CRIMES OF PASSION:
THE CAMPAIGN AGAINST WIFE KILLING
IN BRAZIL, 1910-1940

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In Brazil, [ ] we are faced with an anomalous situation which indisputably places
us among the most barbarous nations. We are at this moment the people who most
often kill for love.

"The Law of Cain"

Intense and widespread social concern over crimes of passion exploded in Brazil
in the 1910s and lasted through the 1930s. This term refers to homicides
resulting from conflicts related to love and/or sexual relations. In practice, the
crime was generally a male crime, involving the killing of women — and/or their
suitors — by husbands, fiancés, lovers, or fathers and brothers. Crimes of passion
were by no means a new phenomenon in Brazil, according to Portuguese law (to
which Brazil was subject during the colonial period), a married man who
discovered his wife in the act of committing adultery had the legal right to kill
both her and her suitor, and the social custom of doing so did not die with the
formal abrogation of this "right." Suddenly, however, these crimes began to be
experienced as particularly threatening.

The popular perception was that the situation was out of control. Lurid
reporting of crimes of passion became a staple item of the popular press (which at
the time relied heavily on sensationalism to boost sales). Courtrooms filled to
capacity with spectators who came to witness the public drama. And lawyers
carried their grandiloquent oratory from the courtrooms back into the newspapers.
As the number of reported cases steadily increased, doomsday critics began to sound
alarms. Editors of the popular woman's magazine, Revista Feminina, claimed that
women were being assassinated "in flocks." The number of women killed by men
in Brazil, they declared, rose from one in every twelve hours in 1919 to one in
every half-hour in 1924. Others also concluded that society was being shaken by
an "extraordinary proliferation," an "epidemic," a "terrifying collection of mas-
sacres" of women breaking all former records. Social commentator Maria
Eugenia Celso called upon her contemporaries to protest against what she
considered the "retrocession of civilization," or the "abominable revival of
ancient barbaric practices." The progressive newspaper A Esquerda concurred
that Rio de Janeiro was living through a period of "authentic savagery," and urged
women to unite to protect themselves against "masculine cowardliness [which]
stalks to kill." In the words of the newspaper's editors, a "burst of insanity [has
been] unleashed upon the family of Rio, shattering homes, destroying uninformed
youths, orphaning children, and throwing whole households into unexpected
defenselessness, perpetual misery, and senseless ruin."
Concern also centered on the apparently growing number of cases of women who, abandoned or brutalized by their husbands and unprotected by the police, resorted to violence to put an end to their exploitation. Women writers warned that unless progress could be made in curbing the assassination of women, they too would adopt violence in a desperate attempt to atone for centuries of injustice. According to writer Cecília Bandeira de Melo Rebêlo de Vasconcelos (pseud Chrysanthème), “The metamorphosis of various women into assassins is beginning to impress society.” She claimed that women had ceased to be the timid and ingenuous cocoon[s], the innocent being[s] who had once believed in the affection of men and had fondly performed their domestic duties. Now, deceived, disillusioned, poisoned at heart, and with their eyes opened to men’s “hypocrisy, [ ] egoism, cruelty, and machiavellianism,” they had resolved to “take justice into their own hands.”

The modern woman no longer wants to endure that which was suffered by her sisters, whose myopic sight did not completely discern the miseries and cowardice of their environment. Today, latent but profound in female breasts, are cultivated terrible hatred[s] and ardent desires for revenge against men, who believe that they are loved when already the venom of revolt or of defense is rising against them. She feared that a “cataclysm is threatening our collectivity,” since, she worried, mothers, wives, and daughters were being transformed into cruel criminals, into furies, thirst for blood, avid for vengeance." On a lighter note, a social column in the popular Rio de Janeiro daily newspaper Correio da Manhã poked fun at the situation. In it a male patient asks his doctor for sleeping pills. But the doctor, discovering that the patient fights with his wife, counsels him that he should be glad he doesn’t sleep too soundly, for given the modern fashion of women killing their husbands, at least he has a better chance of waking up alive.

