

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

1997 I No.139

Royal Courts of Justice
Tuesday, 29th February 2000

Before:

MR. JUSTICE MORLAND

B E T W E E N :

- (1) INDEPENDENT TELEVISION NEWS LTD.
- (2) PENNY MARSHALL
- (3) IAN WILLIAMS

Claimants

- and -

- (1) INFORMINC (LM) LTD.
- (2) MICHAEL HUME
- (3) HELENE GULDBERG

Defendants

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MR. T. SHIELDS Q.C. and MR. M. BARCA (instructed by Messrs. Biddle) appeared on behalf of the Claimants.

MR. G. MILLAR and MR. A. HUDSON (instructed by Messrs. Christian Fisher Solicitors) appeared on behalf of the Defendants.

PROCEEDINGS - DAY 2

INDEX

Page No.

OPENING SPEECH, Continued by Mr. SHIELDS

1

WILLIAMS, Mr. IAN KEITH, Sworn

Examined by Mr. SHIELDS

21

1 MR. JUSTICE MORLAND: Mr. Shields, I think it is right that
2 I should mention this at this stage so that everybody knows
3 the position including you, members of the jury. On Friday
4 I have to deal with a very substantial matter which may take
5 most of Friday. If of course a witness is part-heard from
6 Thursday the witness's evidence will be completed on Friday.
7 So you may almost certainly have a short day on Friday so far
8 as you are concerned. I am sorry about that but it is an
9 urgent matter that has to be dealt with.

10 MR. SHIELDS: We never mind a day off, my Lord.

11 MR. JUSTICE MORLAND: Right. Yes, Mr. Shields.

12 MR. SHIELDS: Members of the jury, at the end of yesterday's
13 proceedings we had reached the article of which complaint is
14 made and if you recall I had read to you at tab 4 the press
15 release which precedes that article. You might recall that
16 was "Journalist exposes the truth behind Bosnia 'death-camp'
17 photograph" and the purpose of that press release, of course,
18 was to alert the media and other what might be regarded as
19 people who would like to read such a story about the
20 forthcoming article. You will recall that a letter was
21 written which is at tab 5 seeking to suggest that the article
22 should not be published but nonetheless they chose to go ahead
23 and they chose to publish the article. I then drew your
24 attention to the article which is at tab 6 and the front is
25 headed "EXCLUSIVE The picture that FOOLED the World".
26
27
28
29

30 Members of the jury, you will see that is quite a
31 long article. What I am going to do is suggest you read it
32 to yourselves because one of the tasks you have to do in this
33 case is to decide two things: who does that article refer to?
34 - and I will come back in a minute to that - and what does it
35 actually mean? You are asking yourselves what it would have
36 meant to an ordinary sensible person reading it at the time.
37 Now rather than my reading it out to you, because I may read
38 it too quickly and not give you a chance to take it in
39 properly, I am going to leave it to you to read that to
40 yourselves and afterwards I will make a few comments about
41 it. But do not feel under any pressure. It is quite a long
42 article and it may take five or ten minutes.
43

44 MR. JUSTICE MORLAND: Yes. Mr. Shields, do you think it would be
45 easier for the jury - it is a matter for you and for them -
46 for them to read it in their retirement room?
47

48 MR. SHIELDS: I think it would, if your Lordship is happy with
49 that.
50

51 MR. JUSTICE MORLAND: Yes. Would it not be more comfortable and
52 more relaxing, and you would take it in better and feel under
53 no pressure if you read it in your room?
54

55 MR. SHIELDS: What I was going to do after that, my Lord, to help
56 everyone, is with the jury I was going to do a paragraph
57 number, paragraph by paragraph.

1 MR. JUSTICE MORLAND: Yes.
2
3 MR. SHIELDS: After that then we can refer to a paragraph number
4 rather than trying to find it.
5
6 MR. JUSTICE MORLAND: Yes, good. I would have thought the best
7 thing would be if you would like to retire to your room, and
8 I think probably ten minutes.
9
10 MR. SHIELDS: It is quite a lot.
11
12 MR. JUSTICE MORLAND: It is really a very long article.
13
14 MR. SHIELDS: Fifteen minutes, my Lord?
15
16 MR. JUSTICE MORLAND: Members of the jury, would you like to give
17 a message to the jury usher, Jean, here and sort of bang on
18 the door when you are ready to come back into court. I think
19 that would be the convenient way rather than any time limit,
20 because it is really quite a long article.
21
22 MR. SHIELDS: My Lord, at the next tab -- it might be sensible,
23 I think, to maybe flag this tab 2, in paragraph 6 -- there is
24 a thing called "First Casualty?", which is the editorial of
25 which we complain. Just over the page from the end of the
26 article, one turns over to something headed "First Casualty?"
27
28 MR. JUSTICE MORLAND: Yes.
29
30 MR. SHIELDS: It is the next tab almost but not number 7, it has
31 got the number 2 in it.
32
33 MR. JUSTICE MORLAND: Just before 7 there is a thing that looks
34 like that, "First Casualty?"
35
36 MR. SHIELDS: What might be helpful, my Lord, is if the jury took
37 with them a copy of the article in its original form so that
38 they can see there, if I can just hold it up, the front page
39 "EXCLUSIVE" and in fact "First Casualty?" comes before the
40 article in the actual magazine although you have got it the
41 other way round. So if you want to read "First Casualty?"
42 first, because probably a reader may have read that first,
43 and then the article. I will hand that up, if I may.
44
45 MR. JUSTICE MORLAND: Yes.
46
47 MR. SHIELDS: C1, my Lord?
48
49 MR. JUSTICE MORLAND: Yes, that ought to formally be made an
50 exhibit. C1, yes. Members of the jury, if you would like to
51 go out to your room and do not feel under any pressure.
52
53 (In the absence of the jury)
54
55 MR. JUSTICE MORLAND: Mr. Shields, I did not suggest it now but
56 I think probably when they come back it would assist if they
57 had highlighters, would it not?

1 MR. SHIELDS: Yes, my Lord.

2

3 MR. JUSTICE MORLAND: Certainly if you are going to refer to
4 particular paragraphs and perhaps particular sentences.
5 It obviously would not be appropriate on their first reading.

6

7 MR. SHIELDS: No, that is why I wanted them to read it.

8

9 MR. JUSTICE MORLAND: Read it like that, yes, and that is why
10 I did not suggest it then. But if arrangements could be
11 made for them to have highlighters so that if they wish to
12 underline anything they can. Right. We will adjourn until
13 they are ready.

14

(Adjourned for a short time)

15

16 11.15 a.m.

17

18
19 MR. SHIELDS: Members of the jury, we say that this article and
20 the editorial which you have just read defame -- that is, take
21 away the reputation of -- and gravely defame ITN, Penny
22 Marshall and Ian Williams. We say it attacks their integrity
23 and honesty and accuses them of falsification and fabrication.
24 We say that anyone who read that article at about that time
25 would have seen it as an allegation of conspiracy effectively
26 by them to distort the truth to fit in with their supposedly
27 anti-Serbian and pro-Muslim views.

28

29 I said before you retired to read the article that
30 I was going to suggest that together we mark up a number of
31 paragraphs, because it would save a lot of time in the course
32 of the trial when witnesses refer to particular paragraphs.
33 So if you have the article, "The Picture that Fooled the
34 World", if everyone has that, I have done this as the first
35 paragraph, the paragraph beginning:

36

"The picture reproduced on these pages "

37

38
39 So if everyone could mark that down as para.1. Then
40 below that, "For many" is para.2. The next paragraph ----

41

42 MR. JUSTICE MORLAND: Not too quickly, Mr. Shields.

43

44 MR. SHIELDS: I am sorry, my Lord. Paragraph 3 begins: "The fact
45 is that"; para. 4 begins: "The barbed wire". Turning over the
46 page, which has no.5 at the bottom, para.5 begins: "Whatever
47 the British news team's intentions".

48

49 MR. JUSTICE MORLAND: My second page -- I do not know if the jury
50 are the same -- that is the first page, that is the second
51 page -- then the third page I have has: "The Proof" and
52 "Belsen" on it. Is that right?

