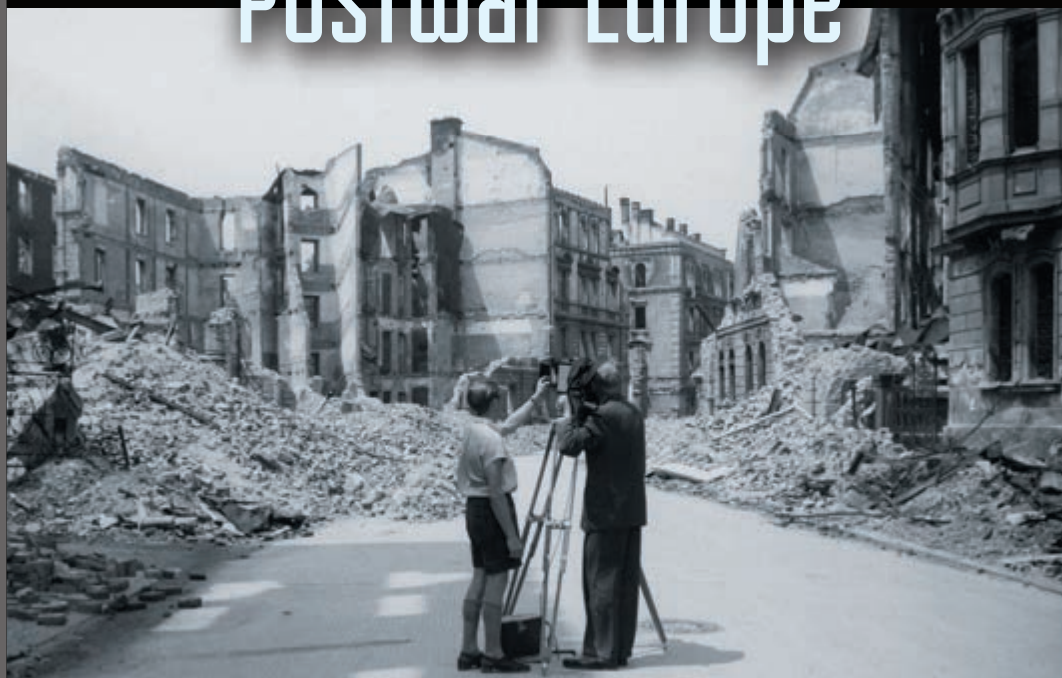


FILM
CULTURE

IN TRANSITION

Non-Fiction Cinema in Postwar Europe



Visual Culture and the Reconstruction of Public Space

EDITED BY

LUCIE ČESÁLKOVÁ

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Amsterdam
University
Press

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12. Moving Accountability

Trials, Transitional Justice, and Documentary Cinema¹

Sylvie Lindeperg and Francesco Pitassio

Abstract

The chapter focuses on the role cinema played in documenting and supporting “transitional justice” at both a transnational and a national level. Allied organized trials prosecuting Nazi politicians, administrators, and soldiers, who were held responsible for perpetrating crimes in several different nations across Europe. Such were the cases of the Nuremberg and Dachau trials. However, the role filmmaking played in documenting and interacting with the trials greatly varied, according to the political value assigned to respective judgments and, therefore, the function courts deemed suitable for cinema itself.

Keywords: transitional justice, Nuremberg, Dachau, Army Signal Corps, Italy, Luchino Visconti

Postwar/Postjustice? The Controversial Enforcement of Justice in the War’s Aftermath

The conflict’s end left not only material ruins all over Europe, but a sense of precariousness and uncertainty concerning the law. Previous totalitarian

¹ The chapter has been commonly discussed and conceived. Francesco Pitassio wrote the paragraphs “Post-war/Post-justice? The Controversial Enforcement of Justice in the War’s Aftermath” and “Giorni di gloria and the Portray of Transitional Justice in Italy”, Sylvie Lindeperg the paragraphs “Judgement and punishment in Occupied Germany” (Text translated by Carmella Abramowitz-Moreau) and the “Conclusions”. The part devoted to the filming of the Nuremberg trial is largely inspired by Sylvie Lindeperg’s book: *Nuremberg, la bataille des images*, Paris, Payot, 2021. Francesco Pitassio would like to express his gratitude to Mario Musumeci and Cosimo Tassinari, for sharing valuable information and sources.

and authoritarian regimes subjugated courts and altered juridical frameworks to the benefit of ruling administrations, the most ominous cases of said amendments being the Nuremberg Laws in Germany (1935) or the Italian racial laws (1938). The transition to postwar democracies implied the enhancement of a renewed sense of justice, notably regarding the past. However, prosecuting past regimes, civil servants, or military personnel for crimes that usually could not be defined as such when perpetrated, was an eminently political act, whose aims included building a new collective memory and identity. All in all, the memory designed after World War II bestowed guilt exclusively on Germany, and a landmark such as the Nuremberg trials (1945–46) explicitly fashions this memory, by opposing an international jury to the Third Reich's political, industrial, and military elite. However, as English historian Tony Judt posits, holding Nazi Germany as the sole—or at least principle—entity responsible for warfare, antisemitism, forced labor, confiscations, etc., engendered a European “double memory”:

Two sorts of memories thus emerged: that of things done to “us” by Germans in the war, and the rather different recollections (however similar) done by “us” to others after the war. [...] Two moral vocabularies, two sorts of reasoning, two different pasts. In this circumstance, the uncomfortably confusing recollections of things done by us to others during the war (i.e., under German auspices) got conveniently lost. [...] If Germans were guilty, then “we” were innocent. (Judt 2000, 298)

Postwar prosecution for war crimes and collaborationism with (German) occupying forces was uneven in Europe, according to newly ruling administrations, past regimes, and events happening in the interwar and war periods. Such inconsistency, while creating a continental shared memory (i.e., Germans are the sole responsible), also led to different, often fractured remembrances of respective national experience. For instance, whereas in Czechoslovakia a number of decrees singled out collaborators on an almost ethnic basis (Czechoslovak citizens belonging to German or Hungarian ethnic groups) (Frommer 2004), and in France the epuration struck hard and at different levels of the state apparatus of the former Vichy republic (Rousso 1992; Bergère 2018), Italy was much more forgetful and tolerant towards Fascism, despite the fact that Mussolini's regime was a template for many authoritarian or totalitarian regimes throughout Europe, including the Third Reich (Domenico 1996).

