Reassembly of the Paris Bar Association - 25 November 2016

In praise of Philippe Lemaire

To Léa, Audrey and Simon for their very special support,

To Martin, Merabi, Clémence, Gabrielle, Louise, Michael, Karim, Nicolas, my classmates, for their support and their friendship.

To my father, Alexandre Luc-Walton,

To my son, Jean-François Morand.

“*There is only one valid kind of journey, the one you take as you walk towards your fellow men*”

Paul Nizan

“*Death attracts scavengers*”[[1]](#footnote-1).

Outside, in front of the gates of the *Palais de Justice* (the Paris Courthouse)

they are prowling.

Their angry passions excited by the smell of blood,

they call for the death of the murderer: “Criminal! cop killer!”

The walls of the Court of Assizes shake.

The General Prosecutor demands the death penalty.

Outside, they are still prowling.

In the courtroom, silence.

The lawyer is alone.

He draws his strength from the fear that grips him.

He rises.

Head high, broad hands on the rostrum,

Philippe Lemaire, addressing the Presiding Judge and the jurors, begins to plead.

“*Sir, ladies and gentlemen,*

*What do you know about his life?*

*You’ve seen him for a few hours, examined his case, but what do you know of him?*

*You have to imagine, if you condemn him to death, what this implies.*

*You will be there, Mr Prosecutor, I will be there too.*

*Ladies and gentlemen of the jury, you will be there too, but in thought;*

*You will enter the prison courtyard at 4 a.m.,*

*and there you will see installed the machine that you have only ever seen in history books.*

*You will see the executioner with his hat on his head and his aids with their unbearable faces.*

*You will walk silently, your legs giving way beneath you,*

*down the barely lit corridors that lead to the cell of the man who is going to be cut in two.*

*You will be there to hear the sharp sound of the lock on the door to the cell.*

*You will see the eyes enlarged by dread of the man you have condemned and who has understood that he is going to die because you wanted it.*

*Then you will go to the yard with me, you will pass the guards whose faces are the colour of earth.*

*You will then see the man you have condemned,*

*taken like a parcel,*

*feet trussed,*

*hands behind his back,*

*and then the scissor cut on the shirt,*

*and he will be taken to his death.*

*You will hear the sharp noise of the blade of the guillotine, a noise*

*that will forever ring in your head.*

*I beg you, please make sure that by your decision we don’t have to live through that together.*

*I entrust this man to you and I want you to give him back to me alive.*

\*

Saint-Maur Prison, twenty-three years later, it’s dusk: in front of the wide gates, a Mercedes is waiting. Who is the driver?

A lawyer: for him, it’s genetic.

A criminal lawyer: that’s a matter of sensitivity.

For some, the accomplice of his clients.

For others, a humanist.

Philippe Lemaire is waiting for Guy Hervé, the criminal, the cop killer.

To the question, is Guy Hervé guilty of murdering a representative of the law enforcement authorities? The Court of Assizes answered: yes. After deliberating, the Court sentenced Guy Hervé to life imprisonment.

His head was saved.

Twenty-three years later, he is free.

That evening, Philippe Lemaire has come to fetch him and take him to dinner.

The menu? They know it by heart.

For 23 years, Philippe Lemaire, to give him a little taste of freedom, kept repeating to Guy Hervé:

*“When you get out, I’m going to take you to dinner and we’ll have oysters and foie gras*”.

So, Guy Hervé meets Philippe Lemaire, his lawyer turned friend.

With smiling, round eyes, he passes his hand over his bald pate and raises his wide spectacles.

His voice is reassuring, his presence - luminous.

Elegantly, in his three-piece suit,

he hands him the keys of his old black Mercedes.

In an old restaurant in Saint-Maur: oysters, foie gras and ...

white wine.

**Guy Hervé is free. Freedom looks so simple, for us.**

But Philippe Lemaire remembers:

During all those years, when he came to the prison, he felt a kind of relief in his belly and he would say to himself:

*“How happy I am that this man is alive*”.

Can you imagine how happy Philippe Lemaire was that Guy Hervé had been returned to him alive?

Because Lemaire was a hurting lawyer.

Justice that kills? He had seen it at work. He was one of those who knows how distant, cold and final it can be.

“*Desperate songs are the most beautiful songs*.” [[2]](#footnote-2)

So, he pleads with the all the force that can be driven by despair, with the conviction of those who have seen:

“*the executioner’s aids washing the blood from the floor where it had spurted”* in the prison yard.

