testified that he heard the screams of inmates being beaten by the guards, that he treated those inmates after they were abused (some of whom he secretly photographed), and that he also treated women who were raped by the guards.<sup>92</sup> None of Merdžanić's testimony was challenged in court by the *LM* legal team. Hume maintained that the fact they did not cross-examine Merdžanić was because 'there has never



**Figure 10. Armed guard delivering food parcel to prisoners at Trnopolje. Penny Marshall, ITN, 6 August 1992**



**Figure 11. Dr Merdžanić being interviewed at Trnopolje. Penny Marshall, ITN, 6 August 1992**



**Figure 12. Covert photograph of beaten inmate at Trnopolje. Penny Marshall, ITN, 6 August 1992**



**Figure 13. Covert photograph of emaciated inmate at Trnopolje.  
Penny Marshall, ITN, 6 August 1992**

been any question in my opinion or in the article that I published that this camp was anything other than a grim place at which there were beatings, there were killings and there were rapes. There has never been any question of that. We have never argued contrary to that.<sup>93</sup>

Hume's declaration that Alić was imprisoned in harsh circumstances and unable to leave, and that neither he nor Deichmann had described Trnopolje otherwise, stands in marked contrast with Deichmann's original article, where the idea that it was a spontaneously created refugee centre from which people were free to come and go at any time was given greater prominence than the third-hand, passive description of 'reports' about the maltreatment of the internees. Indeed, although having described Trnopolje as very grim, Deichmann stood by the sentence in his original piece, where he wrote that 'everybody I spoke to confirmed that the refugees could leave the camp area at almost any time'. However, Deichmann argued that, notwithstanding the general claim in this sentence, it was *not* his case that Alić and the others pictured in the ITN reports were in fact free to go: 'I do not say that they at the time were able to leave and there – you know, there were fences, there were guards, which we have seen here, armed guards.'<sup>94</sup>

Despite this confusion, the position of Hume and Deichmann at the trial was – in contrast with Deichmann's original article – that Alić and the others were imprisoned behind fences patrolled by armed guards, and that they were not free to leave Trnopolje, which was an awful place in which violent crimes were committed. In most if not all respects this understanding mirrors the original ITN broadcasts. Those reports, even in the portion that covered Trnopolje, clearly showed a variety of fences behind which some



people were confined, and the guards that detained them. Both reports also described how, in a part of the camp to the rear of the area in which Alić and the others were penned, there were refugees who had made their own way to the facility, who were told they could leave if transport to homes beyond Serb-controlled areas could be arranged.<sup>95</sup> The fact that these ‘voluntary arrivals’ were produced by the violence of ethnic cleansing in the surrounding areas, or that such transport, if it had materialized, would have been consistent with ethnic cleansing, was noted by the ITN stories, but it was not something *LM* dwelled upon.<sup>96</sup>

Given that there was something of a congruence on the broader question about Trnopolje – certainly a far larger congruence than Deichmann’s original article allowed for – the precise nature and significance of *LM*’s argument becomes indistinct as the object of their complaint becomes clearer. To this end, we have to say they did *not* question that Alić was *imprisoned* – just that he was imprisoned *behind a barbed-wire fence*. Even more specifically, *LM*’s contention was that they were concerned only with the idea that ITN’s reports directly or indirectly suggested Alić was *imprisoned behind a barbed-wire fence that enclosed him fully* (i.e. that he was ‘caged’ by a barbed-wire fence enclosing him and the camp on all sides).<sup>97</sup> *LM*’s preoccupation with the specific nature of the wire that imprisoned Alić led Penny Marshall to tell their barrister: ‘you look at the picture and see barbed wire; I look at the picture and see Fikret. That is the difference between us.’<sup>98</sup>

## Conclusion

In this paper (part I of two) I have detailed the way in which, four and a half years after they were broadcast in Britain and attracted worldwide attention – with much of the world’s media interpreting those reports as portraying a contemporary example of Margaret Bourke-White’s Buchenwald photograph – Thomas Deichmann and *LM* questioned the veracity of ITN’s reports of the Bosnian Serb camps at Omarska and Trnopolje. Deichmann’s specific charges, his evidence and the supporting arguments offered by *LM* have all been examined. Even in their own terms – in which the material specifics of a particular fence at one camp are the focus of attention – the claims of Deichmann and *LM* are erroneous and their arguments flawed. The major reason for this is the partial, selective and partisan manner in which they developed and presented their case. The journalists they criticized were not interviewed, and the inmates who survived the camps in the Prijedor region were ignored. Positive interpretations were given to isolated statements by prisoners, while the overwhelming number of countervailing views that emphasized the negative were overlooked. The statements of those Deichmann did rely upon were selectively quoted, the map of the camp showing the fence that Deichmann constructed was misleadingly presented, and the summaries of supporting evidence (such as the *LM* account of the Tadić trial) were reported in a partial manner.

