

## LIMA BARRETO: a “juristinist” in the tribune of letters

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Tradução recebida em: 12/12/2024.

Tradução aceita em: 28/02/2025.

### ABSTRACT:

This research aims to explore the relationships that the writer Lima Barreto maintained with law and legal spaces. This approach allows for an evaluation of a lesser-studied aspect of the author’s work, focusing on his role as a bureaucrat - a figure often perceived as rigid, devoid of personal will, and subjected to the erasure of sensibilities under the constraints of state power. The concept of the “jurinist” is introduced as a lens through which to examine the ways in which Barreto engaged with legal discourse. To develop this discussion, the study analyzes Barreto’s articles and chronicles, along with other written records, demonstrating how he continually navigated and transgressed legal boundaries.

**KEYWORDS:** Law; Bureaucracy; Space; Body; Lima Barreto.

Lima Barreto: um “juristinista” na tribuna das letras

### RESUMO:

Esta pesquisa busca destacar um pouco das relações que o escritor Lima Barreto manteve com o direito e os espaços do jurídico. Essa leitura possibilita a avaliação de um perfil do autor ainda pouco estudado e discutido por parte dos pesquisadores de sua fortuna, com enfoque para a figura do homem burocrata, do indivíduo de pele enrijecida e comumente associado a alguém sem vontade, que sofre os apagamentos das sensibilidades e que esteve preso às amarras do poder estatal. A figura do “juristinista” é apresentada como uma possibilidade de discutir as visibilidades e dizibilidades que o escritor traçou acerca do direito. Na articulação do debate, realiza-se uma análise dos artigos e crônicas barretianos, bem como de outras documentações

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escritas que ajudam a tornar evidente de que forma Lima Barreto fez constantes travessias entre as fronteiras do direito.

**Palavras-chave:** Direito; Burocracia; Espaço; Corpo; Lima Barreto.

## 1. Introduction or the (re)discovery of a bureaucrat

Afonso Henriques de Lima Barreto (1881-1922) was a journalist and writer who was born in Brazil and spent his entire career in the city of Rio de Janeiro and witnessed firsthand the tensions of his time, in the social and political context of the First Republic (1889-1930). He entered the public service and held the position of amanuensis<sup>2</sup> at the Ministry of War, unwillingly following a path he resented that was opposed to the literary ideals he cherished: being a State employee. This was, at least, the situation that the author frequently recorded in his *Diário íntimo*, which contains personal notes and confessions about public and private life. Confessions that often take on a melancholic, revealing a man with “girlish sensitivity”, as Gilberto Freyre pointed out (1956, p. 15). Such testimonies immerse us in a river of emotions that spilled out, manifesting in revealing notes regarding their social interactions. It is also possible to notice tensions and injuries that he tensions and wounds that weighed on him, after all, his dreams barely occupied his thoughts and seemed to unravel when forced to touch the real world.

The issue becomes even in a note<sup>3</sup> the writer made on scraps of paper during his admission to the Hospício de Pedro II (1919-1920), where he experienced the constraints of a total institution (Goffman, 2018). This period brought to light a series of regrets - financial, material, familial, intellectual, among others. One episode that rekindled his pain was his regret at not having effortlessly followed the so-called ‘donkey path’. This reference reflects his regret at not being able to embrace the

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<sup>2</sup> Commonly known by the nickname of copyist, the job of amanuensis consisted of reproducing and copying texts and documents. A common profession in the context of Brazilian republicanism, it was an alternative for those who sought to stabilize themselves financially in a scenario in which the public sector continually swelled with the emergence of new positions. See: Schwarcz, 2017.

<sup>3</sup> I make reference to the *Diário de Hospício* and *Cemitério dos Vivos* which was written during the period from December 25, 1919, to February 2, 1920. See: Barreto, 1993.

supposed comforts of a bureaucratic life - one of subordination, authority, and the consequent loss of autonomy, creativity, and freedom of conscience.

This is the life trajectory that the author of *Triste Fim de Policarpo Quaresma* (1915) saw and recorded as shared by those who sought positions in the State. Within the State, as it seemed to him that the individuals who lived there suffered from the erasure loss of individuality. At first, Lima Barreto did not see himself fully fitting the mold of a ‘bull’s foot’<sup>4</sup> - the archetypal resigned employee who blindly followed orders without question. Nevertheless, Barreto made an effort to become a well-rounded professional, as Francisco de Assis Barbosa (1988) noted, recalling that in 1904, the writer remained committed to his amanuensis obligations, even seeking to establish cordial ties with his superiors.

