

# Power(lessness) of Atrocity Images: Bijeljina Photos between Perpetration and Prosecution of War Crimes in the Former Yugoslavia

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## ABSTRACT<sup>1</sup>

The wars in the former Yugoslavia coincided with both the rise of international transitional justice discourses and with a revolution in visual recording, resulting in an abundance of visuals documenting extreme violence. This article investigates the conditions behind the creation of such visual material, as well as the impact of its circulation on the delivery of justice in the former Yugoslavia. The visual record of unpunished crimes is examined in one of the most infamous wartime photographs, taken in the Bosnian city of Bijeljina in the spring of 1992. In it, a young, armed man in a military uniform, sunglasses on his head, cigarette in his hand, attempts to hold his balance while kicking a dead woman. This photo became one of the quintessential representations of war in Bosnia. The circumstances of its creation, circulation and contestation are paradigmatic of the troubled process of coming to terms with the criminal past in Serbia, with wider ramifications for the use of visuals in other regions affected by mass violence.

**KEYWORDS:** photographic evidence, war crimes, Serbia, Bijeljina, Arkan

## INTRODUCTION

War has been observed through the camera lens from the latter's invention and the conflict in the former Yugoslavia was no exception. However, it was distinct in the swiftness of the media coverage, the ambiguous impact of which on both global and local public opinion has been repeatedly noted.<sup>2</sup> A small army of war correspondents

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1 This research was conducted within the Transitional Justice Program of the NIOD Institute for War, Holocaust and Genocide Studies (Royal Netherlands Academy of Arts and Sciences), prompted by its director of research, Dr Nanci Adler. It was finalized within the University of Magdeburg's Screening Transitional Justice in Serbia project, funded by the German Foundation for Peace Research.

2 The role of the media in the wars in the former Yugoslavia has been the subject of a number of studies, particularly emphasizing the role of local propaganda in fostering war, as well as disputing the impact of international media. Cf. Svetlana Slapšak, Milan Milošević, Radivoj Cvetičanin, Srećko Mihailović, Velimir Curgus Kazimir and Stjepan Gredelj, eds., *The War Started at Maksimir: Hate Speech in the Media: Content Analyses of Politika and Borba Newspapers 1987–1991* (Belgrade: Media Center, 1997); Mark Thompson, *Forging War: The Media in Serbia, Croatia, Bosnia and Herzegovina* (Luton: University of Luton Press, 1999); Nena Skopljanac Brunner, Stjepan Gredelj, Alija Hodžić and Branimir Kristofić, eds., *Media and War*

and photojournalists cruised through this war zone located a few hours' drive away from Vienna, Budapest and Milan. One of the outcomes, typical of contemporary conflicts, was a flood of visuals striving to represent the facets of destruction – the suffering of victims as well as the cruelty of perpetrators. In the Yugoslav case, however, the pictures and footage acquired a new dimension. Just as they once faced the camera, some of the perpetrators of war crimes have faced charges in front of the UN's International Criminal Tribunal for the former Yugoslavia (ICTY) as well as national courts. Visual material is frequently used as evidence, helping to identify those responsible and bring them to justice, but it also contributes to the transformation of affected societies.<sup>3</sup> However, as this article aims to show, this development is hardly straightforward. Both the potential in displaying atrocity images in legal contexts, as well as their limited effect on transitional justice processes, will be demonstrated using an example from a small Bosnian city. Its twists and turns are not only paradigmatic of Yugoslav wars, but resonate as well with other conflict zones.

Consider a photo (Figure 1) which, according to David Rieff, senior fellow at the World Policy Institute of the New School,

for almost every correspondent who covered the Bosnian war sums up what took place there. There, before you, is the face of ethnic cleansing. The photograph is also almost a parable for what took place in Bosnia.<sup>4</sup>

Rieff's mother, Susan Sontag, included this photo in her famous essay *Regarding the Pain of Others*, describing it as a

photograph taken in the town of Bijeljina in April 1992, the first month of the Serb rampage through Bosnia. From behind, we see a uniformed Serb militiaman, a youthful figure with sunglasses perched on the top of his head, a cigarette between the second and third fingers of his raised left hand, rifle dangling in his right hand, right leg poised to kick a woman lying face down on the sidewalk between two other bodies.<sup>5</sup>

(Zagreb: Centre for Transition and Civil Society Research, 2000); Kemal Kurspahić, *Prime Time Crime: Balkan Media in War and Peace* (Washington, DC: US Institute of Peace Press, 2003); Dubravka Žarkov, *The Body of War: Media, Ethnicity and Gender in the Break-Up of Yugoslavia* (Durham, NC: Duke University Press, 2007); Predrag Marković, 'Nita Luci, Events and Sites of Difference,' in *Media Discourse and the Yugoslav Conflicts: Representations of Self and Other*, ed. Pål Kolstø (Burlington, VT: Ashgate, 2009).

- 3 There is a short but rich history of the use of visual evidence in war crimes prosecutions, starting with Nuremberg. Cf. Lawrence Douglas, 'Film as Witness: Screening Nazi Concentration Camps before the Nuremberg Tribunal,' *Yale Law Journal* 105(2) (1995): 449–481; Christian Delage, *La Vérité par l'image: De Nuremberg au procès Milosevic* (Paris: Denoël, 2006). However, their use in the ICTY and the effect on the region of the former Yugoslavia is just beginning to attract systematic attention. See, James Gow, Milena Michalski and Rachel Kerr, 'Space Capsule Justice: The ICTY and Bosnia – Image, Distance and Disconnection,' *Slavonic and East European Review* 91(4) (2013): 818–846.
- 4 David Rieff, 'That These Photographs Exist,' in *Blood and Honey: A Balkan War Journal*, ed. Ron Haviv, with Chuck Sudetic, David Rieff and Bernard Kouchner (New York: TV Books, 2000), 22.
- 5 Susan Sontag, *Regarding the Pain of Others* (London: Penguin Books, 2003), 80–81.



**Figure 1.** Serbian Volunteer Guard soldier terrorizing the inhabitants of Bijeljina, 1 April 1992 (NIOD Institute for War, Holocaust and Genocide Studies, Amsterdam; photograph by Ron Haviv)

The photo did not go unnoticed. Already in 1993, Jean-Luc Godard made a short film entitled *Je vous Salue, Sarajevo* (Hail, Sarajevo), composed solely of details from this photo.<sup>6</sup> *New York Times* foreign correspondent John Kifner wrote about it:

The image is stark, one of the most enduring of the Balkan wars: a Serb militiaman casually kicking a dying Muslim woman in the head. It tells you everything you need to know.<sup>7</sup>

Sontag, however, cautions: ‘But of course it doesn’t tell us everything we need to know,’ and warns: ‘Narratives can make us understand. Photographs do something else: they haunt us.’ They are ‘an invitation to pay attention, to reflect, to learn, to examine the rationalizations for mass suffering offered by established powers.’<sup>8</sup> Taking up this invitation, it is necessary to employ the long experience of forensic methodology to establish the authenticity of visual material.<sup>9</sup> However, establishing authenticity is only the initial, no matter how difficult, part of the task.