Most important of all is the fact that, during the libel trial, Deichmann and Hume conceded that the central point of their case against ITN – the nature of the fence at Trnopolje – had *nothing* to do with the issue of whether Alić and others were imprisoned in a camp. Under cross-examination, Deichmann and Hume repeatedly stated that conditions at Trnopolje were extremely harsh, killings and rapes were regularly committed, and the constant presence of armed guards meant inmates were not free to leave. Accordingly, their legal team did not challenge the first-hand testimony of the Bosnian doctor detained at Trnopolje, Idriz Merdžanić. In other words, *LM* accepted that Alić and others were prisoners in an appalling camp at which human rights abuses were commonplace.

Despite the basic flaws in the *LM* argument and evidence against ITN, despite the fact that in their court testimony *LM* backtracked from the benign assessment of Trnopolje in Deichmann's original article, and despite the outcome of the libel trial in which *LM* failed to make its case against ITN, many continue to promote Deichmann's arguments as though they were true. Faced with this determination to press on in the face of all the evidence, we can take the judge's summary statement and pose a question to those who continue to push Deichmann's argument: why does it matter?

That *LM* and its allies have persisted with their discredited claims demonstrates that the issue matters to them for reasons that exceed their original focus on the specifics of the fence at Trnopolje. Indeed, what is at stake here is how we understand the nature of the Bosnian war. In this context, what matters to *LM* is severing any potential link between the Holocaust and the war in Bosnia. Above all else, *LM* wanted to ensure there were no grounds on which the comparability of the two atrocities could be considered, so that the significance of the violence in Bosnia could be lessened, and those who were responsible could be excused. Because of this, it is vital for the argument here to move beyond the specifics of Alić, the fence and Trnopolje, to an exploration of the historical, political and visual context in which those specificities are located.

In part II, therefore, I examine a number of the presumptions of *LM*'s arguments so as to show how, in addition to the erroneous claims and misleading evidence, the position of Deichmann and Hume depends upon problematic assumptions, impoverished history and weak political analysis. Accordingly, because *LM* did not want Omarska and Trnopolje to be regarded as concentration camps, I consider the historicity of the concentration camp, the complexity of the concentration camp system during the Nazi regime, and the significance of Omarska and Trnopolje in the context of the Bosnian Serb ethnic cleansing strategy.<sup>99</sup> Because *LM* maintained that the ITN images led immediately to military intervention, I consider the relationship between the broadcast of the ITN pictures and the course of US policy in Bosnia. I then consider some of the literature dealing with photography and the Holocaust to illuminate the larger questions of how particular atrocities are represented, in order to appreciate the politics of representation implicated in the portrayal of the Bosnian camps. Finally, because *LM* – by focusing on an isolated detail and persisting with the argument even after it was discredited – is engaged in an act of historical denial, the paper concludes with an examination of the politics of critique and intellectual responsibility implicated in such circumstances.

