

Accused War Criminals qua Perpetrators: On the Visual Signification of Criminal Guilt

Katarina Ristić

Abstract: This article examines media representations of two high-ranking defendants from Serbia indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) for war crimes in Croatia and Bosnia and Herzegovina. By drawing on a social semiotic multimodal analysis and by distinguishing between four types of perpetrator images ('the politician', 'the strategist', 'the combatant', and 'the executioner'), the article provides a detailed analysis of the way in which visual material from the courtroom and from the war is used in television news broadcasts in order to ascribe – or not to ascribe – criminal guilt to the accused. Considering the specific culture of denial in Serbia, persistent despite of dozens of war crimes trials conducted at the ICTY and in domestic courts, the article further examines the use of visual materials in the defendant-centered national discourse and the victim-centered transnational discourse. The article argues that the use of visuals as exemplified in the victim-centered discourse is necessary albeit not sufficient for triggering the process of dealing with the past.

Keywords: TV news, war crime trials, media, atrocity videos, former-Yugoslavia, perpetrators

Introduction

The term 'war crimes' is generally thought to refer to atrocities legally qualified as genocide, crimes against humanity, breaches of the laws and customs of war, all of which seem to be straightforward cases for the establishment of criminal guilt, both legally and in public discourse. Considering the gravity of the crimes and the large number of victims, often amounting to hundreds or thousands, war crimes are considered to be the most horrific atrocities committed in war, where only exceptional cases are prosecuted. Indeed, waging a war while abstaining from systematic, planned and continuous mass murders of civilians and prisoners of war, or from the systematic expulsion of civilians and the deliberate targeting of civilian objects is not considered illegal. Operating on the basis

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of such a restrictive concept of war crimes, reserved only for cases of extreme brutality, the ascription of criminal guilt to the planners and commanders of such atrocities might seem unproblematic.

The war crimes trials at the International Criminal Tribunal for the former Yugoslavia (ICTY), as well as their public mediation, proved this assumption wrong. Able to prosecute only a very limited number of perpetrators, the ICTY announced as its main goal to target the high-ranking officials, those considered most responsible for the crimes committed in wars in Croatia, Bosnia and Herzegovina (BiH) and Kosovo. Serbia, while officially not taking part in the wars in Croatia and BiH, nonetheless provided political support, volunteers, weaponry, logistics, and finances for waging these wars. Despite international sanctions, Serbia (as part of Federal Republic of Yugoslavia), continued to support the war efforts of the new political entities *Republika Srpska Krajina* in Croatia and *Republika Srpska* in Bosnia. The crimes committed by forces of these entities — army and territorial defence, but also by members of the Yugoslav People's Army (YPA), paramilitary and volunteer troops from Serbia — included the two months long siege of Vukovar and the surrounding villages, the mass murder of prisoners of war and civilians in Ovčara near Vukovar, sniper attacks, numerous shelling assaults during the siege of Sarajevo, ethnic cleansing, deportations, the organization of concentration camps, and mass rapes and murders in eastern and north-western Bosnia in 1992. These systematic war crimes ended with the genocide in Srebrenica in July 1995, where more than 8000 Bosniaks were murdered. For the war crimes in Bosnia and Herzegovina and Croatia, the highest ranking accused from Serbia included president Slobodan Milošević, the Chief of the General Staff of the Yugoslav People's Army Momčilo Perišić, the chief of the secret service Jovica Stanišić, and intelligence officer Franko Simatović.¹ After Slobodan Milošević's death in Scheveningen prison during the trial, the only cases in which the criminal responsibility of high-ranking officials of the Serbian state could have been proven, establishing the complicity of the state in the commission of these crimes, were the Perišić and Stanišić and Simatović trials. A conviction in the Perišić and Stanišić cases would have confirmed the

1 Four Yugoslav army officers were also convicted — Miodrag Jokić and Pavle Strugar for crimes committed during the operations around Dubrovnik, and Mile Mrkšić and Veselin Šljivančanin for crimes committed after the fall of Vukovar. The case of Vojislav Šešelj, who was acquitted by the Trial Chamber and later convicted to 10 years of prison on appeal, is not included, as his obstructive and eccentric behavior in the court created a *sui generis* case in terms of media presentation.

Prosecution's claim that the wars in Croatia and Bosnia were waged from Serbia, politically conceptualized by Milošević and his collaborators as well as heading institutions like the army and the ministry of the interior. In addition, by identifying and convicting leading state officials, these judgments could have challenged the widespread denial in Serbia. Finally, because of the large number of atrocities in the indictment, these two cases might have been an incentive for the media to use archival footage from the war when reporting on the trials.

Nevertheless, there is a consensus among scholars that the ICTY trials did not lead to a wide acknowledgement of responsibility or to a process of coming to terms with the past in Serbia. Sabrina Ramet, for example, holds that Serbian society is still locked in denial,² an outcome, according to Jelena Subotić, of the political elite's 'hijacking transitional justice'.³ Although there were several moments when the Serbian society was confronted with the crimes, according to Eric Gordy, they failed to have a lasting impact.⁴ Despite of hundreds of trials, the vast majority of the Serbian population perceives the Tribunal as ethnically biased, expressing little trust in the trials and their outcomes.⁵ Against this background, the present study focuses on the Perišić case and the Stanišić and Simatović case, as they exemplify the specific problems and predicaments of media representations of such trials in nationalist, defendant-centered media reporting on the one hand, and in transnational reporting on the other.

Momčilo Perišić, the Chief of the General Staff of the Yugoslav People's Army from 1993 till 1998, was accused of aiding and abetting murder, inhumane acts, attacks and persecutions of civilians in Sarajevo and Srebrenica, crimes against humanity, and violations of the laws and customs of war.⁶ He was also accused as a superior under command responsibility for failing to punish the crimes of the Army of *Republika Srpska Krajina* during the shelling of Zagreb, including the murder, injuring and wounding of civilians as crimes against humanity. The trial started in 2008, and the trial chamber sentenced Perišić to

2 Sabrina P. Ramet, 'The Denial Syndrome and Its Consequences: Serbian Political Culture since 2000', *Communist and Post-Communist Studies*, 40.1 (2007), 41–58.