However, his relationship with bureaucratic spaces always seemed thorny, as he had to deal not only with pedantic employees and colleagues, but also with the tedious periods of idleness. It did not take long for the writer to realize the extent of his predicament: as he sat at his desk, Barreto felt the weight of boredom as he watched time pass before his eyes, consuming his last reserves of energy, Barreto felt the difficulties. He wanted those hours to be dedicated to the arts. In this context, his literary aspirations gained importance and his productive work began to occupy the center of discussions of his work and trajectory, especially by researchers in Literature, Anthropology, Sociology, and History. The activist literature of the author of *Clara dos Anjos* has been regarded (Botelho, 2001) as a path that should receive more attention from researchers of his literary legacy, requiring further exploration so that they have a broad dimension of the life experiences of the author from Rio de Janeiro. The activism in his works is fundamental to understanding his political positions, since his writings are true collective enunciation machines (Regina, 2013), evoking a Deleuzian approach to the aesthetics of art.

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<sup>4</sup> This image is constructed by Barreto based on the character Flores Teles, in the short story.

It is important to highlight that there are issues to be considered regarding the central role of the man of letters in Barreto's identity, as it seems that the corporeality<sup>5</sup> of the bureaucrat, manifested in the writer, is always overlooked. In studies of Barreto work, it seems that there is a subordination of one social role (Goffman, 1985) to another, particularly, the literate individual in detriment of the bureaucrat. Perhaps this happens because it is still seen as "true" - or there is a consensus - in research on the writer, where it appears that bureaucracy was understood as a source of frustration, causing ongoing discomfort. Mentioning this is not intended to downplay the antipathy the author felt toward bureaucratic spaces<sup>6</sup>. Rather, this study proposes to question: was the problem faced by Lima Barreto with bureaucracy as simple as that? Can it all come down to deep disenchantment? If the consideration were positive, it would be easy to end this debate and place the author in the position of frustrated, resentful, or yet another occupying the place of the losers who failed in life by not being able to establish his name in literature.

Nonetheless, Barreto left evidence that complicates the answer, making it risky to draw conclusions based solely on his personal experience as a literary journalist. In countless moments, the author demonstrates that the bureaucrat was present and was constantly incarnated. This evidence has already been highlighted by his biographers (Barbosa, 1988; Schwarcz, 2017) who highlighted the pride that Barreto took in his incomplete higher education as an engineer, as well as the fact that he managed to take on a position as a State employee through approval in a public competition, without needing connections, sponsorships, or favors.

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<sup>5</sup> By *corpo* (body) we understand what David Le Breton (2007; 2012) argued to be a semantic vector through which relationships with the world are woven. The body is not an evident and finished fact, but is the result of fabrication processes, inventions, demands and modulations of the flesh.

<sup>6</sup> Bureaucratic space must be understood beyond the physical and human dimension (tables, boards, chairs, shelves, staff, teams, bosses, superiors) of the environment where the activities of state power operate, their rituals, formalism, practices, rhetoric and the imaginary around an unofficial place that is also part of, integrates and transforms, attributing different meanings to the life experiences of ordinary subjects.

These are important considerations, but they do not explain the role the bureaucrat played in Barreto's career or how this figure of a man with hardened skin and a pale face influenced his way of thinking and positioning himself in the world. One possibility of analysis is to verify the fact that the criticisms produced by the author brought to the margins, among other things, the impostures of the rulers, the constant lack of ethics and omissions that were at the forefront of the public interest, giving carnality to the bureaucratic man. This figure should not be evaluated in distinction and in dispute with other constructions that he forged of himself, such as that of the activist, writer, journalist, intellectual, family provider and petty bourgeois.

Barreto consistently provides clues in his work (articles, essays, short stories, novels, satire) that reveal a strong legalist inclination. Legalist who, conventionally, can be identified as a bureaucrat, an individual who expressed the desire that legal provisions not only be enacted in the public interest, but that they be respected, complied with, and that they should not be used on political platforms for personal promotion. This becomes clear when evaluating the contributions he made to the press, the constant dialogues he maintained with the first Brazilian Republican Constituent Assembly (1891), not limited to reporting statesmen's insubordination to the country's Major Law, with the penchant they showed for corruption and patrimonialism. To a large extent, one can see direct excerpts from the Brazilian Constitution in his protests, allowing him to be identified as both a critic and interpreter of the law, as well as someone who challenged its boundaries.

However, Barreto's affinities with the legal universe and its spaces (discourses, practices, institutions, etc.) were probably not a unique personal innovation. Instead, they reflect an alignment that the man of letters maintained with the ideas of his time, particularly in how Law was understood and discussed. François Ost (2007) provides insight for researchers to analyze this issue, stating that the legal imaginary also includes an 'infra-law' - a realm of customs, practices, narratives, and discourses that are continually produced and continue to influence the official models of established law. Barreto recognized multiple spaces in where Law operated in his

time and, by delivering a critical speech based on the Constitution, he brought attention to this issue. In this way, space opens up to understand that the theme of Law is part of the cultural plan and circularity of Law, by perceiving it not as something tied to manuals and codes, and were restricted to an academic, institutional discourse, but which, on the contrary, found space in the common life of the city through the use of language, gestures and actions, being reinvented and recreated in daily life.