The justice which courts administered in the phase between the end of warfare and the first steps of newborn states, judging crimes perpetrated

during the conflict, was a transitional one. According to political scientists, the aftermath of World War II experienced the first wave of transitional justice in Europe, the second happening in Southern Europe (Greece, Spain, and Portugal) as respective authoritarian regimes came to an end in the 1970s, and the third in the former Soviet Bloc, when the Iron Curtain fell in 1989 (Barahona de Brito, Aguilar, and González-Enríquez 2001). Transitions between non-democratic and democratic regimes can happen in different ways, according to different degrees of negotiation between previously ruling elites and their democratic successors. However, by judging past deeds, which were often legally admitted beforehand, singling out defendants for them, and determining what is now acceptable and what is deemed to be rejected from an ominous past, justice serves a political and memorial function, and by doing so somehow reveals an arbitrary nature, in violation of its basic principle: *nulla poena sine lege* (no punishment without law). Transitional justice embodies—or pretends to do so—the will of the people, which is the kernel and pristine energy of politics (Laclau 2005). Nonetheless, because of its arbitrariness, it requires proper support and consensus. Documentary cinema performed this function in the postwar era. If we agree with Bill Nichols, who posits that “documentary is about the effort to convince, persuade, or predispose us to a particular view of the actual world we occupy. [...] Documentary not only activates our aesthetic awareness (unlike a strictly informational or training film), it also activates our social consciousness,” (2001, 69) then postwar documentary contributed to redesigning narratives of the past and magnifying the role of transitional justice. In fact, documentary cinema and trials have an affinity in the common task of determining the truth through evidence and an associated narrative. As Kristen Fuhs claims,

Documentaries about trials intervene in the production of cultural memory and shape the social legacy of their trial narratives. But often the manner through which these films interrogate legal truth and produce a truth of their own leaves a unique record of “what really happened,” a record that may or may not support the official decision of the legal institution. (2014, 784–85)

In order to grasp the role documentary cinema held in conveying the sense of transitional justice to the lay public, we focus on two case histories, illustrating different examples of administering justice for war crimes and cleansing the previous state apparatus. Firstly, we shall look at how Allied forces brought to court accountable Nazis in Nuremberg and Dachau, and how transnational crews of filmmakers implemented different modes of

representing transitional justice; then, we shall scrutinize how a national endeavor refashioned Italian collective memory, magnified transitional justice, and paid homage to the victims of the main urban massacre in Western Europe, that is, the Ardeatine Caves.

Judgment and Punishment in Occupied Germany: Images of the Dachau and Nuremberg Trials and the Issues They Reveal

In November 1945, in the American occupation zone of defeated Germany, the US opened two major series of trials. The first was organized in Dachau, the former concentration camp. There, the military court of the US Third Army judged the assassins of Buchenwald, Dachau, Dora-Nordhausen, Flossenburg, and Mauthausen, as well as those responsible for the massacre of the American prisoners near Malmedy, in the Ardennes region of Belgium.² The second series of trials took place in Nuremberg. In November 1945, the entirely renovated Palace of Justice of the town housed the International Military Tribunal established by the US, Great Britain, the USSR, and France. The judgment of twenty-two leading Nazi officials was followed by twelve further trials, known as the Subsequent Nuremberg Proceedings. These were conducted only by the American military tribunals and ran until 1948.

These judicial procedures implemented the decisions taken by the Allies in 1943. The Moscow Declaration of German Atrocities made the distinction between two categories of criminal: those who had committed their crimes in a single geographical location would be sent back there for trial; the major war criminals whose crimes could not be “geographically localized” would be “punished by joint decision” of the Allied governments. An examination of the major trial of Nuremberg and the first trials of Dachau sheds light on the challenges of each and shows how the conditions of filming at each location impacted their media coverage.

In May 1945, Robert Jackson, the US chief prosecutor, began preparing the international trial of Nuremberg that he was to oversee. In Dachau, William Denson, an American military prosecutor, was given the task of forming a team of lawyers, recruiting the counsel for the defense and preparing the case for the prosecution. Denson’s priority was to document the atrocities committed and ensure that the sentences obtained were sufficiently severe

2 The Malmedy massacre (December 17, 1944) was a series of war crimes committed by members of the Waffen-SS against American prisoners of war and some Belgian civilians during the Battle of the Bulge (December 16, 1944–January 25, 1945).

to dissuade any future criminals from committing similar crimes. His main targets were twofold: first, the German population, which required denazification through the condemnation of Hitler's barbarity; second, the opinion of Americans, traumatized by what had been discovered in the camps and needing to be convinced that justice would be done.

Jackson's objectives were wider-ranging and more ambitious. Most importantly, he wanted to use international law to guarantee peace, ensure that his conception of justice prevailed, and extol the virtues of American democracy. From June 1945 onwards, the American prosecution put together a large-scale information campaign to influence worldwide opinion prior to, during, and after the trial. The campaign would unfold in the form of a moral, edifying play that would propagate the American vision of the war and the trial. The underlying idea was to impose a narrative as much as it was to deliver a verdict, and cinema would play an all-important role. Very early on, Jackson decided to use film footage and photographs as evidence in the courtroom, and to film the hearings. The filming of the hearings would provide material for the news media; a major documentary would be made to draw the lessons of the Nuremberg trial. Initially, this task was assigned to the Field Photographic Branch, directed by John Ford and part of the Office of Strategic Services (OSS), the then US intelligence agency. This project, however, was short-lived, and in September the military cameramen of the Army Signal Corps took over.