3 Jelena Subotić, *Hijacked Justice* (Ithaca: Cornell University Press, 2009).

4 Eric Gordy, *Guilt, Responsibility, and Denial: The Past at Stake in Post-Milošević Serbia* (Philadelphia: University of Pennsylvania Press, 2013).

5 Vojin Dimitrijević, *Stavovi Prema Ratnim Zločinima: Haskom Tribunalu i domaćim Sudovima za Ratne Zločine* (Belgrade: Beogradski centar za ljudska prava, 2009).

6 ICTY Prosecutor vs. Perišić, Indictment, IT-04-81-PT, 5.02.2008.

27 years in prison in September 2011.⁷ The Appeal Chamber acquitted Perišić on all counts in February 2013, stating that Perišić was supporting a general war effort, rather than committing war crimes. Judges concluded that 'no conviction for aiding and abetting may be entered if the element of specific direction is not established beyond reasonable doubt'.⁸ Similarly, in relation to the conviction for superior responsibility, the Appeals Chamber didn't find evidence supporting the effective control of the Yugoslav army Chief of Staff over the *Republika Srpska Krajina* forces during the time of the Zagreb shelling.

Jovica Stanišić was head of the State Security Service of the Ministry of Internal Affairs of the Republic of Serbia from 1991 to 1998, while his associate, Franko Simatović, was employed in the Second administration of the secret service. They were arrested during the state of emergency declared after the assassination of Serbian Prime Minister Zoran Đinđić in March 2003 and extradited to the Hague Tribunal. The trial started in 2009, with Stanišić and Simatović accused of having directed, organised, equipped, trained, armed and financed units of the Serbian State Security Service which murdered, persecuted and deported Croats, Bosnian Muslims, Bosnian Croats and other non-Serb civilians from Bosnia and Herzegovina and Croatia between 1991 and 1995.⁹ These units participated in a Joint Criminal Enterprise (JCE), with the aim of permanently removing non-Serbs from large areas in Croatia and Bosnia. The prosecution also alleged that Stanišić and Simatović had set up, trained and later deployed special units of the Serbian State Security Service like the Red Berets, the Scorpions, Arkan's Tigers, Martić's Police, the militia of the so-called Serbian Autonomous District of Slavonia, Baranja and Western Srem, and Special Operation Units and anti-terrorist units of the Yugoslav People's Army.¹⁰ These units committed a number of crimes throughout the wars in Bosnia and Croatia. They were also charged of persecutions, murder, deportations and forcible transfer of civilians in Bijeljina, Doboj, Sanski Most, and Zvornik in Bosnia and Herzegovina. Finally, they were accused of the murder of six Bosniaks captured after the fall of Srebrenica, committed and videotaped by members of the Scorpions special unit.¹¹ After the acquittal by the Trial Chamber in May 2013, the

7 ICTY Prosecutor vs. Perišić, Judgment, IT-04-81-PT, 06.09.2011.

8 Ibid., Appeal Chamber Judgment, IT-04-81-PT, 28.02.2003.

9 ICTY Prosecutor vs. Stanišić and Simatović, Indictment, IT-03-69, 1.05.2003.

10 Ibid.

11 ICTY Prosecutor vs. Stanišić and Simatović, Second Amended Indictment, IT-03-69, 20.12.2005.

Appeal Chamber ordered a retrial which is still ongoing at the International Residual Mechanism for Criminal Tribunals.

The overturn of the conviction to an acquittal in the Perišić case and the acquittal in retrial in the Stanišić and Simatović case are taken as a reminder that establishing the criminal guilt of high-ranking officials in the courtroom is a challenging task for the courts, but it also provides an opportunity to examine whether and in how far the visual representation of criminal guilt changes in accordance to the ICTY sentencing. The article proceeds as follows: after giving an account of the broader literature on the mediation of the trials in general and their visual representations in particular, a short overview of the methodology is provided, followed by the analysis part, divided into three sections: (i) sequences showing the accused in the courtroom; (ii) sequences showing the accused as a high-ranking official, and (iii) sequences showing the accused as war criminal.

Media Signification of War Criminals

The relation between the criminal guilt of the accused, which is to be established in the legal process, and the public signification of the guilt during and after the trial is neither direct nor univocal. Contrary to the logic of accused criminals in peace times, where the process of signification of guilt seems to precede the legal process, especially in the case of severe crimes like mass murder,¹² in the case of war criminals this process seems to follow a different, almost opposite logic. With the exception of direct perpetrators, where the public signification of criminal guilt follows a relatively straight-forward process in establishing a perpetrator image, in the case of the high-ranking officials in the former Yugoslavia – politicians, army and police generals – the public in their home-countries remained convinced of their innocence, despite their heavy sentences and proven atrocities. Scholars have interpreted this outcome as a failure of the judicial system on the one hand, or as a symptom of the persistent nationalism of the home states on the other. Olivera Simić notes that the inability of international criminal justice to reach local communities indicates a disrespect toward the interna-

12 Regina Austin, 'The Shame of It All: Stigma and the Political Disenfranchisement of Formerly Convicted and Incarcerated Persons', *Columbia Human Rights Law Review*, 36 (2004), 173.

tional justice institutions.¹³ Rather than as war criminals, the accused were often seen as heroes,¹⁴ or media celebrities.¹⁵ The literature on media portrayals of war criminals is substantial, and it focuses mainly on the textual mode of representation in the press. The reporting of the ICTY proceedings by national media has been addressed by a number of researchers, who have pointed out the persistence of ethnic bias, sensationalism and the short lived interest for the trials, as well as the dominant focus on the defendants rather than on victims.¹⁶ A notable exception in scholarly work is Vladimir Petrović's excellent article about Ron Haviv's 'Bijeljina image', following its creation, circulation (in and outside the courtroom) and consumption, reconstructing the life of the photography, as well as the charges against the perpetrators represented in the image and their superiors.¹⁷ Michalski, Gow and Cerr looked at the importance of war images by conducting focus groups in the former Yugoslavia, confirming their salience, recognizability, and importance outside the courtroom, but noticed a somewhat alienating effect of courtroom images in encountering transitional justice.¹⁸

Considering that the dominant mass media of the 1990s was television, the lack of research on TV news as a primary site of representation of the Yugoslav war is puzzling. Michalski and Gow are right when they describe the war in former Yugoslavia as a 'televisual war',¹⁹ and yet, scholarly work on the role of TV (and TV images in particular) during and after the war has been rather scarce. In order to fill this gap, this article explores television news as a particular genre, main-

13 Olivera Simić, 'Bringing Justice Home: Bosnians, War Criminals and the Interaction between the Cosmopolitan and the Local', *German Law Journal*, 12.07 (2011), 1388–1407.