In this research, we seek to highlight significant aspects of this profile in Lima Barreto: the profile of someone who was capable not only of knowing the thought produced by legal discourse, but who, to a large extent, was able to manufacture knowledge on topics involving the universe of law. The “juristinish” figure is central to understanding the circulation of this knowledge. The expression was cited by the author of *Os Bruzundangas*, in the chronicle *O Café*, published on June 26, 1915, in *Careta* magazine, when criticizing the country’s economic policy of encouraging coffee production. The expression was used to state that it was not necessary to know the laws, exchange rates and all the usual bureaucratic tergiversation for an individual to be able to construct a political-legal position regarding a product, judged as one of the country’s greatest riches, but which only brought losses to the treasury. An observation perceived by the fact that the country always needed subsidies to deal with export crises, as well as market fluctuations that routinely changed prices and acted to devalue the product.

The mention of ‘juristinish’ in the aforementioned chronicle does not reveal many issues that allow for an assessment regarding the knowledge of Law in Lima Barreto. This means that the expression goes unnoticed or even ignored by readers, since it does not carry a direct meaning that leads the eye to criticize the subject. Hence the importance of expanding its meaning into a broader critique, situating it alongside other statements that allow for the evaluation, discussion, and reflection on the writer’s positions, paving the way for its integration into the discourse on Law. From these crossings it is possible to observe his territorialization in the bureaucratic



space, the constant corporeal modulations he made of himself by giving carnality not only to the journalist full of ironies and accents in the language or to the writer who wished to make literature a priesthood, but also to that erect individual, full of reasons for himself when giving shape to a statesman.

A formation that did not happen automatically and should not be viewed rigidly, as the writer was far from being a legal authority, borrowing a Weberian saying that situates the ideal type of bureaucrat (legalist, technician, rationalist). Barreto faced several dilemmas in his career that denote the discomfort he felt when experiencing the bureaucratic space. However, these lines do not convey the details of this debate. For now, it is necessary to point out that the conflicts, terrors and many other expressions that increase the tension of their flesh<sup>7</sup> (boredom, pain, tiredness, fatigue, desire to do nothing, drowsiness, etc.) due to having to build housing in an environment that your project with the letters should be viewed with caution.

It is problematic to claim that Barreto was entirely averse to the disguise of the bureaucrat, and 'jurist' serves as a new interpretative key to a dilemma that the author continually faced. Or, to put it another way, a dilemma that has always gained carnality when debating the importance of the law, the norm, the Constitution (1891), politics and the ethics of those in power. Thus, the 'jurist' is part of a process of ritualization or fabrication, using here the concept of Peter Burke (1996) when stating that fabrication means creating and forging different images of oneself, in the public and private spheres. Fabricating means the symbolic production of an image that never ceases to be produced, discussed, reformulated and socially dramatized, and can be located through texts, rituals and spectacles. In Lima Barreto's case, the fabrication of the bureaucrat man gains meaning by constantly assuming political positions that make the figure of the engaged activist complex, particularly by maintaining approximations and criticisms with the legal universe (practices, rites,

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<sup>7</sup> Lima Barreto's confessions of the flesh, which should be understood as records that make the external sensations of the body evident, can be found in the *Intimate Diary*, a work that brings together personal records from youth to adulthood, accounts of public employment, the domestic environment and of his relationships as a resident and participant in the city.

institutions, etc.). Throughout this work, this debate will be further explored. Barreto's articles and chronicles, collected in two volumes of *Toda crônica de Lima Barreto* (2004), organized by Beatriz Resende and Raquel Valença, constitute the primary source of the entire investigation. Other writings by the author will also be evaluated so that it is possible to put together some arguments that support the problem of this research, which is to outline some of the motivations that Barreto felt the need to expose when crossing the frontiers of Law.