53

54 MR. SHIELDS: That is right. Paragraph 5 begins: "Whatever the
55 British news team's intentions." Then I go down to para.6,
56 which begins: "Penny Marshall". Paragraph 7 begins: "It was
57 through my role". Paragraph 8 is: "One night". Paragraph 9

1 should begin: "My suspicions". Then I drop down to para.10:
2 "I decided to go back to Bosnia." Then over the page, I start
3 with: "The British news team's trip", and that is para.11.
4 Paragraph 12 is slightly indented and begins: "When Marshall,
5 Williams and Villiamy arrived". Paragraph 13 begins: "As the
6 end of their trip approached". Paragraph 14 begins: "The
7 pictures they shot". Paragraph 15 begins: "I have looked
8 through the rest of the team's film from Trnopolje".
9 Paragraph 16 begins: "The camp". Paragraph 17 begins: "To
10 film". Over the page, para.18: "When Marshall". Paragraph
11 19: "The unused footage". Paragraph 20: "On her return"
12 Paragraph 21: "Yet an important element". Paragraph 22 should
13 begin: "Another unpublished sequence". Paragraph 23 begins:
14 "When I visited Trnopolje".
15

16 Then over the page, para.24 begins: "I met Pero
17 Curguz". Paragraph 25: "When I showed the picture of Fikred
18 Alic". Paragraph 26 begins: "Misa Radulovic". Paragraph 27:
19 "Without doubt most of the refugees in Trnopolje were
20 undernourished". Paragraph 28: "The collection centre".
21 Paragraph 29: "For all that". Paragraph 30: "Paddy Ashdown".
22 Paragraph 31: "In the eyes of the world". Paragraph 32: "Ed
23 Vulliamy". Paragraph 33: "However". Paragraph 34: "The
24 tone". Paragraph 35: "Penny Marshall". Paragraph 36: "This
25 was true". Paragraph 37: "A year after". Paragraph 38: "In a
26 German television programme". On the last page, para.39: "The
27 notion". Paragraph 40: "When the ITN pictures". Paragraph:
28 41: "Omarska camp". Paragraph 42: "Roused by the pictures".
29 Paragraph 43: "The pictures of Fikred Alic". Paragraph 44:
30 "The story". Paragraph 45: "By the end". Paragraph 46: "Ed
31 Vulliamy".
32

33 Then if you would just like to number the next page,
34 with the headline: "First Casualty?", the first paragraph is:
35 "What is the responsibility"; 2 is: "Top correspondent"; 3:
36 "I do not believe"; 4: "Hmm"; 5: "If they are not very
37 careful"; 6: "If every picture".
38

39 Members of the jury, as I just said to you, we say
40 this defames ITN, Penny Marshall and Ian Williams and it
41 accuses them of setting out to distort the truth, imposing
42 their pre-held views. We say there are serious allegations of
43 falsification and in fact fabrication. Can I just show you
44 two paragraphs which we say make good that case? If you could
45 go back again to the article -- I will not take you through
46 every paragraph -- but just to remind you of how it starts.
47 First of all, of course, the picture. Then: "The Picture that
48 Fooled the World". That is the headline which grabs the
49 attention. That in bold type is reflecting the allegation:
50 "that fooled the world". In other words, people have been
51 conned. We then go down:
52

53 "This image of an emaciated Muslim caged behind Serb
54 barbed wire, filmed by a British news team, became a
55 worldwide symbol of the war in Bosnia. But the
56 picture is not quite what it seems."
57

1 Then we go down to the first paragraph:
2

3 "The picture reproduced on these pages is of Fikret
4 Alic, a Bosnian Muslim, emaciated and stripped to the
5 waist, apparently imprisoned "
6

7 Either he is or he is not.
8

9 " apparently imprisoned behind a barbed
10 wire fence in a Bosnian Serb camp at
11 Trnopolje. It was taken from a videotape shot
12 on 5 August 1992 by an award-winning British
13 television team, led by Penny Marshall (ITN)
14 with her cameraman Jeremy Irvin, accompanied
15 by Ian Williams and the reporter Ed
16 Vulliamy from the **Guardian** newspaper.
17

18 "For many, this picture has become a symbol of the
19 horrors of the Bosnian war - 'Belsen '92' as one
20 British newspaper headline captioned the photograph
21 But the image is misleading."
22

23 There we are: "is misleading".
24

25 "The fact is that Fikret Alic and his fellow Bosnian
26 Muslims were not imprisoned behind a barbed wire
27 fence."
28

29 Let us pause there. There are two allegations
30 implicit in that: they are not imprisoned and they are not
31 behind the barbed wire fence.
32

33 "There was no barbed wire fence surrounding Trnopolje
34 camp. It was not a prison "
35

36 Note those words -
37

38 "It was not a prison and certainly not a
39 'concentration camp'..... "
40

41 This is what their case is and in the article -
42

43 " but a collection centre for refugees,
44 many of whom went there seeking safety and
45 could leave again if they wished.
46

47 "The barbed wire in the picture is not around the
48 Bosnian Muslims; it is around the cameraman and the
49 journalists. It formed part of a broken-down barbed
50 wire fence encircling a small compound that was next
51 to Trnopolje camp. The British news team filmed from
52 inside this compound."
53

54 They are a crucial four paragraphs, we say, because
55 they set the theme for the article. There is the allegation:
56 he is not in prison, he is not behind the barbed wire fence;

1 it is a refugee camp, it is the journalists who are encaged.
2 Carrying on:
3

4 "The British news team filmed from inside this
5 compound, shooting pictures of the refugees
6 and the camp through the compound fence. In
7 the eyes of many who saw them, the resulting
8 pictures left the false impression that the
9 Bosnian Muslims were caged behind barbed
10 wire."
11

12 Then going on to para.6 -- of course, you can read it
13 altogether and you have read it; I am just picking out some
14 paragraphs which I wish to draw to your attention -- if you
15 then go to para.6:
16

17 "Penny Marshall, Ian Williams and Ed Villiamy have
18 never called Trnopolje a concentration camp. They
19 have criticised the way that others tried to use their
20 reports and pictures as 'proof' of a Nazi-style
21 Holocaust in Bosnia. Yet over the past four and a
22 half years, none of them has told the full story about
23 that barbed wire fence which made such an impact on
24 world opinion."
25

26 If it is implied you have not told the full story,
27 that means you have been hiding something and you can only
28 hide something, members of the jury, if you know the true
29 position. It follows as night follows day. So the plain
30 implication so far, we say, when you read this article, is
31 that they knew full well where they were filming from, they
32 knew full well that Fikret Alic was not in prison, they knew
33 he was not behind barbed wire and it was not anything but a
34 refugee camp. We then turn over the page and we come to
35 para.11:
36

37 "The British news team's trip to Bosnia in the summer
38 of 1992 took place against a background of mounting
39 hysteria, as the first reports claiming that the
40 Bosnian Serbs were running brutal internment camps
41 were published in the West. On 19 July 1992, the
42 American journalist Roy Gutman wrote in **Newsday** about
43 the camp at Manjaca, and Andre Kaiser's pictures of
44 prisoners with shaven heads at Manjaca were shown
45 around the world. On 29 July in the **Guardian**, Maggie
46 O'Kane quoted eye-witnesses who claimed that Muslims
47 had been crammed into cattle cars and shipped off from
48 Trnopolje station. On 2 August Roy Gutman published
49 another article in which he called the Bosnian Serb
50 camp at Omarska a 'death camp'. Gutman's and O'Kane's
51 articles drew heavily on hearsay and unconfirmed
52 claims. Nevertheless they caused an international
53 sensation.
54

55 "When Marshall, Williams and Vulliamy arrived
56 in Bosnia at the end of July 1992, they were

1 under intense pressure to get the story of the
2 camps."

3
4 Pausing there, you might ask yourself: "Who is putting them
5 under intense pressure?"

6
7 "Roy Gutman's article about the 'death camp' Omarska,
8 published while the British team were in Bosnia, had
9 further raised expectations in the London editorial
10 offices."

11
12 Who is in the London editorial offices? It is ITN. That is
13 the London editorial offices.

14
15 "After her return Penny Marshall told how she and
16 Williams had received orders from the managing editors
17 of ITN and Channel 4 to do nothing else before they
18 had the camps story in the bag:"

19
20 Pausing there, in other words, they were under orders
21 when they went out there to bring back something which would
22 confirm what they wanted to find.

23
24 "'They had set Ian Williams and myself loose with an
25 open-ended brief to find and visit the detention
26 camps, and with orders to file nothing until we had
27 come up with the story'."

28
29 "Come up with the story", in the context of the
30 preceding words, plainly implies they had been given a brief,
31 in other words, they had to set out to find these camps and
32 find camps which confirmed the worst fears. In other words,
33 they set out with prejudice, with a bias. Paragraph 13:

34
35 "As the end of their trip approached, however,
36 the British news team had been unable to find
37 the camps story they were after. Their final
38 stop was to be the refugee camp at Trnopolje,
39 next to the village of Kozarac which had been
40 overrun by Bosnian Serb units a few months
41 earlier in May 1992. This was to be their
42 last chance to get the story which their
43 editors wanted."

44
45 "The story which their editors wanted." In other words, they
46 were to go out, get this particular story and come back with
47 it, irrespective of what they found.

48
49 "The pictures they shot at Trnopolje camp on 5 August
50 were edited in Budapest the next day, then sent to
51 London and broadcast the same night. The broadcast
52 centred on one of the journalists talking to Fikret
53 Alic and the group of Bosnian Muslims through the
54 barbed wire. These were the pictures which were
55 widely interpreted as evidence that the Muslims were
56 penned behind a barbed wire fence, and which the
57 international media seized upon to make a symbolic

1 link to the Nazi camps. But how did the British team
2 get them?