14 Vjeran Pavlaković, 'Croatia, the International Criminal Tribunal for the Former Yugoslavia, and General Gotovina as a Political Symbol', *Europe-Asia Studies*, 62.10 (2010), 1707–40.

15 Katarina Ristić, 'The Media Negotiations of War Criminals and Their Memoirs: The Emergence of the "ICTY Celebrity"', *International Criminal Justice Review*, 28.4 (2018), 391–405.

16 *Media and National Ideologies*, ed. by Amer Džihana and Zala Volčič (Sarajevo: Mediacentar Sarajevo, 2011); Nidžara Ahmetašević and Markus Tanner, *Historija u Sjeni Senzacije: Regionalni Mediji o Hapšenju Radovana Karadžića* (Sarajevo: BIRN, 2009); Katarina Ristić, *Imaginary Trials: War Crime Trials and Memory in Former Yugoslavia* (Leipzig: Leipziger Universitätsverlag, 2014); Diane Orentlicher, *Shrinking the Space of Denial: The Impact of the ICTY in Serbia* (New York: Open Society Institute, 2008).

17 Vladimir Petrović, 'Power(Lessness) of Atrocity Images: Bijeljina Photos between Perpetration and Prosecution of War Crimes in the Former Yugoslavia', *International Journal of Transitional Justice*, 9.3 (2015), 367–85.

18 James Gow, 'Space Capsule Justice: The ICTY and Bosnia — Image, Distance and Disconnection', *The Slavonic and East European Review*, 91.4 (2013), 818–46.

19 Milena Michalski and James Gow, *War, Image and Legitimacy: Viewing Contemporary Conflict* (London; New York: Routledge, 2007).

ly perceived as 'factual',²⁰ and television as a specific kind of media,²¹ which continuously and repetitively recycles images from trials within the domestic space of the audience.²² Television discourse in general 'presents us daily with a constantly up-dated version of social relations and cultural perceptions'.²³ According to Andrew Hoskins, the particularity of the visual mode in TV news is that these images are 'taken for granted because they appear as authentic, original and unquantifiable'.²⁴ Although inevitably selected, edited and joined with the textual mode, the visuals in TV news appear to be representing reality.

Following the pictorial turn and the growing importance of multimodal analysis, this article considers the visual as a distinct mode in meaning production, characterized by the specific relation between denotative and connotative meanings, which operate simultaneously in the image. While denotative aspects carry the informational value of the image, they might not constitute the most important element, even in journalistic, fact-driven photo-journalism. The denotative meaning is more often than not over-written with a variety of potential connotative meanings, what Barbie Zelizer describes as the transition from 'as is' to 'as if'.²⁵ The latter, conceptualized as *the subjunctive voice of images*, relies on the image's connotative features (associations, symbolism, universality) taking the image to 'different contexts', with a variety of meanings emerging in the process.²⁶ The subjunctive voice is closely related to three crucial qualities of images, namely contingency, imagination, and emotion. While contingency orientates the meaning toward everything which is uncertain and conditional, the imagination takes the viewer in the realm of the illogical or even counter-real, while invoking emotions appropriate for the sentiment of the image. In that sense, the image could be seen as an invitation to engage with its content, and the importance of the audience in meaning making has long been identified as crucial in the understanding of images. Exploring this feature of the

20 Annette Hill, *Restyling Factual TV: Audiences and News, Documentary and Reality Genres* (London; New York: Routledge, 2007).

21 Andrew Hoskins, 'New Memory: Mediating History', *Historical Journal of Film, Radio & Television*, 21.4 (2001), 333–46.

22 James Monaco, *How to Read a Film: The World of Movies, Media, and Multimedia: Language, History, Theory*, 3rd ed. (New York: Oxford University Press, 2000).

23 John Fiske and John Hartley, *Reading Television* (London: Routledge, 1979), p. 5.

24 Hoskins, p. 340.

25 Barbie Zelizer, *About to Die: How News Images Move the Public* (New York: Oxford University Press, 2010).

26 Zelizer, p. 15.

visual mode, journalists can direct and guide the signification process by selecting the type of images within which the trial is represented. In her seminal book *The Spectatorship of Suffering*, Lilie Chouliaraki shows how the type of visuals used in TV news directs the audience in understanding the media event.²⁷ She demonstrates the relevance of images and related emotions in TV news, where the use of specific visuals can contribute to a different kind of response and engagement – in adventure news, images offer no invitation for empathy, representing suffering without pity, while emergency news present human suffering by inviting pity or even identification.²⁸ This article builds further on the insight that visuals in TV news are not incidental illustrations of stories, but a mode which creates specific meanings and emotions. Examining the kinds of images, their structure and patterns of use, we can discern how they contribute to the ascription of criminal guilt and hence to the signification of the accused individuals as perpetrators.

Methodology

The methodology for the analysis of the visual narrative in TV news was developed by drawing on narrative analysis and social semiotic multimodal analysis,²⁹ which I have explained in detail elsewhere.³⁰ For the current analysis, the notions of representational, interactive, and compositional patterns of visuals are important. According to Kress and van Leeuwen, representational structures include narrative and conceptual processes.³¹ The former reveal power relations between the participants and objects, while the latter concern social constructs, representing participants in some kind of relationship within classificatory, analytical or symbolic processes. The specificity of the narrative process in moving images is that they can present action by movement, while the relation between the actor and the goal can be conjoined in a single shot or disconnected in several separate shots. Moreover, in

27 Lilie Chouliaraki, *The Spectatorship of Suffering* (London; Thousand Oaks, Calif.: SAGE, 2006).

28 Ibid.

29 Gunther R. Kress and Theo van Leeuwen, *Reading Images: The Grammar of Visual Design*, 2. ed. (London: Routledge, 2010); Gunther Kress, *Multimodality A Social Semiotic Approach to Contemporary Communication* (Routledge, 2009); Roland Barthes and Lionel Duisit, 'An Introduction to the Structural Analysis of Narrative', *New Literary History*, 6.2 (1975), 237–272.

