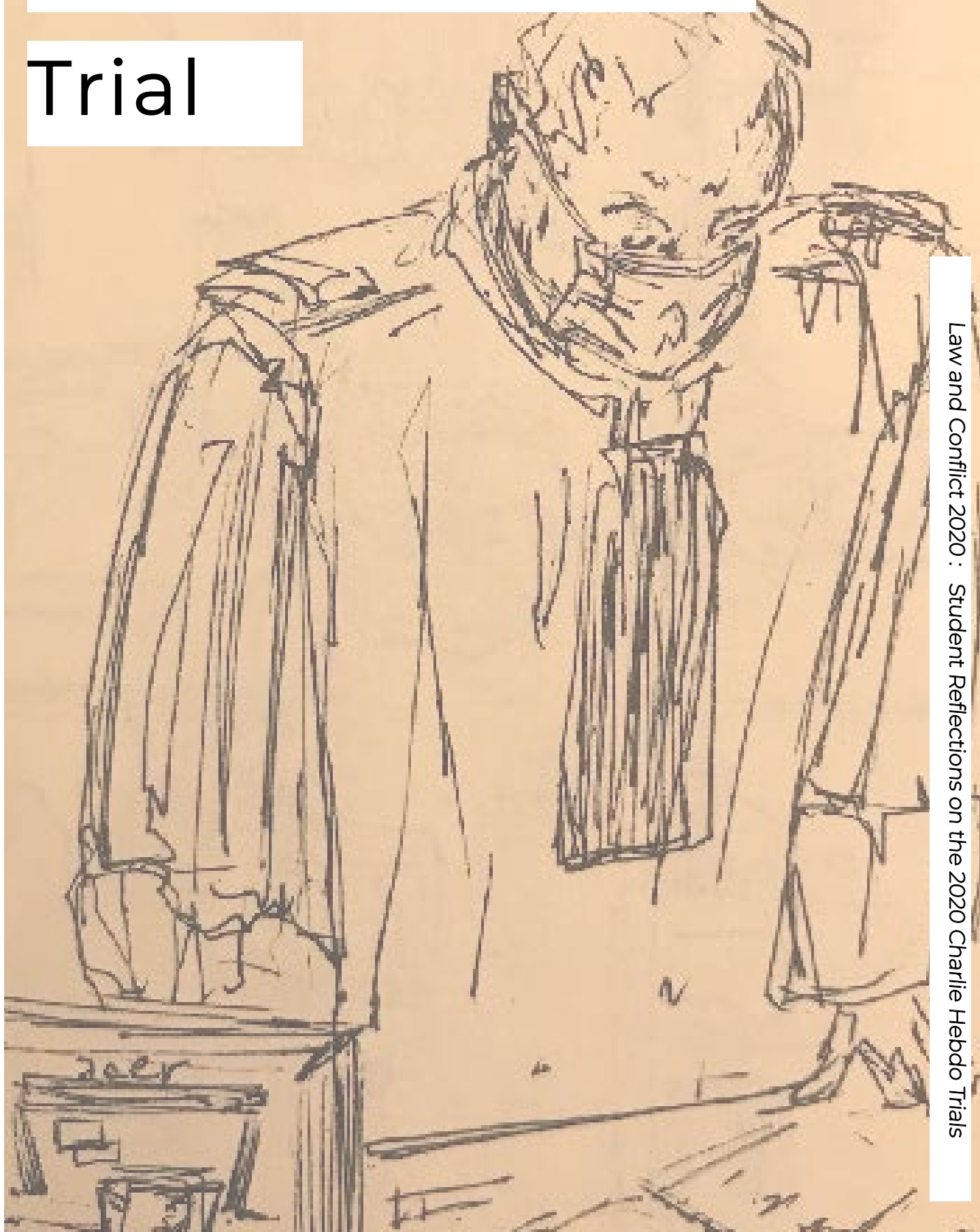


CHARLIE HEBDO

Trial



Law and Conflict 2020 : Student Reflections on the 2020 Charlie Hebdo Trials

TABLE OF CONTENTS

1. Note From the Editors (<i>MM & JR</i>)	3
2. The Accused (<i>MA</i>)	4
3. The Attacks that Caused the Trial (<i>SS</i>)	6
4. That Attacks that were Caused by the Trial (<i>SS</i>)	8
5. Arriving At the Tribunal de Paris (<i>TE</i>)	10
6. The Tribunal <i>and its History</i> (<i>RC</i>) (<i>SS</i>)	12
7. <i>Further Student Observations on the Trial</i> (<i>TE</i>)	14
8. The French vs. USA Legal System (<i>MA</i>)	16
9. <i>Association De Malfaiteurs</i> (<i>TE</i>)	18
10. Fair trial with supposition of guilt (<i>JR</i>)	20
11. Masked Personhood: The dynamics of Covid (<i>M M</i>)	23
12. Personal Accounts	24
13. Conclusion (<i>MM</i>)	33

EDITORS NOTE



Students of Professor Sharon Weill's Law and Conflict class attended the proceedings of the Charlie Hebdo trial in October 2020. This case is a historic one, part of France's grief and national memory. It is also unfolding at a unique crossroads of renewed French terror attacks, a deadly pandemic, the five-year anniversary of the Bataclan shooting, and new debates in French civil society over the state's control over religion, specifically Islam and the sacred principle in France of the freedom of expression. The Charlie Hebdo case is filmed, which is what allowed us to watch the courtroom proceedings in

projection from a separate room. The film, however, will be kept archived for 50 years before being released to the public. The fourteen defendants are commonly accused of association with an organisation des malfaiteurs, France's broadly-termed terrorism charge. This paper combines students' personal experiences and impressions, observations of the judicial proceedings, and the larger societal and legal context of this momentous trial.

THE ACCUSED

There are fourteen people on trial for the 2015 attack on the Charlie Hebdo newsroom. Three of the accused are absent, having fled to Syria soon after the attack. Although the trial serves as a setting for victims to process trauma, not a single person on trial was present at the scene of the attack. Each person is accused of assisting in the attack to a varying degree.

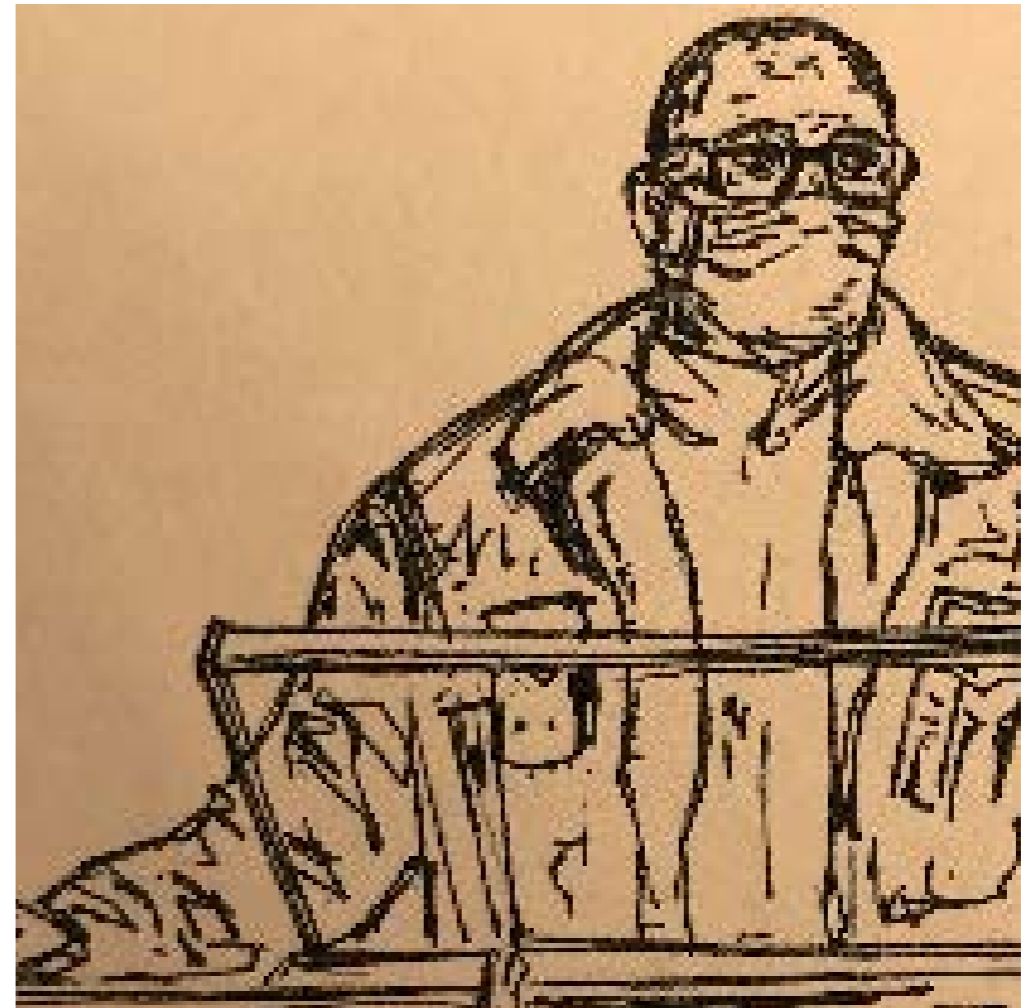
The most serious charges are brought against Alii Riza Polat, 35, who was close friends with one of the attackers and who is said to have provided the weapons used to carry out the murders as well as the money to finance the attacks. He faces life in prison for his involvement. Despite three failed attempts to flee the country, Polat maintains his innocence.