This original wound was Roger Bontems, condemned for complicity of murder, executed when he hadn’t killed, on 28 November 1972.

Defending a man at the end of the night.

For days, Lemaire had been saying to Bontems that he would not be executed. He was convinced that pardon would be granted. *There had been so many people, magistrates, lawyers, politicians, people who had a friend who knew that ... “for sure, Bontems, will be pardoned*.”

How can we imagine?

The phone rings. Robert Badinter tells him: “*It's for tomorrow*”. But Lemaire cannot believe it. Secretly, he begins once more to plead. He calls the General Prosecutor’s office, “*At what time will it be?* ”. “*As usual, sir, at 5 a.m*.” “*But for me it isn’t usual.”* The decision is taken, the inevitable is here.

Lemaire admits that he was gripped “by a *sense of total solitude*”. Here is what he has to say:

“*Impossible to sleep. I can’t imagine entering Roger Bontems’ cell and telling him that he was going to be executed. Will I have the strength, the courage, will I falter, maybe even faint, disgracing myself with my fear?*”.

If these words are wrapped in terrible doubt, it isn’t only because of the anguish of seeing a man taken to his death. Beyond everything else, what oppresses Lemaire is being no longer able to defend, being useless as a lawyer. This is what hurts him.

So, with one last show of resistance, Lemaire transcends the defence.

Tuesday. 4 a.m. it’s time. The General Prosecutor, Badinter and Lemaire are in front of the cell. The door opens. Bontems asks his lawyers, full of hope: “*So, is it ok, sir, for the pardon*?”.

Lemaire finds the strength, leads Bontems, holding him by the neck, down the prison corridors, protecting him, wrapping him right up to the guillotine, endlessly repeating:

"*you’re great, you’re good, you’re courageous”*.

He hugs him right down to the little room at the end of the corridor where Bontems writes his last words before dying.

Sitting at the table, without trembling, he writes to his parents:

“*My Dear Parents,*

*The big day has come, I beg you to no longer worry (...) it’ll just be a few seconds (...) goodbye, I love you with all my heart*.” [[3]](#footnote-3)

Then a cigarette – a glass of cognac, “*it's good*” – the confession in the ear of the priest – and still, like a reassuring refrain, Lemaire’s words:

"*you’re great, you’re good, you’re courageous"*.

He tells him of his days as a soldier in Algeria.

And a smile lightens Bontems’ face.

And, then, in a quarter of a second, Philippe Lemaire sees the man’s head roll into a wicker basket.

For Philippe Lemaire, freedom will not be so simple.

It will always have a taste of blood.

The blood of a man who did not have any on his hands.

Hands… well, yes, let me tell you about those hands.

No longer those of Bontemps but those of Philippe Lemaire.

The hands of a lawyer ....

The obvious thing to talk about would be his voice.

To tell you that each of his words had been meticulously chosen, that he hated confusion, brilliant but unconvincing sentences, well-polished words but which only slide over the courtroom floor.

He would sometimes hide in the back of courtroom, listening to fellow layers pleading, noting down the well-chosen words, putting aside the poor ones.

He so loved words, that he would perhaps be surprised that I should want to talk about his hands.

And yet, if Philippe Lemaire was a sense, it would the sense of touch.

Touching the skin that no-one dares to touch any longer.

Feeling the flesh of the man he knows will soon be locked up.

Holding the neck of the man soon to be executed.

Consider the hands of this lawyer who, to catch the one who has fallen to the very lowest point, rest on his shoulder like a last bond, full of humanity. He instils a secret tenderness, courage to help people defend themselves.

He knew well that “*what is most profound in man, is his skin*”[[4]](#footnote-4).

These same hands, broad and strong, on which Philippe Lemaire rests to plead.

One after the other, he lays them on the rostrum.

Attempting to overcome vertigo.

And carry his words, proclaiming:

“*We should never despair of a man, whoever he may be,*

*However abandoned, however alone, there will always remain in him the spark that we must learn to revive, maintain, and grow.”*

Remember those hands, the hands of lawyer made of flesh and bones.

One day, he goes to meet his client who has been locked up far too long, like a rat, in the High Security ward and is unable to speak.

Philippe Lemaire is in the visiting room, in front of him, and he does not give up; he speaks to him, his hands firmly resting on the wrist of the voiceless man, trying to catch him, trying to save him. Three hours, and at long last words are reborn.