3
4 "I have looked through the rest of the team's film
5 from Trnopolje, at the pictures which were not
6 broadcast. They reveal a lot more about the story."
7

8 In other words, what they are revealing is what was
9 never told and what was hidden. Then going over the page to
10 para.20:

11
12 "On her return, Penny Marshall wrote in the **Sunday**
13 **Times** that 'Jeremy Irvin, our cameraman, knew he had
14 come away with powerful images from Prijedor, but
15 only when we screened them in our Budapest editing
16 suite did we begin to sense their impact.' Ed
17 Villiamy summarised this impact in his book, **Seasons**
18 **in Hell**: 'With his rib-cage behind the barbed wire of
19 Trnopolje, Fikret Alic had become the symbolic figure
20 of the war, on every magazine cover and television
21 screen in the world.; Mike Jeremy, foreign editor of
22 ITN, later called the picture 'one of the key images
23 of the war in former Yugoslavia'.
24

25 "Yet an important element of that 'key image' had been
26 produced by camera angles and editing."
27

28 "Camera angles and editing".
29

30 "The other pictures, which were not broadcast, show
31 clearly that the large area on which the refugees were
32 standing was not fenced-in with barbed wire."
33

34 So there is the sting, really, is it not?
35

36 "Yet an important element of the 'key image' had been
37 produced by camera angles and editing."
38

39 In other words, it was a fabricated image, not a true
40 image at all. It did not reflect what was going on at that
41 camp. Now if we could just go down to para.23:
42

43 "When I visited Trnopolje last December
44 I asked local people about the camp and the barbed
45 wire. Dragan Baltic, 17, went to school in Trnopolje
46 until the spring of 1992. He is certain that, apart
47 from the one around the small compound, 'there has
48 been no other barbed wire fence'. His 19 year-old
49 sister Dragana now works in a refugee centre in the
50 school. Dragana confirms her brother's account."
51

52 Then I drop down to para.24:
53

54 "I met Pero Curguz in his office in Prijedor.
55 He manages the regional Red Cross, and was
56 stationed at Trnopolje during the operation of
57 the refugee centre. He was interviewed by the

1 British journalists in August 1992. He says
2 he told them that the people had come to the
3 camp of their own free will for protection."
4

5 We are going to look at that later, when we view the
6 rushes, but do you remember those scenes? Do you remember the
7 patrolling guards and the notion that those people were there
8 for their protection?
9

10 "He told me that, during the entire time of the
11 operation of the camp, no fence had been erected. On
12 the contrary: when the other camps in Keraterm and
13 Omarska were closed, and Trnopolje became overcrowded
14 with up to 7500 people, the refugees had pulled down
15 fences and taken all other available materials to
16 build shelters. Curgus stressed that this was no
17 internment or prisoner camp; it was a collecting camp
18 for exiled Muslims. Everybody I spoke to confirmed
19 that the refugees could leave the camp area at almost
20 any time."
21

22 Then we drop to the bottom:
23

24 "Misa Radulovic, 68, was a teacher in Kozarac and
25 Trnopolje. Now he walks with a stick and is nearly
26 blind. But like all other men considered able-bodied,
27 he was enlisted in the army during the war and
28 stationed as a camp guard in Trnopolje for three days.
29 @We protected the Muslims from Serbian extremists who
30 wanted to take revenge', he said. 'The people could
31 leave the camp without papers, but this was dangerous.
32 A barbed wire fence existed only at this corner around
33 the barn, this little shop for rural products and the
34 electricity station.'"
35

36 Then over the page:
37

38 "Without doubt most of the refugees in Trnopolje were
39 undernourished. Civilians were harassed in the camp,
40 and there were reports of some rapes and murders. Yet
41 the irony is that, if this collection centre for
42 refugees had not existed under the supervision of
43 Bosnian Serb soldiers, a far greater number of Muslim
44 civilians might have lost their lives."
45

46 Then going over to para.36 opposite:
47

48 "A year after the ITN pictures were first broadcast,
49 Penny Marshall reacted to the suggestion that her
50 report might have been sensationalist: 'I bent over
51 backwards. I showed guards - Bosnian Serb guards -
52 feeding the prisoners. I showed a small Muslim child
53 who had come of his own volition. I didn't call them
54 death camps. I was incredibly careful, but again and
55 again we see that image being used.' Despite her plea
56 of objectivity, however, she did not explain how 'that

1 image' of Fikret Alic behind barbed wire had been
2 produced by her team."
3

4 Note the words "produced by her team". In other
5 words, created by them. You have read the article, members of
6 the jury. It is going to be for you and not for me to decide
7 at the end of the trial what to believe. You have already
8 heard our submissions as to what it means. But those passages
9 I have highlighted to you we say could have left the reader
10 under no doubt as to what was being alleged. What was being
11 alleged is that in accordance with their instructions in
12 effect from London, they set out to find damaging images of
13 the war, they had reached Trnopolje having found no such
14 images and this was their last chance and they took that
15 chance by essentially fabricating, distorting, deliberately
16 altering this image in a way which would cause the maximum
17 effect.
18

19 You can see when you read the article how the author
20 puts it, the context in which he puts it. He puts it in the
21 context of this being as it were a harmless, safe refuge for
22 people. In other words, anyone having read that article would
23 conclude that Mr. Fikret Alic could walk around behind that
24 barbed wire and he was there through choice, he and the other
25 people there. When we see it again, I ask you to keep the one
26 abiding image of people, how they stood behind that wire, how,
27 for example, people would hold the fence, but also the
28 presence throughout of patrolling armed guards. It is very
29 curious to have patrolling armed guards when in fact you are
30 free to go as you want.
31

32 Now, members of the jury, you might agree with me that
33 these are very great charges. It is right, as you also know,
34 that they have never been withdrawn by the defendants and that
35 is the reason we are here. In fact, the very reverse. What
36 was their position, as you will hear during the course of this
37 trial. Firstly -- and this is something which is very
38 important -- they say this. They say that no-one reading
39 either the press release or the article or the covering
40 editorial would have understood them to refer to ITN. I have
41 not touched on it yet, but it is only right you should also
42 know what the editorial does say and we will have to go back
43 together and just briefly look at that now.
44

45 "First Casualty?"
46

47 "What is the responsibility of a war reporter? Post-
48 Bosnia, the fashionable view is that journalists
49 cannot be neutral, but have a duty to side with the
50 angels.
51

52 "Top correspondent Martin Bell, who has reported for
53 the BBC on conflicts from Vietnam in the sixties to
54 the former Yugoslavia in the nineties, is now leading
55 a campaign against what he calls the 'by-stander's
56 journalism' of traditional war reporting.
57

1 "I do not believe we should stand neutrally between
2 good and evil', Bell told the prestigious News World
3 '96 conference in Berlin in November. 'My answer is
4 what I call the journalism of attachment, journalism
5 which cares as well as knows.'
6

7 "Hmmm . Once journalists see fit to appoint
8 themselves as the judge of who is 'good' and
9 who is 'evil' in a conflict such as Bosnia,
10 you know you are in trouble. The role of
11 objective reporter of fact sits uneasily with
12 that of moral crusader."
13

14 You might think you ought to underline that passage,
15 because that is really saying that you cannot be objective if
16 you are going to be a crusader.
17

18 "If you are not very careful, journalists who have
19 some kind of emotional 'attachment' to one side can
20 end up seeing what they want to see, rather than what
21 is really there. When truth is deemed to be in the
22 eye of the beholder, the line between reportage and
23 propaganda can get stretched thinner than a string of
24 barbed wire.
25

26 "If every picture tells a story, then it is surely
27 part of a war reporter's job to ensure that story is
28 true. Here at LM we see nothing wrong with taking
29 sides. We tend to be something of a partisan
30 publication ourselves. Taking sides, however, cannot
31 be an excuse for taking liberties with the facts."
32

33 11.45
34

35 There again, it is a reinforcement of the message of the
36 article, is it not? The allegation that they have taken sides
37 and therefore in effect they have taken liberties with the
38 facts. As I said, nothing in that press release, nothing in
39 that article and indeed nothing in that editorial has ever
40 been withdrawn by the defendants. Indeed they seek to support
41 it. What they say firstly is this: when it comes to ITN they
42 say that no-one who read the press release, no-one who read
43 the article and no-one who read that editorial would have ever
44 understood the allegations which they make to refer to ITN.
45 It is very important that we grasp this now because their case
46 is different as between ITN and Penny Marshall and Ian
47 Williams. You might think that is somewhat of a strange
48 stance to adopt. Let me tell you why by inviting you to look
49 quickly at the press release again which is in tab 4. You
50 will see there in the third paragraph:
51

52 "The picture of Fikret Alic was taken from videotape
53 shot at Trnopolje on 5 August 1992 by an award-winning
54 British television team led by Penny Marshall
55 (ITN)..."
56