The idea of bringing cameras into the courtroom was by no means self-evident to the Americans. In 1937, after the media ruckus caused by the trial of Bruno Hauptmann, the murderer of the Lindbergh baby,³ cameramen were banned from American courtrooms. In this the US was following the example of Great Britain, where, in 1925, all photography and filming in the courts was banned. In France, newsreel cameramen filmed the highest profile trials from time to time using cameras without audio recording devices. Of the four member countries of the tribunal, only the USSR had a well-established tradition of filming trials, one that went back to the 1920s. When the October Revolution began, Soviet authorities ordered certain political trials to be filmed to extend their educational reach. Over the years, a film genre was built up and then perfected during the Great Terror of the Stalinist era. In

3 Bruno Richard Hauptmann was tried in 1935, in a courtroom of Flemington, NJ, for the kidnapping and murder of the baby of the aviator Charles Lindbergh and his wife, Anne Morrow Lindbergh. The media reporting of the trial was considered a peak of intrusiveness, sensationalism, and disruptiveness. The American Bar Association (ABA) described the press coverage of the Hauptmann trial as "the most spectacular and depressing example of improper publicity and professional misconduct ever presented to the people of the United States." It led to a nationwide prohibition on the photographic coverage of judicial proceedings, see Stepniak 2008, 73–78.

this case, filmmakers played the role of auxiliaries of justice in courtrooms. Their cameras were visible, just like the powerful lights set up in front of the dock and facing the public. This set-up was not designed in the interests of transparency. On the contrary, the filmmaking was as much a part of the show as the spectators themselves. The film crew exerted a power over the accused that could clearly be seen in their faces and bodies: the lights were forcefully focused on the accused, scrutinizing them relentlessly. The strong lights also swept over the rows of the public, who were called on to support the opinions of the prosecutor and to applaud the sentences.

After the Great Terror came the war. In December 1943, Soviet justice organized the very first trial of Nazi criminals. It was held in the theater of the city of Kharkov, which had just been taken back from the enemy. Three German officers, together with a Russian accomplice, were judged by the military tribunal of the Fourth Ukrainian Front. They were sentenced to death and hanged publicly, with a crowd 40,000 strong watching. The trial was filmed by director Ilya Kopalin's cameramen, and in his documentary *Sud idet* (The court is in session, USSR, 1943), the main topoi of the genre can be seen: the courtroom is transformed into a film set; the dramatic composition is built on the confessions of the accused; the camera angles amplify the power of the president and prosecutor of the court; both the press and the public are recorded at length. But what is most memorable about *Sud idet* are the scenes of hanging, which form the climax of the film: below the four sets of gallows, an electrified crowd communes in savage, archaic revels as the guilty are punished.

In May 1945, Jackson obtained a copy of *Sud idet*. It made a considerable impression on the members of his team, and the quality and expressivity of the film may well have weighed on the American decision to record the trial. But the US prosecutor was haunted by the memories of the Hauptmann trial. He was fiercely determined to prevent the judgments pronounced on Nazi leaders from creating an uproar in the media. His British counterparts had only very reluctantly agreed to the principle of filming the trial—another reason to avoid any upheaval.

In Jackson's view, Nuremberg was an international stage on which the Americans could showcase the virtues of their democratic system of justice. He thus had to find the ideal balance between the principles of publicizing the future trial and its fairness. To ensure that the deliberations were conducted with dignity, he refused to allow the cameramen to position themselves wherever they chose in the courtroom. They would be placed in booths, behind soundproof glass, and would not be allowed to leave their places. Forbidden to move, the cameramen were also deprived of light and this left them subject to the goodwill of the presiding judge, Sir



Figure 12.1. The Kharkov (today Kharkiv) trial in the city theater.



Figure 12.2. The hangings at Kharkov.

Geoffrey Lawrence, from the United Kingdom. To facilitate shooting, powerful spotlights were affixed to the ceiling, but the British judge demanded that the cameramen ask permission to switch them on. They blinded the protagonists and overheated the courtroom. Lawrence's decision gave him formidable sway over the task of filming, and all through the trial he exercised his power, often having the spotlights switched off at the most intense moments of the debates.

Conditions in Dachau were very different. There, the Americans had made no plans to film the trials, and in fact the military tribunal of the Third Army was severely lacking in resources. Denson could only envy the means at the disposal of his counterpart Jackson. At Nuremberg, in addition to being filmed, the proceedings were recorded in their entirety on audio disks. The International Military Tribunal (IMT) also had at their disposal a team of strictly screened interpreters and a sophisticated system of translation. The conditions of this major trial, conducted in four languages, laid the veritable foundations of simultaneous interpretation.

Nothing of the sort was to be seen at Dachau. The interpreters, seated at the podium next to the orators, gave consecutive translations of what was said, thus doubling the time of the hearings. What's more, since these interpreters were by no means experienced professionals, their translations left much to be desired. The task the court had to undertake was hindered even further by the dozen languages the witnesses used. The tribunal often found itself plunged into a linguistic fog that was highly detrimental to the impartiality of justice.

Although no plans to film the Dachau trial were made ahead of time, nor even thought of, a team from the Signal Corps as well as cameramen from *Welt im Film*, the German newsreel established by the British and Americans in their zones of occupation, did actually film some hearings.

Let us take the example of the images of the Malmedy trial (May 16–July 16, 1946), recorded by the cameramen of the Signal Corps. Powerful free-standing floodlights were installed in the courtroom. Added to their blinding light were the flashes of the photographers, banned at Nuremberg. Two cameras filmed the proceedings, one at the back of the courtroom and the other on the podium, in full sight of all present. This arrangement meant that the cameramen could show in close-up some protagonists, pan out or use the shot-counter shot technique for exchanges between court and counsel to follow the movements of the prosecutors and lawyers—unlike their counterparts at Nuremberg, they were not confined to their desks. At Dachau, the cameramen and photographers strove to emphasize the staging of the testimonies, heightening their dramatic intensity with their images. This



Figure 12.3. Lieutenant Lary repeating his pointing gesture for the photographers.

was the case when Lieutenant Lary gave his testimony. The prosecutor asked the witness to identify one of the Malmedy riflemen in the dock. When the American officer rose from his chair to make his way to the benches where the seventy-three accused, each bearing a numbered label around his neck, were sitting, the cameras followed his moves. Once he reached the edge of the dock, Lary extended his arm to point to SS Georg Fleps, who immediately stood up. But the head of a member of the defense team was in the way of the photographers, obstructing Lary's hand.⁴ Lary beamed at them and repeated the scene twice more—this time, with the cameras flashing. The first gesture had been entirely spontaneous; those that followed were frozen into a deliberate pose using a theatricality that made for a harder-hitting truth.