Eight men are accused of supplying weapons to the attackers. Mickaël Pastor Alwatik's and Mohamed Fare of selling weapons to Coulibaly. Christophe Raummel, Willy Prevost, and Said Makhrouf assisted in the purchase of other supplies. And two garage owners, Metin Karasular and Miguel Martinez, and their associates, Michel Catino and Abdelaziz Abbad, are accused of supplying assault rifles, automatic pistols, rocket launchers, chargers and ammunition, and bullet proof vests.

Amir Ramdani is suspected of having knowledge of the attack and withholding the information from the authorities. Coulibaly's partner, Hayat Boumedienne, is one of the accused who is absent. She fled to Syria a week before the attack. She was previously thought to be dead, but recent information points to her still being alive in Syria. Mohamed and Mehdi Belhoucine are accused of helping Hayat escape to Syria. Both have been killed in Syria or Iraq.

The question considered by the court is not whether each of the accused actually committed the acts they are accused of. Each defendant has admitted to indirectly participating in the attack. Instead, the court must determine whether each plaintiff was where the terrorist attack would take place. The defendant's knowledge of the attack is what differentiates their participation from criminal to terrorist.

Mikaela Aaland



THE ATTACKS THAT CAUSED THE TRIAL

The Charlie Hebdo attacks is a name that has a strong place in the western world's consciousness, describing the terrorist attacks inflicted on the city of Paris in January 2015. Although many recall the Je Suis Charlie movement that ensued in the mainstream media, this attack was not the only to wreak havoc on Paris. A hostage situation in a Jewish supermarket in the east of Paris and the murder of a police officer in Montrouge were all linked to the initial attacks on the satirical newspaper, and conducted by three men who worked in unison.

On Wednesday, January 7, one of the first working days back after the holiday season, brothers Cherif and Said Kouachi stormed the office of the magazine Charlie Hebdo, near boulevard Richard Lenoir in Paris's 11th arrondissement. The brothers moved methodically and quickly—their presence was unexpected and there was little that could have been done to prevent them from killing a barely armed security guard, the editor in chief and prominent cartoonists, amongst other staff who were in a news meeting. The brothers fled the office and were met with police retaliation, but it was not enough to stop them. They clashed with officers three separate times in the 11th arrondissement, finally killing a police officer who lay on the ground in surrender, on boulevard Richard Lenoir. The Kouachi brothers fled the 11th and moved north in a getaway car, where

they hijacked another vehicle in the 19th arrondissement. While forcing the driver out of his car, they told him calmly, "If the media asks you anything, tell them it's Al-Qaeda in Yemen."

At this point, Paris was in a state of high alert. The killers had escaped, and French police forces were scrambling, trying to connect evidence that would lead them to find the brothers. President Francois Hollande raised the terror alert for the Ile de France region, put schools on lockdown, heightened security at houses of worship, news offices, and began conducting security searches on the metro. The state of emergency and fear in response to the attack did not stop some 35,000 Parisians from gathering at Place de La Republique, in honor of those who had been lost and in a show of strength for the French ideals of liberty and freedom of expression. Videos from the event display an overwhelming majority of white, French citizens explaining their disgust and resentment towards a more radical world growing around them. Their resentment towards those who would attack based on freedom of expression and speech seeps through my computer screen as I watch interviews from that evening. Some attendees seemed to understand that the growing stigmatization and lack of unity in French society could be part of what is to blame for the attacker's motives, while others explained that they

were hurt that they needed to explain to their children that people were killed over drawings that others did not like. A striking comment made by Frederik Hufnagel, a journalist who showed up in solidarity said that "We are not fighting Islam. We are fighting terrorists. It is important that we do not mix the two. On 9/11, we were all Americans. Today, we are all Charlie."

Unfortunately, this show of French and international unity was not the end of the terrors that would continue to unfold in the French capital. On Thursday, January 8 at 8 am, news broke of another attack in the Parisian suburb of Montrouge. A 25-year-old policewoman trainee named Clarissa Jean Philippe had been shot dead. At the time, authorities believed that the thirteenth fatality to happen in two days was unrelated to the attacks on Charlie Hebdo. Further investigation would bring links between the two groups of terrorists to light, the man that killed Clarissa Jean Philippe was Amedy Coulibaly, a French-Malian man who was a close friend to the Kouachi brothers--and he was still a suspect at large.

In the midst of further bloodshed, the French police were still on a manhunt through villages north of Paris, in attempts to find the Kouachi brothers. On Friday, January 9, the police gained headway on the brothers, prompting a shootout on a highway around 40

kilometers north of Paris. In their last futile attempt to throw the authorities off their trails, the brothers drove into an industrial warehouse complex and attempted to barricade themselves in a maze of printing machinery and supplies. While the Kouachi brothers were trying to hide from the police, Amedy Coulibaly was on the loose in the affluent suburb of Vincennes, where he entered a Jewish supermarket and had taken five hostages. Witnesses report that he was beside himself that the Kouachi brothers were freed (regardless of the fact that they had not been caught yet). While in the Hypercacher market, he ended up killing four hostages, before the store was stormed by French police, killing Coulibaly in the aftermath. By Friday evening, Francois Hollande would address the nation after what felt like centuries, to inform the world that all three gunmen in the coordinated terror attacks were dead, and that four people had also died in the Hypercacher market.

Sydney Scarpa



On September 25, 2020, the Charlie Hebdo office that was attacked in 2015 was the target of more violence. A twenty-five-year-old Pakistani wielding a knife approached two people outside taking a smoke break, leaving them both injured. The two victims were a man and a woman who work for Premier Lignes, a documentary production company that has been housed next door to the Hebdo office since before the 2015 attack. Some Premier Lignes employees were firsthand witnesses to the violence that occurred on their block in 2015, and even captured footage of the Kouachi brother's first clash with the police in the area. The attack seemed to be calculated, as it came shortly after the beginning of the trials attempting to charge those in connection with the 2015 attacks. Those who work on the street noted that there was seemingly no police presence since the start of the trial, which is shocking considering the high-profile proceedings and potential security risks in the area. The minister of the interior, Gerald Darmanin, called what occurred an "act of Islamic terror", given the timing and location of the violence. It is unclear if the assailant had any links to the past attackers, or if he was under surveillance. Al Qaeda later claimed responsibility for coordinating the attack, but further evidence has yet to be uncovered.