30 Katarina Ristić, 'Re-Enacting the Past in TV News on War Crime Trials: A Method for Analysis of Visual Narratives in Archival Footage', *Media, War & Conflict*, 2019, 1–20.

31 Kress and van Leeuwen, p. 79.

moving images, the relation to the viewer is created by the dynamic camera work: the type of shot length (medium, long, close) and the camera angle (low, high, oblique), signaling that social and power relations can change from moment to moment. While a high angle might transfer the power to the viewer, depicting the participants in the movie as small and insignificant, a close shot might provide intimacy – a long shot, conversely, creates distance and indifference. The actor's gaze, moreover, can establish demand (direct gaze) or offer (absence of gaze) with the audience. The third aspect is the modality, or 'reality' of the visual presentation, which is created through the different scales of color, saturation, brightness, etc. Finally, the composition reveals the importance of salience, framing and the relation of the different elements in the image – each of these elements contributes to the overall meaning of the footage and will be applied in the analysis of the visual sequences.

This article focuses on two main types of visual sequences – courtroom sequences and archival footage. These correspond to what Van Dijk has called the 'main event' and the 'background history' of the news (figure 1).³²

The material used for the analysis, taken from three Serbian TV stations (RTS, Pink and B92), was provided by the Ebart Archive in Belgrade, while the TV Tribunal reports from the SENSE agency, specialized in reporting from the ICTY, are available online. The SENSE reports were added after an analysis of three Serbian TV stations revealed surprising uniformity in avoiding visuals of non-Serbian victims and footages of atrocities committed by Serbian forces.³³

TV news from two media events – the Trial Chamber judgment and the Appeal Chamber judgment – reported in RTS, Pink, B92 and SENSE on the Perišić and Stanišić and Simatović cases, were transformed into a set of still images in the MaxQDA program, and the texts were transcribed. The courtroom and archival sequences were coded by three main elements: representational (narrative and conceptual processes), interactive (shot, angle) and compositional (editing, salience, framing). The actors in the narrative processes of the archival footage were then identi-

32 Teun van Dijk, *News as Discourse, Communication* (Hillsdale, N.J.: Erlbaum, 1988).

33 Anna Geis, Katarina Ristić and Vladimir Petrović, "Screening' Transitional Justice in Serbia. ICTY Representations and the Memory of War Crimes in Serb Television Media", *Research Report of the German Foundation for Peace Research*, 45 (2019), 1-41 <<https://bundess-tiftung-friedensforschung.de/blog/forschung-dsf-no-45/>> [accessed 1 October].

fied and grouped into four different categories, namely 'politician', 'strategist', 'combatant' and 'perpetrator', emerging from the empirical material.

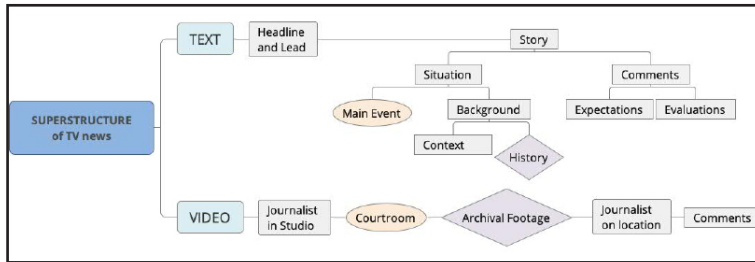


FIGURE 1. Superstructure of TV news (adaptation from T. van Dijk).

Typology of Perpetrator Images

The narrative process in the archival footage provides a visual narrative of the background story of war crimes, putting the accused (main actor) in relation to the crimes (action) and the victims of these crimes. The four main types of perpetrator images in this article were derived from the empirical material, and correspond to different representations of actors in the narrative processes of the archival footage in TV news. Hence, 'politician', 'strategist', 'combatant' and 'executioner' resemble the represented proximity of the main actor (i.e., the accused) to the atrocities rather than the role of the accused in the war. A politician might be portrayed as 'combatant' or 'strategist', while even low-ranking combatants can be presented as powerful public figures, ending up in the category of 'politician'. Each of these categories provides distinct meanings, putting the accused in a different relation to the atrocities, especially through the way in which associative and emotional elements are deployed.

The category of 'politician' is meant to capture political power rather than the capacity of the individual as a politician. These images present the accused at governmental meetings, in parliament, at international meetings, at rallies, or press conferences, as powerful figures with the aura of political representatives, often surrounded by state insignia (flags, military platoons, institutional buildings etc.). Military and police generals, for example, are often featured at official meetings, press conferences or other official events where their presented image is that of 'politician'. Two still images in figure 2 exemplify this category. In the first one, the accused Stanišić (figure 2, image 1) is at a public event with the president

of Serbia at the time, Slobodan Milošević. The second image shows the Chief of Staff of the Yugoslav Army, general Perišić, at a press conference



FIGURE 2. 1. RTS, Dnevnik, 30.05. 2013; 2. RTS, Dnevnik, 28. 02.2013.

with the Yugoslav flag on the wall behind him (figure 2, image 2). Such images normalize the accused, legitimizing his position and authority.

The second category, 'strategist', refers to visuals of individuals planning military operations, examining terrain, or overseeing troops, usually with a group of subordinates. It is close to the category 'politician' as it doesn't include any direct involvement in military operations on the ground, but presents the actor as the mastermind behind these operations (figure 7).

The category 'combatant', on the other hand, includes footage of individuals in proximity of the battlefield, taking part in military activities and being more directly involved in the conflict (figure 3). Whether by holding guns and rifles, running in an attack or firing at the enemy, these images show the activity of the person involved in the military operation.



FIGURE 3. SENSE, TV Tribunal 588, 31.05.2013, Units for Special Operations.