The scene that took place at the Dachau trial may be compared to one filmed at Nuremberg on November 30, 1945, when General Lahousen, the first witness for the prosecution, testified. The evidence of this Austrian officer, who had begun working for the Abwehr under the orders of Admiral Canaris, was eagerly awaited. It would be prejudicial to several of the accused by pinpointing their responsibility in the murder of Jews and Soviet prisoners of war. When the questioning began, US Colonel Amen asked Lahousen to point out three of

4 Hearing of May 20, 1946.



Figure 12.4. General Lahousen giving his testimony.



Figure 12.5. General Lahousen giving his testimony.

the accused in the dock: Ribbentrop, Jodl, and Keitel. Three times the witness, seated at the stand, gestured toward them with his arm as he answered the question. Three times the Signal Corps remained focused on Lahousen. Not once did the cameraman try to follow the witness's gesture by panning out towards the dock to seek out the faces of the three accused, as most of those observing the trial did—just see the image of the Russian stenographer, who lifted his eyes from his paper, looking at Lahousen's arm and turning his gaze towards the accused as though following the trajectory of a ball.

At Nuremberg, the neutrality in the filming that Jackson was determined to have and that the Signal Corp affirmed they adhere to verged on passivity. With the camera fixed, part of the action was relegated off-camera, leaving spectators frustrated in their wish to see what was happening. The American military filmmakers, confined to their bubble-like glass booths, paid little attention to the details of the courtroom, where the asceticism and rigor of the shooting stood in stark contrast with the scenography in motion created in Dachau.

It was not only the constraints imposed by the Nuremberg tribunal that were responsible for this difference. The Soviet team directed by the director Roman Karmen, which was filming at the same time, proved to be inventive and skillful and overcame these restrictions. The Russians vacillated between their constant preoccupation of commitment to the genre and the need to innovate so that they could faithfully report a trial over whose codes and course they had no control. The Soviet filming displays great coherence; they strove to render the dynamic of the arguments and to plunge the public into the vibrant heart of the debates. But its fine quality also derived from the way in which Karmen's team unhesitatingly fictionalized reality by shooting the Soviet journalists and illustrators at work on the fringe of the trial during the breaks; moreover, they had the USSR prosecutors replay some parts of the trials when the courtroom was empty.⁵ The difference did not only lie in the technical issues. Distinct philosophies of justice become apparent when Nuremberg and Dachau are compared. The intention of the US at the International Military Tribunal was to showcase a model of justice that was in line with their democratic ideals. However, they also had to make concessions to their British counterparts, whose preoccupation was that justice remain dignified. This meant they were reluctant for the trials to be turned into any form of spectacle.

On October 1, 1946, when the time came for judgment, Lawrence, the president of the court, intent on shielding this highly dramatic moment

5 As showed in Barbat 2018.



Figure 12.6. Lieutenant Christ hearing his death sentence.



Figure 12.7.
Lieutenant Christ
hearing his death
sentence.

of the trial from the eager eyes of the public, forbade the filming of the pronouncement of the sentences. To the great displeasure of the Soviets, the British also demanded that the executions of the Nazi leaders not be filmed. In the opinion of the British, such footage might well trigger morbid impulses among the public or even produce martyrs. These compromises with the British both enabled and hindered the recording of the debates:

they certainly preserved the reputation of the Nuremberg trial, but they imposed restrictions on how images would transmit its memory.

In Dachau, however, the American tribunal allowed the Signal Corps and newsreel cameramen to film the final moments of the trial. At the Malmedy judgment, seventy-three of the seventy-four accused were pronounced guilty and forty-three death sentences handed down under the eye of the cameras.

In July 1946, the Signal Corps cameramen, stationed in the center of the courtroom, focused their lights and cameras on the accused. One after another, their bodies stiff and faces expressionless, they identified themselves to the court to hear their sentences uttered by the military judge.

The ambitions of the Americans were less far-reaching at Dachau than at Nuremberg. The brutal murderers with their blood-stained hands were treated with less deference than the high ranking, major Nazi war criminals. The former were delivered as fodder to the media, while the latter were shielded from the indiscreet gaze of the world behind the closed doors of the courtroom.

The American army also went ahead with filming the executions of the guilty when they were hanged in the Landsburg and Bruchsal prisons.

The images of Dachau were produced in conditions where American military justice was less concerned than at Nuremberg with extolling its virtues for the world to see. At the Malmedy trial, the principles of judiciary ethics suffered, and a spirit of revenge whittled away the rights of the defense. In fact, the conditions in which the sentences were handed out were criticized in both the US and in Germany; sentences were finally commuted or reduced by commissions of review established by Lucius Clay, then military governor of the American Zone of Occupation. In 1949, the US Senate set up a subcommittee to examine the treatment to which the accused had been subjected during their interrogations.

Unlike the images from Nuremberg, widely distributed worldwide, those of the Malmedy trial were mainly shown in the US and in Germany through *Welt im Film*. The newsreel cameramen also covered key moments of the other trials held before the American tribunal. A report issued by the Information Control Branch reports on the reaction of the German spectators who viewed footage of the pronouncement of the sentences of the first trials at Dachau in December 1945.⁶ The reporter notes how

6 Report of January 30, 1946, by the Information Control Branch on the reactions to the newsreel *Welt im Film* of December 21, 1945, RG 260 E A1 260 Box 290. The report concerning Dachau was published in the newspaper on December 21, 1945; it was entitled "Dachauer Prozess: Das Urteil" ("The Dachau trial: The verdict").