## **2. A return to the beaten path of the Secretariat**

Lima Barreto's process of literacy or fabrication (Burke, 1994) with Law - highlighting the affinities he maintained with the country's highest law - maintains a direct link with his bureaucratic office, carried out in the position that linked him to the Secretariat of War. An indication of this argument can be found in the chronicle *A amanuensa*, published on October 5, 1918, in the *A. B. C.* magazine, in which the author criticizes the attitude of Nilo Peçanha (1867-1924) who, at that time, held the position of Minister of Foreign Relations in the government of Venceslau Brás (1914-1918). The criticism arose after the admission of a woman, through a public examination, to the position of third officer in its secretariat. In a position where "reflection" was required, and the individual could not shirk their duties and "bar ideas", the appointment of an amanuensis woman caused inconveniences, because, as Barreto explained:

As long as public places, even those that are not public, but which are naturally intended for men, are invaded by women, this will harm the regular reproduction of our race. Our interest is in favoring it in the best possible way and never harming the perpetuity of the human species on the planet. It is known that, since women in Europe were called to services normally carried out by men, from year to year, the anthropometric dimensions required for recruits were reduced. This is in Spencer, *Introduction to Social Sciences*. Favoring, employing girls in the bureaucracy, such a thing, is a sin against humanity. Women are conservative and suffer more from being that way than there is anything wrong with a sedentary lifestyle at a secretary's desk. It doesn't matter that a girl parrots French or German to be a better employee than a boy. The girl's intelligence is, in general, reproductive, therefore very suitable for this study of languages, much to the taste of quaint offices, such as Itamarati; but she is never capable of initiative, or the combination of imagination, hard data and



abstraction that defines true intelligence. This is so true that Lord Nilo's candidate, in Berlitz's talk, did very well; but when it came to simple arithmetic it fell flat and, in constitutional law, it is not even mentioned. It is not possible to understand that an employee of a State secretariat does not know about our fundamental rights and that it regulates relationships, not only between individuals, but between the country's political powers (Barreto, 2004a. p. 389)<sup>8</sup>

The representations of femininity are perceived and represented through a series of ambivalences by Lima Barreto and should not be read as a fixed determinant or under a rigid or monolithic perspective. Maria Sandra da Gama (2015, p. 82) examines this reflection while discussing the plurality of Barretian narratives, highlighting how the author explores multiple perspectives on women, shaped by his diverse encounters and the interplay of power dynamics, which allowed him to construct a range of statements about them.

By challenging women's intellectual capacity and suggesting that their talent was akin to that of a 'chatty parrot' who mindlessly repeated everything she learned, Barreto further implies their lack of aptitude for Law, particularly in relation to the Brazilian Constitution (1891). According to the arguments he presented, this occurred because women lacked "true intelligence", the ability to go from a mere reproductive impulse to taking reflexive positions in decoding the legal system. A position similar to what the author expressed when commenting on his forays into musical art, considering that "women are extraordinarily capable of these things of reproduction, execution, exams, competitions; but when it comes to creation, invention, intellectual boldness, they weaken" (Barreto, 2004a, p. 131).

When the literary man observes women as interpreters of the Law, he also does not hide his prejudices towards the opposite sex and, equally, he casts doubt on the female capacity to understand and criticize this universe. At the very least, it served to challenge the notion of women as mere reproducers of everything they studied, read, and heard. In this circumstance, Barreto locates Law in a place made for men, which is not a surprising aspect of his positioning, considering that this is a construct

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<sup>8</sup> All translations from Barreto were made by the translator.

of the bureaucratic space. And, in Barretian criticism, bureaucracy is commonly identified and reported, both in his journalistic writings and in literary productions, as an environment formed by and essentially bringing men together.

Thus, when he argued that the secretariat's environment would not be appropriate for women, based on the thesis that they would not be able to resist the rusticities, pressures and boredom of that space, he was not giving them a complacent view. On the contrary, he reiterated that there is a "nature" that subordinates the second sex to the condition of sensitivity. Sensitivity that would make women fragile, vulnerable, thus reproducing the stigmas against the feminine produced by the men of their time, who saw them in a body where the only desire was to get married.

It is possible to confer the situation in the ironies that the writer launched against women when he recognized that their graces would be able to disperse that warm and depressive air in the offices, if they carried out the project of occupying public space. This is what he recorded having witnessed in the Statistics department, "which always has the festive and gallant air of a ballroom" (Barreto, 2004b, p. 349). And, except for the Ministry of War and the Navy, the secretariats were gradually turning into something akin to Rua do Ouvidor for typists.

When criticizing Nilo Peçanha's stance, Barreto noted not only the woman's intellectual inaccuracies with the country's fundamental law (Constitution) but stated that intellectual reasoning would be one of the qualities required of all those who, by chance, would have some role within the State secretariats. In such a situation, it is credible to imagine that the literary man carried with him, from the first years that he followed the routine at the Secretariat of War, this role of interpreter of Law, since, belonging to the bureaucratic space provided the ritualization of legal knowledge and - how not to think - helped to forge the body of a would-be jurist?