This incident, although seemingly isolated, set off a string of other attacks



in France that have led officials to pursue policy reforms that would unify a separated France, and attempt to avoid the further radicalization of other French nationals. After news broke of the copycat attack near the Hebdo offices, an 18-year-old Chechen refugee living in the northern suburbs of Paris was inspired to pursue his own violent actions. Abdoullakh Anzorov started combing through social media, trying to locate individuals who had offended Islam. Through various social media platforms, he came across the profile of a middle school teacher, Samuel Paty. Paty was a civics and history teacher at College du Bois d'Aulne, and began including old editions of Charlie Hebdo, and other forms of media that satirized the prophet Muhammad in his curriculum. While doing so, he encouraged Muslim students to leave the classroom, because he was going to share something that might disturb them. This happened in multiple class periods, and during one of the instances a Muslim teenager decided to remain, and when she arrived home, she told her parents about Mr. Paty showing naked photos of a man, claiming it was the prophet. This led to the child's father to post a video online, ranting about the disrespect shown by Paty and the insensitivity of the topic. It is presumed that Anzorov found this video and it is what led him to Paty. The beheading of Samuel Paty on October 16th was not the last string of home-

grown terrorism that has continued to plague France in the last months. Nearly two weeks later, a neo-gothic church in Nice would be the target of another attack, leaving three victims dead.

These attacks, amongst others occurring in Europe, have led the president Emmanuel Macron to speak out against radical Islam and with government intervention, attempt to "enlighten Islam, and create an Islam that is at peace with the republic." This comes as an effort to stop the chain of radicalization in France, because nearly every act of domestic terror has come from French citizens that have converted to Islam and surround themselves with other like-minded radicals. Macron hopes to integrate French Muslims further into society, starting with a mandatory schooling age and other social initiatives. It will be interesting to see if these make a change in an undoubtedly divided society, where people of color already experience marginalization and institutionalized racism and stereotyping.

Sydney Scarpa

ARRIVING AT THE TRIBUNAL DE PARIS

Arriving at the tribunal itself was an awe-inspiring moment for many of us involved in this project. According to Luana Trabelsi, she remembers thinking, “Wow! It’s beautiful!” upon seeing the building from outside. Jacob Rogers echoed this sentiment recalling, “In my head I think to myself how odd it is, I am so used to the architecture of the center of Paris, that seeing a large, intimidating glass building that could have been found in any modern city in Europe was a bit surprising.” This ultra-chic ode to gigantism is not what many of us expected from one of the French Republic’s oldest institutions. Nevertheless, one does not have to look too far to find the nods to French political heritage that inspire so much pride from the French people. As Mary McColley noted, “Written on the wall [is] ‘La loi est l’expression de la volonté générale. Elle doit être la même pour tous, soit qu’elle protège, soit qu’elle punisse.’ Art. 6. Déclaration des droits de l’homme et du citoyen de 1780.”

Both outside and throughout the Tribunal is a feeling of constant surveillance which harkens back to French philosopher Michel Foucault’s musings on the “panopticon” in his work *Discipline and Punish*. According to Thorin Erb, “There were metal barriers around the perimeter and [he] had to show [his] bag to a guard armed with a semi-automatic rifle and a bulletproof vest.” Luana Trabelsi described the security precautions as “very developed” and noted that “Police officers [were] blocking roads all around the [Tribunal].” Sydney Scarpa mentioned that “Police cars [were] stationed outside of the metro station, and [were] the first thing [she saw].” This level of security is to be expected for such a landmark case in French terrorism law, however, the most important security precautions might have been masks and hand sanitizer. Anyone entering the tribunal was required to wear a mask and use the hand sanitizer pumps stationed before the metal detectors at each entrance. The number of spectators was modest and the line outside the building was socially distanced while the transmission room was reduced to half capacity with plastic tape blocking off every other seat. The COVID-19 pandemic will most certainly set this trial apart from others in the legal history of terrorism in France.

After making it past the metal detectors and bag scanners at the entrance, students were once again mesmerized by the imposing building. As Sydney Scarpa recounts, “The openness of the room draws your eye upwards, to the numerous floors and long light fixtures hanging in the middle of the imposing atrium. It feels as if you have stepped into an airport.” Meanwhile, Mary McColley poetically describes, “White, doubled supports ride periodically through the space, up to a ceiling of round skylights.” The



incredibly high ceilings and open expanses distract anyone coming to the Tribunal for the first time. Mikaela Aaland “wandered aimlessly through the building. On multiple occasions, [she] found [herself] in restricted rooms and hallways.” “Admittedly, I got a little lost” says Jacob Rogers who “went to the room reserved for the members of the press and was confronted by nearly ten Gendarmerie asking for [his] credentials.” Granted, all the spaces of the Tribunal blend together nicely and feel public. This is the place where the French people can come together and address wrongdoing. Luana Trabelsi found the communal nature of the atrium “strange because next to [her] were sitting judges and a journalist from *The Figaro* journal.” She did not expect to walk amongst the people closest to the action in such a high-profile trial. Sydney Scarpa took note of the equalizing effect of the Tribunal atrium explaining, “the only way to distinguish who is at the tribunal for what reason is by looking at what people are carrying. The lawyers are carrying briefcases or rolling small suitcase versions, and most are quickly pulling their robes over their civilian clothes.” Witnessing the trial does not feel as momentous a phenomenon as it is.

Thorin Erb

THE TRIBUNAL AND ITS HISTORY

The Tribunal de Paris is located in the 17th Arrondissement of Paris, near Porte de Clichy. It is a tall, modern building that looks almost out of place in the Parisian landscape, so it certainly catches the eye. The building has thirty-eight floors, with twenty thousand square meters of public space, notably ninety state of the art courtrooms, making it the largest court in Europe. The French government realized they needed more space to exercise the growing number of their juridical operations, and decided to undertake this project, which was completed on the 11th of August 2017.

The architect behind this project was Renzo Piano, who also worked on the Centre Pompidou in Paris, developed three distinct areas of the building: le SOCLE, le bâtiment Bastion, and L'immeuble de grande hauteur.

The building is unique, not only in its appearance, but in the fact that it combined all of the services of what was once the "Tribunal de grande instance de Paris" which was spread over six different sites, as well as all twenty of the Parisian "Instance" courts. Around nine thousand people access the site every single day. The actual construction of the building was carried out by Bouygues Bâtiment Ile-de-France through a private-public partnership, and has since won the "Equerre d'argent," an architecture prize given to one building a year.

The historical Palais de la Justice is a very important building in French and Parisian history. From the 10th to the 14th century, it was the home and workplace of numerous French ministers of the interior, who served directly under French monarchs. It was like this only until King Charles V decided to move most of the offices and bureaucrats that were housed there to the Hotel de Pol, leaving only the ministers of justice to operate



on Ile de la Cite. The Palais de la Justice is still home to the court de cassation, which has the highest jurisdiction of all the courts in France. It is considered the judge of the law in France, but facts and trials are not heard here --- it is a powerful regulatory court that ensures the law is applied the same way throughout the entirety of French territory.

In 2009, former President Nicolas Sarkozy announced a site in the 17th arrondissement, in the north-west of Paris' Batignolles neighborhood, would become home to the Tribunal de Paris. This move would soon be followed by the regional direction of the prefecture of Paris's police also leaving their historic location at Ile de la Cite, and becoming neighbors of the new tribunal. Overall, these two moves would prove to be tactical for Paris's tourism and bureaucratic needs in the long run.