The earliest and most vehement demand for change thus came from urban middle-class female writers who voiced their anger in women’s magazines, the popular press, novels, and chronicles of social customs. But it was a group of male professionals who eagerly seized the cause and established the organizational mechanism for mounting a campaign against the tolerance of crimes of passion. On 25 February 1925, four prominent public prosecutors from Rio de Janeiro—Roberto Lyra, Carlos Sussek de Mendonça, Caetano Pinto de Miranda Montenegro, and Lourenço de Mattos Borges—founded the Conselho Brasileiro de Higiene Social (CBHS, Brazilian Council on Social Hygiene). With the collaboration of the powerful Judge Nelson Hungria and many of Brazil’s most prominent lawyers, criminologists, social hygienists, and specialists in legal medicine, they vigorously pursued their “moral mission” to end the “indulgence, the sympathy, and the benevolence” that Brazilian society had traditionally shown toward individuals accused of crimes of passion. In courtrooms, public lecture halls, legal journals, books, professional organizations, and the popular press, they fought to achieve their stated goals: to expose the true (anti-social) motivations behind crimes of passion, to reeducate society, thereby destroying the social conventions and popular beliefs that protected these criminals, to repudiate legal doctrines that excused these criminals, and to rigorously impose harsh sentences as a necessary means of collective intimidation. By the early 1930s,
they were proclaiming impressive success in sending wife-killers to jail, and in
1940 they took credit for winning a revision of the Penal Code so that emotion
or passion no longer excluded criminal responsibility. After 1940, concern over
wife killing waned and the CBHS campaign dissolved.

This paper addresses the question of why crimes of passion provoked such alarm
during the 1910s to 1930s and analyses the goals underlying the CBHS campaign.
I hypothesize that in the context of the wrenching, disorderly process of change
in early twentieth century Brazil, all violent outbursts of passion fueled fears that
society was coming apart at the seams. Thus the attempt to curb wife-killing—a
practice newly considered to be barbaric and anti-social—formed part of a larger
project to “civilize” and “elevate” Brazilian society. In order to successfully
transform this “anarchistic” society into a modern, prosperous, orderly bourgeois
nation (as the elite, the urban middle classes, and the rising professional classes
all favored), it was essential to remold sexual practices and family life according
to modern hygienic standards. For reason and rationality to triumph in the public
sphere, violent passions had to be curbed in the private sphere.

Alternative Hypotheses

Before elaborating on the above hypothesis, it would seem appropriate to
consider alternative explanations for the CBHS campaign. Might there indeed
have been an “extraordinary proliferation” of crimes of passion in the early
twentieth century, as contemporaries would have us believe? Unfortunately, this
is probably impossible to determine. Criminal statistics in Brazil are so precarious
and unreliable (when they exist at all) that we do not even know how many
homicides occurred during this period, much less how many of these should be
classified under the somewhat vague category of crimes of passion. Historians are
beginning to undertake the daunting task of reconstructing the criminal history
of Brazil’s major cities, but the records in judicial archives are far from complete
and are generally uncataloged, many processes are undoubtedly misplaced in the
wrong piles and unknown numbers of others have been lost in fires and floods. In
his study of criminality in São Paulo between 1880 and 1924, Boris Fausto
examines 221 of the 442 cases of homicide that he located in the archives.
Admitting that the total number of cases was undoubtly much larger, he
provides a more qualitative than quantitative analysis, not even attempting, for
example, to trace changes over time. In any case, of the processes he examined,
49 could be classified as crimes of passion: 14 husbands killed their wives, 3
husbands killed their wives’ suitors, 10 fathers or brothers killed the men who had
deflowered their daughters or sisters, 10 men killed their female lovers, 7 minors
killed their girl friends, 1 wife killed her husband, and 4 women killed their male
lovers. This adds up to 31 female victims and 18 male victims of crimes of passion
in São Paulo over 44 years. Even were we to double these numbers (to estimate
the whole number of processes Boris Fausto found in the archives) and make a
rough estimate of the number of lost processes, this would hardly seem to warrant
the alarm it caused. On the other hand, were we to use Magarinos Torres’ 1933
study as the basis of estimates, a case could be made that the alarm over crimes of
passion was indeed related to the high number of these crimes. He claimed that
the jury in Rio de Janeiro (city) heard 36 cases of crimes of passion in 1932 alone, in which the defendants were all men and the victims were both men and women (although he gives no statistics on the victims) 16

Although reliable statistical evidence is lacking, it is very likely that the number of crimes of passion did increase during the early twentieth century in Brazil. The very rapid rise of urban-industrial society tended to weaken familial ties, to provide women with new aspirations and new options, and thus to heighten gender conflict. Many men inevitably greeted changes and threatened changes in gender roles with insecurity, frustration, and growing fears of demasculinization. As these men perceived that their ability to control the behavior of women through familiar channels was declining, the resort to violence probably occurred more frequently 17. Male jurors who absolved defendants who killed their purportedly adulterous wives were quoted as declaring unabashedly “I absolved him because I am a man and I am married if I were him, I would do the same” 18. Sociologist A. Leão Velloso interpreted this “magnanimity” to be a form of intimidation of women in their increasingly successful struggle to win equal rights “a sort of armed peace, that frightened men believe to be a block against free female expression” 19. As the same time, it is likely that the number of women who killed their husbands or lovers also rose. Not only were women's attitudes slowly changing, making their subordination to and abuse by men more intolerable, but the rising urban-industrial economy was opening up new economic and social alternatives, especially for middle-class women 20