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## Notes

1. For the worldwide media reaction to this image, in which the link to the Holocaust was made by a number of broadcasters in Europe and the US, see ITN News, World Media Reaction, videotape (London: ITN Archive, reference t07089202.htm). However, the association with the Holocaust was not universally made. The *New York Times*, for example, reported that while the abuses portrayed were serious, the images did not constitute evidence of mass killing or genocide in Europe. See Coll (1994).
2. Gutman (1993); and O’Kane (1992).
3. Evidence of Susan English, *Independent Television News Ltd, Penny Marshall, Ian Williams and Informinc (LM) Ltd, Michael Hume, Helen Goldberg*, 1997 1 No. 139, High Court of Justice, Queens Bench Division [hereafter cited as *ITN and Informinc Ltd*], Day 5 AM, 39–40.
4. See Evidence of Ian Williams, *ITN and Informinc Ltd*, Day 2 AM, 28–29, and Day 2 PM, 32–37.
5. Penny Marshall, *News at Ten*, 6 August 1992; and Ian Williams, *Channel Four News*, 6 August 1992, videotape (London: ITN Archive reference t06089201.htm).
6. *Daily Mirror*, 7 August 1992, 2.
7. Brown (1973), p. 21. The photograph is reproduced at pp. 152–153.
8. Goldberg (1991), p. 37. In 1989 *Time* selected the photograph as one of the ten greatest moments of photo-journalism for the way it ‘informed the world about the true nature of the Holocaust’. See Zelizer (1998), pp. 166, 181. On the fiftieth anniversary of the liberation of the concentration camps in Germany by British and US forces, the US Postal Service issued a commemorative stamp based on the photograph with the caption ‘Allies Liberate Holocaust Survivors, Early 1945’. See Novick (2000), p. 63.
9. Sofsky (1997), ch. 17.
10. Zelizer (1998), p. 11; Barnouw (1996), ch. 1.
11. Novick (2000), pp. 64–65.
12. Barnouw (1996), p. 90.
13. Zelizer (1998), p. 144.
14. Barnouw (1996), p. 90.
15. Deichmann (1997c).
16. For the CNN response, see Evidence of Stewart Purvis, *ITN and Informinc Ltd*, Day 8AM, 3. For the UN response, see Vulliamy (1998).
17. Statement from Mick Hume, Editor of *LM Magazine* 14 March 2000, <http://www.informinc.co.uk, 17/3/00, 14:57>. While *LM* closed in the wake of the libel trial, it has been resurrected on the Internet as *Spiked* [<http://www.spiked-online.com>]. See ‘Marx lives’, *Guardian* (New Media Supplement), 12 February 2001, 52. This *Guardian* report repeats *LM*’s contention that its central argument was unquestioned by the outcome of the trial, something Hume continues to do at every opportunity. See ‘Some last words on that libel trial’, 24 May 2001 [<http://www.spiked-online.com/Printable/00000002D0E3.htm, 23/07/01>]. Hume’s reaction to the verdict in the trial should be contrasted with *LM*’s legal documents made publicly available on their website. (This site had to close in the wake of the libel trial, but all documents quoted here were downloaded prior to the trial and are in my possession.) In the judge’s summing up at the trial, he posed the question: ‘have the defendants established that Penny Marshall and Ian Williams had compiled television footage which deliberately misrepresented an emaciated Bosnian Muslim, Fikret Alić, as being caged behind a barbed-wire fence at the Serbian-run Trnopolje camp on 5 August 1992 by the selective use of videotapes of him?’ and repeatedly emphasized the word ‘deliberately’. Quoting this, Hume protested that ‘we were being asked to prove what was going on inside the journalists’ heads eight years ago. The jury was only likely to come to one verdict’. In Hume’s view, ‘we could not win because the law demanded that we prove the unprovable’. Yet all the judge was doing was reciting *LM*’s own legal defence as a question for the jury. It was Deichmann’s article, and *LM*’s legal defence, that charged ITN with ‘deliberate misrepresentation’ and required the question of past intention to be addressed. Hume’s comments are in Hume (2000) [[http://www.informinc.co.uk/LM/LM129/LM129\\_Edit.html, 1/6/00, 0955](http://www.informinc.co.uk/LM/LM129/LM129_Edit.html, 1/6/00, 0955)]; the legal defence statements are in ‘The defence’ [<http://www.informinc.co.uk/ITN-vs-LM/legal/case/01-04-97.html, 23/9/98, 17:07>].
18. For a statement about Higham’s opinion, see Vulliamy (1997); and Evidence of Richard Tait (Editor-in-Chief at ITN), *ITN and Informinc Ltd*, Day 8 AM, p. 7.
19. Not surprisingly, Higham’s statement was embraced by *LM* after the verdict; see Hume (2000). ITN, Marshall and Williams lodged a formal complaint with the Broadcasting Standards Commission (BSC) about Higham’s report. In upholding the ITN complaint, the BSC concluded that ‘the BBC’s paraphrase of the judge’s summing up could have left viewers with the false impression that ITN had got its facts wrong and won its case on a technicality’. See BSC, ‘Complaint about unjust or unfair treatment by ITN on its own behalf and on behalf of MS Penny Marshall and Mr Ian Williams submitted on 25 April 2000 about the *Six O’Clock News* on BBC1, broadcast on 14 March 2000’, 3 October 2000. The adjudication is summarized in BSC, *Bulletin*, No. 36 (26 October 2000), 1.
20. See the Justwatch List [<http://listserv.acsu.buffalo.edu/archives/justwatch-l.html>], where the verdict was extensively debated on 14 March 2000 and thereafter.
21. Israel (2000). This 32-minute video has a complex genealogy. A Radio Television Serbia (RTS) film crew was sent by the Bosnian Serb authorities to accompany the ITN crews during their visit to Omarska and Trnopolje. RTS then produced for Yugoslav consumption a documentary claiming to show how ITN