The central location of the old Palais de la justice makes it a problematic site to hold such front-page trials. Having to transport the accused and other key witnesses to the middle of Paris would become a security and logistical nightmare. Bringing in media, judges and lawyers would only increase the amount of people and security needed to ensure the trials are able to be conducted safely and justly, not to mention the amount of tourists in the area could potentially make the Palais a target. Having the Tribunal de Paris be located on the near periphery of the city, a stone's throw from major highway exits and distanced from major commercial and tourist activity makes the Batignolles location an ideal place to hold trials to seek justice for not only the victims but the entire world, as France becomes thrust onto the global stage for terrorism yet again.

Ryan Cook & Sydney Scarpa



FURTHER STUDENT OBSERVATIONS OF THE TRIAL

Among the students who observed the trial, there was a general consensus that the proceedings did not live up to their grandiose imaginations of a historically significant trial. Many of the students come from the U.S. and are used to the dramatic theatrics of the U.S. legal system.



Thorin was most surprised by the informality of the proceedings. Unlike trials in the U.S., Prevost was dressed casually in a Nike sweater and was not handcuffed. The hearing was more about understanding Prevost's motivations from Prevost himself rather than the formal legal arguments from lawyers that make up the U.S. legal system. Prevost made arguments that struck at the humanity of the actors in the court and made the case that he was at least not guilty of inhabiting the perceived demonic image of a terrorist. Thorin was also intrigued by the humor that appeared at various points in the hearing where Prevost would have an odd response or when he referred to Ali Polat as a «fils de pute» and generated laughter from those in the transmission room and the court itself.



Launa was interested to see that when she arrived for the afternoon session, the judges for the trial and journalists covering the trial were out mingling in the lobby. She found this to be a humbling reminder of the of the

humanity of the parties involved in the criminal justice system. She also found the informal and sometimes crass language employed by Prevost shocking at times.

Delaney found the experience to be “surreal” because she remembers hearing about the attacks in the U.S. and visiting France shortly after. To her, the pervasive, militarized police presence across Paris seems normal because she has not seen Paris before the attacks. Viewing this trial in the same courthouse as the accused brings this full circle for her and gave her a glimpse of why the French authorities responded the way they did.

Mikaela was most intrigued about the approach that the lawyer of one of the accused took. Rather than choosing to show his upstanding character and how he could not possibly have been involved in terrorism, she ridiculed him openly and sought to prove his gross incompetence that prevented him from being involved with terrorism. Mikaela also found it unprofessional when an expert called into the trial to testify and could not be heard over the sound of construction on the expert's end.

Jacob found the architecture of the tribunal to be the most interesting part of the experience. Paris is known for its historic architecture and this building is nothing of the sort. The gigantism and modernity of the tribunal fits in more with the new office buildings of La Défense than the old institutions of the French Republic. The layout of the courtroom, with the accused standing in a glass box with gendarmes, was also a noticeable difference from U.S. courtrooms where defendants sit before the judge in handcuffs. As others noted, Jacob found the informality of the questioning unexpected. In France, justice is more about finding the truth than doling out punishment.

Savanna was also surprised to see judges and lawyers milling about in the lobby of the tribunal. She also noted the security guards were rather friendly and the modern design of the courtroom made it less intimidating.

Thorin Erb

THE FRENCH V. S THE U.S. LEGAL SYSTEM

The divergent narratives of England and France's transition from feudalism to modernity have engendered distinct legal practices. In the 11th century, the Duke of Normandy unified England under a single monarch. The Duke, more commonly known as William the Conqueror, fashioned London to be his center of control and exported a uniform and centralized political framework throughout the nation. Most notably, this consolidation of power led to uniform laws and legal structures. The effect of this consolidation proved instrumental to the early development of common law as well as strong local legal cultures and norms. By the 17th century -- when the English Parliament struggled for power with the king-- a solid legal practice had already firmly cemented which subsequently allowed the branch to rest, detached and sheltered from politics.

In contrast, France's legal history reveals a harsh transition that was ignited by the French Revolution. Legal norms developed in tandem with democracy. The result is an administrative judicial system centered around the public interest. The system is dependent on politics rather than separate from it.

The United States of America adopted the Anglo-legal model and along with it a set of immemorial customs and practices. The nation also imposed another distinguished and characteristic emphasis on individual rights. This emphasis, coupled with a long history of separation between politics and law institutions, gave

rise to a system that primarily values the importance of the individual rather than the entire society.

The USA and France's legal systems stand as symbols for their respective nations. On one hand, US courts are made up of mostly civil cases and are mandated to judge an individual's actions in a vacuum. They uphold individual privacy and symbolize the American dream to live independent of state imposition. In the case of France, the courts represent state paternity, and the government's mission to guide and protect civil society - sometimes at the cost of individual rights.

Judges represent the state both inside American and French courtrooms. Within American courtrooms, they act as an overseer-- there only to enforce rules and oversee the proceedings. American judges are accomplished lawyers with very little training to differentiate themselves from their previous job. Meanwhile, in France, judges spearhead investigations and question witnesses. They take on an "The divergent narratives of England and France's transition from feudalism to modernity have engendered distinct legal practices. In the 11th century, the Duke of Normandy unified England under a single monarch. The Duke, more commonly known as William the Conqueror, fashioned London to be his center of control and exported a uniform and centralized political framework throughout the nation. Most notably, this consolidation of power led to uniform laws

and legal structures. The effect of this consolidation proved instrumental to the early development of common law as well as strong local legal cultures and norms. By the 17th century -- when the English Parliament struggled for power with the king-- a solid legal practice had already firmly cemented which subsequently allowed the branch to rest, detached and sheltered from politics." na página 16 almost paternal role, questioning and reprimanding the accused on seemingly unrelated and personal topics. They are trained for their specific role and did not begin their careers as lawyers. In this way, French Judges perfectly encapsulate the more active role of their state.

France's legal system, with its emphasis on public interest, is in many ways well positioned to prosecute acts of terror. Courts were developed to seek justice for the community and as a result, victims play a much more active role in the French process of criminal justice than in the United States. Courtrooms are seen as places for healing. The Charlie Hebdo Trial encompasses this phenomenon. The trial has been presented as a medium for France to grapple with its trauma following the 2015 attacks. To portray a case against individuals in such a light clearly clashes with the emphasis on the individual in American courts. American and French courts have long been compared for their different philosophies and customs.

Mikaela Aaland



ASSOCIATION DE MALFAITEURS

The common thread running through the cases of all the accused is the charge of “association de malfaiteurs en relation avec une entreprise terroriste” (AMT). AMT was written into law in 1996 and is considered the keystone of French antiterrorism legislation. It is so critical because it allows authorities to intervene in groups that they believe plan to commit acts of terror before the alleged attacks happen. It comes with a heavy sentence of up to thirty years imprisonment for lower level participants and life imprisonment for leaders, however, it was not always this way. 2004 was the first time AMT became a felony, with lower level members receiving ten years in prison and leaders receiving twenty. Two years later, the sentences were increased to twenty and thirty years respectively and in 2016 it became thirty years and life imprisonment. The ratcheting up of AMT sentences reflects the wariness in France about other potential attacks, especially after the Charlie Hebdo and Bataclan attacks of 2015. AMT has been an important tool in prosecuting French citizens who travelled to fight in Syria as well as those who have carried out terrorist acts domestically.

In order to secure an AMT conviction, the prosecution must prove three key facts. The first fact is that there must be a group with a terrorist aim. The definition of “group” and “terrorist” are left intentionally ambiguous to allow the justice system to intercept any activity they suspect of having malicious aims while also avoiding the classification of certain organizations as “terrorist.” The second fact that must be proven is act of participation in a terrorist group. This does not necessarily require the individual to have participated in an attack and the Court of Cassation has ruled that individuals charged with AMT must “provide effective support” in order to be convicted. The final obligatory fact of an AMT conviction is the intention to participate in the group while being aware of its terrorist aims. Much like the second fact, this does not require that the accused take an active part in a terrorist attack, but rather criminalizes collaboration with people with terrorist aims while not reporting this information to the authorities.