Having admitted this, however, we must also insist that the incidence of crimes of passion certainly could not have increased as dramatically as contemporaries claimed. It strains credulity to accept the Revista Feminina declaration that in five years (between 1919 and 1924) the number of female homicide victims in Brazil increased 2,400 percent. Such wildly exaggerated claims suggest that the principal explanation for the public campaign against crimes of passion lies not in the actual incidence—whether increasing or not—of the crime. One should read the skyrocketing statistics printed in the Revista Feminina as a barometer of social preoccupation with the phenomenon, editors were clearly concerned not with the accuracy of the statistics, but with mobilizing public sentiment.

The question which remains, then, is how should we explain the intense social preoccupation with crimes of passion? Given that public concern focused primarily on the killing of women, perhaps women were more often the victims of crimes of passion during this period than they had been previously, and this may have offended social sensibilities to a greater extent than had the victims been men. Another possibility is that the issue became more of a middle-class issue, as the rising urban-industrial society generated especially acute tensions and conflicts between middle-class men and women. Less likely is the possibility that a higher percentage of defendants were being absolved than previously, unless this was related to a disproportionate rise in the number of middle-class defendants who (more easily than lower-class defendants) could have manipulated public sentiment and the legal system in their favor. Unfortunately, given the lack of reliable statistical information, we have no way to test these hypotheses.

A final hypothesis—that the campaign reflected a rise of feminist consciousness—is easier to disprove. Although most of the participants in the campaign...
eventually modernized their rhetoric to some extent, none of them endorsed women’s independence or called for an end to gender hierarchy. The limits of their perspective are revealed by the startling fact that the same reformers who so vehemently denounced the assassination of women failed to acknowledge as a problem worthy of consideration domestic violence that stopped short of homicide. Most notably, Roberto Lyra apparently found no contradiction between his energetic promotion of the CBHS’s campaign and his underlying antifeminist attitudes. In an early newspaper article, he wrote bluntly “There are irremediable aspects of the inferiority of women.” After having questioned women’s ability to perform the simplest jobs, implied that those who were unmarried and economically independent ran the almost certain risk of “perdition,” disputed their intellectual capacity to vote, and derided their charitable activities, Lyra concluded “Beauty continues to be their best recommendation.” Rather than lobbying for feminist platforms of suffrage or divorce, Lyra counselled, women should conquer men through example and influence “a man will be what a woman wants him to be.”

A “True Regenerating Crusade”

A close examination of the CBHS campaign suggests that the rising alarm over crimes of passion should be understood as an expression of the larger concern of the Brazilian middle classes – and especially of urban professionals – over the apparent breakdown of social order. In other words, the perception that Brazil had been hit by an uncontrollable “epidemic” of crimes of passion was grounded not so much in any demonstrable reality as in projections of fears about the rapidity and uncertainties of change. The reason why these crimes began to be regarded as so threatening to society was that they symbolized the ungluing of the family, and it was precisely the institution of the family that was seen to be the necessary cement to provide stability and continuity during this period of seeming chaos.

The campaign to repress crimes of passion was presented by all its proponents as a great “work of social hygiene,” a “campaign of moral and social prophylaxis,” a “true regenerating crusade.” As such, it was part of a larger reform movement, flourishing within the Brazilian intellectual and professional community at the time, to reorganize (and thereby “defend” or “protect”) all social institutions from the family to the state. The concern of reformers – jurists, psychologists, sexologists, educators, etc. – was to replace old dysfunctional models of social relations with new cultural norms better suited to the consolidation of a modern bourgeois order. For example, the psychiatrists who founded the Brazilian League of Mental Hygiene in 1923 cast themselves in the role of guardians of the social order, who would “cleanse” Brazil of moral and social degradation. Their anti-alcohol crusade (carried out in alliance with the police) sought to eradicate the vices and debauchery which they supposed characterized the lower classes, and their wholesale embrace of eugenics between 1928 and 1934 reflected a very wide social concern for “elevating” the Brazilian “race” morally, physically, and intellectually. Similarly, educators designed new curricula based on rational and scientific principles designed to foster “evolution” and “progress.” They placed new emphasis on physical education as a means not only to “regenerate” the race physically,
but also to promote values such as persistence, discipline, courage, and initiative.