Philippe Lemaire loves carrying and helping others, he feels the urgent and vital need to restore dignity to a man when he is – in his own words – “*crushed by a society that scorns humankind*”.

Do you think him too empathetic? The fact is that, in Philippe Lemaire, there is no separation between the man and the lawyer.

During the week, he repairs souls, at the office, in prison, at the courthouse. He shuns superficial socialising, too deadly. He only loves what is familiar: his inner circle, customary places.

On Sunday, you’ll seeing him wandering around the flea market in search of an old object that he may be able to repair. Lemaire, you see, is a handyman. He can lock himself away for hours at Larchant, patching up his country home. It's difficult to drag this bear out of his den. Impossible to get him to travel. His intimate partner, Emmanuelle Kneusé, must surely have been the love of his life for her to succeed in getting him to a beach of fine sand on the other side of the world! But even there, with a twinkle in his eye, *would come the insolent observation: “Well, we’d be just as happy back in* Larchant”.

The Harkis?[[5]](#footnote-5) In another life he had always tried to repair broken situations.

He can spend hours cobbling old things, just like he loves repairing souls.

So, come Monday, he’ll be back in the prison with its decrepit wall and stinking dirt, its deafening lock noises, where fleas, mice and men cross paths.

Philippe Lemaire was not destined to cross all this misery.

Be sure you don’t tell anyone, because it’s just between you and me, but if Philippe Lemaire was a character, he would be a grandee.

Let’s try and penetrate the mysteries of the man.

Grandson of lawyer. Son of the president of the bar association, Jean Lemaire - 12th secretary of the lawyers’ conference - member of the Bar Council - often driving a Jaguar - his robe covered with medals - always politely distant - with the authority of a real Gentleman, you’d be embarrassed to call him Philippe.

The fact is, Philippe Lemaire lived backlit. Destined to be a lawyer, his life was to be marked by disruption.

He was born not Philippe Lemaire, but Jean-Philippe Lemaire. He grew up in the Hotel des Ambassadeurs de Hollande, the most exquisite private mansion in Paris’s Marais district.

In the limelight, his father, the president of the bar association Jean Lemaire, a lawyer sometimes, his luxury car parked in front of the Palais de Justice, a white fox fur displayed across the back seat.

Luxury, opulence. But…

On 16 July 1942, Jean-Philippe was seven years old when his father took his children by the hand, took them to the window and said to them:

“*Look at what the French police are doing and never forget*.”

Never forget.

How is he then to understand his father’s curious job, appointed, along with Jacques Isorni, to defend Marshal Pétain, complicit in the persecutions?

Yet, at the Hôtel des Ambassadeurs, life is paced by banquets, and the socializing tends to snuff out words.

Words must be few, for fear of spreading yourself too thinly; speech must be distinguished, always. Gestures, elegant, first and foremost.

The young Jean-Philippe Lemaire is imbued with all this.

But outside the reach of those muffled words,

he is already driven by an extraordinary desire for living.

It was his brother Jean-Denis Bredin who would inherit the heavy family mantle of having to be number one, all the time.

As for Jean-Philippe Lemaire, he’s happy to be a bit in the shade, playing truant and preferring to daydream along the embankment of the Seine, spending hours chatting with the fishermen.

With them, it wasn’t like at home, their language is crude, their hands calloused and the wrinkles of their foreheads tell a story.

The child was a bit of a maverick.

Jean-Philippe Lemaire, without betraying the family calling, became a lawyer in November 1958. He began honing his skills with Isorni.

A first disruption: barely out of law school, he gets called up to serve in Algeria, he's just 23. He discovers the farm at Sébaïn: “*the laughter of the women, their songs, all the rooms were full of life, of activity, of mingled scents: cooking, spices, perfumes, flowers*.”

Here everything is heat and pleasure.

Second disruption: the hyphen must go from his double-barrelled name; back in his lawyer’s office he gets people to call him Philippe, Jean is forgotten, you need to learn to kill the father.

Philippe Lemaire would *later confess that he had to double his efforts to “make a first name* for himself”.

He would not be a prince’s lawyer but a people’s lawyer.

He wears out his robe on the stage of the criminal court.

After such a childhood, who would have thought that he would spend his life as a lawyer treading the steps of the courthouse.

You’re right, even he can laugh about it... Can you hear him?

Listen carefully, you’ll hear him, for sure...