From the trial sessions we witnessed, it was clear that the accused knew they had one task in that court room:

prove they knew as little as possible. While some facts were irrefutable, such as Prevost’s proximity to Coulibaly, others, including Prevost’s knowledge of the planned attack, were less concrete. The distinction between “regular criminality” and terrorism was a key debate in these cases. The area between criminal and terrorist is further muddied in this situation by the fact that many of the accused and the leaders of the attacks came to know one another in prison while serving sentences for more mundane crimes. While French prisons have been shown to be ideal recruitment centers for terrorist organizations, befriending someone in prison who eventually executes a terrorist attack is not strong enough evidence. In the case of Prevost, he had dealt drugs with Coulibaly and argued that he believed the weapons and supplies he ordered for Coulibaly were for usual drug sales and not a specific terror plot. Soon enough, a lawyer for the defense challenged this claim, noting that gas canisters, guns, and tactical vests are not commonly used in clandestine drug sales. How do we prove what someone else knew at a certain time?

Thorin Erb

FAIR TRIAL WITH SUPPOSITION OF GUILT

What is defined as a fair trial varies widely among domestic legal systems around the world. However, within international law we can find the minimum requirements of a trial to be considered fair. One finds this minimum requirement in the International Covenant on Civil and Political Rights (ICCPR). The covenant, which is widely accepted to be one of the keystones of international human rights law, has been signed and ratified by 173 states. Notable states to which the treaty does not apply, due to a lack of signature or a lack of ratification, are: China, Saudi Arabia, and the UAE. The treaty provides guidance on fair trials. For the sake of brevity, Article 14.1 can be synthesized by the following definition; "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." Interestingly enough, it includes no mention of a time limit for when this trial must happen. In the United States, Americans possess a constitutional right to a fair and speedy trial. However, in France, specifically in proceedings of terrorism charges, the requirements for a trial is that it must occur within five years. Meaning that a defendant can be held for up

to five years while awaiting a trial. This is the case for the proceedings of the case in relation to the Charlie Hebdo attacks in 2015.

After some of the fourteen defendants were held in prison for nearly five years, they finally received the chance to tell their stories before a panel of judges in the Tribunal de Paris beginning in September 2020. There is a possibility, albeit unlikely, that one or more of these defendants will be acquitted for the terrorism charges for which they stand accused. Now, this is not to say that the defendants are not guilty of other crimes, however, they may not be guilty of terrorism, which is the exception in French law to the temporal requirements of a trial. However, the question arises of whether or not the French legal system provides a fair trial to these individuals. If any of these defendants are acquitted, how is it justified that they be held in prison for five years? This is particularly interesting due to the fact that the persons accused are being tried for crimes of accomplicity. The primary perpetrators of the attacks on the Charlie Hebdo office in Paris are now dead. The accused are being tried for being potential accomplices in the case. Essentially, how much they knew and when they knew it. It is about individuals who are involved in the logistics,

the preparation of the events, who provided means of financing, operational material, weapons and a residence. According to the anti-terrorism prosecutor, Jean-François Ricard, "All this is essential to the terrorist action." This was said after accusations that the people being tried were solely, "Little Helpers". This trial comes at a time when nations around the world, specifically in the past decade, have been forced by the international community to increase punishments in domestic legislation for acts of terrorism. In French law, the offence of "association of wrongdoing in relation to a terrorist enterprise, is called association malfaitteurs terroriste (AMT). This crime is the base for prosecuting almost all foreign fighter cases, although it is rarely used in exclusivity. This crime is the participation in a group that has so much as a plan to commit an act of terrorism. There is no requirement that the individual actually participates in the crime or contributes to the crime, simply being a part of the group that has a plan for, or has committed, an act of terrorism. The punishment for the crime has evolved rapidly, this is due to mounting international pressure, as well as an internal domestic desire of the French government to combat their citizens becoming foreign fighters. Now in its most extreme form, the punishment for being found guilty of an AMT charge is thirty years for participation in a group, and life in prison for directing said group. Thus, the Charlie Hebdo trials are a landmark case in criminal responsibility regarding terrorism, and national governments' work to reduce terrorism.

The right to a fair trial, specifically in cases of terrorism, is a complex and ever changing concept in the legal space. Ac-

ording to the French penal code, there are several rights that persons tried in France possess. In order to analyse these rights, we must have a reference of comparison. In the United States the right to a fair trial is described in the sixth amendment of the US constitution and is as follows, " In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." So, as one can see quite clearly, the right to a fair trial is a right that is well protected by the US, France, and under international law. Regarding the specifics of the Charlie Hebdo trials, it is clear that the accused have been given access to a fair trial under French law. However, specifically discussing the supposition of guilt, it seems as though there is a contradiction within the French legal system. According to the penal code, accused persons suspected or prosecuted are presumed innocent as long as their guilt has not been established. Yet, many of the defendants that are not being tried in absentia (the eleven accused who are actually in France and who have not fled to Syria or been assumed dead) have been held for five years in prison. If they are presumed innocent, then why have they already served five years in prison?

This case will surely be regarded by

MASKED PERSONHOOD: THE DYNAMICS OF COVID

future generations as one of the hallmarks of prosecuting terrorism crimes. It clearly sets a precedent that any action, willingly or otherwise, that is related to a terrorist attack will be prosecuted to the fullest extent of the law. This is also one of the only cases in the history of France that is public. France, with extensive witness privacy laws, does not typically allow cases to be open to the public or to be in any way recorded. This speaks to the incredibly important nature of the case and that it will more than likely serve as a precedent for countries around the world in how to prosecute terrorism. Regarding the supposition of guilt, there is a strong correlation between the right to a fair trial and the presumption of innocence. It is a question for the international community of whether or not what has happened in these trials constitutes a fair trial and whether or not we continue to decrease the minimum requirements of a fair trial for defendants that have committed the worst crimes.

Jacob Rogers

Even the justice process has proved to not be immune to the pandemic we now live through.

The question of masks has been a prominent issue and point of contention. In the summer months of France's déconfinement, the mask was not required in the courtroom, but at the turn of autumn, as cases began to rise, this policy was reversed. A government memorandum imposed the mask "dans toutes les salles d'audience et toutes circonstances" from September 7 onwards. A number of lawyers on both sides of the case, representing the defense as well as the civil parties, had protested this requirement. Masks render people's faces and emotions invisible, they argued, and thereby dehumanize the very people whose personhood the court is trying to uncover. The French judicial system is based around the concept of personhood, of truth emerging through narratives, as events are placed into the whole context of the defendant's life. There has been significant concern that the visual barrier and emotional distance of the mask hinders this traditional process and places the accused at a disadvantage, but all systems, even justice, seem to fall to their knees before the coronavirus.

And now, the accused, who have waited five long years for their sentences, must wait longer still. The trial proceedings have been placed entirely on hold until further notice, as three of the accused have contracted the coronavirus; others are being tested. In the close quarters of the glass box of the accused, there is a particularly high risk of contamination and circulation for this airborne virus. The Charlie Hebdo trial was originally scheduled for May 2020, but was postponed until September due to France's draconian lockdown during the first wave of the pandemic. President Emmanuel Macron announced a generalized reconfinement beginning the 30th of October, but the trial was envisaged to continue irregardless. That decision has proved untenable as one by one, the accused have fallen ill. Ali Riza Polat, Said Makhoulouf, and Metin Karasular have all tested positive. Polat, the principal accused, was also the first to fall ill. He was testifying before court two days straight before suddenly feeling very sick on the third day. He was sent back to prison immediately and administered an emergency Covid test, but a negative result meant Polat returned to the stand the following day. Courtroom observers noticed Polat's raised voice, nearly shouting, which may have additionally projected spittle onto those around him in the box. When Polat appeared in court on the fifth day grey-faced and shivering, he and the other accused were retested immediately. Three positive test results mean that the trial is suspended indefinitely, "à mesure de l'évolution de la situation." And like all of France, the defendants wait in uncertainty.