It was in this context that jurists attacked wife killing as a “barbaric” remnant of the past, and called for an end to social and juridical acceptance of the “right” of men to kill women, as though men were masters and owners and women private property or slaves. From their point of view, not only did homicide within family units reveal the dysfunction of individual families, but more important, it tarnished Brazil’s reputation as a “civilized” nation and posed a dangerous threat to the legitimacy of the institution of marriage. If the family was to be a pillar of the new bourgeois society, husband-wife relationships had to be “modernized,” acquiring at least a veneer of equality and reciprocity. If love was to be socially useful as the basis for stable family life, rational and responsible—hygienic—love that inspired commitment to duty and respect for order had to prevail over “poisonous” romantic notions of love that fostered excessive sentimentality and morbid passions. In Roberto Lyra’s words, “we must not allow [passion] free expression in this era in which the factors of disorder loom large and multiply.”

The point of departure for the CBHS campaign was to expose the motivations behind crimes of passion as profoundly anti-social. Roberto Lyra insisted that the legal philosophy of Enrico Ferri (which defined crimes committed as a result of socially useful passions such as love, honor, and political or religious ideals as social crimes) did not justify absolving those accused of crimes of passion. Lyra claimed that Ferri himself would never have endorsed the success that Brazilian lawyers were enjoying in using his theories to absolve assassins. The motivation behind crimes of passion, Lyra declared, was not a noble, generous, altruistic love, but rather hate, jealousy, or a degenerated love “reduced to sexual caprice.” Fonseca Hermes, Lemos Britto, and Afrânio Peixoto (professor of hygiene and criminology) concurred that crimes of passion were not committed out of love, they were, rather, violent outbursts of egoism, vanity, or self-love. As such, they were not only socially reprehensible, but profoundly threatening to public order.

The next step was to reverse the perversion or deprecation of love that had converted it to an “instrument of decimation,” and to “restore it to its biological and social function as the source of life, beauty, health, stability, harmony, and happiness.” Afrânio Peixoto argued that social indulgence of crimes of passion was rooted in nineteenth century romanticism, which had exalted emotionality to the extent that even wife killing was glorified when motivated by passion. Romanticism, he claimed, “begot this monster, perverse and murderous love, immoral and vile, which lives on, absorbing and grasping an entire society.” He bid farewell to the perverse and obsessive love that had fallen “victim” to romanticism, and welcomed in a new modern love based on “self-control” “Reason,” he insisted, “can and must check passions.” In a much quoted passage, Peixoto protested that to excuse assassins on the pretext of passion would be to reintroduce the Law of Cain. By his definition “Civilization does not signify merely maternal progress, but the inhibition of violent and egotistic impulses through customs of moderation which are indispensable to public order.” Lyra elaborated this point, suggesting that the state should intervene to prevent marriages based on “unpropitious, immoral, or infatuated love,” since this was equally dangerous to civilization (i.e. to the preservation of life, the perfection of
the species, and the defense of social organization) as were other motives for which the state denied marriage licenses. He commented that had Othello had a pre-nuptial exam, any psychiatrist would have recognized his sick and hallucinated passion and would have counselled against marriage. "Society needs healthy and well-balanced marriages," Lyra concluded, "in which reason is united with emotion in the interest of the children, the family, and the community. What is the desire of a retardatory romantic worth in face of the greatest human problems?"

The campaign to repress crimes of passion also involved exposing erroneous social conventions and anachronistic attitudes that fostered not only public sympathy for, but even glorification of wife killing. Reformers bemoaned the fact that the dominant social morality of the age seemed to be captured in the commonly expressed threat "If you betray me, I'll kill you." It was universally conceded that the cuckolded man who failed to react with a "brutal gesture of uncommon violence" was scorned and disrespected, "thashed by ridicule, and wounded by the most burning irony." On the other hand, the honorable husband who upon discovering his wife's adultery did his "duty"—killed her—needed to demonstrate neither repentance nor grievance to establish himself as a "hero" and "champion" of conjugal honor. Campaigning against these "barbarous" and "counterproductive" attitudes, Lyra labeled men's desire for exclusive possession and enjoyment of a woman "rape," not love. Fonseca Hermes cited the fact that husbands still expected to enjoy absolute and exclusive property rights over their wives as evidence that they were slaves to primitive animal instincts. Similarly, Judge Nelson Hungria denounced "crude, egotistic, tyrannical husbands" who regarded their wives as unfeeling and submissive slaves or private property whom they could summarily execute like a mad dog or wild beast if their "honor" was threatened.

