

Articoli

“TRAHIU-ME, MATEI-A!” – IL CASO ALMADA:
EVARISTO DE MORAES TRA OPINIONE
PUBBLICA E SPETTACOLARIZZAZIONE
DELLA GIURIA NEI DELITTI PASSIONALI
(RIO DE JANEIRO, 1901-1922)

“TRAHIU-ME, MATEI-A!” – *THE ALMADA CASE:*
EVARISTO DE MORAES BETWEEN PUBLIC OPINION AND JURY
SPECTACULARISATION IN CRIMES OF PASSION (RIO DE JANEIRO, 1901–1922)

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Abstract

The research investigates the spectacularisation of the Brazilian Jury Court as a defensive strategy in trials of “crimes of passion”, while also examining the role of the press in constructing the narrative. During the period under analysis, the crime of conjugal infidelity operated within a fragmented moral framework that punished adulterous men and women differently, embedded within a broader network of gender-based discriminations. Such cases reinforced heterosexual normativity, alongside penal normativity, through the imposition of rigid gender roles. In this context, “violent passion” was invoked by defence attorneys as an exculpatory element; far from restrained, they appealed to the emotions of jurors, spectacularising the scene of death. As a case study, the research focuses on the trial of Almada (1901) in Rio de Janeiro for the killing of his wife. The analysis moves between

Questo contributo è stato sottoposto a referaggio anonimo (doppio cieco)
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Evaristo Moraes's (1922) memoirs, reflecting on his role in the defence, and contemporary newspaper reports. This examination of sources aims to uncover the gendered dynamics embedded in the publicization and adjudication of such crimes.

Keywords: crimes of passion; adultery; jury spectacularisation; public opinion; criminal legal history.

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1. INTRODUCTION

The research investigates the spectacularisation of the Brazilian Jury Court as a defensive strategy during the trials of so-called “crimes of passion”, while also examining the role of the press in shaping the narrative of events and in constructing public opinion. Situated within the field of feminist legal history¹ and understanding gender as an essential analytical category to historical inquiry², the analysis of sources seeks to uncover gender-based discrimination and the possible stereotypes embedded in the publicization and adjudication of such crimes, often permeated by the argumentative framework that would later become known as “the legitimate defence of honour” thesis.

As a case study, the research draws on the account offered by Brazilian jurist Evaristo de Moraes regarding the trial of the homicide committed by the *alferes* Almada in 1901, in Rio de Janeiro, against his wife. The analysis moves between Moraes’s personal and descriptive recollections of his practice as a criminal *rábula*—recorded in his book *Reminiscências de um Rábula Criminalista* (1922)—, and contemporary newspaper reports on the case, preserved in the digital archive of the

¹ An autonomous field of inquiry aimed at incorporating women into legal history, M. Drakopoulou, *Feminist historiography of law: exposition and proposition*, in M. D. Dubber, C. Tomlins (org.), *Oxford Handbook of Legal History*, OUP, Oxford, 2018, p. 603–620. See also: A. Facchi, *A partire dall’eguaglianza. Un percorso nel pensiero femminista sul diritto*, in *About Gender*, 1 (1), 2012, p. 118–150; A. Simone, *L’approccio del «femminismo giuridico» come limite ed esperienza del diritto. Un’interpretazione*, in R. De Giorgi (org.), *Limiti del diritto. Prospettive di riflessioni e analisi*, Pensa Multimedia, Lecce, 2018, p. 272–283. With regard to women’s legal history, F. Batlan, *Engendering Legal History*, in *Law & Social Inquiry*, 30 (4), 2005, p. 823–851; T. A. Thomas-T. J. Boisseau, *Introduction: law, history and feminism*, in T. A. Thomas, T. J. Boisseau (org.), *Feminist Legal History*, NYU Press, 2011, p. 1–30; S. Vandenbogaerde, *Introduction. (Wo)Men in legal history: possibilities and challenges for gendered legal historical research*, in S. Vandenbogaerde et al. (org.), *(Wo)Men in Legal History*, Centre d’Histoire Judiciaire, Lille, 2016, p. 1–22.

² As notably theorised by J. W. Scott, *Gender: A Useful Category of Historical Analysis*, in *The American Historical Review*, 91 (5) 1986, p. 1053–1075. See also S. Salvatici, *Storia delle donne e storia di genere*, in *Contemporanea*, 13 (2) 2010, pp. 303–305. In Brazil, J. M. Pedro, *Traduzindo o debate: o uso da categoria gênero na pesquisa histórica*, in *História (São Paulo)*, 24, 2005, p. 77–98.

Brazilian National Library³. The temporal scope spans from 1900, the year the crime was committed, to 1922, when Moraes's book was published.

The approach therefore relies primarily on written sources produced by literate men, which reflect the masculine, patriarchal, and heteronormative worldview that shaped the storytelling of such crimes. It is nevertheless important to acknowledge, on the one hand, the existence of women who themselves committed “crimes of passion”⁴, and, on the other, women who wrote critically about these issues, denouncing the discriminatory structures embedded in criminal law⁵.

2. “CRIMES OF PASSION”: AN EPILOGUE TO FEMICIDE

To classify the Almada case as femicide would constitute a conceptual anachronism⁶. The term was incorporated into the Brazilian legal framework in 2015⁷; during the 19th century, the killing of women motivated by gendered dynamics fell

³ By selecting the period between 1900 and 1907 and using the keywords “alferes almada”, several results were identified, from which reports published in the newspapers *O Paiz*, *Jornal do Commercio*, *Gazeta de Notícias*, *A Imprensa*, and *A Notícia* were selected.