6 *Je vous Salue, Sarajevo*, <http://vimeo.com/14405665> (accessed 25 April 2015).

7 John Kifner, ‘A Pictorial Guide to Hell,’ *New York Times*, 24 January 2001.

8 Sontag, *supra* n 5 at 81, 104.

9 Methodological remarks are from the historiography in Brian Harrison, ‘Photography,’ in *The Contemporary History Handbook*, ed. Brian Brivati, Julia Buxton and Anthony Seldon (Manchester: Manchester University Press, 1996). An interesting word of caution comes from the field of law. In Anglo-American jurisprudence ‘the mere picture . . . cannot be received except as a non-verbal expression to the testimony of some witness competent to speak to the facts represented.’ James H. Chadbourne, *Wigmore on Evidence*, rev. ed., vol. 3 (Boston, MA: Little, Brown and Co., 1970), 218–219.

'Photographs by themselves, even with captions, are no guarantee of evidence and truth,' as John Taylor reminds us, and indeed they need to be actively and rigorously interrogated.<sup>10</sup> This interrogation is incomplete without detailed examination of the actual content of the photos as well as the multilayered contexts in which they are made, distributed and consumed. In that respect, a critical reading of photographic representations of violence and the social context from which they emerge provides rich insights.<sup>11</sup> Taylor concludes that photographs speak volumes if asked the right questions, most importantly: 'What is photography's position in the power relations of its time?'<sup>12</sup> With this question in mind, this article inspects in detail the content of the Bijeljina photo, the context of its creation and the pathways of its circulation to discern the apparently ambiguous role which visual representations play in wartime perpetration, as well as in postwar attempts at prosecution of atrocities.

### THE ROLE OF VISUALS IN WAR CRIMES PERPETRATION

The shocking effect of the Bijeljina photo is layered. The horror of the act is amplified by the visible inequality between the well-outfitted young man and the shabby garments of his defenseless victims. His two companions' indifference leaves the impression that the sight is a part of their routine. But it is above all the casual body posture of the perpetrator which shocks. His sunglasses, cigarette and gracious moves leave the spectator convinced that he has neither doubts nor remorse.<sup>13</sup> His act suggests more than a personal pathology. He seems an embodiment of a murderous system. It is this impression which prompted so many observers to assign the photo a quintessential and iconic status. However, warns Sontag,

the photograph tells us very little – except that war is hell, and that graceful young men with guns are capable of kicking overweight older women lying helpless, or already killed, in the head.<sup>14</sup>

Therefore, before ascribing additional meaning we need to know as much as possible about what brought this man into that frame. Forensic detail on the sleeve of his uniform reveals an insignia – a badge featuring a Serbian flag and the head of an animal, with a Cyrillic inscription 'Tigers.' The Tigers, also known as the Serbian

10 John Taylor, 'War, Photography and Evidence,' *Oxford Art Journal* 22(1) (1999): 158.

11 Cf. Bernd Hüppauf, 'Modernism and the Photographic Representation of War and Destruction,' in *Fields of Vision: Essays in Film Studies, Visual Anthropology, and Photography*, ed. Leslie Devereaux and Roger Hillman (Berkeley, CA: University of California Press, 1995); Cornelia Brink, 'Secular Icons: Looking at Photographs from Nazi Concentration Camps,' *History and Memory* 12(1) (2000): 135–150. About the connection of atrocity photos and the society they were created in, see, Habbo Knoch, *Die Tat als Bild: Fotografien des Holocaust in der Deutschen Erinnerungskultur* (Hamburg: Hamburger Edition, 2001); Susie Linfield, *The Cruel Radiance: Photography and Political Violence* (Chicago, IL: University of Chicago Press, 2010).

12 John Taylor, *War Photography: Realism in the British Press* (London: Routledge, 1991), 14.

13 As in other cases of photos of wartime abuse. For example, 'when the pictures of the abuse of the Iraqi prisoners surfaced, the greatest shock was not just the acts themselves, but rather the obvious enjoyment that the abusers were getting from it.' Mauricio Parra, 'Regarding Violence,' *Discourse* 25(3) (2003): 5.

14 Sontag, *supra* n 5 at 81.

Volunteer Guard (*Srpska dobrovoljačka garda*, or SDG), were probably the most notorious paramilitary group to emerge during the war in the former Yugoslavia. This unit was covertly assembled by the Security Service of the Serbian Ministry of Interior. It was commanded by an infamous criminal of international repute, Željko Ražnatović Arkan, who in 1990 reinvented himself as an extreme nationalist.<sup>15</sup>

Arkan played an important role in the clandestine operations run by the regime of Serbian president Slobodan Milošević, such as arming Serbs in Croatia and Bosnia and Herzegovina. Once the war started in 1991, the unit was reinforced by a number of people with criminal records as well as football hooligans.<sup>16</sup> Presented as a group of volunteers with no formal connections to Serbian authorities, the group left a trail of blood, theft and fear across Croatia, operating mostly in Eastern Slavonia. As the war spread to Bosnia in 1992, so did the Tigers. Being among the first to bring it there, in the night between 31 March and 1 April, they moved to take over a town in northeastern Bosnia called Bijeljina, populated by around 27,000 Bosnian Muslims and 10,000 Serbs. With the help of local Serb forces the Tigers overran the defenseless town, terrorizing its non-Serb inhabitants and killing no less than 48 people in three days.<sup>17</sup>

It is there and then that Arkan's soldiers were captured by a camera in the hands of Ron Haviv, a well-known war photographer contracted by *Newsweek*, under exceptionally dramatic circumstances:

Screams echoed through the neighborhood. Haviv watched as other gunmen dragged the town butcher and his wife from their home. He slipped from view about thirty feet from Arkan's men and began snapping photographs. Shots were fired. The butcher, middle-aged and defenseless, fell to the ground. His wife bent down next to him, placing her hand over his chest, trying to stop the bleeding. Again a rifle shot rang out. The woman crumpled to the pavement. The Serbs then pulled the woman's sister out of the house, executing her as well. Haviv knew that to document the crime he had to capture the Tigers and their victims in the same frame. As soldiers started to leave the scene, Haviv wandered into the open. Just then a young Serbian soldier, sunglasses tilted

15 There is no comprehensive study on the shady origins and activity of this unit, which was subsequently merged with similar secret service formations, nicknamed Red Berets, into a formation called Unit for Special Operations. Cf. B92/Vreme, 'The Unit: The Untold Story of the Red Berets,' <http://www.b92.net/specijal/jedinica-eng/index.php> (accessed 25 April 2015). Equally elusive is the biography of its commander. See, Christopher Stewart, *Hunting the Tiger: The Fast Life and Violent Death of the Balkans' Most Dangerous Man* (New York: St. Martin's Press, 2008); Vreme, 'Dosije Arkan,' 22 January 2000, [http://www.vreme.com/arhiva\\_html/472/05.html](http://www.vreme.com/arhiva_html/472/05.html) (accessed 25 April 2015).