Finally, the category of 'executioner' represents the individuals committing the crime. Only in this category does the denotative 'showing' element of the image directly reveal the criminal responsi-

bility of the accused. In all other cases, criminal responsibility has to be created by adding additional visual elements, most notably images of the victims, and a careful verbal description of the atrocities which usually directs the subjunctive voice of the image, guiding the audience into imagining the direct responsibility of the accused.

The most infamous 'executioner' image from the wars in former Yugoslavia is the Scorpions home video, where the perpetrators recorded the murder of six Bosniaks in July 1995 after the fall of Srebrenica (figure 4). The video shows the perpetrators taking the group of captives to the woods, where four of them are executed. The last two are then ordered to bring the corpses to an abandoned house, after which they are also killed. The video was broadcasted during the Milošević trial, and it was followed by a significant, albeit short-lived, outcry in Serbia, calling for the punishing of the perpetrators.³⁴

The use of 'executioner' images when signifying crimes of high-ranking officials is common in media. With constant repetition, these images start to function as iconic triggers for such atrocities - the Scorpions images were used almost without exception in Western and Bosnian media reports on the trials of Ratko Mladić and Radovan Karadžić, both convicted for the Srebrenica genocide. As both of the high-ranking Serbian officials discussed here were also accused, in different capacities, for the Srebrenica genocide, these images constitute part of the set of potential archival footage for the news covering these trials.



FIGURE 4. B92, Scorpions Footage in 'Patriote', *Insajder*.³⁵

Keeping these four types of perpetrator images in mind, we can now move on to discuss what kinds of images were used when reporting on war crimes trials, and how these images contributed to the establishment of criminal guilt. But before dealing with the archival footage, we need to address the courtroom sequences, as the very posi-

34 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*, ed. by Dubravka Zarkov and Marlies Glasius (Cham: Springer, 2014), pp. 89–109.

35 'Patriote', *Insajder* <<https://insajder.net/sr/sajt/vazno/8106/>> [accessed 9 October 2019].

tion of the accused in the trial might be a token of criminal guilt, which could be emphasized or mitigated by the camera work. In the second part of my analysis, I look more closely at the archival footage, distinguishing two main strategies of representing the accused and different ways in which the four types of perpetrator images are used and edited together to create a particular image of the accused.

Visual Representations of Criminal Guilt

Elsewhere, I have argued that the completeness of the visual narrative presented with the archival footage used in TV news – including not only images of the accused from the past but also the images of actions (as potential crimes) and goals (victims and physical destruction) – is crucial for the process of dealing with the past.³⁶ Only if the trials are represented within the whole narrative of atrocity is the audience invited to condemn the crimes and empathize with the victims. Here, I focus instead on the interplay between images of the accused in the courtroom and archival footage, examining how precisely the media uses these images to signify the criminal responsibility of the accused.

The Accused in the Courtroom Sequence

At first glance, courtroom images of the accused might seem to neutrally represent the trial in the courtroom. Contrary to the conventional and false assumption that in the news the camera is simply recording the event, the camera recording inevitably ‘becomes a comment on an event. It is comment or opinion because choices always have to be made whenever a shot is recorded.’³⁷ Hence, the visual recording is always a segmented, framed excerpt, which produces a specific image of the accused and of the trial, despite the claimed neutrality of courtroom footage in TV news. The announcement of judgment and sentencing, which sometimes takes hours in the courtroom, is reduced to short reports of only a few minutes in TV news. Visuals from the courtroom usually contain the very moment in which the sentence is pronounced, with the accused being asked by the judge to stand up to hear the sentence.

³⁶ See Ristić, ‘Re-Enacting the Past in TV News on War Crime Trials’.

³⁷ Peter Ward, *Picture Composition for Film and Television*, 2nd ed (Oxford; Boston: Focal Press, 2003), p. 134.

Pronouncing judgment is a classic example of a speech-act,³⁸ where the words of a judge constitute the act of conviction, with imprisonment or acquittal as a consequence, hence changing rather than describing reality. In order to stress their social function, such performative utterances are often transformed into rituals with clear procedures, roles and rules of behaviour. Daphne Yong notes that 'the whole court procedure could be seen as a ritual'³⁹ with highly prearranged performances, differentiated and prescribed roles for judges, clerks, counsels and the accused, costumes, and language used. Rising upon the entrance and the exit of the judges symbolizes the respect for the authority of the law, while the gowns further depersonalize the legal actors, at the same time exposing the accused, his personality and passive role in the trial. The courtroom ritual, in other words, visually distinguishes the role of actors, while the 'sanctity, inaccessibility and impartiality of the law (is) represented in the person of judge.'⁴⁰ Moreover, the very architectural setting of the courtroom reflects the relationship between the protagonists and establishes different relationships between the judge, the defendant and the audience.⁴¹ All these elements are reflected in the courtroom sequences of TV news reporting on trials.

The very arrangement during the sentencing, with the judge sitting and speaking, while the accused receives the judgment in silence, signals clear power relations between the judges, who represent the authority of law, and the accused, whose criminal guilt is being legally examined.

TV reports from the courtroom reveal this imbalance of power and subjugated position of the defendant. However authoritative the accused might have been during the war, the visuals expose his/her new position in the courtroom and the constraints imposed on his/her behavior, not only at the moment of sentencing but throughout the trial in its entirety. In this sense, the accused is shown entering the courtroom with handcuffs, brought in by guards, or sitting while guards stand in the background. At the same time, the editing of courtroom images, the camera angle, the type of shot and salience of different frames in presenting a judgment might suggest different power relations between the

38 John L. Austin, *How to Do Things with Words: William James Lectures, 1955*, 2nd edn (Oxford: Clarendon Press, 1975).

39 Daphne Yong, 'The Courtroom Performance', *The Cambridge Journal of Anthropology*, 10.3 (1985), 74–80 (p. 74).

40 Yong, p. 79.

41 Gilad Ben-Nun, 'Victor's Justice? Cultural Transfer and Public Imagery from Nuremberg to The Hague', *Polémias*, 13 (2019), 7–24.

actors, increasing or decreasing the power of a particular participant, creating distance or intimacy, or privileging one actor over another.