- ‘fabricated’ its story. This RTS documentary was then taken by Jared Israel and others, re-edited, and packaged with a soundtrack in English to make the case. The major claims of the film that Israel produced will be dealt with in notes below. The video has been widely promoted by Internet sites, including antiwar.com [www.antiwar.com] and the Serbian Unity Congress [www.suc.org].
22. In the libel trial, both Deichmann and Hume attempted to justify their failure to interview the journalists by arguing first, that they knew the truth and so did not need the ITN journalist’s reaction and, second, that to have contacted ITN would have led to the suppression of the story. See Evidence of Michael Hume, *ITN and Informinc Ltd*, Day 8AM, 38–39; Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 9, 2–4.
  23. Deichmann said that in December 1996 he did interview two Muslim families still resident in Prijedor, but he could not be sure if they were inmates in the camps at, or prior to, the time ITN filmed. Deichmann justified his failure to record these conversations, or mention them, directly or indirectly, in his article, on the fact that the interviewees remained too frightened of the Serbian authorities to be quoted. The significance of this fear seems to have passed Deichmann by. See Cross Examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 8 PM, 88; and *ITN and Informinc Ltd*, Day 9, 4. Two books detail what Deichmann would have encountered in survivor interviews: Hukanović (1996), and Pervanić (1999), both of which are first-hand accounts of the camps in the Prijedor region. See also the evidence provided in the documentary film *Calling the Ghosts*, which chronicles the violent experiences of two women at Omarska [summary at: <http://www.peacenet.org/Balkans/mandy.html>, 4/12/00].
  24. During one of the *LM* road shows in Bonn – in which Deichmann and others publicized their arguments – Fikret Alić was present, making Deichmann somewhat uncomfortable. Alić confirmed that Deichmann’s central argument was flawed: ‘we were 100% behind that barbed wire. There was wire all around us’. Quoted in Harding (1997). For corroboration of this meeting and Alić’s statement, see Glover (1997) [<http://www.informinc.co.uk/ITN-vs-LM/press/coverage/may97/17-05-SP2.html>, 23/9/98, 16:16]. After ITN won the libel case, Alić praised the ITN journalists and welcomed the verdict. See ‘Bosnian prisoner praises ITN crew’ *BBC News*, 14 March 2000 [[http://news.bbc.co.uk/hi/english/newsid\\_677000/677700.stm](http://news.bbc.co.uk/hi/english/newsid_677000/677700.stm), 21/11/00].
  25. The rushes shown during the libel trial were not complete, as one tape covering the last part of the ITN crew’s visit to Omarska and the first part of their visit to Trnopolje is missing from the ITN archive. Although a significant tape, this loss is not connected to the *LM* allegations or the libel trial, as its absence was discovered in 1995–96 when ITN was asked by the International Criminal Tribunal for the Former Yugoslavia in The Hague to provide all their footage to the court. Moreover, while noting its loss, the barrister for *LM* made no issue of the matter, and argued that the available rushes were sufficient to establish their case. See Opening Speech by Mr Shields, *ITN and Informinc Ltd*, Day 1, 11–12; Cross-Examination of Penny Marshall, *ITN and Informinc Ltd*, Day 6 AM, 27–28.
  26. Thomas Deichmann, Witnesses – authentic or in the service of propaganda, which is available on the Serbian Unity Congress (SUC) site at [<http://suc.suc.org/~kosta/tar/mediji/mediji-SerbienMusSterbien-5.html>, 28/11/00]. Deichmann’s critique of Gutman is also on the SUC site [[http://www.suc.org/politics/media\\_watch/html/novo.html](http://www.suc.org/politics/media_watch/html/novo.html), 28/11/00]. For a study of the SUC’s role, see Blitz (1996), especially pp. 204–211.
  27. Hidden side of the Yugoslav war: the pictures they don’t want you to see, *LM*, 53 (March 1993) [<http://www.srpska-mreza.com/library/lm53/LM53.html>, 23/9/98, 14:54]. The exhibition was organized by the Serbian Academy of Sciences as part of the Academy’s project to document the fate of the Serbs during the Second World War. In addition to the photographic evidence – that mixed images from the 1990s with photographs from the 1940s – it involved the exhumation of the bones of Serbs killed at the hands of the Croatian Ustashe. What *LM* either did not know, or preferred to obscure, was the way in which the Serbian Academy of Sciences functioned as an intellectual source for virulent ethno-nationalism, and the way in which the political reclamation of dead bodies was integral to the propagation of ethno-nationalism. For discussions of the Academy and the disintering of victims bones, see Denich (1993). The photographs in the Serbian Academy exhibition became an important propaganda tool in British debates about the Bosnian War. Martin Cohen, editor of *The Philosopher*, recalled a talk at Leeds University in the early days of Bosnian war, when the Revolutionary Communist Party (the original sponsor of *Living Marxism*) turned up and ‘distributed gory photographs of atrocities committed by “Croats and Muslims” and disputed any strategy or pattern of the Serbian actions other than a natural defence against “fascism”’. (Their evidence, not that it made any difference to them, was some 50 years old, from the Second World War.) Their aim was to stifle debate on the issue, to bury the criticism of what they saw as a “near-socialist” regime, in a cynically calculated bombardment of misinformation and propaganda. For them, “truth” was a bourgeois notion, political power was the higher cause. Such was clearly the strategy behind the *LM* article’. Cohen (2000).
  28. Defence closing speech, Tadic IT-94-1, International Criminal Tribunal for the Former Yugoslavia, 27 November 1996 [<http://www.un.org/icty/transe1/961127ED.txt>], 8 May 2000, 10:30.
  29. Scharf (1997), p. 199. For a schematic overview of the Tadić case, see ‘Trial Information Sheet’, Tadic Case (IT-94-1), 15 September 2000 [<http://www.un.org/icty/glance/tadic.htm>, 10/10/00].
  30. Cross examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 9, 1.
  31. See, for example, Phillips (1994) [[http://www.informinc.co.uk/LM/LM74\\_Crimes.html](http://www.informinc.co.uk/LM/LM74_Crimes.html), 1/6/00, 0959]; and Hume (1995) [[http://www.informinc.co.uk/LM/LM80/LM80\\_Edit.html](http://www.informinc.co.uk/LM/LM80/LM80_Edit.html), 1/6/00, 10:03]. There are, of course, good critical questions that can be asked about the politics of the Hague tribunal. However, it is