Mary McColley



PERSONAL ACCOUNTS

Over the course of two weeks students from Law and Conflict spent time visiting the Tribunal de Paris and observing the Charlie Hebdo Trial. The following pages offer a selection of their reflections and thoughts.



Un avocat

"I arrived at the court building around 8:25-8:30. It's a striking, modern glass building which fits in with the surrounding skyscraper office buildings. There were metal barriers around the perimeter and I had to show my bag to a guard armed with a semi-automatic rifle and a bulletproof vest. I then waited in line with 10-15 other people. Around 8:45, security began letting people into the building. We had to show our bags again, sanitize hands, and then wait in line to put our bags through a scanner and walk through a metal detector.

The most striking thing to me about the trial was the informality of it. Coming from the U.S. legal system, I was surprised to see the defendant dressed so informally in a Nike sweater and responding directly to questioning. Additionally, there were several humorous points in the trial where the defendant referred to one of the accused (Ali Polat) as a «fils de pute» and made very human appeals to assert his innocence.

The trial began with the President addressing the court and talking about the microphones in the court. After, he asked Prevost if he had any spontaneous declarations and Prevost had none. Prevost was asked if he knows the Kouachi brothers and he denied and said he only knows Amédée Coulibaly. Prevost was asked if he contested the allegations that he bought knives, tactical vests, and gas and responded negatively. He also admitted that he knew it was illegal when he bought them. He claims he didn't know those purchases would be used in a terror plot. Part of his deposition was read, and it seemed to match that claim. The deposition also asserted that he didn't know about Coulibaly's religious views.

Prevost went on a rant about growing up in a neighborhood with people of all different backgrounds. According to him, 80% of his neighborhood was Muslim but they never classified people based on their religious beliefs. The judge to the left of the President asked Prevost why he doesn't talk about the violence of the attack and he said it wasn't important. He then asked why Prevost doesn't note Coulibaly's "radicalization." Prevost asked what the judge wanted him to say. Did he want him just to say Coulibaly's stopped listening to music? Later Prevost mentioned how he met with Polat in a café and Polat took his phone. The judge read part of Prevost's deposition where he made a comment about music and religion. The judge asked if Prevost goes to a mosque and if Ramuel did.

Another lawyer asked how big Prevost's debt was and he said 13.000 €. She also mentioned his 2013 arms trafficking charge which Prevost said was unrelated. The lawyer next to her asked about a Kalashnikov and said that you don't need tactical vests, knives, and gas for a drug deal.

Prevost turned to the President to ask why he was being harassed by the prosecutor. Part of his deposition was read where he mentioned telling friends how he couldn't believe the news at first, thought it was fake, and the state was behind it. The prosecutor asked Prevost why he ends up in the same places as Coulibaly so frequently if he is so scared of him. The prosecutor alleged that Prevost's family knew about Coulibaly's beliefs and that there's no way Prevost didn't. She said she would present that evidence later. She then asked him the difference between a gilet and a gilet tactique. Things got heated and Prevost's attorney briefly counseled him.

Thorin Erb
October 5th, 2020

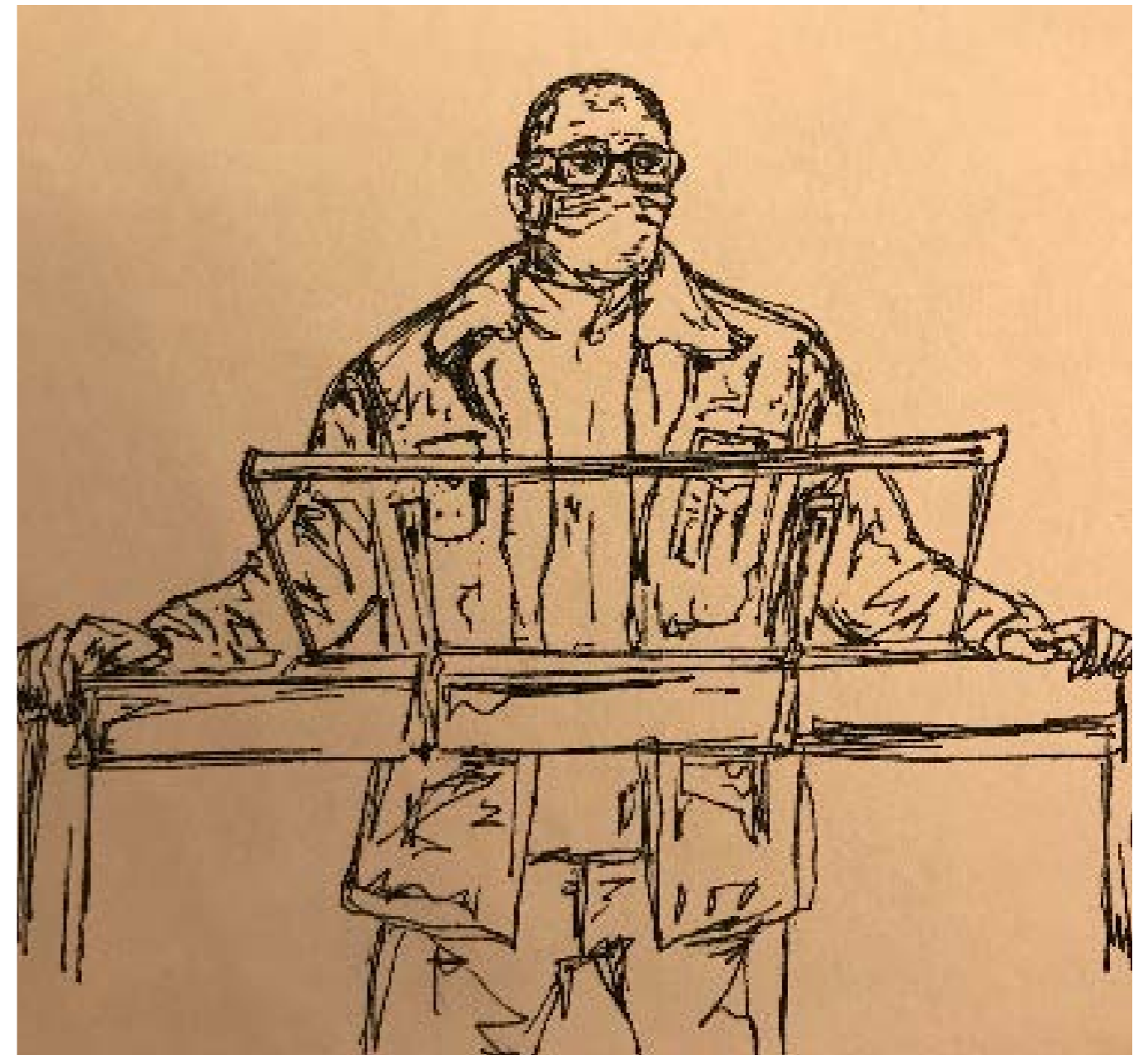
“The openness of the room draws your eye upwards, to the numerous floors and long light fixtures hanging in the middle of the imposing atrium. It feels as if you have stepped into an airport. People are either in a rush or sitting and waiting for something, and most have their heads down. No-one is making eye contact, and the only way to distinguish who is at the tribunal for what is by looking at what people are carrying...People awaiting trial or deposition are carrying white convocations, looking up at screens to determine which room they are supposed to be in and when. Their tension is palpable. Security and armed guards roam around, looking people up and down. Even though the building is illuminated, the light is static.

Seeing that Mr. Raugel does not pose a flight risk, he was allowed to live freely outside of prison since the attacks (with the exception of a short detention once arrested) and he is one of the people anyone could have been standing in line with, to enter the courtroom. Dressed in gold colored denim, a white turtleneck and a coordinating gold jacket with a shearling collar, he seems comfortable yet skeptical of the trial that awaits him. With his mouth covered by a mask it is hard to fully understand his body language, but his deep brown eyes behind his aviator inspired glasses read through as honest and sincere.