Figure 5 provides an excerpt from the Perišić judgment, broadcasted on RTS on 6 September 2011, when Perišić was convicted to 24 years of prison. The 20-seconds-long sequence from the courtroom focuses on the accused, making his appearance the salient element in the report. The medium shot of the accused is inserted between a medium shot of one judge and a long shot of the courtroom with judges and clerks. It succeeds in presenting the trial mainly as the personal drama of the convict, while at the same time keeping a respectful distance by means of the medium shot. Within the shot, the camera is not moving at all, and the dynamic in the scene comes from the sequencing of the shots. The accused is shot from the right, with the heaviness of the situation engraved in his serious face. The eye level of the camera angle creates a quite neutral relation between observer and participant.



FIGURE 5. RTS, Dnevnik, 6.9.2011, Perišić Trial, Trial Chamber Conviction.

The camera, in this case, contributes to the personalization of the conviction, the trial being presented predominantly as a personal drama of the accused, inviting the audience to perceive the judgement from the position of the accused.

In the acquittal of Stanišić and Simatović by the trial chamber broadcasted by RTS, the camera foregrounds the judges, while adding three images of the accused (figure 6, frames 4, 6 and 7). In this almost one-minute-long sequence, it is the presiding judge who is the salient feature in footage, not the accused, and authority is transferred to the judge who is presented as the one with the final judgment. There are no close-ups in the footage, but the camera keeps a neutral distance, shifting between medium and long shots. The whole sequence is one of detachment, while the use of long shots creates an even larger

distance. The emphasis on the figures of the judges foregrounds the court as an institution of law, visually supporting its authority. The cuts move from medium shots of the presiding judge, to a long shot of the defense council, as if the judgment was to be understood as a legal battle between the two branches present in courtroom. Power is clearly ascribed to the judges, and the accused becomes salient in the footage only once the battle has been verbally decided.



FIGURE 6. RTS, Dnevnik, 30.05.2013, Stanišić Trial, Trial Chamber Acquittal.

Stanišić and Simatović were acquitted of all charges, and the prevalence of the judges in the visual representation of the court emphasizes the authority of the court and consequently the appropriateness of the judgment. By contrast, the conviction of Perišić emphasizes the authority of the accused inviting the audience to perceive the judgment as a personal drama rather than focus on the legal justice of the court.

The interactive patterns of the courtroom sequences accompanying the verbal announcement of the sentence are visually presenting the judicial decision about the criminal responsibility of the accused, which can be supported or undermined by the camera work. But the site where the criminal responsibility of the accused is actually visually elaborated is the 'historical background' of the news, represented in the archival footage.

The Accused as High-ranking Official in the Archival Footage

Departing from the four main types of perpetrator images introduced earlier, let us now examine how archival footage in TV news overcomes the gap between the high-ranking accused, usually remote from the battlefield, and the alleged atrocities. The first type of visual narrative about the accused is created exclusively on the basis of images of the

defendant himself, including only ‘politician’ and ‘strategist’ images, in accordance with the official position of the accused during the war.

Following the previously analyzed courtroom footage on Perišić’s conviction, RTS used archival footage providing the audience with images from Perišić’s past. The first sequence uses ‘strategist’ images, presenting Perišić while exploring the terrain – presumably developing a strategy for military action. He is walking through the woods with a group of officers, but his powerful position is signaled throughout the footage: he is the one leading the group, and once they stop, Perišić is in the center of the frame. Although the voice over covers the speech from the original footage, it is visible that only Perišić is speaking.



FIGURE 7. RTS, Dnevnik, 6.9.2011, Perišić Trial, Sequence 0:10–0:15 min.

While seeing the general in the image of ‘strategist’, the voice over announces that Dragan Šutanovac, the Serbian ‘minister of defense regrets the judgment of the Hague of the former chief of staff of the Yugoslav army’. Elaborating that he does not want to go into detail about the validity of the judgment itself, Šutanovac notes that the sentence is too harsh and inappropriate. This sequence is followed by a second sequence of archival footage, showing Perišić as a public figure, engaged in some kind of political meeting. Conceptual processes in the image signaled by the uniform and epaulets as an attribute of military rank indicate that this is a figure of remarkable military power.



FIGURE 8. RTS, Dnevnik, 6.9.2011, Perišić Trial, Trial Chamber Conviction, Sequence 0:54–1:00 min.

The indecisiveness of these images – they are neither explicitly marked as ‘archival footage’ in the news, nor referred to as such in the voice over, creates some kind of vagueness and uncertainty about Perišić’s position at the meeting. The text hardly resolves this uncertain-

ty: 'the judgment of Momčilo Perišić is the first judgment of the Tribunal against one official of the former Federal Republic of Yugoslavia.'

Throughout the war and despite convincing evidence to the contrary, Serbia and the FR of Yugoslavia officially insisted that they were not involved in the conflicts. These images seem to operate within this discourse of detachment, which is further emphasized in the verbal mode as the sentence is described as too harsh and unusual. Both the 'strategist' and the 'politician' images of the accused signal his importance and power, but visually disconnect him not only from the crimes he was convicted of, but from the war itself, as both sequences resemble some kind of peace activities of the accused. The 'as if' of these images is closed within the iconic images of the accused from the past. Whether presented as a figure of political or of strategic military power, these images do not invite any associations leading toward the war, let alone crimes and victims. Safely isolating the accused within the sanitary images of his prior position as a military general, they do not attempt to portray Perišić as criminally responsible for the crimes he was convicted of. A similar narrative structure in reports on the Perišić trial was persistent in all three Serbian TV stations. His acquittal two years later was reported using structurally the same footage, those of him as 'politician' and 'strategist', only the 'politician' image this time included a direct reference to Perišić as a general of the Yugoslav army (figure 2, frame 2) as the Yugoslav flag behind him signaled his high official position within the state.

In order to identify alternative visual narratives signifying the criminal guilt of the accused, we have to turn to the SENSE Reports on these two trials.