hard to condemn it as a tool of Western interests when it was brought into being by a unanimous vote for UN Security Council resolution 827 on 25 May 1993; that is, a vote of all 15 members (permanent and non-permanent), including China and Russia, two countries that have rarely concurred with US policy concerning the former Yugoslavia. Moreover, the Security Council hardly rushed to get the ICTY up and running; it was more than a year after resolution 827 before the chief prosecutor was appointed and a modest budget made available. Coll (1994).

32. The picture that fooled the world, Press Release Embargo 00:01 GMT Saturday 25 January 1997 [<http://www.informinc.co.uk/LM/press-releases/Bosnia-press-1.html>, 23/9/98 15:32].
33. Deichmann (1997c), p. 25.
34. Deichmann (1997b), n.p., original emphasis. This lack of clarity about Deichmann's expertise was raised in the cross-examination of Mick Hume during the libel trial. See *ITN and Informinc Ltd*, Day 8 PM, 63–64.
35. As Fikret Alić has observed: 'I would like to say that behind the cameramen there were Serb soldiers and they shouted to write everybody's names who said something in front of the camera'. See 'Bosnian Prisoner Praises ITN Crew'. Ian Williams noted the severe restrictions on their capacity to report freely – including the fact the 'guards stood over everybody we spoke to' – in a live interview following the broadcast of his report. See *Ian Williams: Live 2-Way* (interview with Dermot Murnaghan), 6 August 1992, videocassette (London: ITN Archive, reference: t06089201.htm).  
In addition, there was also a Bosnian Serb military film crew taping the ITN crew at work. This is apparent from the RTS video at Trnopolje, where the RTS crew captures a uniformed cameraman filming the ITN journalists. See *Judgment* at 25:20. The existence of two Serbian crews – one from RTS and one from the military – was noted in the libel trial. See Discussion re Video, *ITN and Informinc Ltd*, Day 3 PM, 73.  
These circumstances need to be taken into account when evaluating the central premise of *Judgment*, which involves an exchange with one of the prisoners at the wire fence. This exchange was also highlighted by Deichmann (1997a). Penny Marshall is shown asking questions of the prisoners, when Mehmet steps forward to say that Trnopolje is a refugee camp not a prison and that conditions are fine. ITN did not use any of this particular exchange in their broadcast report, which the makers of *Judgment* insist proves the charge of fabrication. However, in addition to the intimidating circumstances in which these exchanges took place, such a conclusion overlooks the way Mehmet, even in the exchange highlighted by RTS, confirms that he was taken from his home involuntarily, and that he cannot now leave the camp (at 22:20). Moreover, Marshall's report (at 3:32) does include a statement from Mehmet – which is absent from the RTS video – in which he says he is afraid. Furthermore, the RTS film fails to include any other prisoner interviews, whereas ITN's diverse range of sources demonstrates the widespread fear.  
This tactic of extracting one allegedly positive assessment of the camp of Trnopolje – regardless of the context in which the statements are made – and ignoring all other negative assessments, was a consistent theme in the campaign against ITN. For example, *LM* drew attention to an interview with a 19-year-old camp guard called Igor, who was standing at a low fence in front of a crowd of prisoners, dressed in military fatigues with a pistol and hand grenade strapped to his waist, accompanied by other armed guards. Prisoners who identified themselves as past friends of Igor confirmed he was their guard, but when asked by Marshall whether they are his prisoner, they just shrugged nervously and said 'I don't know how to answer'. See 'The picture that fooled the world: an interview with Igor, one of the camp guards' [<http://www.informinc.co.uk/ITN-vs-LM/story/footage5.html>, 13/11/98, 10:35], where selected video clips and transcript were posted. *LM* took this scene from the ITN rushes (ITN Archive reference r06089201.htm), but the exchange was not used in the broadcast report. However, Marshall's report does contain (at 4:55) pictures of Igor and a voiceover drawing attention to the 'small touches of humanity' that stem from the fact many of the detainees were friends with their captors before the war.
36. Deichmann (1997c), p. 27.
37. *Ibid.*, p. 24.
38. *Ibid.*, pp. 24–25.
39. *Ibid.*, p. 25.
40. *Ibid.*
41. *Ibid.*, p. 24.
42. *Ibid.*, p. 25.
43. *Ibid.*
44. They were looking for the best picture, *LM*, 97 (February 1997), 27.
45. Deichmann (1997c), p. 29.
46. They were looking for the best picture.
47. Scharf (1997), pp. 171–172.
48. Opačić's diagram is reproduced in Deichmann (1997c), p. 29.
49. Scharf (1997), p. 199. Problems with witnesses were not confined to the prosecution in the Tadić case. On 31 January 2000, the Appeals Chamber of the ICTY found unanimously that Milan Vujin – who had been Tadić's lead counsel between September 1997 and April 1998 – was in contempt of the court because of witness manipulation and submission of information he knew to be false. See 'Milan Vujin, former counsel for Dusko Tadic, found in contempt of the tribunal, and fined 15,000 Dutch Guilders', Press Release CC/PI.S/467-E, The Hague, 31 January 2000 [available at: <http://www.un.org/icty/news/Tadic/tadic-cp.htm>, 10/10/00]. The Appeals Chamber upheld this decision on 27 February 2001, and suggested the