While certainly not approving of adultery by women, reformers assailed the notion that a husband's honor depended upon his wife's behavior, or that his wounded honor could be restored through bloodshed. As modern men, they accepted the bourgeois idea that an individual's identity depended on his own achievements and behavior rather than on the status and/or behavior of his family. This change of attitude was reflected in an interesting newspaper article which characterized a typical uxoricide as follows: a "prehistoric dinosaur" (a husband whose heart and soul had failed to keep up with the times) devoured an "untruly wild goat" (his modern frivolous wife who had cuckolded him). In old times, the article claimed, when a husband was his wife's "senhor"—her guide, guard, and mentor—he would have been held responsible for her every act, but in modern bourgeois society where women consider themselves free individuals, their acts reflect only on themselves, not on their husbands. The article concluded that this poor "dinosaur" may have thought he had avenged his honor, but in fact he had only stupidly sacrificed his own destiny and freedom. Lyra insisted that the law ought to combat the "noxious," "absurd," "medieval" notion that a man's honor lies in his wife's uterus. "A woman is no longer a rib or appendix, an object of luxury or beast of burden," he claimed. "She has her own honor, like a man. She is responsible for her own acts."

Having established through the preceding arguments that crimes of passion
were anti-social and anachronistic remnants of a "barbaric" past, CBHS members and supporters took on what they considered an urgent mission to guarantee social equilibrium by involving the state in actively disciplining and elevating human passions. Conveniently, by demanding that society entrust them (as representatives of the state), not wife-killers, with the task of protecting family morality, they simultaneously enhanced their own status. They gained public visibility as an elite of modern professional men concerned with promoting Brazil's "progress" and "civilization." And through association with the growing state bureaucracy, they greatly enhanced their authority and power to intervene in new areas of social and political life.

The first task was to set legal precedent and to rewrite the law so as to make sure defendants would be held legally responsible. The CBHS concentrated its efforts on narrowing the interpretation of Article 24 of the Penal Code, whereby criminal responsibility could be waived in cases in which the accused was considered to have "been in a state of complete perturbation of the senses and intelligence in the act of committing the crime." Fonseca Hermes denied that crimes of passion could be explained as the result of a perturbation of the senses, they were, in his view, cold, calculated premeditated acts that occurred as the logical outgrowth of a perverted morality. The crux of the CBHS's argument was that passion, or the "complete perturbation of the senses" did not normally result in the loss of reason, consciousness, or free will, and did not, therefore, justify the granting of immunity. Proponents of this position insisted that legal responsibility could be waived only in the infrequent cases in which it was clinically established that the defendant was insane. In other words, that the passion was of a pathological nature. Lyra took a more radical position in refusing to admit that the attempt to commit suicide following homicide was in itself sufficient proof of the mental insanity of the accused. In 1940, the CBHS formally won its battle. The new Penal Code specified that "emotion or passion does not exclude criminal responsibility," instead, it became an attenuating factor.

Finally, the public prosecutors who founded the CBHS attempted to actually enforce their demand that there be no benevolence, sympathy, indulgence, or approbation in treating those who had committed crimes of passion. In the Rio de Janeiro courts, they fought to obtain harsh sentences, and proclaimed considerable success during the early 1930s in sending wife killers to jail. If we can believe the statistics compiled by Magarinos Torres (whose concern was to defend the jury against charges of undue leniency toward wife killers), the jury in Rio de Janeiro convicted the vast majority of defendants. Of the 36 cases tried in 1932, 24 defendants received convictions with maximum penalties, 7 had their cases declassified and were punished less severely, and only 5 were absolved. CBHS supporters justified harsh penalties as a means of "social defense," more than being punishment for individual criminals, harsh penalties were said to be essential in intimidating and thus deterring potential criminals. Only by setting an example of social hygiene, Lyra maintained, could penal law fulfill its function to "renovate, orient, [and] perfect social progress." In 1940, Judge Nelson Hungria proclaimed that the Rio de Janeiro jury had not only ended its tolerance of crimes of passion and was regularly convicting male assassins of women, but (more dubiously) that this action had also effectively reduced the number of these crimes.
CRIMES OF PASSION