Figure 12.8. Hanging at Bruchsal, January 12, 1946.

passionately interested they were, in contrast with their lack of interest for any coverage of Nuremberg.

Writing about the viewing of the Dachau footage, the author describes how the spectators felt it was breathtaking and were overwhelmed by “morbid excitement,” so satisfied were they with the death sentences. To explain why, he noted, first of all, that filming techniques at Dachau were more sophisticated than those at Nuremberg; in addition, there was more emphasis on the individual sentences of each of the accused. The Dachau trials dealt with concrete acts of crime, such as murder and torture that could be directly imputed to the accused, unlike the “crimes in principle” that were judged at Nuremberg. He concludes by saying that the Dachau trial awakened morbid spectator curiosity towards the accused, whom the public considered to be common law criminals, monsters with blood on their hands. They could by no means identify with such individuals. According to the report, the major trial at Nuremberg, on the other hand, awakened the general question of the collective guilt of the German people.

Comparison of the Dachau and Nuremberg trials sheds light on the status of images of justice, filmed at a juncture where judicial issues—examining proof and determining sentences—converged in ways hitherto unseen with extrajudicial issues that went beyond the individual fate of each of the accused to achieve purposes of pedagogy, politics, and memory. More

than a reflection of the events themselves, the images filmed are archives of ways of filming. The images of Dachau and Nuremberg testify to rival cultures of cinema and judicial traditions that came into play when the Nazi criminals were judged. They bear the mark of the philosophies of law and justice that came face to face in the courtrooms of occupied Germany. Filming trials and defining the role and need for transitional justice was a widespread endeavor, both at a transnational and national level. In fact, these images illustrate the philosophies of law underpinning respective trials, illuminate by narratives the reasons for extraordinary courts, and design a new, collective memory in bestowing accountabilities and penalties. While the filming at Nuremberg and Dachau epitomizes alternative strategies for staging trials for the camera, the Italian example we shall linger on in the following section incarnates how narratives match political rationale and well illustrates the complex national and transnational relationships originating in the production itself.

Giorni di gloria and the Portrayal of Transitional Justice in Italy

Italy is a peculiar case with regard to transitional justice and memory building in the postwar era. In fact, Italy was the first totalitarian regime in interwar Europe, which benefited from a huge popular support until war broke out. Fascist Italy was the chief political and military ally of the Third Reich and carried out an aggressive colonial politics in Eastern Africa and in the Balkan region and approved racial laws. However, Italy also signed an armistice as soon as the Allies invaded Sicily (September 1943), since the fall of Mussolini (July 1943) saw a significant Resistance movement operating and the country experienced a brutal Nazi–Fascist occupation on its soil, as war between Wehrmacht and Allied forces ravaged the country and cut it into two distinct areas. This controversial past and the civic religion of the Resistance, which was brought about in the postwar era, led to another chapter of what English historian John Foot termed “Italy’s divided memory” (2009, 125–82; see also Focardi 2005): an official one, which magnified anti-Fascism, the sufferance of the population under Nazi rule, and the humanity and solidarity of Italians at home and abroad, while pointing the finger at German ruthlessness (Focardi 2013; Fogu 2006); and an informal one, which was less keen on democracy and the Allied presence. Both memories were at odds with acknowledging past popular support of Fascist rule.

This reluctance to reconsider national involvement with totalitarianism, colonialism, and warfare is recurrently mirrored in postwar documentaries,

which trace a time map (Zerubavel 2003) that was totally forgetful of whatever preceded the armistice that had drawn Italy out of the Axis. Films such as *Giorni di gloria* (Days of glory, dir. Mario Serandrei, Luchino Visconti, Giuseppe De Santis, and Marcello Pagliero, IT, 1945), *Aldo dice 26 x 1* (Aldo says 26 x 1, dir. Fernando Cerchio, IT, 1946), and *L'Italia s'è desta* (Italy awoke, dir. Domenico Paolella, IT, 1947) start narratives from September 1943, or even later, thus relegating into an obscure past all grounds and national accountability for warfare and ensuing Resistance (Pitassio 2017).

The Italian controversial past echoed in a controversial present. In fact, unlike most European countries experiencing Nazi occupation, Italy never brought to a similar conclusion a trial which might resemble, on a national level, the Nuremberg trials. This omission happened despite the fact that the Wehrmacht and SS troops, with the cooperation of Fascist militias, perpetrated numerous massacres of civilians in Central and Northern Italy (Fulveti and Pezzino 2016). Consequently, Italy experienced what historian Michele Battini explicitly named the “missing Italian Nuremberg,” by bringing to court most prominent German military ranks, including Generalfeldmarschall Albert Kesselring, but then commuting sentences to penalties more favorable to defendants (Battini 2007). The highest Italian military ranks and Fascist big shots met a similar benign fate in courts. Very few defendants were sentenced to harsh penalties, while most of them, including Generals Mario Roatta and Rodolfo Graziani, responsible for genocidal actions in the Balkans, Libya, and Ethiopia, were acquitted or released in a short time. Such a sympathetic attitude towards perpetrators was at odds with the foundations of the newborn democracy. Accordingly, postwar documentary cinema and newsreels completely overlook inconvenient personalities and events, as if they never existed. In fact, courts, either local and closely connected with Resistance officials, or national and strictly dependent from judiciary hierarchies, attempted to enforce the law, while matching a widespread popular demand for justice and, often, revenge for the hardships and grievance the population had gone through during the Italian Civil War (1943–45). Italian society and notably Central and Northern Italy experienced a wave of ruthless purges, which prolonged the role of political violence within Italian society in the war's aftermath, and thousands of people were killed in extrajudicial procedures (Dondi 2008). Conversely, courts attempted to regulate this phenomenon and administer justice for past crimes. It is against this backdrop that *Days of Glory* was produced. The film brought together different institutions, such as the Ministry for Occupied Italy, whose director, communist Mauro Scoccimarro, was also adjunct high commissioner for epuration. Beyond this

institution, the opening credits of the film acknowledge the cooperation of the film division of the Psychological Warfare Branch (PWB), which was a joint military–civilian Anglo-American psychological warfare unit, the communist Garibaldi Divisions in the Valsesia area of Piedmont, belonging to the Resistance, and the Swiss newsreel company Cinéac, based in Lausanne; moreover, the titles name many cinematographers, Italian and not, and technicians belonging to the Comitato di Liberazione Nazionale (CLN, National Liberation Committee). This latter was the political representative of the Italian Resistance to Nazi occupation and brought together different political forces opposing Fascism. The film was released, but not produced by Titanus, as contemporary documents certify (Levi 1945; Calvino 1945; Amendola and Lombardo 1945). To summarize, the film was born when Italy was still split in two and civil war ravaged. It came into being under an institutional aegis which saw the cooperation of Allied forces, the national administration, and the Resistance.