⁴ The crimes of passion were not limited to homicides committed by men against female partners. Furthermore, offences perpetrated by women involved different sexual, moral, and psychological dynamics, encompassing, in addition to the murder of husbands, crimes of infanticide and abortion. On this topic, see Mariza Corrêa's study on Campinas/SP during the decades 1952–1972: M. Corrêa, *Morte em família. Representações jurídicas de papéis sexuais*, Graal, Rio de Janeiro, 1983, in special p. 241 ss. For the time frame under analysis, see, regarding infanticide in the name of honour, A. P. Zappellini Sassi, *Infanticídio honoris causa e a dupla legalidade de gênero no Código Penal brasileiro de 1890*, in Nunes D. (org.), *Estudos em história do direito penal e da justiça criminal*, LAECC, Florianópolis, 2024, v. 2, p. 193–206. Concerning self-induced abortion, B. Madruga da Cunha, *A criminalização do autoaborto na Primeira República brasileira: uma análise a partir dos autos criminais do arquivo do Tribunal de Justiça de Santa Catarina (1890-1940)*, Universidade Federal de Santa Catarina (master's thesis), Florianópolis, 2020.

⁵ See the contrasts highlighted by Bruna Santiago Franchini concerning the double standard of sexual morality present in adultery offences under the 1830 and 1890 Codes, based on writings by male jurists and opinion pieces authored by women published in the press: B. Santiago Franchini, *Juristas letrados, críticas feministas e o continuum patriarcal do direito (Brasil, 1852-1932)*, in *Estudos em história do direito penal e da justiça criminal*, LAECC, Florianópolis, 2024, vol. 2, p. 153–192. Along similar lines, Susan K. Besse examined how women expressed their opinions in newspapers regarding the apparent rise of violent crimes committed by both men and women: S. K. Besse, *Crimes of passion: the campaign against wife killing in Brazil, 1910-1940*, in *Journal of Social History*, 22 (4), 1989, p. 653–666.

⁶ Its conceptualisation within the feminist theory is attributed to Diana Russel, who, in the 1990s, described it as “the misogynist killing of women by men”, Russell D. E. H., *Preface*, in Radford J.-Russell D. E. H. (eds.), *Femicide: The Politics of Woman Killing*, Twayne, New York, 1992, p. XI.

⁷ Femicide (*feminicídio*) in Brazil refers to the murder of women for “reasons related to their condition as female” and was formally incorporated into the criminal-legal framework in 2015 through Law No. 13,104 of 9 March 2015, as an aggravating circumstance of the crime of homicide. See C. Hein de Campos, *Feminicídio no Brasil. Uma análise crítico-feminista*, in *Sistema Penal & Violência*, v. 7, n. 1, p. 103-115.

within the category of ‘crimes of passion’—a concept that emphasized the emotion that allegedly drove the actor rather than the criminal act itself, or its fatal outcome. According to Susan K. Besse⁸, from the 1910s onward the country experienced growing social concern over “wife killings” and, propelled by the sensationalism cultivated by the press, such cases remained in the public spotlight at least until the late 1930s.

Under the 1890 *Código Penal*⁹, the killing of women by their partners was commonly justified through the figure of adultery, and the attention devoted by newspapers and jurists to such offenses increased exponentially. The crime of conjugal infidelity rested on a long-standing and fragmented moral framework that punished adulterous men and women differently, codified within a broader network of gender-based discriminations¹⁰.

The offense was regulated under Chapter IV of Title VIII, “Crimes against the security of honour and the honesty of families”¹¹. As a rule, article 279 provided that a wife who committed adultery would be punished with one to three years of cellular imprisonment. Paragraph 1 imposed the same penalty on the adulterous co-author, on the husband who kept and maintained a concubine, and on the concubine herself. Paragraph 2 restricted prosecution to husbands who had not consented to the adultery, and article 281 allowed the annulment of both accusation and conviction through forgiveness or reconciliation between the spouses. The *Código* thus established specific subjects as perpetrators and victims, grounded in heteronormative standards of conjugality, since heterosexual and monogamous marriage constituted the legal norm. The law was lenient towards husbands who engaged in

⁸ S. K. Besse, *Crimes of passion*, cit., p. 653.

⁹ Brazil, *Código Penal dos Estados Unidos do Brasil*, Decreto n. 847, de 11 de outubro de 1890.

¹⁰ The study is part of a series of investigations in which, drawing on Mario Sbriccoli’s theorisations on the *duplice livello di legalità penale* (M. Sbriccoli, *Caratteri originari e tratti permanenti del sistema penale italiano (1860-1990)*, in *Storia del diritto penale e della giustizia: scritti editi e inediti (1972-2007)*, Giuffrè Editore, Milano, 2009, vol. 1, pp. 596-597), I seek to analyse how gender distinctions permeated a wide range of criminal law subcategories. In previous research, I observed that, in the case of infanticide, the *Código Penal* granted a form of “bonification” to women who were considered honest prior to the fact. I termed this phenomenon the double legal standard of gender (*dupla legalidade de gênero*): A. P. Zappellini Sassi, *Infanticídio honoris causa*, cit. In the context of sexual offences, I found that criminal protection was embedded within an even more complex network of discrimination. The double legal standard of gender, in practice, was part of a chain composed of multiple levels of discrimination, both *intragender* and *intergender*. A. P. Zappellini Sassi, *La tutela dell’onestà femminile nella disciplina dei reati sessuali in Brasile tra modernizzazione e conservazione dell’ordine patriarcale (1890-1930)*, Università degli Studi di Milano (Thesis), Milan, 2025, p. 194.