One of the two male judges leads the beginning of the questioning, and his tone is both level and patronizing. The goal for the interrogation is to understand Mr. Raugel's connection to Mr. Willy Prevost, the right hand man to Amedy Coulibaly, who shot police officer Clarissa Jean-Philippe and for hostages in a kosher supermarket in 2015. Mr. Raugel maintains that he never had any sort of connection to Mr. Coulibaly, and that he was simply in the same crowd as him due to his proximity to Mr. Prevost. Mr. Raugel grew up around Mr. Prevost, because his grandmother lived in the building next to Mr. Prevost's family. Distanced by an age gap while young, they were simply acquaintances. This changed in 2014, when they began to frequent the same centre commercial, where they began to spend their days together going for drives, smoking, going to restaurants and just walking around in each other's company... They ask repeatedly, 'Did you ever ask yourself where we are going? Or why?' Mr. Raugel explains to them time and time again, 'I was just an accessory, along for the ride. I did not ask myself these questions.'

After two hours, the judges and the prosecution seem finished yet unsatisfied with Mr. Raugel's answers. They agree to break for a recess, and Mr. Raugel looks around unsure of what his future and the trial holds.”

Sydney
October 6th, 2020



Christophe Raugel faces 10 years of imprisonment for participating in a criminal association.



Emmanuelle Corneau was the girlfriend of Amar Ramdani. She is a witness.

“On the wall, a piece of paper in neat, dark type points the way to the salle d’accès for the 2015 attacks, the Charlie Hebdo trial: it is the most understated of acknowledgements that a remarkable case is in progress.

I am an hour too early; the trial is on break until 14h. I look around me. Written on the wall: « La loi est l’expression de la volonté générale. Elle doit être la même pour tous, soit qu’elle protège, soit qu’elle punisse. » Art. 6. Déclaration des droits de l’homme et du citoyen de 1789. I wonder if this is true, in France or today.

A woman takes the stand. She wears narrow glasses and a tight skirt; her hair is pulled in a high ponytail and falls in dyed blonde ringlets down her back. She is extremely nervous and interrupts the questioners constantly, trying to justify herself, to assert her innocence. « Je suis là parce que je connais l’un des accusés, » she says; even this admission dragged painfully from her.

Her name is Madame Emmanuelle CORNEAU. The « spontaneous » portion of her testimony is stressed and stumbling; she tells a banal story of romance, an introduction by a mutual friend to a guy who was single and « quelqu’un qui pourrait rigoler. » She became involved in a long-term relationship with Amar RAMDANI.

At first, the line of questioning focuses on Emmanuelle herself. She was a gendarme who trained other military officers in weaponry. She was an officer from 2001 to 2015, decorated and noted for her satisfactory service. She tries to portray her private life as ordinary and uncomplicated, a mother of three who liked soirées and kebabs, but the line of questioning draws from statements in previous trials to focus on the fact that she converted to the Islamic religion, two years before she met Amar. Emmanuelle frequented a mosque, learned Arabic, went to cultural events at the mosque, and identified as a Sunni Muslim. She came from a loosely Catholic background but explained that an overload of work and a sense of depression pushed her to explore another system of belief.

There is a moment of tension as the presiding judge, Monsieur Régis de JORNA, asks her to give her definition of the word « jihad. » She laughs nervously and side-steps the question, responding instead that she has never been interested in jihad; as a woman, that doesn’t concern her. De Jorna brings up the record from Emmanuelle’s 2015 arrest, occurring shortly after Amar was taken in custody. At the time, Emmanuelle stated she was ready to move to the Maghreb or to a « civilized » Muslim country. Now, in the courtroom, the witness makes a jumbled, backtracking analogy, trying to equate the statement to wanting to move to England, which is as confusing as it sounds. Later, the prosecution will return to this point with a vengeance.

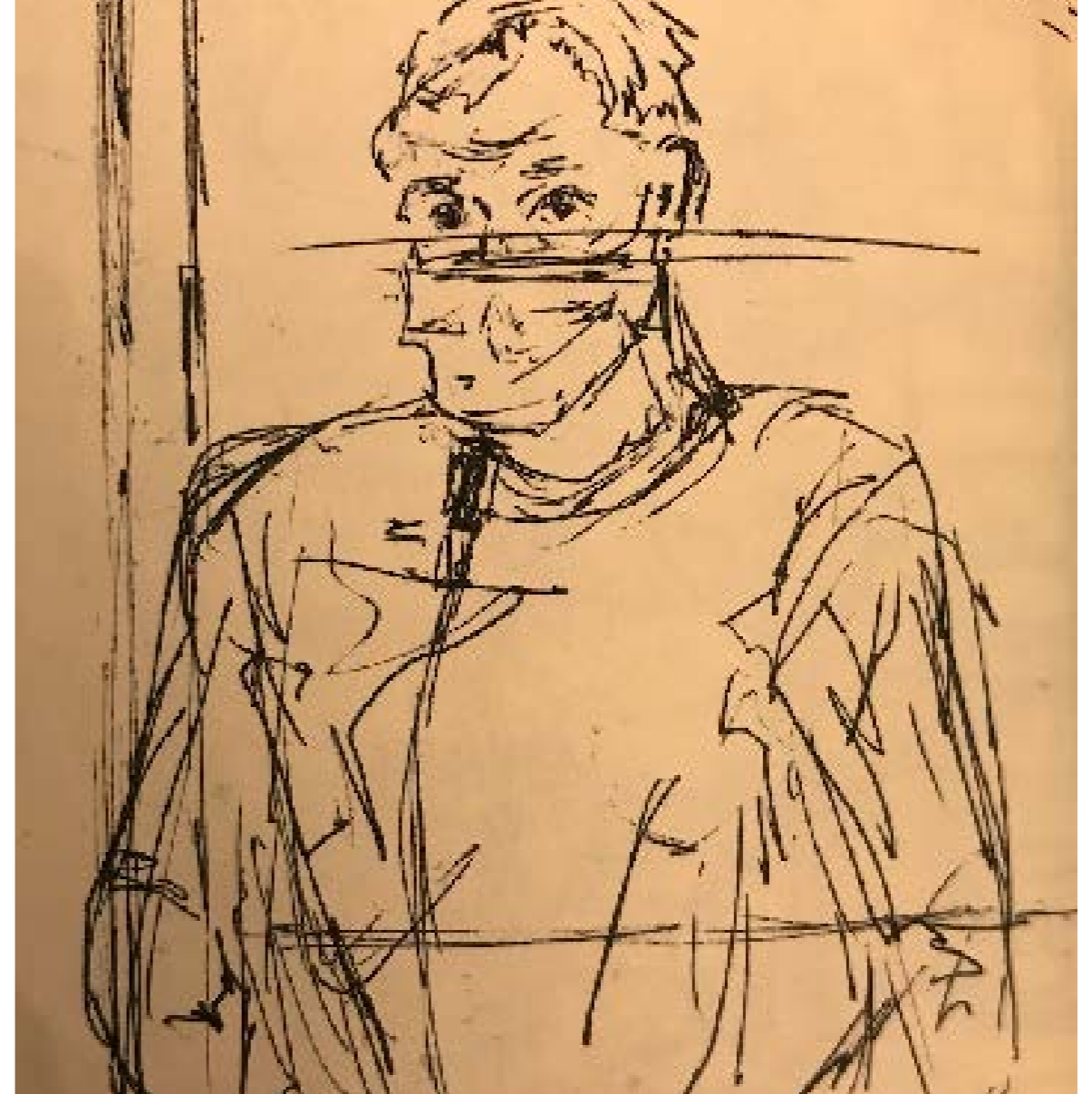
Emmanuelle maintains that she didn’t know about Amar’s criminal past when she first became involved with him... One thing she insists upon is how shaken and upset Amar was at the TV revelation that his friend Coulibaly was the confirmed attacker; she maintains that this deep emotional reaction proves Amar had no prior knowledge of the terrorist attack. The lawyers become frustrated and wry at times, turning her own words back on her; when she illegally hid a note in a shoe, a message sent to Amar in prison, her interlocutor remarks that « ce n’est pas très ‘gendarme en âme,’ » as she had previously characterized herself. Emmanuelle flusters easily; becomes defensive. « Excusez-moi d’avoir le cœur de femme ! »

After two hours, the lawyers have exhausted their questions and de Jorna announces a break; Emmanuelle leaves the box. I stand up with aching legs. Behind me, I hear a snatch of conversation, someone’s voice raised in defense: « Bah, elle était amoureuse. » Moi, je ne sais pas.”