Regarding the massive presence of women in State departments and offices, Barreto recalls in the chronicle *Nosso Feminismo*, published in *Careta* magazine in 1921, that this reflected in the demands of the women's movement to demand more parity

between genders. In this “self-serving and bureaucratic feminism”, the author found initiatives to extensively interpret art. 73 of the constitutional text of 1891, which provided for the accessibility of civil or military public positions for all Brazilians, subject to the conditions of special capacity established by law, which would be applicable to all individuals, without distinction of sex.

Barreto even considered that “law is law; and the Constitution, when it spoke of ‘Brazilian’ over there, in that article, did not include women because it meant to refer to Brazilian citizens” (Barreto, 2004b, p. 349). This conclusion led to the development of a distinct hermeneutic approach to that legal provision, grounded in a phallocentric interpretation that imposed barriers to women’s advancement and, in particular, to the feminist movement advocating for gender parity and access to public positions.

In this position, the author avoided creating other interpretations for the word “Brazilian”, signaling the need to make a more literal use of that diploma. Thus, it is likely that he also considered the extensive analysis of the topic based on an understanding that grammatical functions and lexical norms could be highlighted as a problem that did not deserve to prosper.

Certainly, Lima Barreto had no difficulty listing the rights guaranteed to women. However, the tension arises in the writer’s accounts when addressing the subject, particularly regarding his recognition of women’s individual and collective rights and his perception of flexibility in their application. The greater the scope of the law, the greater the possibility of extensively interpreting its constitutional guarantees and, for him, the problem resided at this point: stretching rights too far, causing protests by women and feminists for parity of rights and gender to advance over a border area that separated them from public space.

Hence our author’s difficulty in considering the inclusion of women in secretariats as a universally recognized right. Perhaps, considering the flag of equality between the sexes, Lima Barreto saw it as yet another unwanted advancement of

women within the borders of men, limits that were, so far, well defined, but which began to be questioned, demanding new demarcations, which would call into question man's own authority and power.

In maintaining these criticisms, the literate came out in his own defense so that he would not be classified as an enemy of women<sup>9</sup>, as was once said. Barreto wanted the law to be respected, armed with the argument that the rules should be complied with, with the risk of creating general chaos in society. The literate was already able to notice the disturbances that legal uncertainty caused in his time, manifested in violations of laws, the result of the acts of politicians and legislators crushing the constitutional order, which became increasingly commonplace in everyday life. This becomes evident when considering that

in countries where women have been allowed to practice publicly, the respective parliamentarians have passed special laws in this regard. Not here. Any minister, any director believes he has the right to decide on such a delicate matter (Barreto, 2004a, p. 526)

Scenes like this reveal how authoritarianism took shape in Brazilian society and suggest that it was more than a series of isolated, sporadic actions; rather, it became a routine practice, shaping the foundations of Brazilian republicanism.

However, Barreto's notes did not merely address specific issues of Brazilian law and politics. In the role of a legalist or as someone who constructed the *persona* of a would-be interpreter of the law when forming a judgment about Article 73 of the Constitution (1891) - which gained public attention by highlighting the possibility of women occupying positions in secretariats - the vulnerabilities of the oppressive male figure were also exposed. Somewhat sensitive and with his masculinity shaken by his own insecurities about femininity - such as difficulties in flirting and establishing a

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<sup>9</sup> In the chronicle *Queres encontrar marido? – aprendei!* published in *Hoje* magazine in 1919, the writer asserted the following: “I am not an enemy of women, but I want the law to be respected, to feel that it guarantees me” (Barreto, 2004a, p. 526).

romantic relationship - he may have expressed these fears. A fear that could intensify when having to share the same professional space with women in the public arena.

In any case, when Barreto suggests that the reading and discussion of the law follow a strictly literal interpretation - considering only what is transcribed in the text without subjective interventions - he did not aim to establish an absolute principle for himself. The defense of a literal interpretation of the norm is seen more in protests that touch on constitutional issues. In other legal areas, such as the criminal sphere, this rigidity in the way of interpretation seems to disappear.

This is evident in the chronicle *Como Budista*, published in *A. B. C.* magazine in 1918, when the writer encountered the news of a homicide in São Paulo. The crime was committed by Mrs. Juliete Melilo, who killed her partner. In this account, the motivations for the crime are unclear, but one could suggest that a mistake made by the couple led to the breakdown of the relationship. Both forged images for themselves of what they were not, as Barreto explains: “he tried to deceive the woman with a title that Belisário Pena says was scientific; she tried to deceive him with what men get rich with” (Barreto, 2004a, p. 383). In other words, he possibly presented himself as smart, displaying a ring or his doctor’s “scroll” on his thumb. In turn, she would have shown that she belonged to a family with a more comfortable economic condition, a potential heir.