¹¹ Brazil, *Código Penal*, cit.

occasional extramarital relations, sanctioning only cases in which the man maintained a more stable, parallel relationship with a second partner.

Finally, for purposes of convicting the adulterous co-respondent, that is, the man who committed adultery with a married woman, article 280 solely admitted, as proof, the *flagrante delicto* and written documents. The occurrence of *flagrante delicto* alone was insufficient to justify the homicide of the wife, and the violent action was frequently rationalized through legislative provisions interpreted to validate the author's reaction upon witnessing an act of infidelity. For instance, article 27 exempted from criminal responsibility those who found themselves in a "state of complete deprivation of senses and intelligence" during the fact. Additionally, article 32, §2 expanded the scope of self-defence beyond the protection of life to encompass "all rights that may be violated", and article 42 established mitigation of penalties when the crime was committed in retaliation for a grave insult (§2), in defence of oneself or one's rights (§3), or following provocation or aggression by the other party (§5).

These provisions paved the way for the consolidation, within the criminal system, of a defensive thesis that would be known as "legitimate defence of honour"¹². The men who perceived their honour as threatened by the discovery of a betrayal resorted to extreme violence, producing crimes rooted in feelings of hatred and repulsion towards the violation of specific gender roles associated with the ideal of the devoted and faithful wife. Such cases reaffirmed, through the imposition of rigid sexual roles, heterosexual normativity alongside penal normativity. In this context, "violent passion" was invoked as an exculpatory element by defence attorneys who, far from restrained, appealed to the emotions of jurors, spectacularizing the scene of death as a final act of love.

¹² The *Código Penal*, although establishing that emotion or passion did not exclude criminal liability (art. 24, I) and prescribing identical penalties for both the adulterous husband and wife (art. 240), recognised the influence of "violent emotion" after an "unjust act of the victim" as a mitigating circumstance (art. 48, IV, c). In addition, it disciplined a form of excessive self-defence, establishing that an agent who exceeded the limits of self-defence through culpable conduct would be liable if the act was punishable as a negligent crime (art. 21, sole paragraph), Brazil, *Código Penal*, Decreto n. 2.848, de 7 de dezembro de 1940. These provisions became central to the doctrine of legitimate defence of honour, which effectively reattributed intent in cases of crimes of passion, frequently resulting in acquittals before the jury. In that context, criminal law was conceived as a bastion of social order, and "attention shifted to demonstrating that the defendant was a morally upright and socially respected citizen, in contrast to the victim, whose moral character was highly questionable", S. K. Besse, *Crimes of passion*, cit. A similar dynamic to cases of sexual violence, marked by the phenomenon of secondary victimisation and the "honest woman" ideal. See A. P. Zappellini Sassi, *Virgin or not, and dishonest? The treatment of female victims of sexual violence within the Brazilian criminal justice system (1890-1930)*, in *About Gender*, 14 (28) 2026, p. 115–132.

2.1. Evaristo de Moraes and his “series on crimes of passion”

Reminiscências de um Rábula Criminalista (1922) was published when Evaristo de Moraes obtained his bachelor’s degree in law, as a tribute to the distinguished professional trajectory he had already established¹³. The collection of memoirs recounts the period during which he practiced as a criminal *rábula*, a legal representative without formal professional qualification, an uncommon yet lawful practice at the time¹⁴. The work opens with the author’s recollections of his first appearance before the Jury court in 1894 and proceeds with reflections on the dynamics of the criminal forum and the actors involved in it, as well as accounts of several cases in which he participated.

Moraes described the Almada case as the inaugural event of his “series on crimes of passion”. As the title suggests, he acted in numerous cases of this nature, which eventually gave rise to studies and publications. In a specific work on offenders driven by passion and emotion (*apaixonados* and *emotivos*), the author criticized the “uniformly repressive criterion” employed by the Brazilian *Código Penal* in addressing such offences and advocated for greater consideration of the motives that led the agent to commit the crime, as well as for an assessment of the defendant’s prior character, in the individualisation of criminal responsibility¹⁵.

Acknowledging that his perspective did not align with the codified principles and norms, he nonetheless declared acting within the bounds of legality: “whenever we defend before the jury [...], we have made strict application of the erroneous doctrine of the Penal Code, drawing from it its logical conclusions, for it is not per-

¹³ In fact, some chapters had already been published in the *Arquivo Vermelho* as noted by G. Siqueira, *Prefacio*, in E. Moraes, *Reminiscências de um rabula criminalista*, A grande livraria Leite Ribeiro, Rio de Janeiro, 1922, p. I, and by the author himself, E. Moraes, *Palavras de explicação*, in E. Moraes, *Reminiscências*, cit., p. VII–VIII.