16 On the tie between football hooligans and paramilitary groups, see, Ivan Čolović, 'Football, Hooligans and War,' in *The Road to War in Serbia: Trauma and Catharsis*, ed. Nebojša Popov (Budapest: Central European University Press, 2000).

17 The takeover of Bijeljina, as well as its demography and casualties, are scrutinized in *Prosecutor v. Momčilo Krajišnik*, Case IT-00-39-T (27 September 2006). According to the 1991 census, of the 96,976 inhabitants of Bijeljina county, 59 percent were Serbs and 34 percent were Bosnian Muslims (today Bosniaks). However, the ethnic balance in the city itself was the opposite. See also, Stewart, *supra* n 15. The raid of Bijeljina is also described in detail in Jusuf Trbić, *Majstori Mraka* (Masters of Darkness), parts I-II (Lukavac: Kujundžić, 2007); Jusuf Trbić, *Istine i Laži* (Truth and Lies) (Sarajevo: Preporod, 2013). The number of victims still needs to be determined; 48 are known by name.

back on his head, cigarette burning in his left hand, casually walked over to the dying family of Bosnians, raised his black boot and, as Haviv took aim, kicked one of the women in the head. 'When he kicked her,' Haviv would say later, 'it was like the ultimate disrespect for everything.'<sup>18</sup>

The photos, later published in Haviv's *Blood and Honey*, heavily implicated the direct perpetrators as well as their commander:

Arkan was furious when that picture was published and put out a death warrant on Haviv, stating publicly that he looked forward to drinking his blood. But Arkan had personally invited Haviv to photograph what he called the 'liberation' of Bijeljina from Muslims.<sup>19</sup>

Haviv's presence in Bijeljina was more than a coincidence, his snapshots more than a lucky strike. As we learn from his interviews, Haviv was cruising through battle zones in Croatia, showing a particular interest in the activity of the Tigers, even a certain fascination with their commander: 'He was a very smart man, fluent in several languages and he thought he had the ability to control his own image.'<sup>20</sup>

Arkan understood the importance of having an internationally recognized photographer by his side and granted him privileged access. Still, Haviv was repeatedly prevented from taking photos of Arkan's forces in action. Instead, Arkan 'posed with his paramilitary unit and the baby tiger because he believed it made him look powerful and strong.'<sup>21</sup> Frustrated, Haviv waited for an opportunity to document the criminal nature of Arkan's warfare. Apparently satisfied with Haviv's work, Arkan granted him entrance to Bijeljina some months later, imagining it to be another public relations success. However, upon understanding that the photographer might have seen and taken shots of damaging material, Arkan made him hand over his negatives. Haviv appeared to have done so, but had stashed a couple of rolls and spirited them away from the region. Once he found out what was in the photographs, Haviv knew that he had succeeded in documenting wartime atrocity at its worst. Thinking back, Haviv felt that the taking of the photographs was 'a combination of luck and playing to Arkan's ego.'<sup>22</sup>

However, it is not just a smart photographer and a vain criminal who made these photos come into existence. Dubravka Žarkov observes that what is invisible in photographs might be as important as what is exposed.<sup>23</sup> Consider another photo (Figure 2) of this unit, staged to Arkan's liking in his military compound in Erdut in

18 Joshua Lipton, 'Shooting War,' *Columbia Journalism Review* 41(2) (2002): 48.

19 Kate Milner, 'Witness to Balkans Bloodshed,' *BBC News*, 24 May 2001, <http://news.bbc.co.uk/1/low/world/europe/1347218.stm> (accessed 25 April 2015).

20 Ron Haviv, with Chuck Sudetic, David Rieff and Bernard Kouchner, *Blood and Honey: A Balkan War Journal* (New York: TV Books, 2000), 19. For his interviews on this experience, see, US Holocaust Memorial Museum, 'Eyewitness Testimony: Ron Haviv,' <http://www.ushmm.org/confront-genocide/cases/bosnia-herzegovina/bosnia-video-gallery/eyewitness-testimony-ron-haviv> (accessed 25 April 2015).

21 Haviv, *supra* n 20 at 188.

22 Milner, *supra* n 19.

23 Dubravka Žarkov, 'Exposures and Invisibilities: Media, Masculinities and the Narratives of Wars in an Intersectional Perspective,' in *Framing Intersectionality: Debates on a Multi-Faceted Concept in Gender Studies*, ed. Helma Lutz, Maria Teresa Herrera Vivar and Linda Supik (London: Ashgate, 2011).



**Figure 2.** Arkan's troops posing for Haviv in their military base in Erdut, Eastern Slavonia, Croatia, late 1991 (NIOD Institute for War, Holocaust and Genocide Studies, Amsterdam; photograph by Ron Haviv)

1991, also taken by Haviv. Among a group of masked soldiers, only Arkan's face is exposed and the impression is strong – it is clear who the boss is. However, exposing notorious figures like Arkan, who spearheaded the campaign of violence, conveniently left the real organizers of his unit in deep shade, making it more difficult to discern the unit's connections to the Serbian authorities.

Arkan played the role willingly, using all the media coverage he could get to boost his reputation, intimidate opponents, outsmart competitors and ease recruitment into the SDG. An added bonus was a thorough overwriting of his past criminal record. Asked once by a journalist about his criminal enterprises, he calmly said: 'My past has nothing to do with the Serbian fighting, for Serbian freedom . . . I forgot about it.'<sup>24</sup>

24 *Arkan. Mad Dog*, produced by ITV, the Cook Report, Records of the International Human Rights Law Institute, Open Society Archives, Budapest, Hungary (HU OSA 304-0-15-1/005), 23. Such exposure might even have served as a safety precaution. Rumored to have been a Yugoslav secret service hitman in the 1980s, he was aware of the service's practice of occasionally getting rid of the people who did its dirty work. He might have reached the conclusion that it was safer to operate in the limelight. *Vreme*, supra n 15.