The case was taken to a jury trial, and at the time, Barreto declared that he would defend the woman if he served on the panel judging the crime. And, before seeing her as an active agent of the action, he positions her in the place of victim. In his defense, he thought, he would justify the woman’s criminal act as an extreme reaction to the situation at home, of living like a “dowry hunter” who sought in his company not the experience of romantic love, the exchange of affection, the reciprocity of affections, but the impulse to feed personal ambitions. In other words, the man’s intention was to find a good “nest-egg” in marriage, and the family inheritance would be a guarantee and safe possibility of financial stability.

Barreto's argument clearly attempts to mischaracterize the woman's criminal conduct, dismissing the notion of her as a murderer - someone who coldly executed her own partner. The claim seeks to emphasize the condition in the home environment: a mere object of man's desire. This objectification contributed to him being the target of male violence, because, as Rachel Soihet (2002) argued, with men historically occupying a position of power, the right to discharge their aggression on their objects and properties was attributed as "natural", and since the feminine is in this arrangement, her body will suffer from these modulations of symbolic violence.

In a completely opposite situation, faced with cases of uxoricide, that is, of men who killed women, Barreto's position changes and the writer's flexibility in the face of the (penal) norm is no longer visible. Contrary to the previous case, of the homicidal woman, the carioca author defended compliance with the law or the jury's manifest desire to apply the penalty imposed when it came to men who got their hands dirty with the blood of their companions. This suggests that Barreto likely considered it unacceptable for men to take the lives of their partners based on trivial justifications, selfishness, or the simplistic notion of defending their honor, asserting that:

Honor, like all the conceptions that have guided past societies, currently inspires many crimes or excuses. These conceptions should not be completely swept away from our mentality; There is a lot to enjoy in them and the acquisitions they brought us are not to be overlooked; but they must be used with caution to be useful and serve us, so as not to conflict with our current feeling about life. They must lose something, given our contemporary ideas about the world and man (Barreto, 2004a, p. 467)

In the early years of the Brazilian Republic, the topic of honor was a subject of controversy in jurisprudence. Margarida Danielle Ramos (2012) observed that, during this period, arguments advocating for the reclassification of the murder of women as a lesser offense - thereby diminishing the severity of the crime - were both constant and intense. This defense aimed to convince the Brazilian legislator to accept the thesis of self-defense by reinforcing the honor defense argument. Initially, this principle applied only to those who entered into marriage, as referenced in Article



231, I of the 1916 Civil Code. However, it was not long before this duty was extended to consensual relationships as well.

Apparently, these interpretations of the law in Barreto's work seem to be context-dependent, especially when analyzing his direct and indirect discussions of criminal law and the Constitution. Depending on the case, subject, perspective, and circumstances under which he structured his reflections - and whom he sought to address - his interpretation of legal texts appears ambiguous. It contrasts with a strictly literal reading of the law, instead taking on a broader interpretation based on his intent. The writer's comment on the homicide, based on a gender reading, is an example of the situation in which he seems to have placed different weights and measures in the assessment of the same crime.

The situation raises questions: after all, wasn't Barreto also falling into the very contradiction he accused feminists of, by criticizing their interpretation of the constitutional provision as exceeding the boundaries established by law? This slippage or self-controversy can be seen as a demarcation that there were legal provisions susceptible to a more extensive and complete hermeneutical criticism than is analyzed by the cold letter of the law, which could involve cultural, political, social factors and, why not, sentimental? What criteria should be followed, what guidelines should be taken to establish a fairer, more equitable reading of the norm that respects the country's democratic values, putting prejudices aside? Who is authorized to carry out the procedure and what are the requirements to assume the position of critic of the Law? This study does not intend to offer, in such a summarized way, answers to the questions above, as there are circumstances that must be evaluated in the literary criticism and that make it possible to organize other work. One of the directions may be to understand the implications of the writer's reading and criticism of the Law in relation to his social place, in relation to the historical conditions of being and perceiving himself as a black man.

For now, it is worth noting that when the Constitution gained prominence in Barretian reports, the ambivalence in interpreting and reading the norm seemed to align. In the criticisms he made of the politicians of his time, this perception can be located when demonstrating violations of a country's highest law; violations carried out by State managers and leaders, as well as in the scathing reports about republican culture by exposing living in a space in which democracy seemed to be a great performance and the democratic experience a theater of horrors. As can be seen in the chronicle *Padres e frades*, published in *Lanterna* in 1918, which reports on art. 72 of the 1891 Constituent Assembly to criticize the stance of Venceslau Brás (1914-1918), then President of the Republic in office in Brazil, who allowed priests to embark on Brazilian warships. An observation also found in the protests against the expulsion of foreigners from the city of São Paulo, in two publications made for *O Debate*, in 1917, in the chronicles *São Paulo e os estrangeiros*, which had two parts with the same title. It is also possible to highlight this idea in the story created to deal with humor about the controversies behind the free expression of thought in Brazil, exposed in the chronicle *Coerência*, published in the magazine *Careta* in 1919. In all these debates, the Constitution takes center stage, and it is feasible to consider that Barreto attempted to embody a figure he possibly engaged with cautiously, fearing it might suppress his own emotional expression as a writer. However, ambiguity was fundamental in shaping his identity, allowing him to construct the image of the bureaucrat.