¹⁴ Although Moraes, even without a law degree, was authorized to act as an attorney, women, despite holding law diplomas, were, in the same period, routinely barred from entering the Brazilian legal profession, a markedly male and elitist environment. In Brazil, the first enrolment of a woman in a law course occurred in 1889, as noted by M. Rago, *Os prazeres da noite: prostituição e códigos da sexualidade feminina em São Paulo (1890-1930)*, Paz & Terra, São Paulo, 2008, p. 81. The first woman to practise law as a defence attorney before the Rio de Janeiro jury court was Myrthes de Campos. In his book, Moraes recounted Campos and Maria Coelho’s struggle in the face of repeated prohibitions against their professional practice in Rio de Janeiro, praising their persistence. He also recalled having opposed both women in a jury trial, E. De Moraes, *Reminiscências*, cit., p. 122. Regarding the prior, see B. Santiago Franchini, *«Foi obra do homem na sua sabedoria infinita»: o Direito segundo Josephina Alves de Azevedo, Maria Lacerda de Moura e Myrthes de Campos (1888-1937)*, Universidade Federal de Santa Catarina (master’s thesis), Florianópolis, 2023, p. 176.

¹⁵ E. De Moraes, *Problemas de direito penal e de psicologia criminal*, Leite Ribeiro & Maurilio, Rio de Janeiro, 1920, p. 198-201.

mitted to us to induce the judges to decide against positive law”¹⁶. As will be seen, however, through emotive and eloquent rhetorics, the author was able, in practice, to operationalize his interpretative stance to secure the defendant’s acquittal.

3. THE CASE OF ALMADA AND THE SHAPING OF PUBLIC OPINION

The press plays a significant role in shaping public opinion, which, within the framework of the liberal state, operated as a de facto “constitutional power”; asserting, over the course of the 19th century, an “influence” within the courts of justice—particularly in jury trials which, while functioning as representatives of popular sentiment, simultaneously became privileged objects of criticism and social scrutiny¹⁷.

In Brazil, following the establishment of the press in the early 19th century, news began to circulate with increasing speed through printed periodicals. By the end of the century, newspaper outlets employed various strategies to capture public attention: among them, the dissemination of criminal news. When reporting crimes, newspapers in the city of Rio de Janeiro frequently adopted a novelistic narrative style, drawing the public into stories enveloped in mystery and astonishment. However, engagement with the broader public was part of a wider strategy aimed at increasing the number of readers and listeners to boost sales, while the press remained an elitist space that often stigmatized their behaviour¹⁸.

3.1. *The report of the crime*

Newspaper reports were unsigned; nevertheless, given their proximity to criminal cases, journalists occasionally appeared as witnesses in police and judicial proceed-

¹⁶ E. De Moraes, *Problemas de direito penal*, cit. Dear reader, please note that this and all other source citations have been translated from Brazilian Portuguese, with the aim to preserve the text’s fluidity.

¹⁷ L. Lacchè, «Non giudicate». *Antropologia della giustizia e figure dell’opinione pubblica tra Otto e Novecento*, in Altorilevi. Università degli Studi di Napoli Federico II. Seminario di Studi Storico-giuridici, Satura, Napoli, 2006, p. 16-33. For the Brazilian translation, L. Lacchè, *Não julgueis: antropologia da justiça e figuras da opinião pública entre os séculos XIX e XX*, Dialética, São Paulo, 2023. In Italy, regarding the connections between public opinion and the independence of lawyers, see R. Bianchi Riva, *The Legal Profession, Politics and Public Opinion: Some Reflections on the Independence of Lawyers and the Rule of Law in Modern Italy*, in *Giornale di storia costituzionale / Journal of constitutional history*, 44 / II, 2022, p. 63-79.

¹⁸ T. Torres Medeiros da Silva, *O noticiário criminal e os repórteres policiais dos jornais da cidade do Rio de Janeiro no início do século XX*, in *Intellectus*, XVII (2), 2018, p. 113-126.

ings. Thiago Torres Medeiros da Silva¹⁹ identified that the reporter for *O Paiz*, Jarbas de Aymorés de Carvalho, served as a witness in the homicide case analysed here. On the street where the events occurred stood the 14th police precinct of Rio de Janeiro, which Carvalho had visited to speak with the police commissioner—likely in search of information about another criminal matter. He learned that the commissioner had been called to a crime scene and went there himself, finding the victim’s body inside the house. Acting in a police fashion, he questioned Almada about the authorship of the crime, which the latter confessed. At the precinct, he witnessed the suspect’s formal admission of guilt.

The events were reported in March 1901. According to *O Paiz*, J. B. P. de Almada was an *alferes*²⁰ in the First Cavalry Regiment of the Army and had received an honorific distinction for his service in the Canudos War. He was married to J. C. M. S.²¹, a woman from a prominent *carioca* family²². The couple had two young children and, according to the press, had recently begun to experience marital discord. The press account of the alleged offence, classified as a crime of passion, was accompanied by a detailed narrative of the couple’s domestic dynamics. It was asserted that the husband had, for several months, harboured suspicions regarding his wife’s fidelity; on 12 February, following “continuous quarrels and struggles”, she had left the marital home. More than fifteen days later, a brother-in-law allegedly informed Almada of her whereabouts²³.

*Gazeta de Notícias*²⁴ reported the events leading up to the crime:

For seven years of marriage, the sincerest joy reigned in that home. Two months ago, however, slight suspicions began to disturb the peace that had prevailed until then. Thus, on the 12th of last month, when *alferes* Almada arrived at his residence on Rua do Malloso no. 14, he found the house abandoned, for his wife had left with their two children, and despite all inquiries he could not discover the whereabouts of the unfaithful [woman]. On the 3rd of the current [month], he learned from Sa’nt Clair Padua that his wife was hiding

¹⁹ T. Torres Medeiros da Silva, *O noticiário criminal*, cit., p. 117-120.