His prewar criminal record was hushed up and his military accomplishments were glorified, despite grave war crimes. Indeed, he soon registered a political party, the Party of Serbian Unity (*Stranka srpskog jedinstva*). He succeeded in becoming a member of the Serbian parliament, alongside his more important role of *capo di tutti capi* in the Belgrade underground. His unit continued to hold a special place within the booming field of paramilitarism in the region of the former Yugoslavia.<sup>25</sup>

Arkan's motivation was clear; less clear was the rationale behind the Serbian authorities' facilitation of Arkan's reinvention through publicizing and glamorizing his paramilitary band as the elite volunteer unit in the state media.<sup>26</sup> What was the logic behind this seemingly self-defeating exposure?

The rationale behind this strategy lay in a war in which Serbia was involved indirectly, supporting its proxy statelets (Republika Srpska Krajina in Croatia and Republika Srpska in Bosnia) with the intent of taking over and ethnically homogenizing parts of Croatia and Bosnia. Hence, the Serbian state was outsourcing warfare to individuals and groups ready to implement the ruthless means required in a strategy that infamously and disputably came to be known as 'ethnic cleansing.' The strategy relied on a variety of means, ranging from intimidation, discrimination, incarceration and persecution, to wanton destruction, deportation, rape, murder and extermination.<sup>27</sup> It was necessary to constantly generate hatred and fear to fuel the hostilities, break the morale of the targeted population and prompt its expulsion. Violence was indispensable in spreading the terror. Visual documentation of those means, however, while initially generating popular support for the war, started working against it. Leakage of visual material depicting extreme violence terrified the non-Serb population, but it also reached a level which seriously undermined Serbian engagement in the conflict by fostering anti-war sentiments within Serbia and tarnishing its reputation abroad.<sup>28</sup>

25 Klaus Schlichte, 'Na Krilima Patriotisma – On the Wings of Patriotism: Delegated and Spin-Off Violence in Serbia,' *Armed Forces and Society* 36(2) (2010): 310–326.

26 Serbian state television also aired footage of Arkan's takeover of the town of Bijeljina, including an interview with him. Newspapers wrote about it as well. Extensive media coverage in a Belgrade daily, *Politika*, was gathered by the web portal E-novine. See, E-novine, 'Arkan stigao, Bijeljina u krvi,' 2 April 2010, <http://www.e-novine.com/feljtton/36289-Arkan-stigao-Bijeljina-krvi.html> (accessed 27 April 2015); 'Arkan Intervju u Oslobođenoj Bijeljini 1992,' YouTube video, 2:46, 14 November 2009, <http://www.youtube.com/watch?v=N4md5ru6Q4U&feature=related> (accessed 27 April 2015).

27 The origins, meaning and applicability of the term 'ethnic cleansing' are a subject of debate. Cf. Vladimir Petrović, 'Guerrilla Warfare and Ethnic Cleansing: Terminological and Conceptual Remarks,' in *Guerrilla in the Balkans: Freedom Fighters, Rebels or Bandits*, ed. Momčilo Pavlović, Tetsuya Sahara and Predrag J. Marković (Belgrade: Institute of Contemporary History, 2007). The first systematized information on the scope of war crimes was derived from 'Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992),' UN Doc. S/1994/674 (27 May 1994). ICTY has reconstructed a map of crimes which demonstrates the implementation of this strategy in specific regions. UN ICTY, 'Interactive Map,' <http://www.icty.org/sid/10913> (accessed 27 April 2015). On the war goals, see, Vesna Pešić, 'The War for Ethnic States,' in *The Road to War in Serbia: Trauma and Catharsis*, ed. Nebojša Popov (Budapest: Central European University Press, 2000). On the role war crimes played in wartime strategy, see, James Gow, *The Serbian Project and Its Adversaries: A Strategy of War Crimes* (London: Hurst & Co, 2003).

28 See, David Campbell, 'Atrocity, Memory, Photography: Imaging the Concentration Camps of Bosnia – the Case of ITN versus *Living Marxism*, Part 1,' *Journal of Human Rights* 1(1) (2002): 1–33; David Campbell, 'Atrocity, Memory, Photography: Imaging the Concentration Camps of Bosnia – the Case of ITN versus *Living Marxism*, Part 2,' *Journal of Human Rights* 1(2) (2002): 143–172.



Caught in this tension between reaching war goals and concealing the criminal means, Serbian authorities opted for the partial outsourcing of extreme violence through the creation of paramilitary groups overseen by the secret police. Boosting their shady leaders was a part of the deal. For Arkan and his troops to be dreaded, the local population had to hear about the atrocities they committed. Arkan understood this logic only too well, and performed accordingly: 'I am proud to be a war criminal, if that is the point,' he said to a journalist.

I give a damn about how my people call me, but I don't give a damn how the fascist Croats call me. Do you understand? They can call me a horrible one, I don't give a damn. Do you understand?<sup>29</sup>

His public appearances were an important part of these policies of intimidation. So was the behavior of his troops in Bijeljina. According to eyewitnesses, during the first days of April, even though he came into the city with only a handful of soldiers, Arkan was an undisputed authority for the local Serbian police, municipality leaders, volunteers and paramilitary members.<sup>30</sup> However, although he was a master of life and death, he did not entirely master the flow of information, as the affair with Haviv showed. The Bijeljina photos were, therefore, an unintended consequence of a war-time strategy in which visual documents performed a double function, being simultaneously both the evidence and the tool of violence. This duality made the proliferation of atrocity images likely and their afterlife tumultuous.

### THE ROLE OF VISUALS IN WAR CRIMES PROSECUTION

The photo in question seemed to present one of the most compelling visual testimonies of war crimes in the former Yugoslavia. It quickly found its way into the iconic visual package in which great hopes were vested by human rights activists, commentators and artists like Rieff, Godard, John Kiffner and many others who 'still affirm the power of images and words to expose the forces that promote, sustain and sublimate violence.'<sup>31</sup> Haviv recollects:

I truly believed that my pictures could have a real effect in preventing a Bosnian war. When my photos were published in magazines around the world they caused a bit of an uproar, but not as much as I had hoped.<sup>32</sup>

He should not have been surprised. As Sontag reminds us,

the photographer's intentions do not determine the meaning of the photograph, which will have its own career, blown by the whims and loyalties of the diverse communities that have use for it.<sup>33</sup>

29 Open Society Archives (OSA), Records of the International Human Rights Law Institute (IHRLI) Relating to the Conflict in the Former Yugoslavia, 304-0-15-1/005, 29.