1 So one immediately knows who she is working for in the context
2 of a press release which was suggesting there has been
3 fabrication and the broadcast of that fabrication. But even
4 more significantly, when you come to the article which
5 develops the theme, we invite you to look at paras.12, 13 and
6 14 which I read out to you just now:
7

8 "When Marshall, Williams and Vulliamy arrived in
9 Bosnia at the end of July 1992, they were under
10 intense pressure to get the story of the camps..."
11

12 Remember I said to you that the intense pressure had only come
13 from outside; therefore it had to be coming from their
14 employers.
15

16 "Roy Gutman's article about the 'death camp' Omarska,
17 published while the British team were in Bosnia, had
18 further raised expectations in the London editorial
19 offices."
20

21 that is obviously a reference to those who sent them out their
22 and who employed them.
23

24 "After her return Penny Marshall told how she and
25 Williams had received orders from the managing editors
26 of ITN and Channel 4 to do nothing else before they
27 had the camps story in the bag..."
28

29 That is plainly a reference, we say, to ITN because they are
30 the people giving the orders. You know the nature of the
31 orders; you have got to have it in the bag.
32

33 "They had set Ian Williams and myself loose with an
34 open-ended brief to find and visit the detention
35 camps, and with orders to file nothing until we had
36 come up with the story.
37

38 As the end of their trip approached, however, the
39 British news team had been unable to find the camps
40 story they were after. Their final stop was to the
41 refugee camp at Trnopolje, next to the village of
42 Kozarac which had been overrun by Bosnian Serb units a
43 few months earlier in May 1992. This was to be their
44 last chance to get the story which their editors
45 wanted."
46

47 - in other words, the people back home.
48

49 "The pictures they shot at Trnopolje camp on 5 August
50 were edited in Budapest the next day, then sent to
51 London and broadcast the same night."
52

53 We say those three paragraphs prove unequivocally that the
54 state of this libel was directed to ITN as much as to Penny
55 Marshall and Ian Williams, but there it is; the defendants
56 say to you - and they will no doubt address you on this - that
57 no reasonable person reading the press release, reading the

1 article, or reading the editorial would ever think it could
2 have referred to ITN. I ask you to ask yourself: in that
3 case what are those three paragraphs doing there? The
4 significance of that is that unlike their case in relation to
5 Penny Marshall and Ian Williams they do not suggest that it is
6 true. They do not suggest if it does defame them that there
7 is any truth in it. They are not suggesting that ITN set out
8 to produce a distorted image and distorted picture; they do
9 not suggest that ITN had any part in the falsification or
10 fabrication of that image. All they say is that it does not
11 refer to ITN. However, in relation to Penny Marshall and Ian
12 Williams, they say that the allegations made in the press
13 release, in the article and in the editorial are true. They
14 do not, however, accept that they bear the meanings which
15 I have put before you. They say they bear slightly different
16 meanings, and I am now going to read out to you what they say
17 those meanings are. They say that they bore these meanings -
18 the press release, just as much as the articles and the
19 accompanying editorial - that Penny Marshall and Ian Williams
20 had compiled television footage which deliberately
21 misrepresented an emaciated Bosnian Muslim, Fikret Alic (p.32)
22 as being caged behind a barbed wire fence at the Serbian
23 Trnopolje camp on 5th August 1992 by the selective use of
24 video tape shots. They say that they failed to explain
25 publicly that the said shots with Fikret Alic standing outside
26 the barbed wire fence which surrounded the area from which the
27 cameraman was filming when the said and speedy image of Fikret
28 Alic was widely interpreted as evidence that the Bosnian Serbs
29 were running Nazi style concentration camps, and that they
30 ought, in those circumstances, to have given such a public
31 explanation but have discredibly failed to do so. You will
32 note there that there is no allegation in relation to their
33 conduct or their reporting of Ormaska.

34
35 You will remember, members of the jury, that both the
36 article and the press release make great play of the fact that
37 Trnopolje was a collection camp for refugees and not a prison.
38 You can see that in tab 4 in the press release:

39
40 "* there was no barbed wire fence surrounding the
41 Trnopolje camp.

42
43 * the camp was a collection centre for refugees, not
44 a prison."

45
46 That is what they are saying - and that is echoed again and
47 again in that article, which is why I read those particular
48 passages to you - do you remember the man from the Red Cross
49 from the camp. That is the Serbian Red Cross, not the
50 international Red Cross. Therefore, what they must be
51 suggesting, we say to you, is that Fikret Alic was not in
52 prison behind barbed wire and therefore, by plain implication,
53 he was not in prison at all. What they do say, therefore, is
54 this: it was in effect the journalists who were caged in.
55 What is more, not only were they caged in when they did the
56 filming, but they must have known they were caged in because
57 if they did not know they were caged in they could not be

1 guilty of any deliberate distortion. They were caged in and
2 they knew it. Therefore they had deliberately manufactured
3 (played with) the image - falsely created an image which
4 fooled the world. You will hear from every member of the two
5 ITN teams who went out there. They were there; you will have
6 an opportunity to judge each of them, as to whether they are
7 telling the truth. There is one thing that may have struck
8 you about the nature of this defence - that it could not have
9 been done alone. In order for the image to have been
10 falsified, distorted (whatever word you used) it would have
11 needed, because it also needed the editing process as well,
12 all those people who went there, working together. Indeed, it
13 would almost, one thinks, extend to the editors who were sent
14 out because it is an image which fooled the world. It was an
15 image which was transmitted which has fooled people. You are
16 going to have a chance to see each and every one of those
17 people; hear what it was like; what was their impressions of
18 the camp and whether they set out to deceive at all. You will
19 hear it is our case that Fikret Alic and those other people
20 you saw were indeed within the enclosure. There was an
21 enclosure which was almost entirely fenced in with barbed wire
22 or chicken wire. But most importantly of all they were not,
23 as far as anyone can see, free to go, free to leave. No-one
24 would choose to be in that condition - in the condition you
25 saw. What is more, as I have said already, you will note and
26 remember the presence of the Serbian armed guards patrolling.
27

28 The defendants also raise another defence. They say
29 the words of which Ian Williams and Penny Marshall complain
30 also contain a comment about their conduct - and you can see
31 where the comment may be found, it is in that editorial,
32 namely that they ought, in the light of the misinterpretation
33 of the picture of Fikret Alic, have given a public explanation
34 of how the shots were taken but have discredibly failed to
35 do so. In other words they should have come clean about what
36 they had done and told the world.
37

38 It is only right that I tell you this, members of the
39 jury: our law recognises the right in every citizen - it is
40 not just newspaper editors and journalists - to comment on
41 matters of public interest and to hold strong, even obstinate,
42 or prejudiced or highly charged views. What you will be asked
43 to decide is whether a reasonable person, however passionate,
44 obstinate, prejudiced could have held such a view, a view
45 expressed, perhaps, in that editorial in February 1997 about
46 the conduct of Ian Williams and Penny Marshall in February
47 1992. But you should also know this: the right to make
48 comments about other people, about their conduct, to express
49 your opinions about them, is not absolute. It has two
50 qualifications. Firstly, and you might think this is
51 reasonably sensible, whilst comment is free facts are still
52 regarded as sacred. You will need to be satisfied that facts
53 existed in 1997 which could have supported the comments which
54 were being made about Penny Marshall and Ian Williams. Our
55 law also requires that a defendant tells you what facts
56 existed at the time which are relied upon to support that
57 comment. You just cannot fire from the hip; you have to have

1 some bases for making the comment and you have to identify the
2 facts that support it. Now you will be interested to know
3 that in this case these defendants rely upon almost the self-
4 same facts as they rely upon to say it is true. So, it may
5 well be the question of comment does not arise, if you accept
6 from us that their facts do not go anywhere near supporting
7 the allegations which they have made against these two
8 journalists.
9

10 Secondly, and you might think this is also quite a
11 sensible protection, the protection afforded by the defence of
12 fair comment - that is the right for comment - is lost. You
13 lose it if we, that is the claimant (the person bringing the
14 action) can establish that when this comment was published the
15 persons who made it (or who caused it to be published) were
16 actuated by malice. Now, malice is a purist term but it has a
17 special and legal meaning in this context. What it means is
18 this: it means if you publish something which you know to be
19 false or you are reckless as to its truth or falsity. Now,
20 despite the advance of modern technology we clearly cannot
21 look into people's heads and we cannot look into people's
22 heads in 1997, so what do we do? What we do is look at the
23 surrounding circumstances in order to try and work out what
24 was motivating someone at a particular time. And your task
25 may be at the end of this case to ask yourself: "How can
26 I judge what was the motive of the editor of LM magazine and
27 his fellow publishers in February 1997 when they chose to
28 issue the press release or when they chose to publish the
29 article?"
30