²⁰ Rank equivalent to second lieutenant.

²¹ Although the events were part of the public record, the names of the parts and testimonies that have not yet become notorious have been abbreviated.

²² *O Paiz*, *Othelo*, January 10th, 1900, year XVI, n. 5633, p. 2.

²³ *O Paiz*, *Othelo*, cit.

²⁴ *Gazeta de Notícias*, *Scena de Sangue*, March 10th, 1900, year XXI, n. 69, p. 1.

in a shack on Dias da Cruz Street; there went the *alferes* Almada, making the unfaithful wife come back home, and after many promises of repentance and reform, all was at peace.

Employing a vocabulary characteristic of criminal accusation, the press initiated a process of shifting culpability onto the victim, portraying her as the perpetrator of prior adulteries and holding her responsible for disrupting the domestic order. It described the husband's discovery of the "whereabouts of the unfaithful woman", whom he dragged back home, where the once "fugitive" allegedly begged for forgiveness and promised to amend her behaviour. *A Imprensa*²⁵ followed a similar narrative, claiming that a "criminal thought" had led her to abandon a happy home, for her "weak spirit" had been seduced by a younger "lad". While she reportedly complained of her husband's jealousy, "she made herself an adulteress, he a murderer".

The wife's alleged promise to change did not endure, for on 9 March she left the home once again. At this point, a third figure entered the scene. The couple's domestic worker, B. T. A, upon realizing that her employer had supposedly abandoned the home, left the children with a neighbour and went to inform the husband²⁶. Initially described as an accomplice, the worker claimed not to know the woman's whereabouts; however, after being threatened and inflicted "a slight knife wound" by Almada, she led him to the lodging where his wife was staying, and he brought her back home²⁷.

J. C. M. S.'s body would leave the house only in death.

Upon returning to the marital home, the husband ordered the worker to fetch the children from the neighbour's house and, during that interval, allegedly killed the wife with a knife. *O Paiz*²⁸ reported that when B. T. A. returned, she heard a scream and found her female employer lifeless on the floor, with a wound over her heart: "the *alferes* standing calmly at her side, still held a thin pointed knife, stained with blood". According to Moraes²⁹, the killing followed the wife's confession of adultery. *A Imprensa*³⁰ reported that she had admitted having a lover with whom she wished to live. Upon hearing that, Almada ran to the dining room, seized a knife,

²⁵ A imprensa, *Tragedia. Train-me? Matei-a!*, March 10th, 1900, year II, n. 519, p. 2.

²⁶ O Paiz, *Othelo*, cit.

²⁷ A imprensa, *Tragedia*, cit.

²⁸ O Paiz, *Othelo*, cit.

²⁹ E. De Moraes, *Reminiscencias*, cit., p. 179-180.

³⁰ A imprensa, *Tragedia*, cit.

and struck her in the heart. Turning himself in, he confessed: “*trabiu-me, matei-a!*” (“[she] betrayed me, [I] killed her!”).

The version of events narrated by the perpetrator was entirely unilateral: in the absence of eyewitnesses, the murdered woman’s alleged confession of adultery could not be verified.

The police report, prepared by commissioner Estevão de Rezende and published in the *Jornal do Commercio*³¹, concluded that the suspect had violated article 294, §1 of the *Código Penal*. Going beyond factual determination, and applying a negative moral judgment³², the commissioner condemned adultery-based homicide as a “pernicious” custom among “civilized” peoples which, glorified by “public applause” and often left unpunished, had driven the suspect through an “imitative impulse”. The testimonies collected cast doubt on the victim’s conduct and reputation, yet none categorically affirmed the existence of adultery either prior to or contemporaneous with the crime. In fact, they indicated that the victim had been mistreated by her husband and, for that, had left home. While concluding that the suspect was guilty, the commissioner characterized adultery-based homicide as an outdated legal category, typical of “primitive” societies that regarded the wife as her husband’s property: “doesn’t proceed, therefore, under any aspect, the exculpation of those who kill ‘to save their honour,’ as though honour, to be restored and made unpolluted, required bathing itself in the blood of a defenceless woman”³³.

Not all police officers, however, shared this view. Moraes³⁴ recounted that the suspect, held in a military barracks on Rua Figueira de Mello, was “surrounded by the sympathy of his companions and the discreet protection of the commander”, likely owing to his status as an army officer. The police had even offered to cover the costs of his defence.

The publication in the press of the police report suggests, as Medeiros da Silva³⁵ argued, a close relationship between journalists and police officials. Moreover, other professionals involved in the investigation also appear to have granted the press

³¹ *Jornal do Commercio, Parte Judiciária*, June 12th, 1902, year 81, n. 162, p. 8.

³² Police inquiries were usually submitted to the judiciary with a final report by the commissioner, who incorporated the facts and extracted from them his own version, thereby providing, in some extent, a personal interpretation of the events, M. Corrêa, *Morte em família*, cit., p. 35.

³³ *Jornal do Commercio, Parte Judiciária*, cit.

³⁴ E. De Moraes, *Reminiscências*, cit., p. 180.

³⁵ T. Torres Medeiros da Silva, *O noticiário criminal*, cit.

privileged access. A journalist from *A Notícia*³⁶ gained entry to the morgue and described the victim's body in detail, concluding: "despite the clotted blood staining her face, despite the complete disarray of her hair, her countenance, little altered, is still pleasant".

Even after death, gender norms continued to assert themselves.