Altogether, *Days of Glory* celebrates the Italian Resistance: its narrative starts with the armistice and the collapse of Fascist rule, recapitulates the Nazi occupation and the war on the national soil, and concludes with the liberation of Northern Italy and images of a glorious future. The images are highly heterogeneous and the film, in contemporary documents, is often referred to as a “political feature film” (Sottosegretario di Stato 1954). In fact, the film brings together four different kinds of images: documentary footage produced by PWB, staged newsreels, re-enactments, and documentary footage produced for the film itself (Musumeci 2000). Accordingly, the film is midway between a compilation film (Leyda 1964; Beattie 2004, 125–45), a re-enactment, and a rendition of events recorded live. Furthermore, we should not underestimate the role of transnational documentary and media culture. As a matter of fact, the voice-of-God guiding the audience across the variety of footage is that of Umberto Calosso, who spoke to the Italian population during the war for Radio London, the radio broadcast of the BBC aimed at Nazi/Fascist-ruled Italy. Moreover, the role of PWB in the production indicates that Italian filmmakers were exposed, at the least, to footage and practices that exceeded national boundaries. This might refer either to archival footage or imply live recorded sequences as well. In fact, within the holdings of the Luce archives are three *Combat Films*, produced under the aegis of US forces and originally stored at the National Archives in Washington, DC, whose footage partly coincides with that of *Days of Glory*. This coincidence illustrates the close cooperation between PWB, partisans, and the ruling administration. Moreover, this material also questions the authors of the footage, whom the opening credits identify as

Marcello Pagliero and Luchino Visconti as the only persons responsible for shooting the sequences at the Ardeatine Caves and the Caruso trial.⁷ In fact, who did shoot this footage? PWB cameramen alone, and then Visconti and Pagliero edited the footage? Or did PWB sponsor the initiative of the two filmmakers and then used the footage for its *Combat Films*?

As many commentators have remarked (Musumeci 2000; Pucci 2013; Antichi and Tassinari 2020), one event occupies center stage of *Days of Glory*: the massacre of the Ardeatine Caves, a location on the outskirts of Rome, where on March 24, 1944, Nazi occupying forces, with the help of Italian police, slaughtered 335 people abducted from the Gestapo detention center in Via Tasso, Rome's main prison Regina Coeli, or arrested in the area of Via Rasella. The latter was the place where partisans had attacked the Polizeiregiment Bozen the day before, leaving thirty-three soldiers on the ground and causing the abominable retaliation. Since the days immediately following the massacre, the events generated alternative memories in Italy: one that blamed partisans for unleashing German legitimated vengeance and being too cowardly to turn themselves in, leaving innocents defenseless against Nazi rage; and another that claimed the attack as part and parcel of a war against an occupying force and retaliation against the population as an ominous act, perpetrated without any warning. Historically speaking, the latter version is the accurate one; but memory does not rely on accuracy (Portelli 1999). While not the hugest slaughter that Nazis perpetrated in Italy in terms of casualties, the Ardeatine Caves epitomized most of them for the location (the capital) and for the many social classes that the victims belonged to.

Days of Glory narrates the event in three chapters, which are at the core of the film. The first section, through a voice-over, associates the location

7 See *Il massacro delle Ardeatine* (The Ardeatine massacre, 1944, RW289), [https://patrimonio.archivioluca.com/luce-web/detail/IL5000049536/2/il-massacro-ardeatine-111-adc-2856.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluca.com/luce-web/detail/IL5000049536/2/il-massacro-ardeatine-111-adc-2856.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}); *Scene varie dalla campagna d'Italia* (Various scenes from the campaign in Italy, 1944, RW452), [https://patrimonio.archivioluca.com/luce-web/detail/IL5000041474/2/scene-varie-della-campagna-d-italia-111-adc-1463.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluca.com/luce-web/detail/IL5000041474/2/scene-varie-della-campagna-d-italia-111-adc-1463.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}); *L'esecuzione di Caruso* (Caruso's execution, 1944, RW290), [https://patrimonio.archivioluca.com/luce-web/detail/IL5000049547/2/l-esecuzione-caruso-111-adc-2860.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluca.com/luce-web/detail/IL5000049547/2/l-esecuzione-caruso-111-adc-2860.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}). Mario Musumeci, who oversaw the restoration of the film (Musumeci 1998), suggests that the materials of the PWB, as much as the technical resources both PWB and CLN provided, testify to a close and consistent cooperation between Allied forces and partisans in this endeavor (Private correspondence, February 19, 2022). We are very thankful to the generous cooperation of Mario Musumeci.

with renowned concentration and extermination camps in Europe; then it moves the camera throughout the site of the massacre, to finally discover the decomposing corpses of the victims, as Allied forces found them when liberating Rome two months afterwards. Then the film, through print materials and still photos, describes a previous partisan attack in Via Rasella, to go back to the exhumation of the corpses. The second section describes the trial of the Rome police chief Pietro Caruso and later his execution, in Forte Bravetta, on the outskirts of Rome. The third part renders the burial of the victims and the mass celebrated to honor them.

Regarding the trial, *Days of Glory* illustrates the logics underpinning transitional justice, that is, its political motivation, its administration on behalf of the people as a legitimate form of justice as opposed to spontaneous violence, and its memorial function.