That laughter resonated for forty-nine years in the corridors of the Palais de Justice.

So, let me tell you that...

If Philippe Lemaire was a sound, it would obviously be laughter.

Booming,

Contagious,

Luminous,

Ferocious,

Philippe Lemaire’s laughter.

It is the laughter of a generation of criminal lawyers who cultivated insolence and irony.

Imagine a Courthouse governed by upper class civil lawyers and, alongside them, a band of criminal lawyers, welded together by the Gaullist years. Together, they form a bulwark against personal power, special courts, the State Security Court, military tribunals... and the docile, dependent, servile magistrates.

This band of lawyers saw “*criminal defence as the work of a giant erecting barricades against authority*.”

Philippe Lemaire was one of those giants, a laugh always on the corner of his lips.

Laughter to undermine authority.

At 10 a.m., he gets to his office, rue de Rennes, he hates getting up early, he delights in working very late. His staff remember the twinkle in his eye, a touch of vanity in his voice: “*I was working until two in the morning, and what about you?*.”

A quick call to clients – clients reassured – read the files.

1 p.m. He gets to the Courthouse on a moped. At the Courthouse snack bar, the table with his criminal lawyer friends is waiting: Leclerc, Pelletier, Levy, they’re waiting for the cruel or tender anecdotes of Lemaire, the master story-teller, who can recount the life of his colleagues, liven up his case files, embellish his clients.

Together, they laugh at the bar. They laugh in the public lobby, they laugh during the hearings.

Putting things in their rightful place.

Laughing when justice becomes too comfortable. Laughing to remain standing in front of the judges without showing disrespect.

One day, behind the windows of the investigating chamber, Philippe Lemaire saw from the corridor that the General Prosecutor was taking part in the deliberations of his case. Opening the door with a flourish, he bellows: “*Seeing that the Court was deliberating in the presence of the General Prosecutor, I inferred that the Code of Criminal Procedure has been amended and that the defence can therefore also take part in the deliberations*. “

Another time, facing the presiding magistrate, a lady judge who, hiding a coffee pot behind her case file, was preparing for the hearing with her robe open and the fold on the side, Philippe Lemaire slowly unbuttoned his robe, shifted the fold and answered the questioning look of the magistrate saying: *“I’m doing like you, Madam President, I’m making myself comfortable*”.

Philippe Lemaire could laugh about everything. And specially about himself.

A staunch criminal lawyer, he accepted his contradictions and wore his medals with pride. On his robe he wore the medal of the Bar, the Legion of Honour, the penitentiary medal, and I don’t know what else.

He was proud of it, but knew how to laugh about it: a fellow lawyer whispers in his ear that his argument appears to have been effective,he answers *“not at all, they’re just wondering where I got all those medals* *from”*.

Laughter, above all, to cover fear. Because Philippe Lemaire was an anxious lawyer.

The fear of missing something. Lemaire dissects his files, like a surgeon analysing a body. Searching for the detail that can shed light on the case. He remembers his father’s words: “*never stop searching until you've found it.*”

And he finds it.

The fear of speaking. “*I’m going to collapse, I’m not going to find my words*.” He says that “*the best improvisation is the one that is well prepared*.” With his careful handwriting, he covers his case files with notes. Like a poet, Lemaire works at night, writing his arguments the day before; he rehearses it out loud, sometimes for five hours at a time.

It’s fine craftsmanship. He pleads standing tall, stretched towards the demonstration; his words are chosen, accurate, without posturing, without excess. The tone must be always just right. He cultivates the rhetoric of reason. Apparently cold, his language is nurtured with great warmth, driven by burning intent.

He knows his case by heart. And it’s when he pleads on behalf of a man, that he shines.

He pleads for traffickers, pimps, murderers, cannibals ... Then, for political party leaders, senior officials, Henri Emmanuelli, Louis Schweitzer, and even the magistrate Renaud Van Ruymbeke. Those were the days of the big cases: the eavesdropping at the Elysée palace, the infected blood, Airbus.

And to be sure not miss anything, in the wide margins of his case files he underlined the key ideas, with a red felt pen.

Let me tell you one last thing:

If Philippe Lemaire was a colour, it would be red.

The blood red of Roger Bontems, the birth of a commitment.

It’s the 1970s. Pink Floyd are singing the dark side of the moon, the Rolling Stones are sympathising with the devil. People are gathering all over the place, above the doors you can read:

“*There are even more unknowns than the unknown soldier, his wife*”.