- Registrar ‘might consider striking Mr Vujin off or suspending him for a suitable period from the list of assigned counsel, and also reporting his conduct to the professional body to which he belongs’. ‘The Appeals Chamber upholds the conviction of Mr Vujin for contempt of court’, Press Release XT/P.I.S./570-e, The Hague, 2 March 2001 [available at: <http://www.un.org/icty/pressreal/p570-e.htm>, 31/07/01].
50. They were looking for the best picture.
  51. Scharf (1997), p. 200.
  52. By referring to Tadić’s crimes in terms of ‘beatings’ only, *LM* sought to minimize their significance by rendering them as isolated acts unrelated to the larger context of ethnic cleansing, a context which, as noted below, the Court emphasized in its judgment. Moreover, in calling attention to the fact that Tadić was convicted on only a portion of the original indictment, *LM* failed to disclose the legal reason for which the Trial Chamber found him not guilty of them. See Helen Searls, The Tadić verdict: a bad day for justice [<http://www.informinc.co.uk/LM/discuss/commentary/05-08-97-TADIC.html>, 01/06/00, 10:06]. Of the 31 original charges, Tadić was convicted on 11 counts of persecution and beatings, and not guilty on 20 counts, nine counts because of insufficient evidence. On the remaining counts the question of guilt or innocence was not determined because the counts were deemed to be inapplicable. That stems from the fact the Trial Chamber of the Court originally ruled (2–1) that after 9 May 1992 the war in Bosnia was internal not international, which meant that provisions for grave breaches of the Geneva Conventions of 1949 did not legally apply. Importantly, however, this ruling was overturned after an appeal from the prosecution. On 15 July 1999, the Appeals Chamber held that Tadić had acted in an international armed conflict, and that thus victims were ‘protected persons’ under international law. As a result, Tadić was guilty of those counts previously determined to be inapplicable. For a discussion of the legal issues at stake in these two different rulings, see Meron (1998), Gray (1997), and Sassoli and Olsen (2000).
  53. The truth behind the Tadić trial and Trnopolje [<http://www.informinc.co.uk/ITN-vs-LM/press/coverage/may97/07-05-PR.html>, 23/9/98, 16:15].
  54. Scharf (1997), p. 275.
  55. *Ibid.*, p. 198. For details of some of the testimony placing Tadić at Trnopolje, see *ibid.*, pp. 167–168.
  56. *Ibid.*, p. 200.
  57. *Ibid.*, p. 274, emphasis added.
  58. *Ibid.*, p. 209.
  59. In *Judgment*, inaccurate statements are made about the ITN reporting of Omarska. This video claims the ITN crews had freedom to film whatever and wherever they liked in Omarska, when both ITN reports include a scene showing Marshall and Williams arguing with the camp commandant about their inability to see everything. Williams noted the restrictions on their capacity to film in an interview which followed Channel 4’s broadcast; see *Ian Williams: Live 2-Way* (interview with Dermot Murnaghan), 6 August 1992, videocassette (London: ITN Archive, reference: t06089201.htm). *Judgment* also declares that ‘ITN never showed the public any of the footage shot in Omarska’ – a statement contradicted by what is evident in the opening minutes of both Marshall’s and Williams’s reports.
  60. Human Rights Watch (1997) [<http://www.hrw.org/hrw/reports/1997/bosnia/Bosnia.htm>, 10/5/00]. The problematic nature of the Serbian Red Cross in the Prijedor region can be appreciated by the fact that Ljiljana Karadžić, wife of Radovan Karadžić, has been its head since 1993. Moreover, Curguz has been accused by former inmates of Trnopolje of organizing the killing of some 100 inmates. See the posting of several newspaper articles by Andras Riedlmayer, ICRC concerned that war crime suspect’s wife heads RS Red Cross, International Justwatch Discussion List, message number 431, 13 April 2001 [available at: <http://listserv.acsu.buffalo.edu/archives/justwatch-1.html>].
  61. *Ibid.*
  62. Evidence of Thomas Deichmann, *ITN and Informinc Ltd*, Day 8 PM, 86.
  63. Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 8 PM, 90–91.
  64. Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 8 PM, 88–89; Evidence of Penny Marshall, *ITN and Informinc Ltd*, Day 6 AM, 7–9; Cross-examination of Penny Marshall, *ITN and Informinc Ltd*, Day 6 PM, 46–47. The improvements are the subject of a second report Marshall did at Trnopolje one week after the first story. See Penny Marshall, *News at Ten*, 12 August 1992, videotape (London: ITN Archive reference t12089201.htm).
  65. The RTS video *Judgment* maintains it has the clinching evidence: ‘Our crew filmed the ITN people as they maneuvered into this area [the alleged enclosure] through a hole in the broken-down fence, then we followed’. Leaving aside the caveat of the fence being broken down, the curious thing is that *Judgment* does not contain this supposedly crucial footage. If they filmed this manoeuvre, as they say, where are the pictures? Their absence testifies to the falsity of the claim.
  66. *The Concise Oxford Dictionary of Current English* (Clarendon Press: Oxford, 1990), pp. 385, 234.
  67. Deichmann (1997c), p. 28.
  68. *Ibid.*
  69. Deichmann (1997a), pp. 12–13.
  70. Deichmann (1997c), pp. 27, 28.
  71. Evidence of Thomas Deichmann, *ITN and Informinc Ltd*, Day 8 PM, 83.
  72. Statement by Mr Millar, the barrister for Informinc Ltd, during Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 3 AM, 2; Evidence of Mick Hume, *ITN and Informinc Ltd*, Day 8 AM, 22. The exact nature