In terms of *political motivation*, the film illustrates the events of the Ardeatine Caves as an abominable act of retaliation taking place without any warning, by citing the first page of newspaper *Il Giornale d'Italia*, which published the German Command official notice on March 25, stating that a retaliation had *already* happened, as a direct consequence of the partisan attack. Therefore, the film explicitly counters the narrative blaming partisans for the massacre, which might have not taken place had they turned themselves in. Accordingly, it is the Nazis and their collaborators who are accountable for it and motivate transitional justice. In terms of its administration, the film identifies Pietro Caruso and depicts his trial, together with his collaborator Roberto Occhetto. Luchino Visconti is credited for the shooting, which made use of seven or eight cameras and PWB personnel. The trial is split into two sections: one focuses on the Palazzo di Giustizia (Palace of Justice), where the trial could not take place. The audience identified the director of Rome's prison, Donato Caretta, and the mob lynched him. The images edited record the aggression, but not its tragic ending. The other section records the trial which, after the brutal lynching, moved to Palazzo Corsini alla Lungara and was held on September 20, 1944. The images of the corpses of the victims are interpolated with those of the defendants, judges, and attorneys, when the prosecutor, Mario Berlinguer, evokes the moral abomination of the crime. Finally, after the reading of the sentence, which condemns Caruso to execution and Occhetto to thirty years of imprisonment, a montage sequence, with calendar dates sliding, shows a series of executions: firstly Caruso (September 23, 1944),⁸ then an informer, Federico Scarpato (April 27, 1945), and finally soldier and torturer Pietro

8 Records state that the execution happened immediately after the trial, i.e., on September 21.



Figure 12.9. Transitional justice as lynching. Still from *Giorni di gloria* (Days of glory, dir. Mario Serandrei, Luchino Visconti, Giuseppe De Santis, and Marcello Pagliero, IT, 1945).



Figure 12.10. Transitional justice as trial. Still from *Giorni di gloria* (Days of glory, dir. Mario Serandrei, Luchino Visconti, Giuseppe De Santis, and Marcello Pagliero, IT, 1945).

Koch. Koch and his crew had a significant role in countering Italian resistance in Rome and in this capacity he arrested and subsequently detained Visconti, too, in one of the venues he returned to for his anti-partisan activity, in April 1944. Visconti was released thanks to the intercession of Italian star Maria Denis, and later testified at the trial against Koch. For *Days of Glory*, then, Visconti filmed Koch's execution (June 5, 1945) that concludes the montage sequence. All executions record graphically the effects of the firing squads and display rather gruesome images.

In terms of illustrating the *administration of transitional justice*, the film opposes spontaneous, uncontrollable justice, which the people enforce on Donato Carretta by lynching him, to the holding of a proper trial. Accordingly, the film articulates the need for courts and judges to represent a widespread sense of justice, while preventing its brutal and disproportionate application—as a matter of fact, Carretta was innocent and was attending the trial as a witness for the prosecution. Moreover, the trial associates the attorney's harangue with the corpses of the helpless victims butchered in the caves, thus motivating the strict penalties requested and the ensuing execution. Finally, the film relates the execution of Caruso to those of Scarpato and Koch, who contributed at selecting the persons to be later executed at the Ardeatine Caves. All three executions fall into one category: collaborationism, which purge, notably according to partisans, should repress with the most severe penalty. One should not underestimate the fact that the three executions happened at very different times and were the outcome of non-related trials, but all exemplify the need for political cleansing. Later newsreels celebrate regular trials for those German responsible for the slaughter, and just a dramatized voice-over echoes the voices of the victims' families, addressing the defendants as "Assassins! Assassins!"⁹

In terms of *memorial function*, the film places at the center of its narratives the victims of the Ardeatine Caves. The opening credits dedicate the film to those who suffered and fought Nazi–Fascist oppression and the 335 slaughtered in the Ardeatine Caves epitomize them. The shocking images of decomposing corpses, which Marcello Pagliero filmed, are part and parcel of a political use of dead bodies which Nazi occupiers put in place, which then partisans reversed at the end of the war—the most renowned case being that of the

9 See *Tribunale militare. Kappler davanti alla giustizia* (Military Court: Kappler before justice, *La settimana Incom*, no. 151, IT, May 5, 1948), [https://patrimonio.archivioluice.com/luce-web/detail/IL500008554/2/tribunale-militare-kappler-davanti-alla-giustizia.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluice.com/luce-web/detail/IL500008554/2/tribunale-militare-kappler-davanti-alla-giustizia.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}).

corpses of Mussolini, Petacci, and other Fascist officials hung upside-down in Piazzale Loreto, in Milan, in the same place where previously partisans had been executed and exhibited (Luzzatto 1998). It is the final chapter of a liturgy revolving around bodies and corpses, pivotal during the Italian Civil War and during its immediate aftermath (Schwarz 2010), which blatantly incarnates the violence ravaging the country (Ciammaroni 2012). Accordingly, the Ardeatine Caves corpses first act as a sign of Nazi violence, but then have to rest in peace in order for a new society to arise. This is what happens after executions take place, when a mass is celebrated and families and authorities gather to remember the victims. It is an anthropological and religious function, whose meaning is quite explicit, and is also echoed in the *Combat Films* footage.¹⁰ This celebration will be repeated in the following years and regularly recorded, almost in the same way, for the national newsreels *La settimana Incom*.¹¹

The role *Days of Glory* performs in support of transitional justice is best exemplified by its reflexivity, in showing the presence of a film crew at the scene of the execution. A reflexivity which the *Combat Films* footage confirms, by showing as the *Days of Glory* film crew on the scene, but also recording the execution from different angles and distances, while implicitly confirming the relevance and theatricality of the event, shot by multiple cameras.¹² As Lara Pucci claims,

In looking at the camera looking, the spectator is reminded of the camera's activity of making visible, of their own activity of seeing, and of their shared scopic responsibility. The heightened indexical performativity

10 See *Various scenes from the campaign in Italy*, where a monk kneels down above the caves and beside a huge iron cross.