“*Workers of the world, stroke yourselves*.”

On the lips of the young, you can read “emancipation”.

And it is in this France that a few people are gathering at night, in secret, under the black dais, to execute a man.

In the corridors of the Courthouse, colleagues challenge Lemaire: “*Lemaire, you’re crazy, if you remove the death penalty, there will be no more defence lawyers*”.

The abolitionists take the floor, they too are meeting. Lemaire, Vice-President of the association against the death penalty, visits the village halls in the provinces with Henri Leclerc. The subject elicits passionate reactions.

The most vehement among them send small coffins and insulting letters.

Artists are mobilising, Léo Ferré, Brassens, Georgie Vienney.

In the shadows, the judicial lottery is still under way: it cuts in two Christian Ranucci, but saves Patrick Henry.

So what is a life?

1980. Ten years of hard fought battles, and for Philippe Lemaire, the acrid taste of blood regurgitating in his throat. The Assizes condemn his client, Philippe Maurice, to death.

The application for the pardon of Philippe Maurice is still on the desk of the current President Valéry Giscard d’Estaing. If he is re-elected in May, he won’t abolish the death penalty. Philippe Maurice will have his neck severed. François Mitterrand is campaigning against the death penalty.

So what is a life?

It’s Sunday, the 10th of May 1981, I’ve put my eye to the little key hole in the door of Marie-Josée Simonnot’s home. Philippe Lemaire is there, at his sister’s, he’s holding his two children, Thomas and Stephan, by the shoulders. The television announces: *“In 38 seconds, we will know the name of the President of the Republic.”* The countdown begins. And then … François Mitterrand is elected President of the Republic.

Philippe Lemaire howls with joy.

In the office of the President, he goes to plead for pardon with Jean-Louis Pelletier. Mitterrand is unmoved.

“*Gentlemen, I thank you, you have done your duty, I will do mine*.”

Then the deliverance: “*Philippe Maurice is pardoned*.”

So, Lemaire, you’re crazy, you’ve just buried your business!

What do we have left?

You participated in the removal of the High Security Wards, you were standing against prisons which were structured only to keep their inmates, like you’d keep dogs.

In 1982, the isolation wards were abolished.

What do we have left, Sir?

He would have laughed at this question.

The work of the criminal defence lawyer does not cease with the battles won.

**There is always somewhere a dreadful silence, that crushes and destroys a man.**

In the 1980s, Philippe Lemaire aroused dismay when, addressing a commission, he stood up to say to the Chancery: “*It isn’t easy to say, nor is it easy to do, but prisons are a thing of the past.”*

Because we lack his courage, we could almost blush with embarrassment to write such a statement as things stand today, with a kind of prevailing decline of freedoms, driven by the atmosphere, the sound and the mood of the world.

Right up to his last breath, Philippe Lemaire’s place was in the courtroom.

2011: during the Colonna trial, he was there at the side of Mrs. Erignac, who he had been assisting for 12 years. That’s when he learns that he is seriously ill, and he laughs it away, to reduce the burden of the news for his family.

The only urgency is to defend the Erignac family. His friend, Yves Beaudelot succeeded him in the trial, but he remained omnipresent. Encouraging, helping, advising.

Right to the end, he defended and he laughed.

\*

I never met you, Sir.

I would loved to have been one of those who had the good fortune to call you Philippe.

I believe you were rather concerned about my generation.

Our laughter is muffled;

Our inmates are increasingly isolated;

Our prisons are expanding.

And the judges are little by little closing their door.

I have been repeatedly told that your generation was gone, as if to better highlight the limits of mine.

When we are overcome with lassitude, the breath of your laughter, Sir, glides over our ears, your hand rests on our shoulder.

And we remember that “*you should never despair*”.

1. Philippe Lemaire, « Comme d’habitude ». [↑](#footnote-ref-1)
2. Alfred de Musset, *Nuit d’octobre*. [↑](#footnote-ref-2)
3. Letter of Roger Bontems to his parents, 28 November 1972. [↑](#footnote-ref-3)
4. Paul Valery, *L'Idée fixe.* [↑](#footnote-ref-4)
5. Translator’s note: Harki is the name given to ethnic Algerians who fought alongside the French during the war of Algerian independence, and were treated as traitors by their fellow Algerians and scarce recognition when some were repatriated to safety in mainland France. [↑](#footnote-ref-5)