Seen from an international perspective, it is even more apparent that the CBHS campaign fed into the larger project of the emerging Brazilian state to gain control over a society so torn by conflict between classes, races, ethnic groups, sexes, and generations, that it seemed to many contemporaries to be coming apart at the seams. European jurists had been debating the proper handling of crimes of passion since the nineteenth century, but as is obvious even in the footnotes of Roberto Lyra's works, their arguments provided ample justification for absolving defendants in these cases. It was not until after the publication of Leon Rabinowicz's work, *O crime passional* in Paris in 1931, that passion began to be discredited as a legal basis for impunity. The efforts of Brazilian prosecutors to impose a much more punitive approach than was in force in Italy and France at the time reflected the greater need for the state to exert control over civil society in a context where the newly developing industrial-capitalist economy had not yet institutionalized adequate structural means of control.

The Aftermath

After 1940, public concern over crimes of passion waned even though wife killing had certainly not become a remnant of the past. In fact, there is no reason to believe that the number of these crimes significantly decreased. Changing gender roles continued to generate tensions between men and women, and judging from Mariza Corrêa's study of crimes of passion in the 1950s-60s, the dominant values that led men to consider they had a "right" to kill purportedly adulterous wives survived largely intact. Moreover, the medical and legal questions surrounding this issue were far from resolved. In the same year that members of the CBHS succeeded in revising the Penal Code, Jorge Severiano Ribeiro published a massive (432 page) book that revealed the continuing deep divisions within the Brazilian legal community over the issue of crimes of passion. Using ample quotes from Brazilian and foreign allies, Severiano argued that since all human beings are subject to violent passions that can temporarily extinguish rationality, the law and juries should treat defendants in trials of crimes of passion with great indulgence. He argued further that since these criminals were generally honest individuals who posed no danger to society, and since the threat of punishment was an ineffective deterrent against this type of crime, it was pointless to impose harsh penalties. At the same time, lawyers, of course, continued to manipulate the legal system to defend their clients. Violating the spirit of the 1940 Penal Code, they resurrected the nineteenth century defense of "legitimate defense of honor" and they took advantage of the new provision that penalties should be calculated not only according to the seriousness of the crime but also according to the danger posed by the criminal to the social order. 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. In cases where the defense lawyer could present the crime as an unfortunate accident in the life of a respected and honest citizen, he could usually count on the jury's continuing sympathies with these defendants to win a suspended or lenient sentence for his client (if not an acquittal).

Why, then, did concern about crimes of passion wane? If we review reformers'
arguments and their strategies for change, it is clear that the campaign was far less
concerned with protecting women than with strengthening the institution of the
family. Behind the ostensible issue — the assassination of women — lay a broader
concern: the imposition of modern, hygienic standards of sex and family life. To
the extent that these could help legitimate the hierarchical nuclear family, they
formed a crucial link in the consolidation of a stable, modern bourgeois order.
Getúlio Vargas' rise to power in 1930 and his imposition of the authoritarian
Estado Novo in 1937 opened the door for the state to assume a central role in
mediating between conflicting interests within civil society. Under the guise of
protecting and elevating women, the Estado Novo issued a proliferation of new
laws and policies regulating female education, marriage, family organization,
social security, health, reproduction, and employment. It was not by coinci-
dence that these effectively ensured the continued subordination of women's
individual interests to collective interests. With feminist protest coopted through
paternalistic concessions and the renunciation of the most blatant forms of sex
discrimination, it became increasingly difficult for women (especially for work-
ing-class women) to escape the confines of the "modern" family or to mount
serious challenges to the reconsolidated gender hierarchy. Especially effective
was the passage of "protective" labor legislation, which explicitly restricted female
employment for the sake of encouraging women to devote themselves solely to
the "difficult" and "supremely important" tasks of wifehood and motherhood. By
ensuring that women would continue to earn much lower wages than men, the
state perpetuated women's economic dependence on men and buttressed men's
status as head of the household. Through law, social and fiscal policies, and
propaganda, the state played a major role in legitimating and strengthening the
nuclear family. With threats to the family and to public order safely contained,
crimes of passion no longer appeared so menacing, and concern faded.

If a few women benefited from any deterrent effect the campaign may have had,
this was purely incidental. The object of the campaign was to moralize society, to
discipline the passions, and to rationalize love so as to make it socially useful as
the basis for stable family relations. It was the "defense" and "evolution" of the
community ("order and progress") that was at stake, not the elevation of women's
status. In the long term, the campaign helped reinforce continued female
submissiveness and passivity through promoting a more legitimate model of the
nuclear family.

