

Reparation for victims of terrorism

The French 2015 attacks

SUMMARY

- I. A SADLY EXTRAORDINARY TIME
- II. TOWARDS A REVISED PROCEDURAL FRAMEWORK
- III. BATTLEFIELD EVIDENCE
- IV. HELPING VICTIMS – A NEW ROLE FOR THE GOVERNMENT? A
NEW ROLE FOR LAWYERS?

I. 2015-2022: a sadly extraordinary time

Remembering

- Several attacks in a short period (Charlie, 13 Nov, Nice)
- A context where the surveillance / prosecution services were on alert
- Mass casualties that raised new questions on:
 - Procedural approach
 - Police intervention
 - Victim support

The 13 Nov trial

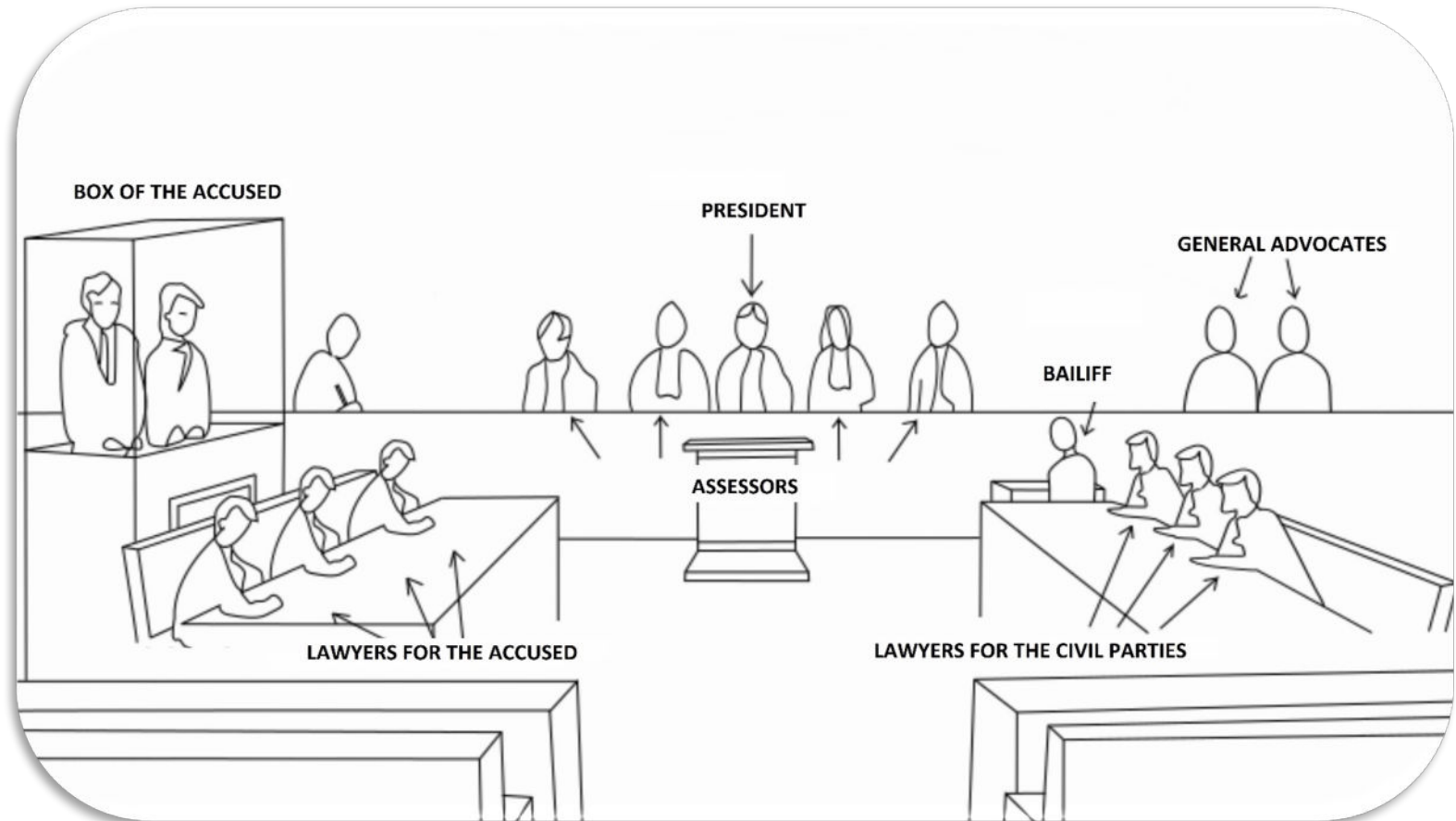
- A 9 months hearing
- A 5 years investigation
- 1768 victims
- 250 lawyers
- 542 files

The 13 Nov trial



II. Towards a revised procedural framework?

MAIN ACTORS



Fundamental differences between British and French Trial

- The investigations were dealt by specialized investigating magistrates. They had to decide whether / and on what grounds the persons who have been charged may be send to trial.
- Unlike the British system, when the Trial comes, the investigations are closed.
- The French criminal trial **pits the public prosecutor against the accused**, which is a fundamental difference from the trial as organized in the UK. In the latter, the opposition is from party to party. In France, the trial is between the public prosecutor and the accused. **It is not the parties' role to establish the guilt of the accused: this is the exclusive role of the public prosecutor.**
- In England, the victim is not considered a party to the trial, but a witness. The victim has no right to be informed of the progress of the trial and does not have the power to seek damages herself.
- This is not the case in France, where the **victim is a party** to the proceedings: he or she can request acts during the investigation, and during the trial his or her lawyer is active: he or she can question all the witnesses and defendants and plead for the victim.

- A specific order for questioning
- The partie civile: a French anomaly?
- Article 312 CPC and the order for questioning
- Towards shorter investigations? Impact statements? A US / UK oriented process?

III. Battlefield evidence?

The debate on battlefield evidence

- Operation Gallant Phoenix gathers evidence against jihadists. Intelligence services from up to 30 nations collected evidence against foreign fighters.
- The 2020 Eurojust Memorandum on Battlefield Evidence reports on the present possibilities and experiences of using battlefield evidence in criminal proceedings in the EU Member States and non-EU countries. This report was produced following a recommendation from the EU Counter-Terrorism Coordinator to update the first edition of the Eurojust Memorandum on Battlefield Evidence, which was published in June 2018.

IV. Helping victims – a new role for the government? A new role for lawyers?

OUR FIRM

J.P. Karsenty & Associés
6 place de la république Dominicaine
75017 Paris

T. +33 (0) 1 47 63 74 75
Fax. +33 (0) 1 46 22 33 27
cabinet@jpkarsenty.com