3.2. *The trial: a spectacularisation of the jury?*

During the time in which the 1890 *Código Penal* remained in force, criminal procedure in Brazil was decentralized, having each Federal State the authority to organise its own norms³⁷. Initially grounded in the 1832 *Código de Processo Criminal*³⁸, the federative units adopted ordinary laws that modified procedural rules, and from 1910 onward they began to undertake codification processes based on the "model code" drafted by the Federal District³⁹.

At the time of the events, the 1894 Consolidation⁴⁰ was in force in Rio de Janeiro. Continuing the imperial tradition, it maintained the broad jurisdiction of the jury court⁴¹. The institution was composed of forty-eight jurors, twelve of whom formed the trial council⁴². As a rule, jurors were required to be literate male citizens over twenty-one years of age and in full possession of their political rights⁴³. Women were excluded from this conception, with the first female jurors in Rio de Janeiro

³⁶ A notícia, *Scena de sangue*, March 10th and 11th, 1900, year VII, n. 59, p. 2.

³⁷ As established by article 34, No. 23 of the *Constituição da República dos Estados Unidos do Brasil*, 1891. Criminal procedure was once again centralised with the enactment of the 1941 *Código de Processo Penal*, A. L. Sabadell, *Los Problemas del derecho procesal penal único en una federación: la experiencia de Brasil*, in Instituto Nacional de Ciencias Penales, Max-Planck Institut fuer Auslaendisches und Internationales Strafrecht (org.), *Hacia la Unificación del Derecho Penal. Logros y desafíos de armonización y homologación en México y en el Mundo*, Instituto Nacional de Ciencias Penales, Distrito Federal, 2006, v. 1, p. 585–615.

³⁸ The Code had already been reconsolidated following reform processes in 1841 and 1871, D. Nunes, *Codificação, recodificação, descodificação? Uma história das dimensões jurídicas da justiça no Brasil imperial a partir do Código de Processo Criminal de 1832*, in *Revista da Faculdade de Direito da UFMG*, 74, 2019, p. 135–166.

³⁹ R. J. Nodari, *Uma "clamorosa e perigosa «desintegração» do direito nacional? Ordem, liberdades e a questão da diversidade legislativa no processo penal brasileiro (1889-1930)*, Dialética, Belo Horizonte, 2023, p. 104–139.

⁴⁰ M. Da Gama Coelho, *Consolidação das leis do processo criminal do estado do Rio de Janeiro*, Typographia Guimarães, Rio de Janeiro, 1853.

⁴¹ The jury court, convened and presided over by a judge of law (art. 32, I), was competent to adjudicate ordinary criminal offences and cases of bankruptcy (arts. 28, d, and 35).

⁴² Arts. 353 and 354.

⁴³ Art. 362, a), b), c).

serving only in 1933⁴⁴. Also excluded were, among others, those deemed “notoriously lacking in good sense, integrity, and good morals”, as well as those without “means of decent subsistence”⁴⁵. Consequently, the prevalence of a community-based model of adjudication⁴⁶ did not translate the justice system being genuinely democratic or accessible to the broader public⁴⁷.

As Luigi Lacchè⁴⁸ observes, in Europe, by the late 19th century, the increasing public visibility of courtroom debates paved the way for the emergence of the “penalist lawyer” as a distinct figure: an orator but also an actor, who contributed to the development of the *processo celebre*. With the support of the press, this publicisation likewise fostered a form of *giustizia-spettacolo*⁴⁹, marked by the theatricalisation of judicial proceedings.

Evaristo de Moraes was, without doubt, a captivating orator, and the Almada trial was, indeed, reported by *O Paiz*⁵⁰ as a celebrated trial. The proceedings took place on 11 June 1901, during the fifth ordinary session of the Rio de Janeiro jury court, presided over by judge Gama e Souza. The prosecution was led by public prosecutor Jayme de Miranda, but it was the presence of two renowned attorneys, Carlos Arthur Busch Varella for the private prosecution and Evaristo de Moraes for the defence, that drew the attention of the press.

Recalling the trial, Moraes⁵¹ noted that, faced with such “terrible adversaries,” he had prepared himself for “a tremendous struggle”.

⁴⁴ Beatriz Sophia Mineiro e Julieta Capanema, as analysed by P. Buogo, *O recurso de apelação obrigatório às decisões absolutórias proferidas pelo Tribunal do Júri no estado de Santa Catarina durante a Primeira República e o início do Estado Novo (1889-1938)*, Universidade Federal de Santa Catarina (master’s thesis), Florianópolis, 2025, pp. 157-158.

⁴⁵ Art. 362, sole paragraph, a) and e).

⁴⁶ R. J. Nodari, *Uma “clamorosa e perigosa desintegração”*, cit., p. 200.

⁴⁷ In Rio de Janeiro, as also verified in the state of Santa Catarina, the jury exhibited a highly specific demographic profile, operating as a justice institution of and for the *galantuomini*, a Justice primarily founded on the protection of the abstract, honest, and respectable bourgeois male citizen, as conceptualized by L. LACCHÈ, *Introduzione*, in *La giustizia per i galantuomini. Ordine e libertà nell’Italia liberale: il dibattito sul carcere preventivo (1865-1913)*, Giuffrè, Milano, 1990, p. 3-4. See A. P. Zappellini Sassi, *La tutela dell’onestàfemminile*, cit., cap. III. See also D. Nunes-B. Madruga Da Cunha-M. Costa, *O Processo Penal no estado de Santa Catarina entre Primeira República e Era Vargas*, in *Revista Brasileira de Direito Processual Penal*, 7 (2), 2021, p. 1102-1103; P. Buogo, *O recurso de apelação*, cit., p. 122.