### **3. Stretching the feet to the frontiers of law**

When analyzing the proceedings of the First Constituent Assembly of the Republican Period (1891), Lima Barreto highlighted a fundamental concern: ensuring that citizens were aware of their rights and obligations, as well as the duties their legal representatives should uphold and respect in the country's administrative policies. The writer emphasized to his readers that one did not need to be an expert in politics, economics, or finance to understand the mismanagement of state policy, as behind the scenes, confusion and blunders by leaders were constantly exposed in everyday life through newspapers.

This led Barreto to assert that any citizen was capable of understanding the law and its transformations, making legal expertise unnecessary to engage with its issues. Despite admitting, “what is called – ‘legal knowledge’ – frightens me more than all the ancient astrological sciences; and if I were threatened with death to study even a fragment of it, I would truly prefer to die” (Barreto, 2004b, p. 117).

If the complexities of the legal field - its formalities, rules, and language - defined the criteria for acceptance and recognition among its practitioners, legal codes were not indecipherable nor confined to an inaccessible domain. With the exception of women - previously discussed in relation to Constitutional Law - who, apparently, were not seen as fitting into the mechanisms of the ‘juristinist’, someone qualified to analyze, interpret, and critique legal knowledge.

However, if Barreto expressed fear of legal knowledge, it is reasonable to consider it false modesty. This is because, for the man of letters, the Law was a recurring theme in his confrontations and did not overwhelm or paralyze him in any way. The Rio de Janeiro author had already provided clues about this controversial position - whether or not he was a critic of the Law - in correspondence with Almáquio Cirne, when he remarked to his colleague that

the wisdom of these bonzos out there doesn’t scare me and you shouldn’t be scared either. It, at most, consists of the enunciation of some grammar rules that we all know, as it was impossible for us not to know them when they know them (Barreto, 1956b. p. 201)

In the chronicle *Pela seção livre*, published in *Revista Contemporânea* in 1919, when commenting on the “*apedidos*” (a pun on the word: requests) section of *Jornal do Comércio*, he demonstrates how legal language was spatialized and became accessible through other means of communication:

In no other daily life does the old institution of ‘*apedidos*’ acclimatize and prosper. In other Rio newspapers, everyone sees how the paid journalistic literature sections are dwindling; and in the major newspapers in the states, such as the magnificent *O Estado de S. Paulo*, only on certain occasions do their respective ‘*apedidos*’ have any resemblance to those of the old national press organ. The Journal [*do Comércio*] itself, on the occasion of celebrating its anniversary, has already praised the section it invented and

created. The writer of the eulogy said that he made it easier for everyone to be a journalist and remain independent from professionals. Grandpa's enemies say, however, that his free section is an escape valve for the grudges and spite of the great advertising organization, when his written expression cannot appear in the official parts of the newspaper. The section is so interesting that it deserves a well-documented historical study. [...] So sought after are the 'apedidos' by lawyers and politicians that we, just by reading them, can learn public, civil, international, commercial, criminal law, finance, banking trickery, industrial trafficking and ministerial dealings. Just read them carefully. I have always read them and always read them (Barreto, 2004a, p. 486-487)

In the previously mentioned carioca newspaper, founded by Pierre René François Plancher de La Noé on October 1, 1827, Barreto considered the aforementioned section one of the genuinely Brazilian institutions. For the author, a particularity that seems to have ensured its seminal brilliance was the tradition it maintained since its creation in 1860, by reserving space in its columns to discuss a wide range of subjects with a variety of contributors.

Barreto frequently expressed his admiration for this column, going so far as to assert that "if the 'apedidos' of *Jornal do Comércio* didn't exist, I don't know how we could live in this land so monotonous, so political, so full of discoveries and inventions" (Barreto, 2004b, p. 285). So, more than entertaining and informing, the pages of that newspaper were for the author of *Clara dos Anjos* an invaluable source for understanding the domestic, commercial and sentimental life of the population.

Roger Anibal Lambert da Silva (2017) observed that 'Publicações apedidos' (*Jornal do Comércio*) was considered an example of neutrality, a definition given to those who did not take a position against the government. In an opposite situation, the printed material was branded as a political newspaper. This profile, however, revealed fundamental contradictions, as noted by the researcher of *Em nome da ordem*. In Victor Viana's reports, in notes he made in commemoration of the centenary of the founding of *Jornal do Comércio*, admitting that governments have always sought to defend themselves, through articles, from attacks that the great writers there signed with pseudonyms.