31 Now, we say there are three pieces of evidence which
32 collectively might throw some light on this question.
33 Firstly, we say that Mr. Hume, who was the editor of LM, was
34 content with adopting a hostile stance towards journalists in
35 the West and Western powers and felt for the pro-Bosnian
36 Muslims. Indeed, his aversion to those he thought were
37 hostile to the Serbian position even extended to attacking the
38 international tribunal which had been set up by the United
39 Nations to charge and prosecute those accused of crimes
40 against humanity during that conflict. In other words, this
41 was a golden opportunity for Mr. Hume to smear ITN and its
42 journalists, the kind of people he felt were adopting his Pro-
43 Bosnian Muslim stance.
44

45 Now, what we are going to put before you to support
46 that particular averment are some articles which Mr. Hume has
47 either written or allowed to be published in the newspaper.
48 Now, if you look at tab 7 you will see there an article which
49 is published - do not be taken in by the date at the top,
50 13/6/97, you have to go to the very end to find the date.
51 This has come off a machine and it says "Reproduced from
52 Living Marxism ... July 1992". So you have to go back to see
53 where it came from. This is an article published in LM
54 magazine which is headed:
55

56 "'White niggers' of the new world order
57

1 "Eddie Veale on how and why America, Britain and
2 Germany have constructed the Serbian demon."
3

4 The thrust of this article is that there is a western bias
5 against Serbians. If you turn over the page you will see the
6 heading "Western bias". You will see there:
7

8 "Look beyond the borders of Bosnia and Croatia, and
9 the frantic concern to condemn Serbia seems even more
10 one-sided. While the Yugoslav conflicts has grabbed
11 all the headlines, the Armenians have been rampaging
12 through Azerbaijan. Yet the Western governments and
13 experts who are so keen to lecture the Serbs about
14 violence have seemed far less concerned about the
15 violent clashes further east."
16

17 Then we look to the next page:
18

19 "Nato rules
20

21 "The US administration had wanted no part of the
22 campaign against Serbia when the Germans were leading
23 the charge. Now, however, it has become a handy
24 excuse for Washington (and London) to play up the
25 importance of their military alliance, Nato, as
26 against the emerging Euro-Army run from Bonn and
27 Paris. That is the main reason why Serbs have
28 suddenly appeared all over our newspapers depicted as
29 monkeys and mass murderers."
30

31 Then if you turn over the page you will find an article
32 written by Mr. Hume himself in June 1995. This article is
33 essentially an attack on the setting up of the war crimes
34 tribunal. I am not going to read it all. It will probably be
35 read to you in the course of the trial but I suspect you have
36 had enough of things being read to you. So I will just read
37 parts.
38

39 "The war crimes tribunal for the former Yugoslavia is
40 set to try its first case, and the war crimes tribunal
41 for Rwanda is also warming up for action. The wheels
42 of world justice, we are told, are finally turning.
43 But the peoples of the world are far from equal before
44 this new system of globo-law.
45

46 "The UN-sponsored tribunals are institutionalising a
47 double standard in international politics. They have
48 been set up on the implicit assumption that the white,
49 Western powers and their allies do not commit war
50 crimes. In their eyes it seems that war criminals are
51 always Serbs Hutus, or Iraqis - in any case, wogs of
52 one sort [or] another.
53

54 "Dusan Tadic, A 39-year old Serb, has been extradited
55 from Germany to face trial before the war crimes
56 tribunal in The Hague. Tadic has been charged with 13
57 counts of murder, torture and rape of Muslim prisoners

1 in Bosnia. When he appeared at the pretrial hearing
2 to plead not guilty in late April, it was proudly
3 announced as the first international war crimes
4 hearing since the Nuremburg trials that followed the
5 Second World War.
6

7 "Yet the crimes of which Tadic stands accused are
8 hardly the first - and far from the worst - atrocities
9 that have been committed during the wars of the past
10 half-century. So why is the UN Security Council
11 suddenly setting up war crimes trials for the first
12 time in 50 years?"
13

14 Then if we go over the page, not the next page or the next
15 page but the page which has as its first paragraph "and
16 Western governments". You will see in the second paragraph:
17

18 "The war crimes tribunals can ignore the facts behind
19 their chosen conflicts because their brief has nothing
20 to do with achieving justice. These are political
21 showtrials set up by the USA and its allies on the
22 United Nations Security Council to demonstrate the
23 divide between the moral nations of the West and the
24 essentially immoral peoples of the rest of the world;
25 between the savages in the dock and civilised men who
26 sit in judgment on them."
27

28 Two paragraphs after that:
29

30 "The war crimes trials give the politics of racial
31 inferiority a veneer of legality. Their real
32 character as an exercise in demonstrating Western
33 authority and power is revealed, however, by the lack
34 of any basis in law for these tribunals. The UN
35 Security Council is simply making up the law on war
36 crimes as it goes along, handing its appointees the
37 right to interfere in the internal affairs of member
38 states and put their citizens on trial - a direct
39 infringement of the UN charter. This precedent can
40 only pave the way for further military interventions
41 around the world in the name of law and order - like
42 the 1993 US 'posse' which blew apart Mogadishu in
43 search of the Somali 'warlord' General Aideed."
44

45 Then finally, members of the jury, and this was published in
46 July 1997, that is very soon after this article but we say you
47 can read this article and get a very good feel as to what
48 motivates Mr. Hume.
49

50 "Helen Searls cross-examines the Internal national
51 Tribunal's judgement against the Bosnian Serb
52 militiaman whom it found guilty of 'crimes against
53 humanity'.
54

55 And she says it is:
56

57 "Time to put the War Crime Tribunal in the dock."

1 MR. JUSTICE MORLAND: This is tab 9?

2
3 MR. SHIELDS: This is tab 9, I do apologise.

4
5 MR. JUSTICE MORLAND: Perhaps you could start again with that.

6
7 MR. SHIELDS: Tab 9.

8
9 "Time to put the War Crimes Tribunal in the dock.

10
11 "The International Tribunal at The Hague decreed in
12 May that the Bosnian Serb Dusko Tadic was guilty of
13 war crimes and crimes against humanity in the former
14 Yugoslavia. Pending an appeal, the judges are
15 expected to sentence Tadic to life imprisonment later
16 on this year.

17
18 "Reaction to the verdict was mixed. Some, including
19 the trial judges, saw it as a good day for human
20 rights. Others have been more critical. On both
21 sides of the Atlantic many complained the verdict was
22 'too little too late'. Within minutes of the verdict,
23 Bosnia correspondent turned MP Martin Bell complained
24 that only seven of the 74 people wanted for 'war
25 crimes' in the former Yugoslavia are in custody. He
26 urged Western Governments to do more to bring the war
27 criminals to justice."

28
29 If you go over the page to the second paragraph:

30
31 "Throughout the trial the presentation made much of
32 the charges against Tadic. Less widely publicised was
33 the fact that the judges decided there was evidence to
34 convict Tadic of only 11 of the total of 31 counts
35 against him. What is more, all of the more serious
36 specific charges of gang rape, sexual mutilation and
37 murder were thrown out. In all he was found guilty of
38 beating 14 Muslim men and of a 'crime against
39 humanity' which is defined as 'persecution'. It is
40 worth examining these charges a little more closely.

41
42 "Tadic was convicted of involvement in violent
43 beatings, and the court heard harrowing testimonies
44 from men who suffered severe pain, fear and indignity.
45 But however brutal such tales, when compared with the
46 actions of the men who previously occupied the
47 defendant's seat in a war crimes tribunal, Tadic's
48 actions seem mundane and insignificant. In fact when
49 you consider the fact that the Prijedor region was in
50 the midst of a fears and bloody conflict, it is hard
51 to believe that Tadic's actions were in any way
52 exceptional."