30 Trbić, *Istine i Laži*, supra n 17.

31 Parra, supra n 13 at 5.

32 Iconic Photos, 'Arkan and the Tigers,' <http://iconicphotos.wordpress.com/2011/03/16/arkan-and-the-tigers/> (accessed 27 April 2015).

33 Sontag, supra n 5 at 35.

The Bijeljina photo manifests this frustrating cycle only too clearly. Precisely because of its iconic status, the battle for its interpretation started raging as soon as it saw the light of day. Arkan offered an initial counternarrative when British reporter Robin Cook took the photos directly to him:

Cook: Can I bring an incident to your attention? These photographs here were taken by a photographer who says this is an atrocity. This lady was tending to a wounded man. These pictures were taken, says the photographer, with your approval.

Arkan: Of course, I give approval to it, to every photograph taken.

Cook: Right, right. There she is leaning over. Next minute, she's dead. And that's one of your men who shot her.

Arkan: Yes.

Cook: And the other lady. And there's one of your men, kicking her in the head. These are unarmed civilians. And that's you at the same time.

Arkan: I will tell you. Now. First of all, you see, this picture is very clear. The photographer which made this picture, he's a friend of mine. Do you understand? I let him show these pictures to the world. First, this lady was shot by the Muslim sniper . . . The guy down, he's Serb, she was helping him, just a minute. This is my people cleaning the area from our fighters, and this picture the other man who came there, he was pushing them to see if they are alive.

Cook: With his foot?

Arkan: With his foot, of course. Because in this other hand of his, you see here, his rifle, and still the area you can see the soldiers, they are still controlling the area, still they have snipers, and still the fight was going on.

Cook: That's not what the photographer says. We also hear that another man running away was shot in the back by these men. Somebody else was marched off into a nearby building and thrown out of a second floor window.

Arkan: That's a lie. A pure lie.<sup>34</sup>

The arrogance with which Arkan attested to the authenticity of the photos but obscured their meaning highlighted the erosion of critical thinking in large segments of Serbian public opinion.<sup>35</sup> In an atmosphere of crude cynicism and general disorientation and fear, the accounts of eyewitnesses who suggested the identities of victims were barely heard. 'This is Redžep, and this is his wife Tifa. They had been hiding in a cellar when driven out by Arkan's men . . . these people, were my friends,' reported one of the refugees from Bijeljina, who recollected the violent deaths of the town's

34 *Arkan. Mad Dog*, supra n 24 at 27–28. The interview was aired in October 1992 on ITV. For footage of the atrocities of Arkan's troops containing parts of the interview, see, 'Serbian Private Army "Arkans Tigers";' YouTube video, 26 October 1992, <http://www.youtube.com/watch?v=tIQ3CCUIoAQ> (accessed 27 April 2015).

35 Exploration of a particular culture of violence is described in detail by Eric Gordy, *The Culture of Power in Serbia: Nationalism and the Destruction of Alternatives* (University Park, PA: Pennsylvania State University Press, 1999). See also, Sabrina Ramet, 'The Denial Syndrome and Its Consequences: Serbian Political Culture since 2000,' *Communist and Post-Communist Studies* 40(1) (2007): 41–58.

butcher Redžep Šabanović, his wife Tifa and other people killed in front of the Šabanović house during what he referred to as ‘a day when death came to Bijeljina.’<sup>36</sup> However, Arkan thought he was positioned to laugh such testimonies away. Shielded by complete impunity and dreaded, he continued doing the dirty work for the Serbian government and for himself until he was gunned down at the Intercontinental Hotel in Belgrade in early 2000. Arkan’s death was not good news for the cause of transitional justice. He was one of the persons indicted by the ICTY, the first international tribunal since Nuremberg. Created in May 1993 through a UN Security Council resolution, it has the ‘sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia.’<sup>37</sup> The ICTY emerged on the wave of hope vested in the transformative power of various legal and extralegal mechanisms devised to address the transgressions of authoritarian regimes and foster their transition to democracy.

To that end, it slowly picked up the pace during the war, first investigating low-ranked cases, starting with direct perpetrators, then looking at exposed criminals like Arkan and gradually focusing on the most high-ranking war criminals. Over the years the ICTY indicted more than 160 people, including Arkan, who was indicted in September 1997.<sup>38</sup> Arkan defiantly appeared on ABC and CNN television:

To tell you in the clear English language, I don’t give a damn for that indictment . . . I will not surrender myself, I am not guilty. I will fight to the end.<sup>39</sup>

This end was closer than he thought. As indictments against Milošević and his top collaborators followed in May 1999, Arkan’s time was running out.<sup>40</sup> In all probability, through his assassination Milošević was attempting to avoid responsibility by terminating this unpleasant association.<sup>41</sup> The attempt was ultimately unsuccessful, as Milošević fell from power in October 2000 and the new government transferred him to the ICTY at the end of June 2001.<sup>42</sup>

Milošević’s trial was perceived as the high point of the ICTY’s activity, a supreme vehicle of transitional justice and hence an appropriate location to deploy a wide range of persuasive evidence, including visuals, a type of evidence with which the

36 Arkan. *Mad Dog*, supra n 24 at 28.

37 ‘Security Council Resolution 827 (1993),’ UN Doc. S/RES/827 (25 May 1993), para. 2. As the ICTY grew institutionally, so did the literature about it. Cf. Michael Scharf, *Balkan Justice: The Story behind the First International War Crimes Trial since Nuremberg* (Durham, NC: Carolina Academic Press, 1997); Rachel Kerr, *The International Criminal Tribunal for the Former Yugoslavia: An Exercise in Law, Politics and Diplomacy* (Oxford: Oxford University Press, 2004); James Gow, Rachel Kerr and Zoran Pajić, eds., *Prosecuting War Crimes: Lessons and Legacies of the International Criminal Tribunal for the Former Yugoslavia* (London: Routledge, 2014).

38 *Prosecutor v. Željko Ražnjatović*, Case No. IT-97-27 (initial indictment 23 September 1997).

39 Stewart, supra n 15 at 265.

40 *Prosecutor v. Slobodan Milošević, Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Vlatko Stojiljković*, Case No. IT-99-37 (initial indictment 22 May 1999).

41 Vreme, supra n 15.

42 Norman Cigar, Paul Williams and Ivo Banac, *Indictment at The Hague: The Milošević Regime and Crimes of the Balkan Wars* (New York: New York University Press, 2002); Michael P. Scharf and William A. Schabas, *Slobodan Milošević on Trial: A Companion* (New York: Continuum, 2002).