11 See *Onoranze ai martiri delle "Ardeatine"* (Homage to the martyrs of the Ardeatine, *La settimana Incom*, no. 269, IT, March 30, 1949), [https://patrimonio.archivioluice.com/luce-web/detail/IL5000012436/2/roma-alla-presenza-de-gasperi-e-altri-membri-del-governo-inaugurazione-del-mausoleo-dedicato-alle-vittime-fosse-ardeatine.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluice.com/luce-web/detail/IL5000012436/2/roma-alla-presenza-de-gasperi-e-altri-membri-del-governo-inaugurazione-del-mausoleo-dedicato-alle-vittime-fosse-ardeatine.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}); *Sei anni dopo, dalle Ardeatine a Buchenwald* (Six years afterwards, from Ardeatine to Buchenwald, *La settimana Incom*, no. 422, IT, March 30, 1950), [https://patrimonio.archivioluice.com/luce-web/detail/IL5000015017/2/sei-anni-dopo-dalle-ardeatine-buchenwald.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluice.com/luce-web/detail/IL5000015017/2/sei-anni-dopo-dalle-ardeatine-buchenwald.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}); *Nel 9° anniversario delle Fosse Ardeatine* (On the ninth anniversary of the Ardeatine Caves, *La settimana Incom*, no. 923, IT, March 27, 1953), [https://patrimonio.archivioluice.com/luce-web/detail/IL5000025791/2/pellegrinaggio-della-cittadinanza-roma-alle-fosse-ardeatine-sul-luogo-della-strage-alla-presenza-parenti-vittime-celebrati-riti.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:\[%22fosse%20ardeatine%22\],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}](https://patrimonio.archivioluice.com/luce-web/detail/IL5000025791/2/pellegrinaggio-della-cittadinanza-roma-alle-fosse-ardeatine-sul-luogo-della-strage-alla-presenza-parenti-vittime-celebrati-riti.html?startPage=0&jsonVal={%22jsonVal%22:%22query%22:[%22fosse%20ardeatine%22],%22fieldDate%22:%22dataNormal%22,%22_perPage%22:20}}).

12 See *L'esecuzione di Caruso*.

of the footage of Caruso's execution is paralleled by the circumstances of his trial, which took place in September 1944, just three months after the liberation of Rome. It was the first to take place in Italy's High Court, created earlier that year. [...] The fact that Luchino Visconti—already an established director—was commissioned by the Allied Psychological Warfare Branch to film Caruso's trial confirms this performative drive to make justice visible and public. (2013, 361)¹³

In aligning the gaze of the camera, that of the audience, and that of the firing squad, the camera not only bears witness, but associates (and asks its audience to comply with such a choice) with the administration of transitional justice. This visual strategy bestows on the audience a political responsibility within a democratic state, which makes transparent its decision-making process (Sarat et al. 2014).

It is exactly this alignment with transitional justice and its political meaning that became controversial for the administration within a matter of few years. When a committee celebrating the tenth anniversary of the Liberation of Venice required it for public screening, the administration considered *Days of Glory* potentially subversive (Biondo 1954; Ermini 1954). The transition had been completed, spontaneous violence or resistance were now out of question, as was the imperfect national epuration. Documentary cinema was not required, anymore, to perform this political function.

Conclusions

To summarize, whatever the countries, political concerns affected postwar justice; their main task was reconstituting international and national communities by representing a frequently haunted version of the past. Non-fiction cinema largely contributed to spreading this narrative among the population.

Regarding the staging and filming of trials, differences emerge, originating in the philosophies of law underpinning the trials as much as their cinematic rendering. Such discrepancies can be traced not only between Soviet and Western Allied non-fiction films, but also within the Allied recordings of different trials, as the Nuremberg and Dachau examples epitomize.

With regard to purges, the United States also took recourse to the images depicting wild purge shot in Italy as a motivation for the judgment of major

13 I am greatly indebted to this work also with regard to the scrutiny on the role of the corpses within the film representational and narrative strategy.

Nazi criminals, instead of executing them without a trial in its own right. For instance, this is exactly the case of the early version of the sort *That Justice Be Done* (dir. Ray Kellogg, US, 1945). The Field Photographic Branch conceived of it during the summer of 1945, with the task of changing American opinion, at the time still largely in favor of the need for extrajudicial killing of Nazi elites. To do so, Ford's group used the images of the body of Il Duce hung by his feet in front of a hysterical mob.¹⁴ Over these images, the narrator states, the IMT prosecutors "will not content themselves with dragging a tyrant by his heels—but to lay bare the ugly core of his evil designs, the retrogressive blueprint for seizing power, smashing opposition and waging illegal war."

But the sequence was reedited at Jackson's request, as he was reluctant to use these "gruesome" images.¹⁵ In the script, the Field Photographic Branch also planned on using images of Donato Caretta, lynched by the mob on the day he was called to testify at the Caruso trial.¹⁶ However, these two Italian sequences were integrated into *Guilty Men* (US, 1945) a short film made for the American troops by the US Army Signal Corps. This documentary also deals with the European trials and the IMT's mandate, and it also aims to justify recourse to the law against the havoc brought about by revenge and lynching.

In the end, therefore, Italian and American non-fiction films made similar use of the images of wild purge to legitimize the policies implemented by postwar administrations, while hailing a new, democratic justice, enforced by the rules of the law. No matter how imperfect or fallacious transitional justice may be, it was undoubtedly the most viable and civil option available. Non-fiction cinema could lend a hand in clarifying its role to both the European and the American population, to the benefit of the new rule of the world.

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14 Mussolini, and his mistress, Claretta Petacci, were shot close to Lake of Como before their bodies were taken to Milan and exposed on Piazzale Loreto.

15 Robert Jackson, diary (kept April 27–November 19, 1945), entry dated September 6, 1945, Library of Congress, Robert H. Jackson Papers, B 95, F 5. See Lindeperg, 87–93.

16 See above.

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