The Accused as War Criminal

The second type of visual narratives which attempts to ascribe criminal guilt to the accused is created through two different strategies: the first one relies on atrocity footage and the second one on the units committing the crimes. Let us first examine the use of atrocity videos. In the report on the Perišić judgment, SENSE used atrocity images from the war, editing footage from three war scenes: the Sarajevo shelling and sniper attacks, the Srebrenica genocide and the Zagreb shelling. Although excluding direct perpetrators, the graphic atrocity videos present the crimes and their consequences, hence inviting the audience to think about who the actors behind these crimes are. The used footage is not some incidental collection of war footage, but carefully

selected images depicting atrocities Perišić was accused of. While the voice over remarks that Perišić was convicted for supporting criminal acts of VRS in pursuing war goals of *Republika Srpska* and crimes committed during the siege of Sarajevo, the archival footage shows a woman hit by a sniper in Sarajevo (figure 9, frame 1), the aftermath of a shelling incident where the body of one victim is dragged into a pickup truck (figure 9, frame 2), a man hanging from a window of a smoking building (figure 9 frame 3), and a wounded victim carried on a stretcher after the shelling attack (figure 9, frame 4).



FIGURE 9. SENSE, TV Tribunal, 09.09.2011, Sarajevo Shelling and Sniper Attacks.

The footage used to depict Perišić's responsibility for crimes after the fall of Srebrenica are similarly graphic and detailed, and so is the footage of the shelling of Zagreb, showing individual victims, dead bodies, and wounded civilians. The ascription of criminal guilt in the visual mode works via the representation of crimes committed by unknown direct perpetrators, guiding the audience in the accompanying verbal mode to make a connection between the accused general as a superior of the perpetrators committing these crimes. At the same time, images cannot tell the story of these crimes – although depicted, the individuals on these images as well as the gruesome details about these crimes remain unknown.

Most of the footage, taken as short snapshots signifying crimes, had a long life from the moment they were taken during the war until their latest use in the report on the war crimes trials. The life of these images – when, how and by whom they were taken –, as well as the life of those depicted in them was later narrated in media reports, documentaries and trials. Some of these images were used during the ICTY proceedings as evidence in different trials; they were also constantly used by national media outlets during commemorations and on remembrance days. Some of the victims depicted testified in court about the atrocities, and much of the footage ended up in different documentaries, produced by the ICTY Outreach Programme or independently. In these other genres, the stories of the crimes were reconstructed and explained in

detail, creating a web of visual memory of these atrocities. The SENSE reports build upon these already established meanings of the atrocity images, as the trial is taking place more than fifteen years after these atrocities happened – fifteen years in which every commemoration on national media would include this footage, while the sites of the atrocities are marked by plaques with the names of those killed, and dozens of documentaries have elaborated their lives in detail. In Serbia, the life of these images remained hidden, and without narrations provided by other genres, even the SENSE reports about the trials could not provide more than a hint of the atrocities committed during the war.



FIGURE 10. Sense TV Tribunal 588, 31.05.2013, Members of the Joint Criminal Enterprise.



FIGURE 11. Sense TV Tribunal 588, 31.05.2013. Special and Paramilitary Units.

The second strategy to ascribe criminal responsibility to the accused uses images of the forces which committed the crimes, consisting of 'combatant' and 'executioner' images. The SENSE report on the Stanišić and Simatović acquittal focuses on the perpetrators of these crimes, first on the members of the JCE, with a 16 seconds long sequence of one still image depicting all participants in the criminal plan (figure 10, frame 1) and then on the military and paramilitary units which Stanišić and Simatović established. The voiceover and the archival footage identify one unit after another: the special forces (Figure 11, frame 1 and 2), Arkan's Tigers (figure 11, frame 3), and the Scorpions (figure 11, frame 4 and 5), while the sequence ends with a short extract

of the execution from the Scorpions video, where the perpetrator fires a gun in the back of one of the captives.

The footage of the military and paramilitary units combines 'combatant' and 'direct executioners' images, guiding the association further towards the war atrocities, while putting the accused in direct relation with these units. Here, the audience is invited to follow the associative features of the images connecting these forces with the accused, while relying on the voiceover, which notes that 'these units really committed the crimes listed in the indictment.' Although the responsibility of the direct perpetrators is established, it is left to the audience to decide about the responsibility of the defendants who organized the units, and who were acquitted of all charges in the court.

Both strategies rely heavily on the visual mode, splicing together images of atrocities and of the units that committed these atrocities in order to ascribe criminal guilt to the accused. Still, no matter how graphic the images of the crimes are, or how detailed in presenting the links between the perpetrators, the direct executioners and their units and commanders, TV news can only offer snapshots from the war, only vaguely connected with the high-ranking accused. Further elaboration of both the crimes and the responsibility of the accused has to take place in a broader societal context. Within the TV news genre, the combination of atrocity footage with 'combatants' and 'executioners' footage seems to be closest to the visual narrative that ascribes criminal guilt to the accused. And although necessary, such visual narratives are not sufficient for exposing the criminal responsibility of the accused. At the same time, the systematic avoidance of these two strategies in presenting the accused in Serbian media reporting perhaps indicates that however modest in proving the guilt of the accused, such images might still provoke empathy with the victims and moral outrage against the perpetrators, or at least lead the audience toward questioning the dominant narrative of the war.

Conclusion

Both types of footage presenting the accused in TV news about the trials – the courtroom sequences and the archival footage – reveal that the visual mode creates its own meanings concerning the criminal responsibility of the accused. In the courtroom sequences, the interactive structure of monotonous and almost identical footage can actually establish different power relations between the actors in the courtroom,

by making one actor more salient than another or by siding with one party in the trial. Even if unnoticed by the audience, these small and nuanced differences still contribute to the overall meaning of the news, as they support the dominant message of the report *vis-à-vis* the criminal responsibility of the accused. Less subtle in the attempt to create criminal responsibility are the archival images, which seem to offer a direct invitation for the ascription of criminal responsibility to the accused.

By combining different types of perpetrator and atrocity images, the archival footage adds a visual dimension to the depiction of crimes, while the process of signifying relies on attempts to associate the accused with the committed crimes, whether by putting him/her in direct relation to the atrocities or to the units committing these atrocities. Although these images signal the potential responsibility of the accused, they rely on the readiness of the audience to complete the narrative of criminal responsibility and decode the message within the criminal responsibility code. Offering almost no details about these crimes, they might serve as iconic snapshots from the past, but they cannot, even when accompanied with the convicting sentences, univocally contribute to visually ascribing criminal guilt to the accused.