ICTY had rich experience.<sup>43</sup> Indeed, many compelling photos and videos were exhibited during the trials, from photos of the Goran Jelišić murders in Brčko to videos of Serbian concentration camps in Omarska and Trnopolje.<sup>44</sup> They undoubtedly helped to convict the immediate perpetrators and build the cases against their superiors. In the Milošević case the prosecution tendered no less than 117 video records, some of which, like the Scorpions video, had a dramatic effect on Serbian public opinion.<sup>45</sup>

The Bijeljina photos were also exhibited at the Milošević trial during the testimony of Arkan's wartime secretary. Confronted with the infamous material, she denied that civilians in the photo were killed by Arkan's Tigers, but importantly claimed to recognize the man who kicked the dead woman:

Q: And you said that you recognized Srdjan Golubovic, nicknamed Max, right?

A: Yes. Yes, that's right.

Q: Is it true and correct that that man, Srdjan Golubovic, Max, had nothing to do with the killing or any responsibility for the killing of the person seen on the photograph?

A: Yes. And I said that too. That's what I stated, that to the best of my knowledge he went up to the woman when the woman was already dead . . . All I know is that the man Max said that he had a lot of problems because he approached that woman with a rifle in his hands, trying to turn her over, turn her body over. That's what Max told me.<sup>46</sup>

Milošević died in his prison cell in March 2006, but the Bijeljina photos were repeatedly exhibited in other ICTY trials, and the pieces of the puzzle slowly came together. In the Vojislav Šešelj trial a witness from Bijeljina testified about the identity of the victims: 'Yes, yes. I saw Arkan's men kill the Šabanovic family, and their son – well, I didn't see the son because I couldn't see everything.'<sup>47</sup> Motivated by this sentence, Radenko Milak, an artist from Banja Luka, created an exhibition composed of

43 On this documentary base and its management, see, Human Rights Watch, *Weighing the Evidence: Lessons from the Slobodan Milosevic Trial* (December 2006); Gideon Boas, *The Milošević Trial: Lessons for the Conduct of Complex International Criminal Proceedings* (Cambridge: Cambridge University Press, 2007).

44 Campbell, supra n 28.

45 For the impact of the trials, see, Diane Orentlicher, *Shrinking the Space for Denial: The Impact of the ICTY in Serbia* (New York: Open Society Institute, 2008). On the Scorpions video and its effects, see, Vladimir Petrović, 'A Crack in the Wall of Denial: The Scorpions Video in and out of the Courtroom,' in *Narratives of Justice in and out of the Courtroom: Former Yugoslavia and Beyond*, ed. Dubravka Žarkov and Marlies Glasius (Cham: Springer, 2014).

46 International Criminal Tribunal for the former Yugoslavia, Milošević case, transcript, [http://www.icty.org/x/cases/slobodan\\_milosevic/trans/en/030417ED.htm](http://www.icty.org/x/cases/slobodan_milosevic/trans/en/030417ED.htm) (accessed 4 May 2015).

47 International Criminal Tribunal for the former Yugoslavia, Šešelj case, transcript, <http://www.icty.org/x/cases/seselj/trans/en/081209ED.htm> (accessed 4 May 2015), 12740. According to the ICTY testimonies, the people in Havić's photos who were killed in front of the house were butcher Redžep Šabanović from Bijeljina, his wife Tifa (sometimes named Ajša) and her sister. However, it appears that the butcher was killed in the house. The murdered persons in the photo are an Albanian husband and wife, Abdurahman and Bejtullah Pajaziti, who were hiding in Šabanović's cellar. The third murdered person in the photo, kicked in the head by Arkan's man, is Tifa Šabanović, Redžep's wife. Cf. Trbić, *Istine i laži*, supra n 17.



**Figure 3.** Details from the exhibition *And What Else Did You See? – I Couldn't See Everything!* (Photograph by Radenko Milak, 2012)

a series of his paintings whose sole motif was the Bijeljina photo in slight variations (Figure 3).<sup>48</sup> Hosted among other places in the Belgrade Museum of Contemporary Art in Serbia in early 2012, the exhibition (entitled *And What Else Did You See? – I Couldn't See Everything!*) was opened by well-known Belgrade anthropologist Ivan Čolović in a speech entitled 'Who is this armed man?'<sup>49</sup>

The same question intrigued ICTY prosecutors. Around the same time, Bijeljina photos were once again submitted as evidence in the case against Jovica Stanišić and Franko Simatović, Serbian secret police bosses, during cross-examination of one of the defense witnesses, Jovan Dimitrijević, who had done logistics for Arkan's men:

Now, your comment about the Bijeljina operation was that 'everything went smoothly and the impressions one had of the entire operation were extremely positive.' This is a photograph taken during the take-over of Bijeljina by Arkan's men in 1992. Do you recognise these men?

A: I recognise one of them.

Q: Please tell us whom you recognise and where he is standing.

A: The person with his back turned to us who is kicking the men on the ground. He is a member of the Serbian Volunteer Guards. His name is Srdjan Golubovic. His nickname is Max. He was punished for his conduct and

48 Radenko Milak, '2010–2012 / *And What Else Did You See? – I Couldn't See Everything!*' <http://radenko-milak.blogspot.nl/2012/04/and-what-else-did-you-see-i-couldnt-see.html> (accessed 4 may 2015).

49 Ivan Čolović, 'Ko je ovaj naoružani čovek?' (Who is this armed man?), *tacno.net*, 23 February 2012, <http://tacno.net/uncategorized/ko-je-ovaj-naoruzani-covek/> (accessed 4 may 2015).

removed from the ranks of the Serbian volunteers. There were a lot of foreigner reporters in Bijeljina at the time, or, rather, one or two days later after the operation itself. This photo was taken a day after the operation while they were on patrol. This was not considered appropriate conduct and he was, therefore, punished. And if I remember properly, he was even removed from the ranks of the Serbian Volunteer Guards.