of the split line drawings and their authentication from an (unnamed) American embassy was not made clear in the trial. Aside from the irony of *LM*, a magazine vehemently opposed to US foreign policy in the Balkans, drawing sustenance from what is said to be a US satellite photo, there might be some doubt as to whether detailed satellite photos of the Bosnian camps exist. However, the issue remains unclear.

The suggestion that they do not exist comes from George Kenny. Kenny originally resigned from his post on the Yugoslav desk in the US State Department because the Bush administration was not doing enough to respond to what he saw as the genocide against Bosnian Muslims. Later, however, Kenny underwent a radical and unexplained conversion to the *LM* position, and joined Deichmann and Hume in the public propagation of their arguments against ITN. On Kenny's resignation, and the link to the Holocaust Kenny cited as the reason for resigning – which is conveniently overlooked by *LM* – see Novick (2000), p. 252. The hint about the non-existence of satellite photos is in Kenny (1997) [[http://www.informinc.co.uk/LM/LM99/LM99\\_ITN.html](http://www.informinc.co.uk/LM/LM99/LM99_ITN.html), 23/9/98, 15:36]. This article was also available on the Serbian United Congress site [[http://www.suc.org/politics/conc\\_camps/html/Kenney.html](http://www.suc.org/politics/conc_camps/html/Kenney.html), 10/10/00].

For an argument which suggests there were numerous satellite and spy plane photos, see Lane and Shanker (1996). Lane and Shanker report that images of the camps taken by U-2 planes remained unanalysed until after Roy Gutman's *Newsday* articles were published in August 1992. By the end of September 1992, however, intelligence officials 'had a very large, comprehensive list of camps, with descriptions, places, information on inmates, conditions, maps'. However, none of this material was publicly released, and even when it came to giving the data to the ICRC, the USA withheld it for as long as possible. The reason for this tardiness was that US officials were wary of entanglement in the Bosnian war (the reverse of *LM*'s argument). In the end, it was not until August 1995, when the UN Security Council was presented with satellite images of graves near Srebrenica, that the USA was prepared to change policy and become more proactive in the war.

73. Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 8 PM, 91–92; Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 9, 8.
74. Evidence of Mick Hume, *ITN and Informinc Ltd*, Day 8 AM, 21–22.
75. *Ibid.*, p. 22.
76. Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 3 AM, 32–34; Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 3 PM, 46–47; Cross-examination of Andy Braddel, *ITN and Informinc Ltd*, Day 4 PM, 37; Cross-examination of Andy Braddel, *ITN and Informinc Ltd*, Day 4 PM, 55; Evidence of James Nicholas, *ITN and Informinc Ltd*, Day 4 PM, 79; Cross-examination of James Nicholas, *ITN and Informinc Ltd*, Day 5 AM, 12; Evidence of Christopher Hease, *ITN and Informinc Ltd*, Day 5 AM, 22; Cross-examination of Christopher Hease, *ITN and Informinc Ltd*, Day 5 AM, 26–27.
77. Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 3 AM, 35; Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 3 PM, 50; Cross-examination of Andy Braddel, *ITN and Informinc Ltd*, Day 4 AM, 44–48; Cross-examination of Andy Braddel, *ITN and Informinc Ltd*, Day 4 PM, 33; Cross-examination of James Nicholas, *ITN and Informinc Ltd*, Day 5 AM, 7; Cross-examination of Christopher Hease, *ITN and Informinc Ltd*, Day 5 AM, 25.
78. Mr Millar, Opening Speech, *ITN and Informinc Ltd*, Day 8 AM, 11.
79. Evidence of Michael Hume, *ITN and Informinc Ltd*, Day 8 AM, 19.
80. *Ibid.*; Cross-examination of Penny Marshall, *ITN and Informinc Ltd*, Day 7 AM, 6.
81. Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 3 PM, 50, emphasis added.
82. Mr Justice Morland, *ITN and Informinc Ltd*, Day 4 AM, 53.
83. Summing-up of Mr Justice Morland, *ITN and Informinc Ltd*, Day 10 PM, 62.
84. Evidence of Michael Hume, *ITN and Informinc Ltd*, Day 8 PM, 55.
85. See, for example, the way this comment serves as the lead in articles such as the Dutch report by Brouwer (2000).
86. *Ibid.*, pp. 64–67.
87. Broadcasting Standards Commission, Complaint about unjust or unfair treatment by ITN . . . about the *Six O'Clock News* on BBC1 . . . , 3.
88. Deichmann (1997c), p. 24.
89. *Ibid.*, p. 30.
90. Cross-examination of Michael Hume, *ITN and Informinc Ltd*, Day 8 AM, 40.
91. Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 9, 6.
92. Evidence of Idriz Merdzanic, *ITN and Informinc Ltd*, Day 7 AM, 9–17. Another of the plainly wrong statements in the RTS video *Judgment* is the claim (at 15:25) that no images of 'the Muslim doctor' were ever screened by ITN. The reverse is true: Marshall's report contained an interview with the Merdžanić in which he is obviously too scared to say much, while *Judgment* makes no reference to the photographs of abused inmates taken by Merdžanić, smuggled to Marshall, and shown in the ITN report. Moreover, the changes at Trnopolje in the wake of ITN's visit are evident in the contrast between the original interview with Merdžanić, and the follow-up Marshall did one week later, in which Merdžanić is clearly relieved. See Marshall, *News at Ten*, 12 August 1992.
93. Cross-examination of Michael Hume, *ITN and Informinc Ltd*, Day 8 AM, 41.
94. Cross-examination of Thomas Deichmann, *ITN and Informinc Ltd*, Day 9, 5.
95. Evidence of Ian Williams, *ITN and Informinc Ltd*, Day 2 PM, 52.
96. The appalling circumstances of those making their own way to Trnopolje is vividly illustrated in the opening

- of Penny Marshall's second report from the camp: it shows a distressed woman and her family fleeing to the camp because her husband has been shot, and her house torched, by the Bosnian Serb army. See Marshall, *News at Ten*, 12 August 1992.
97. Opening Speech, Mr Millar, *ITN and Informinc Ltd*, Day 8 AM, 13. While there is nothing in either Marshall's or William's reports that directly or indirectly supports *LM*'s interpretation, Ian Williams did write a subsequent article for the *Sunday Express* in which another claim was briefly made about the fence. After detailing the visit to Omarska, Williams wrote that upon arrival at Trnopolje 'there was a field surrounded by barbed wire and behind it hundreds of men'. In his testimony, Williams conceded that this part of the article was inaccurate in so far as 'the compound in which the men were imprisoned was surrounded by different types of wire', the barbed wire being only along one of the four sides. Notwithstanding the miniscule nature of the mistake – that of barbed wire versus different types of wire, including barbed wire – Williams stated he could have been more precise in the wording of this particular article. See Cross-examination of Ian Williams, *ITN and Informinc Ltd*, Day 4 AM, 5–7.
98. Cross-examination of Penny Marshall, *ITN and Informinc Ltd*, Day 7 AM, 3.
99. Campbell (2002).

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