53
54 Then if you look over the page to p.4 - it has that in the top
55 right hand corner - the third paragraph down:

1 "Which brings us back to our question: why did the UN
2 Security Council choose this moment and this conflict,
3 after 50 years, to set up a war crimes tribunal? To
4 answer this it is necessary to look way beyond Bosnia.
5 The International Tribunal only makes sense if it seen
6 as a product of the West's search for a righteous role
7 in the post-Cold War world, rather than of any search
8 for truth and justice in Bosnia.
9

10 "If the Tribunal was simply concerned with justice
11 then the UN would surely have paid more attention to
12 its own legal procedures to ensure that justice was
13 done. For a start, somebody could have seriously
14 asked whether such an international tribunal has any
15 legal basis on which to intervene around the war in
16 the former Yugoslavia."
17

18 We will come back to that later, members of the jury, when
19 I cross-examine Mr. Hume. But I would like to think you have
20 a flavour of his contempt and his magazine's contempt for that
21 tribunal. We say that throws some light on why he chose this
22 occasion to attack the claimants.
23

24 I said there were three matters to be put before you
25 which might help you decide and come to a conclusion what the
26 motive was for publishing this. The second one is this: as
27 you will hear the defendants were in the process of
28 relaunching the magazine, and we say what better way to
29 attract publicity and to boost the magazine's fortunes than by
30 publishing what they obviously regarded as a sensational
31 article. We know they regarded it as that because they took
32 the step of issuing the press release before the article came
33 out and sending it to numerous media organisations no doubt in
34 order to attract attention to it.
35

36 Thirdly, and you might think this is really the most
37 significant of the matters, Mr. Hume and his fellow publishers
38 could not take what you might think is the obvious step of
39 finding out whether the allegations were true. Because if you
40 are going to accuse someone of distortion, deliberately
41 falsifying by camera angles and editing, would you not think
42 it was fair and just to put those allegations to the people
43 who you were making them against before you went to print? It
44 is not as if he did not know the names of the people involved
45 because you get the names very clearly from the press release
46 and again from the article. There is reference to the
47 cameramen, there a reference to the claimants, Penny Marshall
48 and Ian Williams. The ITN offices are in London. You might
49 ask yourself: why does someone not choose to put allegations,
50 very serious allegations, to someone before publishing them?
51 You might come up with the answer that the reason is that they
52 are not prepared to take the risk of finding out that they may
53 be untrue. Because if they are untrue, you do not have an
54 article to publish, do you?
55

56 Members of the jury, at the end of this trial I am
57 going to invite you by your verdict to vindicate the

1 claimants. Our law does not allow you to order the defendants
2 to publish an apology. All you can do in a libel action, in
3 an action brought to reclaim reputation, is make an award of
4 damages. The award of damages is aimed to compensate the
5 damage to reputation for the hurt to feelings. It is not to
6 punish. The award should by its size reflect the injury which
7 they have suffered and reflects what you may think is the hurt
8 of having the allegations aired again to the world in the
9 course of the next 10 or 15 days. And the size of the award
10 is your attempt to show the world that these allegations were
11 simply untrue. At the end of the trial I will invite you to
12 make an award to ITN, and you will bear in mind of course that
13 it is not suggested against ITN that this article and these
14 allegations are true, it is not part of their case, and I will
15 invite you to make an award to Penny Marshall and Ian
16 Williams. First you are going to hear them and you are going
17 to see them cross-examined and you will see cross-examined all
18 the people who were involved in the production of those
19 broadcasts, and it is for you to judge them.

20
21 MR. JUSTICE MORLAND: Thank you. Mr. Shields, would this be a
22 convenient moment for the jury to have the list of the names
23 and occupations of the various witnesses and the chronology
24 and the set up at ITN?

25
26 MR. SHIELDS: Yes. Shall I tell them what I am handing them?

27
28 MR. JUSTICE MORLAND: Yes.

29
30 12.15 p.m.

31
32 MR. SHIELDS: Members of the jury, it is has been suggested by his
33 Lordship that it would be helpful to you to have a list of the
34 people who worked for ITN who were involved in this with their
35 respective jobs, because you cannot be expected to remember
36 all the names I have thrown at you. Plus those at Living
37 Marxism. A diagram which shows what the organisation was at
38 ITN in July and August 1992, the hierarchy. So you can work
39 out who was were and who gave what instructions. Thirdly, a
40 chronology, a claimants' chronology of the movement during
41 July and August 1992 because I have thrown quite a lot of
42 dates at you, I have thrown quite a lot of names at you, and
43 this way you will have your own guide. They have been
44 prepared and I can now hand them up.

45
46 MR. JUSTICE MORLAND: Mr. Millar, these are agreed to be correct,
47 are they?

48
49 MR. MILLAR: They are, my Lord, yes.

50
51 MR. JUSTICE MORLAND: Thank you. What was handed up to me,
52 Mr. Shields, is identical, is it, to what has been handed to
53 the jury subject to -- I think the chronology is now more
54 accurate ---

55
56 MR. SHIELDS: That is right, my Lord.

57

1 MR. MILLAR: Has your Lordship got the latest chronology?
2
3 MR. JUSTICE MORLAND: I have got the latest chronology.
4
5 MR. MILLAR: That is right. You should have everything. Do you
6 think it might be better at the front of the bundle?
7
8 MR. JUSTICE MORLAND: I think it is a good idea. Mine are towards
9 the front of my bundle. If you look in the front of your
10 bundle they have got holes. It is entirely up to you whether
11 you at times want to take them out, but it is probably easier
12 to keep them in the front of your bundle. If a name is
13 mentioned you can look it up and say: "Who's that, and what
14 is her or his job?"
15

16 Mr. IAN KEITH WILLIAMS, Sworn
17 Examined by Mr. SHIELDS
18

19 Q Your full name, please, Mr. Williams? A. Ian Keith
20 Williams.
21
22 Q And your address? A. 581 Soy 33, Sukemvik Road, Bangkok,
23 Thailand.
24
25 Q You are a journalist for ITN, is that right? A. That is
26 correct.
27
28 Q How old are you now? A. 41.
29
30 Q And you were born on 12th September 1958? A. Yes.
31
32 Q Where were you educated? A. I was educated at Cray Valley
33 School for Boys in Sidcup, Kent.
34
35 Q And after that did you go to university? A. Yes, I did.
36
37 Q Where did you go? A. To Keele University.
38
39 Q What did you study at Keele University? A. I studied
40 politics and economics.
41
42 Q After you graduated what did you do to earn a living?
43 A. Immediately after I graduated I travelled for a year in
44 Asia and the Far East. I then worked for a series of
45 specialist magazines and also doing freelance work at that
46 time for the BBC World Service and a number of publications
47 including the **Guardian**, the **Economist** and the **Sunday Times**.
48
49 Q Had you done any journalism while you were at university?
50 A. Yes, I had worked on student magazines, both in terms of
51 articles and also book reviews, mainly on issues related to
52 Third World development and aid issues.
53
54 Q Did there come a time when you did some work for the BBC World
55 Service radio programmes? A. I did. I did a lot of work
56 for a number of World Service radio programmes including,
57 I think, Outlook and one or two others of that ilk.

1 Q Were you mainly dealing with foreign affairs? A. It was a
2 range of things. It was, I would say, predominantly foreign
3 affairs but also science and development related issues.
4
5 Q There came a time, I think in 1985, when you were offered a
6 staff job on the **Sunday Times**, is that right? A. That is
7 right. I had been working a lot for the **Sunday Times** as a
8 freelance writer. In fact I was occupying for several months
9 a desk at the **Sunday Times** and I guess there came a time when
10 I was earning a lot as a freelance and it became cheaper to
11 employ me and put me on the staff. At that point I was
12 offered a job in the business section of the **Sunday Times**,
13 subsequently becoming business correspondent, and I worked for
14 four years for the **Sunday Times**.
15
16 Q I think that was until 1989? A. That is right.
17
18 Q Were you then sort of approached by Channel 4 News?
19 A. Yes. I was very familiar with Nicholas Owen, who was then
20 the business and economics correspondent on Channel 4 News.
21 I had also met Richard Tait, then the editor of Channel 4
22 News, and they encouraged me to apply for a job that was
23 becoming vacant on that programme.
24
25 Q That is Richard Tait sitting there, is that right?
26 A. It is, yes.
27
28 Q So you joined Channel 4 News in 1989 and did you work on just
29 business stories then? A. I began by working on business
30 stories but this was at a time when business reporting was
31 changing quite rapidly because of the single market and the
32 emergence of Europe as an important business story. So
33 although I started to do a lot of business-related reporting
34 I broadened the remit quite considerably to include stories in
35 Continental Europe, a lot out of Brussels, and the emergence
36 of the single market. At the same time I was determined to
37 broaden my own reporting and begin to do more foreign-based
38 and international reporting.
39
40 Q Let us just focus on one or two things you may have done
41 then. Did you in 1990/91 do anything to do with the Iraqi
42 government, for example? A. I did. This was in the lead
43 up to the Gulf War when there was a great deal of speculation
44 over the origin of arms for Iraq and including a number of
45 scandals involving British companies who were exposed as being
46 suppliers, directly or indirectly, to Iraq. I had done a
47 certain amount of research on this. In the course of
48 researching it I had come across a related story about the
49 death of a British journalist in Santiago, Chile. What had
50 happened was there was a British specialist defence reporter
51 who had been found dead, an apparent suicide, in his hotel
52 room in Santiago. I had done a certain amount of
53 investigation because the company he was investigating was
54 implicated as an arms supplier or an intermediary for arms for
55 Iraq, and I visited Chile twice in the course of those
56 investigations and we published two lengthy reports which
57 managed to establish that this was extremely suspect, that it

1 was not a suicide and that people had very good reason to want
2 to see him dead. As a direct result of our investigations the
3 case was reopened and subsequently it was declared as a
4 murder, and I believe there was someone apprehended, perhaps
5 three or four years ago, who they finally found to be guilty
6 of his murder.