Mary McColley
October 7th, 2020

“Eleven accused accomplices from the Charlie Hebdo attacks of 2015 sit in glass boxes in the courthouse, the Tribunal Judiciaire de Paris. The men are all being tried for their involvement in the attacks, from contributing money, vehicles, or weapons, to other logistical aspects of the terrorist attacks...Many remember when then President François Hollande stated, “I feared the society could tear itself apart, because that was the terrorists’ goal: divide the French, stigmatize Muslims, create the spirit of hatred that in the end is what motivates them,” but followed up by saying that they “failed” in this regard.

In the afternoon of Thursday, 8 October 2020, between 14h30 and 18h00, two witnesses testified before the panel of judges, dozens of lawyers, and the eleven accused. The first was Yoann V, childhood friend of Said Makhoulf... The second witness of Thursday afternoon was Jean-Pierre K. Mason. They met while in prison in 2000, where they were not housed together but participated in sports together. They were both Muslims, but they never went to prayer together. When Jean-Pierre saw the news of the attacks on TV, he was shocked and did not believe that it had been Coulibaly (whose nickname is famously ‘Dolly’). They were good friends but had never talked about religion, jihadism, or radical Islam. The last time they had seen each other was about 3 weeks before the attack. The judge and witness then went back and forth regarding the truthfulness of Jean-Pierre’s deposition, where there was some confusion about what was being said regarding the sale of a car, payment, and repayment of debt from drug sales. The judge would ask a leading question, and when the witness answered, the judge would consult the deposition to verify if it was in line with what was said during the police interrogation of 2015. * Many times, the judge would state, “that is not what you said in 2015, let me ask the question again.” Many of the witnesses would confess that they do not remember, or that they had made a mistake in the original interrogation. Jean-Pierre said that a particular moment with Dolly stands out to him, it was that the last time they had seen each other, when saying goodbye, Dolly gave an ‘au revoir’ that gave Jean-Pierre the feeling that it was a goodbye forever.”



Delaney
October 8th, 2020

Jean-Pierre K. Mason and Said Makhoulf were friends of the attackers.
There are both witnesses.



Mohammed-Amie Fares faces 20 years for supplying weapons to Amédy Coulibaly. He pled not guilty.

“At precisely 1.15 pm on October 14th, I walked into the Tribunal Judiciaire de Paris only to realize I had no idea where I should go next. Axel, my boyfriend, and I had been swept into the building by a crowd of well-dressed professionals who dispersed to fulfill their respective duties upon entering. We, on the other hand, wandered aimlessly through the building. With a hint of irony, we reflected how the grand building, with its sterile floor and contrasting teak walls stood as a symbol for the French judicial system: hard justice juxtaposed against healing.

On multiple occasions, we found ourselves in restricted rooms and hallways. On one such occasion, Axel walked straight into the hall reserved for “professionals” without realizing that several armed officers stood in his way. Kindly, and without any hint of French indecency, the intimidating men pointed us downstairs to the room reserved for the public. When I inquired how he could have missed the security checkpoint, Axel joked, all too seriously, that as a 6’3 white man, he simply felt that he belonged there.

When we finally found ourselves in the public auditorium, we were faced with Mohammed-Amine Fares’ detached face staring straight at our feet. Despite being from Lyon and accused of crimes against the city, he wore a Paris Saint-Germain sweatshirt. He is the only one out of 11 defendants on trial who plead not guilty. He is accused of offenses for which he faces 20 years of criminal imprisonment. First, he is accused of being associated with terrorists and supplying weapons to Amédy Coulibaly who belongs to ISIS. Second, he is thought to have possessed military-grade weapons. Lastly, he is accused of transporting weapons in connection with terrorist activity.

Fares’ barely spoke throughout his trial. Occasionally, he would look up and offer a defensive and short remark, but often he just reiterated what the lawyers said or stayed quiet. During our time there, two lawyers spoke to him. First, the prosecution asked him simple questions about his business, selling cocaine and heroin, and his connection to Amédy Coulibaly. Next, Safya Akorri passionately grilled him about his criminal record. She was incredibly harsh, loudly highlighting his incompetence and even calling him an idiot. At the time, we assumed she was a lawyer for one of the victims and an awe-inspiring one at that. However, in a surprise turn of events, we later learned that she represents him. After a lot of reflection, we still think she was very effective. Her goal was clearly to paint him as a typical criminal who is incompetent of doing much else.

Ms. Akorri has been one of the most vocal lawyers for the accused. In an interview she expressed: “I’m convinced that this trial is being held for media to help heal a very deep wound in French society,” she then went on to say, “This raises a concern of whether the legal system will show the rigor expected of it when it comes to issuing judgements and handing down sentences.” This stance contrasts her demeanor during the trial, where it looked as if she was contributing to the performance.

We left the trial after a specialist began to speak on Fares’ life. Leading up to this, there was quite a bit of confusion in the court as to what would come next. And then, once the specialist was projected into the courtroom, he was unintelligible over the sound of the construction outside his building. It surprised both Axel and me how unprofessional the court seemed then.”

Mikaela Aaland
October 14th, 2020

CONCLUSION

The opportunity to attend the Charlie Hebdo trial and to see the French justice process firsthand was a striking experience which left a forcible impression upon each of us. It was an opportunity to perform valuable ethnographic research and to witness a moment of national history unfold. Although students hailed from a variety of countries, living in Paris, we were all conscious of the particular import of this trial. It has a deep significance for the French people as well as for the prosecution of terrorism cases in the context of the global war on terror. The points and questions raised by the trial became even more salient in the context of actual events, as terrorist attacks once again struck France. A professor in the Yvelines, Samuel Paty, was decapitated for showing his class cartoons of Mohammed as a part of classroom lessons on freedom of speech, using the offensive drawings direct from the pens of Charlie Hebdo journalists. A knife attack led to a police chase outside of the former Charlie Hebdo offices in Paris, then a different knife attack in Nice left three dead, one woman virtually decapitated.

France is still grappling with terrorism, and its reaction is too often colored by islamophobia and divisive action, disguised under the garb of laicite. Macron's reactions --- closing down mosques, arresting two ten-year-olds for support of terrorism, etc. --- have led to boycotts of French goods in certain countries and evoke the complex distinctions under which the Charlie Hebdo defendants are currently prosecuted. At what point does an attenuated terrorist association or sympathy equal culpability? Does terrorism invite unlimited expansion of state power? What is terrorism? What is not?

While the Charlie Hebdo trials were on hold due to the Covid-19 pandemic, France marked yet another day of mourning: the five-year anniversary of the November 13th attacks. Outside the Bataclan, small candles burned in a red glow, flickering on the forms of heaped bouquet after bouquet, memorial flowers and ribbons. It is difficult to separate fear, anger, and grief from the judgment of accused terrorists. For a trial such as the Charlie Hebdo one, with such symbolic weight upon the proceedings, the testimony and defense are even more fraught. But whatever the specific sentences --- or acquittals --- may be for the accused, a reasonable justice must be our hope. For now, we wait.

Mary McColley

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