It is predictable that when men take the lead in politicizing issues related to
sexuality, gender, or the family, it is to reaffirm male social power, not to challenge
it. Although women had initially raised the issue of crimes of passion, they did so
from a different perspective — the perspective of women's oppression — and none
participated in the campaign orchestrated by the CBHS. Perhaps they lacked the
power to control the agenda and thus devoted themselves to different causes.
Perhaps directly tackling the issue of violence against women from a women's
perspective would have been too radical for the times and thus too difficult to
organize around. But at least once the CBHS had legitimated an attack against
the tolerance of crimes of passion, the issue could be appropriated by others and
used for different ends. In fact, during the mid-1970s the issue reemerged in an
explosive outburst marking the revival of Brazilian feminism (and coinciding
with the beginnings of a gradual political liberalization after over a decade of military rule. This time around, women seized the initiative in organizing mass protests against the acquittal or the lenient sentences given to men who kill women. They also broadened the debate to include a larger social discussion of the pervasiveness of violence against women and the oppressiveness of male-female relationships. If their ability to challenge male dominance and to directly attack the family is a measure of women's growing independence and social power, it is also conditional on an open political climate. Conservative forces, eager to coopt women's protests and reestablish order, will work to change the terms of the debate and to reverse gains achieved if/when the winds of politics change.

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FOOTNOTES

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2. For a short history of the legal treatment of crimes of passion in Brazil, see Marisa Corteia, *Os crimes de paixão* (São Paulo, 1981).

3. In fact, sensationism was another issue that was attacked by many of the same public prosecutors who led the campaign against crimes of passion. See Roberto Lyra e Carlos Susskind de Mendonça (Rio de Janeiro, 1933), Barbosa Lima Sobrinho, "O sensationismo," *Revista de Direito Penal* 5 (1934) 167-175.


8. See, for example, João Costa Pinto, "O julgamento de uma mulher!" RF 9 97 (June 1922), Frecheta, "Carta da mulher," *O Cruzeiro* 1 29 (25 May 1929) 46, Mariânia Coelho, *Evolução do feminismo Subsídios para a sua histona* (Rio de Janeiro, 1933), 581-584, Anna Rita Malheiros, "Junho," RF 9 97 (June 1922).


11. See the references in footnotes, 4, 5, 6, 8, and 9.


14. Magarinos Torres, "O júri e seu rigor contra os passioneis ou o amor no banco dos réus," Revista de Direito Penal 1 (1933) 78, Nelson Hungria, Questões jurídico-penais (Rio de Janeiro, 1940), 113, Nelson Hungria, Comentários ao Código Penal (de 7 de dezembro de 1940) vol 5 (Rio de Janeiro, 1942), 129-139.


17. E.P. Thompson in his article, "Rough Music: 'at charivari anglais," Annales: Economies, Sociétés, Civilisations 27 (Mar - Apr 1972) 301-303, demonstrated the increasingly frequent use of the rituals of charivari in eighteenth and nineteenth-century Britain to shame husbands who beat their wives. He suggested that this trend might be an indication that the incidence of domestic violence was rising in the face of the decomposition of patriarchal social relations that accompanied the industrial revolution.


20. For a discussion of women's - often angry - attacks on the institution of marriage, see Chapter 3 of my dissertation: Susan K. Besse, "Freedom and Bondage: The Impact of Capitalism on Women in São Paulo, Brazil, 1917-1937" (PhD diss., Yale University, 1983).

21. Sidney Chalhoub, who used criminal records as the basis of his study of working-class life in turn-of-the-century Rio de Janeiro, found that men who resorted to the use of violence over matters of love picked other men as the targets of their aggression much more frequently than they picked women. See Sidney Chalhoub, Trabalho, lar, e botequim: O cotidiano dos trabalhadores no Rio de Janeiro da belle époque (Rio de Janeiro, 1986), 157. This finding, however, contradicts the findings of Boris Fausto's study of criminality in São Paulo cited above. See footnote 15.

22. Roberto Lyra, Frutos verdes (Trabalhos na imprensa) (Rio de Janeiro, 1925), 29-33. Two other prominent members of the Rio de Janeiro intellectual elite, cartoonist João de Rio and writer Lima Barreto, also denounced crimes of passion, while in other contexts they mocked feminism. See Corrêa, Crimes de paixão, 37-40.

23. This terminology was repeated ad infinitum. See, for example, Roberto Lyra, "O amor no banco dos réus," Revista de Direito Penal 1 (1933) 221, Roberto Lyra, Policia e punica para o amor (Criminalidade artística e passional) (Rio de Janeiro, [1937]), 43, Hermes, "El amor en el banquillo," 466.