7
8 Q So did you find yourself working more and more abroad as a
9 result of this? A. I did. I was doing more and more
10 foreign reporting. We conducted a number of investigations
11 into arms supplies for Iraq which involved travelling, as
12 I say, to Chile and also to Miami, through which arms had been
13 smuggled. We also established a link between Marconi, the
14 British company, and the Chilean intermediary for the supply
15 of smart mine technology to the Iraqis.

16
17 Q I am sorry to interrupt you, but did you then report on the
18 Kuwait war at all? A. I did. I began reporting about the
19 Kuwait war in New York, covering proceedings at the United
20 Nations as there were desperate attempts to try and avert the
21 war. Then after the bombing had begun I went to Saudi Arabia
22 and was one of the first journalists to travel into Kuwait two
23 or three days after the Iraqis had been evicted from that
24 city. That really gave me the first taste and the first
25 flavour of war reporting.

26
27 Q Were you then appointed in 1992 the Moscow correspondent
28 for Channel 4 News? A. That is right. I took up that
29 appointment. I had spent some time in Moscow doing cover for
30 the then correspondence Gaby Rado and I took over from him in
31 April 1992.

32
33 Q So you moved out to Moscow and you rented a flat in Southern
34 Moscow? A. That is right. I rented a flat on Leninski
35 Prospek, which is one of the main thoroughfares to the south
36 of Moscow.

37
38 Q Did you succeed Gaby Rado as correspondent? A. I did.

39
40 Q Did you have a producer in Moscow who worked with you?
41 A. Yes. When I arrived in Moscow the producer was Andy
42 Braddel.

43
44 Q Just help us here. What is the role of producer? It is a
45 term we hear a lot but what does he actually do? A. It is
46 a fairly wide-ranging role. The producer's job is very much
47 to help me in terms of the production of a television news
48 report. He will produce ideas, will contribute towards ways
49 of treating a subject, working closely with me, in other
50 words, in terms of the filming of the ideas for and the
51 construction of a news feature once we have got the raw
52 material. He will also tend to work very closely with the
53 cameraman and with the editor both in terms of gathering
54 material when, perhaps, I am preoccupied doing something else
55 and also in terms of helping them in putting a news report
56 together. So he is kind of my right-hand man but also working

1 very closely with the technical team, a cameraman and an
2 editor.

3
4 Q Did ITN, I think, have two teams out in Moscow? They had a
5 permanent team for Channel 3, ITV --- A. That is right.
6 We had ---

7
8 Q -- and indeed for Channel 4? A. Yes, we had quite a big
9 bureau. It was a very lively time in the Soviet Union. It
10 was a period when the whole place was falling apart and it was
11 in chaos. Gorbachev had resigned. Yeltzin had taken over.
12 The place was in turmoil. It was a great time to be there as
13 a journalist simply because no doors were closed any more.
14 Your ability to go places, to meet people, to do stories was
15 very much a product of your own tenacity. There was a great
16 opportunity to exercise pure journalism and to get original
17 stories because suddenly the place was opening up and it was
18 chaotic.

19
20 Q Is it right that you covered some of the conflicts which were
21 occurring on the fringes of Russia? A. That is right.
22 There was a widespread feeling at that time that the Soviet
23 Union was ripping itself apart. The new republics,
24 particularly in the southern part of the Soviet Union, it
25 seemed that the first thing one ethnic minority wanted to do
26 with their new freedom was to bash the one next door over the
27 head with pent-up anger, pent-up jealousies, pent-up hatreds
28 over the years; that with the disintegration of the Soviet
29 Union the different republics, the different groups in the
30 fringes of the Soviet Union, all these conflicts came to the
31 fore and it seemed -- myself and Andy and our camera team for
32 perhaps three or four months, at the beginning of my taking up
33 the appointment in Moscow, we seemed to do nothing but travel
34 to trouble spots around Southern Russia, that is Southern
35 Soviet Union as it was - Moldava, Azerbaijan, Georgia,
36 Tajikstan - places where there were several conflicts.
37 At the time there was a great deal of attention being paid to
38 this and people wanted to hear about it because there was a
39 widespread view that the Soviet Union as it was was going to
40 completely tear itself apart in an orgy of violence. That did
41 not happen but that is how it was looking at the time and we
42 spent a lot of time down there jumping from one of these
43 conflicts to another one.

44
45 Q Now I want to take you from Russia over to Yugoslavia, to the
46 events of July and August 1992. Tell us how you came to leave
47 your Moscow base and end up in Budapest in July 1992?

48 A. Well, I had just returned from one of these trips to the
49 south. In fact my fiancée had just joined me, this is in late
50 July 1992, in Moscow. Believe it or not the weather can be
51 good in Moscow in the summer and we were planning to take a
52 vacation, and it was a day or two after she had joined me that
53 I received a telephone call from our then foreign editor in
54 London, Sue English, and she informed me about a challenge
55 that Channel 4 in London had made to Radovan Karadzic and
56 to which he had said: "Sure. Come and investigate for
57 yourselves." This was the challenge relating to the existence

1 or not of alleged concentration camps in parts of Bosnia and
2 Serbia. She asked me whether I could get to Budapest as soon
3 as possible and we discussed the make up of a team that would
4 be suitable to go and investigate these allegations.
5

6 Q Did she give you details of the alleged atrocities? Had she
7 briefed you? A. She did. She briefed me as to -- I was
8 broadly aware of the sort of rumours, the sort of allegations
9 that had been flying around. This was early days in the
10 Yugoslav conflict and words like "ethnic cleansing" and
11 rumours of atrocities were really only beginning to emerge.
12 I had frankly been a little sceptical about them because my
13 experience from the Soviet Union -- I know there are all kinds
14 of allegations and rumours that emerge in these sort of
15 conflicts. But Sue briefed me more fully about the nature
16 of the allegations in Bosnia, and I believe faxed me some
17 articles which had appeared in the British and American press.
18
19

20 12.33 p.m.
21

22 Q Yes, I will come to those in a minute. As far as you were
23 concerned, what was your brief, if I can put it in that way?
24 A. My brief was to travel as speedily as I could to Budapest
25 on to Belgrade, to make contact with Dr. Karadzic's people in
26 Belgrade with a view to going to establish the truth or the
27 falsity of the allegations that had been made.
28

29 Q If you had found the allegations to be false, would you have
30 reported that? A. We certainly would have done; that was
31 crucial to the brief that I was given, that we were to go and
32 report on these allegations, we were to take up the challenge,
33 take up the offer that had been made by Karadzic and we were
34 to report whether they were true or whether they were false.
35 There were so many allegations flying around at that time of
36 the most appalling inhumanity, that the most important thing
37 was to establish was it true or was it false; and either way
38 would provide us with our story.
39

40 Q Now, you flew out to Budapest the next day, is that right?
41 A. That's right.
42

43 Q I think we now know that to be the 30th, and I think there you
44 met the other three members of your team. A. Yes.
45

46 Q Now let us just establish who they are. One was Andy Braddel.
47 Now, you have mentioned Andy Braddel already as your producer
48 in Moscow. Where was Andy Braddel at the time, do you know?
49 A. Andy was then on holiday and I believe he was passing back
50 through London, just prior to returning to Mosco.
51

52 Q And you are obviously used to working with him? A. Oh,
53 yes, I mean, Andy and I worked very closely together in some
54 very dodgy circumstances in Russia. Also I figured that Andy
55 would be a good choice because his fluency in Russian would
56 help us because Russian tends to be the second language in the
57 former Yugoslavia, and we thought that in circumstances where

1 we are trying to establish the truth or falsity it would be
2 very useful to have somebody who spoke a language which they
3 did.
4

5 Q I think the third person was James Nicholas. James Nicholas
6 I am right in saying is a cameraman and an editor?

7 A. That's right. James is also one of the most experienced,
8 even one of the most experienced war cameramen, that Channel
9 Four News had. I'd worked with James before, respected him
10 enormously and was very keen to have him with us on that team.
11

12 Q You met, as we have heard, in Budapest. Did you collect any
13 equipment there? A. Yes, we - the ----
14

15 Q One more person joined you. I am sorry, Mr. Hease, Chris
16 Hease. A. Chris Hease is a sound recordist also from
17 London. It wasn't always the habit to work with a sound
18 recordist on ordinary stories, but it was the policy of ITN to
19 work with a full team in war zones, anything which - going
20 into dangerous situations we would also always work with a
21 full team of four people.
22

23 Q And what equipment were you provided with? A. We had the
24 standard equipment, if you like, for making the programme. We
25 had camera kit which would involve cameras as well as
26 batteries, battery chargers, tripod, we also had other
27 equipment that would have included flack jackets, hard
28 helmets - I would say altogether probably 150 or 200 kilos of
29 equipment.
30

31 Q Now, when you were out in Budapest, were you faxed a copy of
32 the Russian Bosnian Muslim list of alleged concentration
33 camps? A. I was.
34

35 Q Hold on a minute; have you got a bundle there? A. I have,
36 yes.
37

38 Q Let us just take this in stages. I think we have all got
39 this, so we will just do it together, this is the one which is
40 at tab 1. Is that the list which was faxed to you? A. It
41 is, yes.
42