⁴⁸ L. Lacchè, *«Non giudicate»*, cit., p. 32. See also L. Lacchè, *Justiça criminal e opinião pública na Itália entre os séculos XIX e XX*, in *Rev. Bras. de Direito Processual Penal*, 7 (2), 2021, p. 801-826.

⁴⁹ L. Lacchè, *«Non giudicate»*, cit.

⁵⁰ *O Paiz*, *Processo Celebre. Absolvição unânime*, June 12th, 1901, year XVII, n. 6091, p. 1.

⁵¹ E. De Moraes, *Reminiscências*, cit., p. 180.

Almada had been charged with aggravated homicide⁵² and Varella⁵³ described the case as a “monstrous outrage,” committed “coldly and deliberately”. He argued that the young woman had sought refuge in the home of relatives “of irreproachable honesty” to escape her husband’s mistreatment. Thus, there was no evidence of conjugal infidelity, and the claim of “affront to honour” was illegitimate: by imputing false adultery to her, the accused had also committed the crime of calumny. Considering “all the resources of advocacy that I might lawfully employ to prevail” as justified, Moraes⁵⁴ sought to portray Almada in a heroic light, emphasising his bravery in a bloody war. *O Paiz*⁵⁵ reported the scene:

Mr. Evaristo de Moraes began by highlighting the contrast between the accused who wept and the *alferes* who departed for Canudos. There, continued the orator, is the man who did not fear the bullets of the *jagunços*, yet fears the injustice of his fellow [citizens]. And then, the contrast seemed even more striking to the orator when he compared the two situations of the poor mother of the accused. At that time, when he left for Canudos, she embraced him knowing he was going in search of glory, for he was brave, valiant, a hero. Now, she does not know which path he will follow, justice or iniquity.

Citing the opinions of physicians and jurists, the *rábula* argued for the defendant’s acquittal, while seeking to sway the jurors by emphasizing the mother’s anguish and invoking the plight of the couple’s children: “deceased the disgraced lady who had been the defendant’s wife, he is left with two children in his arms. The jury cannot restore the deceased [lady], and by imprisoning the defendant it will deprive those poor little beings of their only support”⁵⁶.

Ultimately, Moraes’s⁵⁷ masterstroke was the study of an uxoricidal case in which Varella himself had served as defence counsel thirty years earlier. From the proceedings, he selected “the most incisive [quotations], those in which the eloquent advocate explained the defendant’s conduct, describing the irresistible force of passion”.

⁵² Article 294, §1º, *Código Penal*.

⁵³ O Paiz, *Processo Celebre*, cit.

⁵⁴ E. De Moraes, *Reminiscencias*, cit., p. 180.

⁵⁵ O paiz, *Processo Celebre*, cit.

⁵⁶ E. De Moraes, *Reminiscencias*, cit., p. 180.

⁵⁷ E. De Moraes, *Reminiscencias*, cit., p. 181.

By theatrically reading these passages, he turned the prosecutor’s own words against him, producing a powerful demoralizing effect before the jury. From that point onward, as he recalled, “the case was won”.

4. CONCLUDING REMARKS: MORAES’ TRIUMPH AND THE ENDURING LEGACY OF CRIMES OF PASSION

The defendant was acquitted unanimously, the jury recognizing that he had committed the act in a state of complete deprivation of senses⁵⁸.

Evaristo de Moraes acknowledged adhering to a distinct doctrinal framework from that established in the Brazilian Code. Although he maintained that he did not transgress legal boundaries within the jury trial, he relied on strategies of emotional appeal and courtroom spectacle designed to secure juror acquittal. Given that the jury body was composed of a highly circumscribed demographic, any appeal to emotion or empathy necessarily operated within the normative expectations of dominant gender roles. Thus, it was not systematically incoherent that the man who, driven by uncontrollable passion, claimed to defend his honour against the alleged transgressions of an adulterous wife, was acquitted by his peers as though he were a victim of the circumstances.

*O Paiz*⁵⁹ reported the emotional reunion of the *alferes* with his mother and children. Yet not all the press was moved by the spectacle. According to Moraes⁶⁰, the acquittal’s unanimity was poorly received, since the news outlets launched “campaigns of discredit” whenever the jury favoured defendants in crimes of passion. Particularly, he cited the critique published in *A Notícia*, allegedly written by jurist Virgílio de Sá Pereira under the pseudonym Meirinho⁶¹.

The article condemned as odious the acquittal of “brave slayers of women” who, injured not in their honour but in their sense of property, were absolved through the “pathetic rhetoric” of their defenders. Meirinho⁶² directly criticized Moraes’s performance:

⁵⁸ *Jornal do Commercio, Parte Judiciaria*, cit.

⁵⁹ *O Paiz, Processo Celebre*, cit.

⁶⁰ E. De Moraes, *Reminiscencias*, cit., p. 182.

⁶¹ Term that in the Portuguese-speaking tradition designated a court officer functioning as an assistant to the judge.

⁶² A notícia (Meirinho), *Foi julgado o alferes Almada. Absolvido unanimemente*, in *Semana Judiciaria*, June 19th, 1901, year VII, n. 144, p. 3.