The prosecutor was also curious about whether Golubović was criminally prosecuted afterwards. The witness answered,

No, he wasn't, as far as I know. Not for this particular incident. However, as much as I know, after the war he did have some problems with the law enforcement agencies.<sup>50</sup>

It would be an underestimation of the scope of impunity in the region of the former Yugoslavia to expect that these problems had to do with war crimes. In the spring of 2012, two decades after the war, Bosnia and Herzegovina was divided: as the capital city Sarajevo mourned the beginning of the war, the town of Bijeljina, a Bosnian Serb stronghold, remembered 'the day when the Serb population rose to defend Bijeljina against armed formations under Muslim leadership.'<sup>51</sup> It is estimated that more than half of the Bosnian Muslim community has left Bijeljina and the majority of the banished remain reluctant to return to their homes.<sup>52</sup>

This is hardly surprising as they would have to enter the town through a street that bears the name 'Serbian Volunteer Guard' (Figure 4). Further down the street is a monument to the fallen defenders, positioned right next to the building of the district prosecutor's office, an empty reminder of expectations about the delivery of justice (Figure 5). As Momčilo Krajišnik and Biljana Plavišić, the wartime leaders of Bosnian Serbs, were convicted in the ICTY, *inter alia* for crimes which happened in Bijeljina, it was expected that the local judiciary would deal with the remaining perpetrators. However, the local judicial response to atrocities in Bijeljina has been limited to six convictions for exceptionally cruel crimes against civilians.<sup>53</sup> These are exceptions in a situation where impunity is the rule, particularly for local leaders who were at the forefront of the takeover of Bijeljina. Many of them even starred in the ICTY in March 2013 in the trial of Radovan Karadžić, wartime president of Republika Srpska. In an effort to reinforce Karadžić's version of the Bijeljina events, witnesses

50 International Criminal Tribunal for the former Yugoslavia, Jovica Stanišić and Franko Simatović case, transcript, [http://www.icty.org/x/cases/stanisic\\_simatovic/trans/en/120119ED.htm](http://www.icty.org/x/cases/stanisic_simatovic/trans/en/120119ED.htm) (accessed 4 May 2015), 16209–16211.

51 Deutsche Welle, 'Odbrana ili zločin?' <http://www.dw.de/odbrana-ili-zlo%C4%8Din/a-15853579> (accessed 4 May 2015).

52 Human Rights Watch, *Bosnia and Herzegovina – Unfinished Business: The Return of Refugees and Displaced Persons to Bijeljina* (May 2000).

53 Three were convicted in Bosnia and Herzegovina (Drago Ilić, Džemal Zahirović and Fikret Smajlović) and three more in Serbia (Dragan Jović, Zoran Đurđević and Alen Ristić). Republic of Serbia, Office of the War Crimes Prosecutor, press release, 4 June 2012, [http://www.tuzilastvorz.org.rs/html\\_trz/VESTI\\_SAOPSTENJA\\_2012/V5\\_2012\\_06\\_04\\_ENG.pdf](http://www.tuzilastvorz.org.rs/html_trz/VESTI_SAOPSTENJA_2012/V5_2012_06_04_ENG.pdf) (accessed 4 May 2015). Cf. *Prosecutor v. Momčilo Krajišnik*, Case IT-00-39-T (27 September 2006).



**Figure 4.** The street sign reads 'Serbian Volunteer Guard' (Photograph by the author, 2014)



**Figure 5.** Bijeljina city center showing a monument to fallen Serb defenders. The district court and prosecution office are in the background. (Photograph by the author, 2014)

were confronted with the Bijeljina photo.<sup>54</sup> They added nothing but further obfuscations. 'He was a Fata Morgana for us, Arkan, for Serbs and Muslims,' stated the head

54 The witnesses were municipal officials Cvijetin Simić, Svetozar Mihajlović and Dragomir Ljubojević; head of the Bijeljina Territorial Defence, Živan Filipović; and Bijeljina police inspector Dušan Spasojević. International Criminal Tribunal for the former Yugoslavia, 'ICTY Weekly Update – 709,' 22 March 2013, [http://www.icty.org/x/file/Cases/Weeklyupdate/2013/weekly\\_update\\_709.pdf](http://www.icty.org/x/file/Cases/Weeklyupdate/2013/weekly_update_709.pdf) (accessed 7 May 2015).

of the wartime territorial defense, denying that he had ever seen the photos before. Karadžić attempted to lure the witnesses to conclude that on the basis of their clothing, the victims – if they were dead at all – were ethnic Serbs.<sup>55</sup> Another Karadžić witness, Cvijetin Simić, wartime president of Bijeljina municipality, simply denied any knowledge:

A: I don't know. I didn't know then that they were published throughout the world and I don't know it now. I don't even know whether they are from Bijeljina. Is there any identification of these people? What is to confirm the location?

Q: It doesn't take much to go to Haviv's – Mr. Ron Haviv's web site or the web site of a – called iconic photographs, which means photographs that are particularly famous . . . So is it your testimony that as the president of the municipality at that time and a continuing resident of Bijeljina you had no awareness that these were photographs of Bijeljina involving Arkan's forces?

A: I can't recognise these people because I don't know Arkan's men and I don't know the victims, so how could I comment on either?

Q: All right.<sup>56</sup>

Two months later in the next-door courtroom, the wartime head of Milošević's secret police, Stanišić, and his deputy Simatović, widely alleged masterminds behind the system of paramilitary formations, were acquitted by the ICTY. The judgment neatly described the murderous events in Bijeljina, as well as in many other locations in Croatia and Bosnia, but failed to connect their planning, preparation or execution with the activity of the two accused. They were flown back to Belgrade to await the appeal judgment.<sup>57</sup> In this sea of impunity Golubović, the alleged tormentor of the Šabanović family, was indeed a small fish. He would likely have been forgotten if it were not for his lifestyle. In September 2012, the Bosnian press suggested that a person apprehended in Belgrade for the illegal possession of firearms might be the same person Haviv had recorded in Bijeljina 20 years ago.<sup>58</sup> As the press kept speculating about the bizarre details of this arrest, a definite confirmation could come only through judicial

55 International Criminal Tribunal for the former Yugoslavia, Karadžić case, transcript, <http://www.icty.org/x/cases/karadzic/trans/en/130321ED.htm> (accessed 7 May 2015), 35799, 35803.

56 International Criminal Tribunal for the former Yugoslavia, Karadžić case, transcript, <http://www.icty.org/x/cases/karadzic/trans/en/130320IT.htm> (accessed 20 May 2015), 35679.

57 *Prosecutor v. Jovica Stanišić, Franko Simatović*, Case IT-03-69-T (30 May 2013). For a critical reading of the judgment, see, Katherine Pruitt, 'Destroying the Legacy of the ICTY: Analysis of the Acquittals of Jovica Stanišić and Franko Simatović,' *San Diego International Law Journal* 15(2) (2014): 359–376.

58 'Uhapšen arkanovac sa Havivove fotografije' (Arkan's Man from Haviv's Photo Arrested), *Dnevni Avaz*, 11 September 2012. He was evidently not in hiding as he spoke extensively with a journalist writing a book about Arkan. Cf. Stewart, *supra* n 15 at 181 and 243, who also harbored suspicions that he was talking to the person who had kicked the woman in the photo, and was curious 'how could someone like Trax, who had led a pretty average teenage life before the war, turn around during the war and start committing such gruesome acts.' Confronted, his interlocutor 'either didn't hear or pretended not to hear. The second time I asked, he looked surprised, but just shook his head sadly: "I don't know," he said.'



investigation.<sup>59</sup> Although unlikely under present circumstances, a future trial may present another chance to reveal the obscured scope and character of the mass violence that transpired in Bijeljina, as well as prompt the delivery of justice to its victims.