43 Q And that is the list that which we see. It says "list of
44 prisons/concentration camps controlled by the aggressor". So
45 we assume that was issued by the Bosnian Muslims?
46 A. That is right.
47

48 Q That was the list you received. You also told us that you
49 received some copies of articles being written by Mr. Gutman
50 and Maggie O'Kane. Is that why you were in Budapest?
51 A. Yes. I believe those articles would have been faxed to
52 me, to the best of my recollection, in Moscow but further
53 articles were faxed to me in Budapest.
54

55 MR. SHIELDS: If your Lordship is happy with this we have prepared
56 a number of documents which I am going to introduce in the
57 course of Mr. Williams' evidence. My learned friend knows

1 about this. They have all been tabed for index. If I hand
2 them in as of one now the jury can put them in their bundle
3 rather than doing it at a sheet at a time.
4
5 MR. JUSTICE MORLAND: Yes. That would be appropriate.
6 Mr. Millar?
7
8 MR. MILLAR: No objection.
9
10 MR. SHIELDS: Then, members of the jury, it is tabs 10 to 18 and
11 hopefully they will fit into your bundle. (Handed) If you
12 turn to tab 10 you will find a print out of Mr. Gutman's
13 article. Is that the one that you read? A. Yes.
14
15 Q I think we can tell from the first paragraph - I do not intend
16 to read it all:
17
18 "While the World's attention has been focused on the
19 siege at Sarajevo the Serbian conquest of Muslim towns
20 and villages and the mass deportations of Muslims and
21 Croats proceeded at ... in Northern Bosnia,
22 Herzegovinia. Newspaper reporter Roy Gutman and
23 freelance photographer Andrew Caese visited the area
24 last week, the first western journalists there since
25 the war began. This is the first of several reports
26 of the systematic efforts by the Serbs and Serbian
27 army to eliminate any trace of other ethnic groups."
28
29 I think if one looks at that there is the capital Manjaka(?)
30 is that right? A. Yes.
31
32 Q Do you get that from the third paragraph down and again in the
33 fourth paragraph? That was an article you read?
34 A. Yes.
35
36 Q Dealing with his visits to that camp? A. Yes.
37
38 Q Then if we turn to tab 11, and this is an article written by
39 someone in bold type at the Guardian, Maggie O'Kaye. Is that
40 right? A. That is right.
41
42 Q That is dated Wednesday, July 29th. That was the day before
43 you left? A. Yes.
44
45 Q And that is "Muslims' nightmare under the long hot Yugoslav
46 sun." I think that is describing a report from her from areas
47 of Bosnia held by Serbs? A. Yes.
48
49 Q It goes over the page. I think we get a flavour of where she
50 is if one looks in the third column on the second page. It
51 refers to Banaluka. Do you see that in the fourth paragraph
52 down on the second page, "A city waiting to be purged."
53
54 MR. JUSTICE MORLAND: Towards the bottom of the page, third
55 column.
56

1 MR. SHIELDS: Yes, and again in the fourth column of the second
2 page: "Some of Banaluka's Muslim Croatians..." Does that
3 ring a bell with you? A. Yes.
4
5 Q It does. I am trying not to read it to save time. You read
6 those articles at the time? A. I did.
7
8 Q You left Budapest, we all know, and you travelled to Belgrade
9 by train. You were travelling on the overnight train arriving
10 on the 31st July. I think that is right. That is a Friday.
11 It was there on the next day when you meet Penny Marshall and
12 the rest of Channel Three news team? A. That is correct.
13
14 Q To get that right, we now have a cast list. We know that she
15 was with Jeremy Irving, her cameraman? A. Yes.
16
17 Q And Michael Lawrence (known as Micky) who was her sound
18 recordist? A. That is right.
19
20 Q Had you worked with either of those before? A. I had
21 worked with Micky before, I believe, in covering a conflict in
22 Georgia in the former Soviet Union.
23
24 Q Whereas you had an editor, and that was presumably James
25 Nicholas who was a cameraman and editor? A. Yes.
26
27 Q They did not have their own editor with them? A. That is
28 right.
29
30 Q When you were there did you employ what is called "the local
31 fixer"? A. That is right. This is fairly common when
32 you are working in a city or somewhere overseas. You normally
33 have local people who you can call upon to help you. They
34 will usually be journalists or people who are very well
35 connected who will arrange things for you and act as
36 interpreters locally.
37
38 Q Did you have one or two of those? A. We had two in that
39 we had a lady called Mira who was extremely well connected in
40 Belgrade, a broadcaster herself, who had very good connections
41 in the Serbian regime Belgrade, knew Karadzic's people, and
42 she, though, was unable to leave Belgrade so she also provided
43 a colleague of hers called Nina who subsequently travelled
44 with us into Bosnia.
45
46 Q When you were in Belgrade did you seek to contact
47 representatives of Dr. Karadzic? A. We did. That was
48 one of the first things that we did. It was important for us
49 to establish contact with his local representatives in
50 Belgrade who we hoped would have been made aware of the
51 challenge that he had made in London and would therefore be
52 able to make the necessary arrangements for us to visit the
53 suspected camps.
54
55 Q Did you meet any of his staff at all face to face?
56 A. Yes, I did.
57

1 Q Where was that? A. In the hotel, I believe. It was the
2 Hyatt Hotel in Belgrade on a number of occasions his
3 representatives would come by or we would talk to them by
4 telephone.
5
6 Q Did you make clear to them what you wanted? A. We made
7 it very clear that our purpose was to take up the challenge
8 which had been accepted by Karadzic that he had promised to
9 give access to areas and camps which were suspected to be
10 concentration camps and that our purpose in being there was to
11 investigate those reports.
12
13 Q What were the reactions of his representatives?
14 A. Mixed. Evasive. It was "Well, we'll see what we can
15 do." Very cagey. They clearly were somewhat reluctant to put
16 into practice the promise that had been made by Dr. Karadzic
17 in London.
18
19 Q While you were in Belgrade did you speak to any other agencies
20 or bodies who might be able to help you and give you
21 information generally? A. I did. I immediately began
22 contacting a whole range of organisations within the UN, the
23 Red Cross, in order to try and establish what they knew and
24 what they had heard about what might or might not be going on
25 in Bosnia. Now, these people at the time - some had had
26 limited access to some of the areas that we were hoping to go
27 to and I went about talking to some on the telephone, most
28 visiting in person, conducting what we would call "background
29 discussions", by which I mean we didn't take the camera along
30 to film interviews with them because I wanted them to be as
31 frank as possible about what they knew or what they had heard,
32 because at this time a lot of this was only rumour. I wanted
33 to know whether, through their own contacts, through their own
34 sources, they heard about the very, very serious allegations
35 that were emerging particularly within north-west Bosnia.
36
37 Q Did you make any notes of these conversations?
38 A. I did.
39
40 Q I think if we look now in the new tab 12, you see in your
41 writing it says, "Budapest, Hilton". Is that right?
42 A. Yes.
43
44 Q That is the first entry? A. Yes.
45
46 Q What follows, looking through, are your manuscript notes you
47 made while you were on this particular task? A. That is
48 right.
49
50 Q They go all the way through. Everyone will be relieved to
51 hear, if they turn to tab 13, you will find a typed up
52 transcribed version of those notes. What I intend to do is
53 keep to the typed up version if everyone is happy with that.
54 Now, it is very near the adjournment but I intend to take you
55 to one or two of these now. Looking at the first page, it
56 says, "See C Three semi tomorrow..." Would that be Channel
57 Three? A. That is right.

1 Q So you know they were coming out? A. Yes.
2
3 Q We see "Misha, Belgrade" - is that Misha the fixer will have
4 just heard about? A. Misha is the Channel Three fixer.
5
6 Q Then we see the name "John Kennedy" - "faxed a list of request
7 for contact". who was John Kennedy? A. John Kennedy, to
8 the best of my recollection was a failed Conservative MP who
9 had taken on the role of a kind of roving PR man for the Serbs
10 in London, and he was doing his best in London to counter some
11 of the allegations that were emerging. He was a lobbyist - a
12 Parliamentary lobbyist cum PR man who was doing his best to
13 bolster the image of the Serbs in the UK.
14

15 12.50 p.m.

16
17 Q But was his role to arrange interviews for you? A. No,
18 but he was working very closely with Karadzic. As far as
19 I can recall, he had been with Karadzic or around Karadzic at
20 the time of the challenge being taken up.
21

22 Q That is what I was asking about, you faxed him a list of
23 requests for contact? A. Yes, he was very much kind of
24 the Serb man in London and was considered to have good links
25 with Karadzic and the Serbs.
26

27 MR. SHIELDS: Would that be a convenient moment, my Lord?
28

29 MR. JUSTICE MORLAND: Certainly. Members of the jury, we will
30 resume at five at two.
31

32 (Adjourned for a short time)