As for the differences in reporting from the trial by SENSE and RTS, it should be noted that they operate within radically different contexts – while SENSE exemplifies a victim-centered discourse, as formulated by the ICTY prosecution on a transnational scale, the RTS provides a defendant-centered discourse, aligning with the defence narrative of Serbs accused by the ICTY, following the national war narrative. Differences in their reporting on the war crime trials confirm that television reflects ‘social values, not objective reality’,⁴² and that visual narratives remain faithful to the dominant values of media operating in two different territorial regimes.

42 Fiske and Hartley, p. 10.

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Works Cited

- Ahmetašević, Nidžara, and Markus Tanner, *Historija u Sjeni Senzacije – Regionalni Mediji o Hapšenju Radovana Karadžića* (Sarajevo: BIRN, 2009)
- Austin, John L., *How to Do Things with Words: William James Lectures, 1955*, 2nd edn (Oxford: Clarendon Press, 1975)
- Austin, Regina, 'The Shame of It All: Stigma and the Political Disenfranchisement of Formerly Convicted and Incarcerated Persons', *Colum. Hum. Rts. L. Rev.*, 36 (2004), 173
- Barthes, Roland, and Lionel Duisit, 'An Introduction to the Structural Analysis of Narrative', *New Literary History*, 6.2 (1975), 237–272
- Ben-Nun, Gilad, 'Victor's Justice? Cultural Transfer and Public Imagery from Nuremberg to The Hague', *Polémos*, 13 (2019), 7–24
- Chouliraki, Lilie, *The Spectatorship of Suffering* (London; Thousand Oaks, Calif: SAGE, 2006)
- Dimitrijević, Vojin, *Stavovi Prema Ratnim Zločinima: Haškom Tribunalu i Domaćem Pravosuđu u za Ratne Zločine* (Belgrade: Beogradski centar za ljudska prava, 2009)
- Džihana, Amer, and Zala Volčič, eds., *Media and National Ideologies* (Sarajevo: Media-centar Sarajevo, 2011)
- Fiske, John, and John Hartley, *Reading Television* (London: Routledge, 1979)
- Hill, Annette, *Restyling Factual TV: Audiences and News, Documentary and Reality Genres* (Routledge, 2007)
- Hoskins, Andrew, 'New Memory: Mediating History', *Historical Journal of Film, Radio & Television*, 21.4 (2001), 333–46
- Geis, Anna, Katarina Ristić, and Vladimir Petrović, 'Screening' Transitional Justice in Serbia: ICTY Representations and the Memory of War Crimes in Serb Television Media', *Research Report of the German Foundation for Peace Research*, 45 (2019), 1–41 <<https://bundesstiftung-friedensforschung.de/blog/forschung-dsf-no-45/>> [accessed 1 October]
- Gordy, Eric, *Guilt, Responsibility, and Denial: The Past at Stake in Post-Milošević Serbia* (Philadelphia: University of Pennsylvania Press, 2013)
- Gow, James, Milena Michalski, and Rachel Kerr, 'Space Capsule Justice: The ICTY and Bosnia — Image, Distance and Disconnection', *The Slavonic and East European Review*, 91.4 (2013), 818–46
- Kress, Gunther R., and Theo van Leeuwen, *Reading Images: The Grammar of Visual Design*, 2. ed., reprinted (London: Routledge, 2010)
- Monaco, James, *How to Read a Film: The World of Movies, Media, and Multimedia: Language, History, Theory*, 3rd ed. (New York: Oxford University Press, 2000)
- Michalski, Milena, and James Gow, *War, Image and Legitimacy: Viewing Contemporary Conflict, Contemporary Security Studies* (London; New York: Routledge, 2007)
- Orentlicher, Diane, *Shrinking the Space of Denial: The Impact of the ICTY in Serbia* (New York: Open Society Institute, 2008)
- 'Patriote', *Insajder* <<https://insajder.net/sr/sajt/vazno/8106/>> [accessed 9 October 2019]

- Pavlaković, Vjeran, 'Croatia, the International Criminal Tribunal for the Former Yugoslavia, and General Gotovina as a Political Symbol', *Europe-Asia Studies*, 62.10 (2010), 1707–40
- Petrović, Vladimir, '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*, ed. by Dubravka Zarkov and Marlies Glasius (Cham: Springer, 2014), pp. 89–109
- , 'Power(Lessness) of Atrocity Images: Bijeljina Photos between Perpetration and Prosecution of War Crimes in the Former Yugoslavia', *International Journal of Transitional Justice*, 9.3 (2015), 367–85
- Ramet, Sabrina P., 'The Denial Syndrome and Its Consequences: Serbian Political Culture since 2000', *Communist and Post-Communist Studies*, 40.1 (2007), 41–58
- Ristić, Katarina, 'The Media Negotiations of War Criminals and Their Memoirs: The Emergence of the "ICTY Celebrity"', *International Criminal Justice Review*, 28.4 (2018), 391–405
- , *Imaginary Trials: War Crime Trials and Memory in Former Yugoslavia* (Leipzig: Leipziger Universitätsverlag, 2014)
- , 'Re-Enacting the Past in TV News on War Crime Trials: A Method for Analysis of Visual Narratives in Archival Footage', *Media, War & Conflict*, 2019, 1–20
- Simić, Olivera, 'Bringing Justice Home: Bosnians, War Criminals and the Interaction between the Cosmopolitan and the Local', *German Law Journal*, 12.07 (2011), 1388–1407
- Subotić, Jelena, *Hijacked Justice* (Ithaca: Cornell University Press, 2009)
- van Dijk, Teun, *News as Discourse, Communication* (Hillsdale, N.J.: Erlbaum, 1988)
- Ward, Peter, *Picture Composition for Film and Television*, 2nd ed (Oxford; Boston: Focal Press, 2003)
- Yong, Daphne, 'The Courtroom Performance', *Cambridge Anthropology*, 10.3 (1985), 74–80
- Zelizer, Barbie, *About to Die: How News Images Move the Public* (New York: Oxford University Press, 2010)

Katarina Ristić is a research associate at the Global and European Studies Institute, Leipzig University. Her research interests include transitional justice, memory, and the media. She is currently working on the visual memory of the Yugoslav wars.