### CONCLUSION: CAMERA OBSCURA IN BIJELJINA AND ELSEWHERE

Only with the utmost caution should one assign emblematic or iconic status to visual representations. Still, there are good reasons to consider the Bijeljina photo at the very least quintessential. The perpetrator, his victims, bystanders and the deed are all captured in a single frame. In that respect, this visual testimony stands side by side with the Second World War's infamous 'The Last Jew of Vinnitsa' and Vietnam's 'Execution of a Viet Cong Guerrilla.' In relation to its content, it resembles the photograph showing *Einsatzgruppe* members killing Kiev Jews in Ivangorod. However, unlike these three, the Bijeljina photo is more than a lonely testimony as it forms part of a sequence of photographs. Taken together, they give a sensation of the deadly event unfolding, bringing to mind the 'Lili Jacob Album' taken by SS men in Auschwitz or the four *Sonderkommando* photographs taken by a Birkenau inmate. However, unlike these two sets, the Bijeljina photos were taken neither by victims nor by perpetrators. The photographed persons were unaware of the presence of a camera and the element of intervention was thus minimal. Together with extensive testimonies which helped reconstruct the event, to the extent of identifying the victims and the perpetrators, they present as direct a visual insight into the perpetration of a war crime as one could possibly imagine. Yet, the photograph remains more compelling than telling. It fails to deliver and the message it conveys comes through at a sluggish pace, with unpredictable turns. In that respect, the Bijeljina photos are hardly an exception. One need not go back as far as the Second World War – the world offers too many examples of the powerlessness of visual representations to put a stop to political violence.<sup>60</sup>

Such repeated frustration forces us to rethink the very foundation of our conventional expectations: 'For a long time,' writes Sontag, 'some people believed that if the horror could be made vivid enough most people would finally take in the outrageousness, the insanity of war.'<sup>61</sup> Indeed, the belief about the immediate connection between perception, knowledge, ethics and action stands as the backbone to our culture. Photographs were expected to assume a place in this chain, with

59 Boris Dežulović, 'Skrivena kamera u Bijeljini 1992' (Candid Camera in Bijeljina 1992), *Oslobođenje*, 13 September 2012; Bojan Tončić, 'Rukopis zločina' (Handwriting of a Crime), *Pešaničnik*, 14 September 2012, <http://pescanik.net/2012/09/rukopis-zlocina/> (accessed 4 May 2015); Saša Ilić, 'Dečko koji je voleo trendove' (The Kid Who Followed the Trends), *Pešaničnik*, 19 September 2012, <http://pescanik.net/2012/09/decko-koji-je-voleo-trendove/> (accessed 4 May 2015); Marija Ristić, 'Belgrade DJ Investigated for War Crimes,' *Balkan Insight*, 2 October 2012, <http://www.balkaninsight.com/en/article/belgrade-dj-investigated-for-war-crimes> (accessed 4 May 2015).

60 A recent publication by Susie Linfield inspects the visual heritage of 20th-century totalitarian experience, but adds a number of examples from 21st-century warfare in Sierra Leone, Afghanistan and Iraq. Susie Linfield, *The Cruel Radiance: Photography and Political Violence* (Chicago: University of Chicago Press, 2010).

61 Sontag, supra n 5 at 12.

a kind of authority over imagination today, which the printed word had yesterday, and the spoken word before that. They seem utterly real. They come, we imagine, directly to us, without human meddling, and they are the most effortless food for the mind conceivable.<sup>62</sup>

This illusion about the immediate effect of photographic realism is matched by the illusion about its recipient. Arriela Azoulay is of the opinion that

where the subject of the photograph is a person who has suffered some form of injury, a viewing of the photograph . . . becomes a civic skill . . . The citizen has a duty to employ that skill the day she encounters photographs of those injuries.<sup>63</sup>

However, her commendable concept presupposes a well-informed, interested, compassionate and conscious human being whose perception of photographed injustice unmistakably results in an immediate recognition of the wrongfulness and a dramatic change in attitudes. Regrettably, we know better. One has to agree with Sontag's observation that 'a photograph that brings news on some unsuspected zone of misery cannot make a dent in public opinion unless there is an appropriate context of feeling and attitude.' Her explanation is equally convincing: 'What determines the possibility of being affected morally by photographs is the existence of a relevant political consciousness.'<sup>64</sup> The lack of this consciousness in wartime and the immediate postwar period is what keeps obscuring the camera, in Bijeljina and elsewhere.

Let us then honestly examine what can be done with these photographs, both in the courtroom and outside. As we repeatedly witness the powerlessness of atrocity images, we need to acknowledge that as much as their content movingly witnesses the horror of violence, their afterlife stands as a warning that the power relations which they depict still persist in social reality. In a messy postwar context, their dismantling is a crucial challenge for transitional justice. In the light of these huge expectations, it is essential to consider not only the obvious potentials, but also the limitations of using visual evidence. One can readily agree with Edith Wyschogrod that the academic task 'is not merely to acquire a more nuanced view of images . . . but to see whether it is possible to reclaim the image for ethics.'<sup>65</sup> However, any attempt at such reclamation needs to be grounded in thorough research of the content of a given visual, as well as the circumstances and context of its creation and ethical implications of its dissemination. In the short term, such critical analysis constantly lags behind the proliferation of visuals and their rapid consumption in the public sphere. In the long term, though, this forensic reading of visual evidence creates a reliable background for ethical reclaiming of its content and enables confronting the negative past. What little power images of atrocities might possess in this process has the potential to become a force to be reckoned with. In the courtroom, it could lead to identification of the victims and perpetrators. Outside, it could

62 Walter Lippmann, *Public Opinion* (New York: Macmillan, 1922), 92.

63 Arriela Azoulay, *The Civil Contract of Photography* (New York: Zone Books, 2008), 14.

64 Susan Sontag, *On Photography* (New York: Anchor Books, 1990), 17, 19.

65 Edith Wyschogrod, *An Ethics of Remembering: History, Heterology, and the Nameless Others* (Chicago, IL: University of Chicago Press, 1998), 111–112.

contribute to shrinking the space for denial and limiting misinterpretations. However, success in either venture is anything but guaranteed. Given that transitional justice measures scratch only the surface of the tremendous amount of suffering brought about by war, the limited rectification for shattered lives comes too late, if at all. Visuals of unpunished crimes are a haunting testimony of this injustice.