25. The most prominent spokesperson for educational reform (including physical education) was Fernando de Azevedo. See his Da educação física. O que é, o que tem sido, o que devia ser (São Paulo, 1920). One curious article linked the two issues, suggesting that the practice of sports was a possible cure for the morbid passions that lead to crimes of passion. See Mario Bulhões Pedreira, "O amor no banco dos réus," Revista de Direito Penal 1 (1933) 463-465.

26. For a discussion of the large body of normative literature on the subject of conjugal love that sprang up during this period, see Besse, "Freedom and Bondage," 178-183.
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27 Roberto Lyra, “Prefácio,” in Enrico Fermi, O delito passional na civilização contemporânea, trans Roberto Lyra (São Paulo, 1934), 27

28 ibid., 7-8

29 ibid., 37, Lyra, “Amor no banco,” 220, 224, Lyra, Policia e justiça, 10-12


31 Lyra, Amor e responsabilidade, 145, “Pre-texto,” to Lyra, Policia e justiça


33 Lyra, “Amor no banco,” 222-224. Alarmed by what he perceived to be an epidemic of adultery and crimes of passion, Lemos Britto concurred that the state should require psychiatric as well as physical pre-nuptial exams. See his Psychologia do adulterio, xxi.

34 Hermes, “Amor em el banquillo,” 458


36 Lyra, Policia e justiça, 13

37 Hermes, “Amor em el banquillo,” 449

38 Nelson Hungru, “Sentença, 7 de dezembro de 1931,” in Lyra, Amor e responsabilidade, 215-216

39 Untitled article from O Journal (Rio de Janeiro), 14 May 1931, quoted in Lyra, Amor e responsabilidade, 217-219

40 Lyra, Policia e justiça, 56, 58-59

41 Hermes, “Amor em el banquillo” 464-465

42 A summary of this argument is presented by Roberto Lyra in his O amor e a responsabilidade criminal. His own statements on pages 45 and 137-138 are buttressed by passages quoted from the writings of others who supported his position. See also Luiz Moraes Corrêa, “Amor e crime,” Revista de Direito Penal 4 (1934) 181, 186, Olívio Camara, “Falso conceito do crime passional,” Revista de Direito 102 (Oct 1931) 39-40

43 Lyra, Amor e responsabilidade, 25, 81, 83, Roberto Lyra, O suicídio frustrado e a responsabilidade dos crimesos passosionais (Rio de Janeiro, 1935), 19, 28-39

44 See Judge Nelson Hungru’s commentary on Article 24 in his Comentários ao Código Penal (de 7 de dezembro de 1940), 4th ed, vol 1, no 2 (Rio de Janeiro, 1958), 370-382

45 Torres, “Jury e seu rigor,” 76-78

46 Corrêa, “Amor e crime,” 183, Lyra, Amor e responsabilidade, 152, Lyra, Policia e justiça, 63
47 Hungria, Questões jurídico-penais, 113. Judging from Jorge Amado's novel, Gabriela, Clove and Cinnamon, the impact of the CBHS campaign was felt as far away as the Bahian city of Ilheus. When the owner of a large cacao plantation kills his wife and her elegant, respected dentist lover, the scandal is resolved — for the first time in the city's history — by sentencing the assassin to prison. At a time (1925) "when plantations were flourishing on the land fertilized with corpses and blood, when fortunes were being multiplied, and when progress was changing the face of the town," (p. 2) Amado cites the conviction (in his typical ironic style) as indisputable proof of the city's "modernization" and "progress." See Jorge Amado, Gabriela, Clove and Cinnamon, trans. by James L. Taylor and William L. Grossman (New York, 1962, original ed., 1958).

48 Maria Corrêa, Morto em família: Representações jurídicas de papéis sexuais (Rio de Janeiro, 1983).

49 Jorge Severiano Ribeiro, Criminosos passioneis, criminosos emocionais (Rio de Janeiro, 1940).

50 Corrêa, Morto em família.


52 See Chapter 4 of Maria Valéria Junho Pena, Mulheres e trabalhadoras: Presença na constituição do sistema fabril (Rio de Janeiro, 1981).

53 One product of their attempts to provoke public debate about domestic violence and to raise women's consciousness is an excellent short illustrated book aimed at a wide popular audience: Rosiska Darcy de Oliveira, Leila Linhares Barsted, and Miguel Pava, A violência doméstica (Rio de Janeiro, 1984).