In the mouth of an advocate such as Mr. Evaristo de Moraes, the defence in such cases emerges skilfully. [...] If the defendant is a soldier, they make him a hero. [...] Then a charge of legal cavalry falls noisily upon the indictment—in-
ept, incongruent, contradictory. The banner of deprivation of senses covers this moral contraband. Italian authors are cited above all. The lawyer then takes the pulse of the jurors, and if they still resist, he returns to the pathetic, pleading with sobbing tears in his voice. He points to a corner of the room, addresses a venerable lady veiled in mourning and tears, showing all the faint figure in whom an irreparable sorrow prospers funereally. It is the defendant's mother [...]. Ladies in the gallery weep, some jurors have moist eyes and conceal their emotion. [...] The acquittal is fatal⁶³.

Evaristo de Moraes had achieved notoriety as a criminal *rábula*, and, as it happens, his work on crimes of passion—as well as the jury as an institution itself—elicited ambivalent reactions not only from the press but also from other jurists. In the preface to Moraes's memoirs, Galdino Siqueira⁶⁴, a prominent public prosecutor, praised his eloquence and skill before the jury:

A consummate orator. With that ability to adapt himself to the audience, with prompt conception, easy, fluent diction, a voice that hovers dominantly, with those shifts in tone harmonious with the subject, imperturbable regardless of interruptions, to which he immediately responded, decisively, sometimes ironic, sometimes imperative, sometimes tender, taking advantage of every circumstance that might benefit his client, drawn from the case file or from the moment, he soon held the audience captive to his eloquent speech.

Despite Moraes's expressiveness and creativity, his defence strategies in crimes of passion were not immune to criticism. In 1925, with the creation of the Brazilian Council of Social Hygiene, a group of public prosecutors in Rio de Janeiro began to

⁶³ A notícia (Meirinho), *Foi julgado o alferes Almada*, cit.

⁶⁴ G. Siqueira, *Prefácio*, cit., p. IV. Siqueira, a public prosecutor and professor in Rio de Janeiro, gained prominence in the years following the draft Penal Code he proposed in 1913 which, although it did not proceed in Parliament, brought him recognition. On the subject, see R. Sontag, *Para uma história de gavetas: o projeto de Código Penal brasileiro de Galdino Siqueira (1913)*, in *Italian Review of Legal History*, 11, 2025, p. 331–371.

act “against the benevolence” with which such offenders, *criminosos passionais*, were treated and to investigate their “true” motivations⁶⁵. Indeed, the public prosecutor Roberto Lyra⁶⁶, in the preface to the Brazilian translation of Enrico Ferri’s *O delicto passionnal na civilização contemporânea* (1934), criticized the “vulgarisation of criminal law” fostered by the the jury system, where skilful lawyers could manipulate the “general conscience” to secure the acquittal of homicidal defendants.

Whereas Moraes⁶⁷ adhered to the so-called “pathological theory”, which identified intense passion with madness and, under certain conditions, admitted it as a ground for excluding criminal responsibility, Lyra⁶⁸ argued that passion and madness should not be conflated. He criticized the adjudication of such crimes by jury courts, which, in his view, effectively legitimized the right to kill. According to Lyra, although the dominant Brazilian doctrine, aligned with foreign theories, did not recognise passion as an autonomous ground for exculpation, some lawyers, “*habitués*” of the jury, among them Evaristo de Moraes, continued to defend this thesis before popular courts, succeeding by virtue of their eloquence.

Nonetheless, the punitivist campaign against wife-killers did not aim to challenge gender hierarchies or critique the prevailing configurations of the family institution, since these authors were far from endorsing female independence: Roberto Lyra, in fact, was emphatic in proclaiming the inferiority of women⁶⁹. It was only at the end of the 1970s that this issue was taken up from a feminist perspective, in protests led by women in response to the public outcry over the widely publicized murder of Ângela Diniz by Doca Street. Under the slogan *quem ama, não mata* (those who love, do not kill) women took the streets denouncing intimate partner violence and demanding justice and dignity⁷⁰.

Still, despite decades of legislative reforms, the thesis of legitimate defence of honour maintained a long-standing presence within the Brazilian criminal justice

⁶⁵ The public prosecutors Roberto Lyra, Carlos Sussekund de Mendonça, Caetano Pinto de Miranda Montenegro, and Lourenço de Mattos Borges also counted on the collaboration of Judge Nelson Hungria, who in the following decades would advance a series of critiques of the jury institution, as analysed by R. Sontag, «*A eloquência farfalhante da tribuna do júri: o tribunal popular e a lei em Nelson Hungria*», in *História*, 28 (2), 2009, p. 267–302.

⁶⁶ R. Lyra, *Prefácio*, in *O delicto passionnal na civilização contemporânea*, Saraiva, Rio de Janeiro, 1934, p. 7–40.

⁶⁷ E. De Moraes, *Problemas de direito penal*, cit., p. 161.

⁶⁸ R. Lyra, *Prefácio*, in *O delicto passionnal*, cit.

⁶⁹ S. K. Besse, *Crimes of passion: the campaign against wife killing in Brazil, 1910-1940*, cit.

⁷⁰ M. Pillar Grossi, *De Ângela Diniz a Daniela Perez: a trajetória da impunidade*, in *Revista Estudos Feministas*, 1 (1), 1993, pp. 166–168.

system and continued to be invoked as a defensive argument in court until 2023, when the Federal Supreme Court finally declared its unconstitutionality through *Arguição de Descumprimento de Preceito Fundamental* No. 779.

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