It sparked debates and controversies aimed at shaping public opinion. Barreto was attentive to these engagements by newspapers, editors and journalists who wanted to form the opinion of their readers, observing in the newspaper columns the game of barbs, intrigues and accusations within national politics. This observation appears in the article *Pela sessão livre*, where the carioca intellectual discussed one of these ‘apedidos’, dated March 24th.

Written anonymously, the column reported on the then Minister of Justice, Urbano Santos da Costa Araújo, in the presidential government of Delfim Moreira (1918-1920), who was using the prerogative of his position to facilitate free registration for heirs of his friends at the renowned Colégio Pedro II. An action that harmed those who needed the benefit most urgently, such as the poor and orphans.

It is noteworthy that Barreto’s reports express his astonishment at the possible charging of fees by the school, as he assumed that traditional educational institution, a legacy from the time of the Brazilian Empire (1822-1889), would be the only one accessible to the well-off population facing difficulties when bearing the costs of the monthly attendance fee. Based on the requirement to pay a fee to study at a public institution, it can be inferred that the writer conducted a constitutional analysis, posing as an interpreter of the law by drawing on legal expertise to reflect on what happened and offer the following insights:

Where would this be? In which law? When questions of this nature come to me, the first thing I do is open the Constitution. That’s what I did. There I found, in chapter IV, art. 35, nº 4, among the non-private attributions of Congress, the following: ‘Provide for secondary education in the Federal District’. There it is and everyone can read what I transcribed there. But how did Congress fulfill its attribution? With the Military College? This school, which is very dear to the country, is nothing more than a very special establishment, intended for boys of a certain origin and birth. With Pedro II? But attendance is taxed there and the number of students is limited. I left the easy remedy of invective to our democracy; but I was confused and could not imagine that, after almost thirty years of the Republic, Congress had not thought about the matter, when it had already created three more military colleges in the states. Is it possible that the luminaries of our parliament believe that the only day school, whether paid or not, can satisfy the hunger for education of boys in a city of a million inhabitants? Why did they found so many military

colleges in the states, and forgot the Constitution's commandment that seems to impose on Congress the duty to deal primarily with secondary education in the Federal District? (Barreto, 2004a, p. 489)

In this debate, the author recalls the 'criminal neglect' the State exhibited regarding women's education. In fact, female secondary education is one of the points visited by Barreto when dealing with the topic. A protest incorporated into fictional writing, as Eliane Vasconcellos observed when analyzing the characters Adelaide and Escolástica, indicating that Barreto subtly expressed his criticism of contemporary educational models. With this, the author of *Entre a agulha e a caneta* concluded that, if the characters

had better education, it would not have been difficult for them to share the intellectual life of their respective relatives, and, probably, they would have launched themselves into a professional activity, and who knows, they would have the possibility of living alone (Vasconcellos, 1999, p. 146)<sup>10</sup>

A historically situated problem when considering the 'prescribed role' of women. In the first three decades of the 20th century, female duty was reinforced through ideological discourse, bringing together conservatives and reformists of different shades who dehumanize women as historical subjects, as Mariana Maluf and Maria Lúcia Mott (1998) explain. From this aspect, the belief was built that the woman's place would be the secret of the home, far from the public space and the roles that could cause confusion in the limits of attribution of each sex. Thereby, a woman's duty would be only marriage, the fulfillment of the modest character, wife and mother.

At other times, Barreto mobilizes the Constitution to reflect on the duties of politicians. One of these cases made it into the pages of *Correio da Noite* in the chronicle *Os próprios nacionais*, in which the literate criticized the undue occupation by government authorities of Union properties, renting out their families and relatives without complying with legal stipulations. No ministry was immune to criticism, and

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<sup>10</sup> Translation by the author.



the Baron of Rio Branco's stance in transforming the Itamaraty Palace into an official residence proved that it was a customary practice.

For Lima Barreto, this case resembled yet another political scandal, revealing that public administration in Brazil was akin to a comedy show, disregarding legal duties and obligations. In his reports, the literate points out that people appeared willing to minimize the situation, making the case go without much fanfare, reinforcing images that "Mr. Rio Branco could perpetrate all the abuses, all the violence of the law, with impunity" (Barreto, 2004a, p. 164). The problem was just being swept under the rug, fueling the idea that the norm was an eventuality to be fulfilled when it came to a statesman.

It was no different with the Minister of Foreign Relations. A negative example that justifies Barreto's comparison with the actions of two French ministers, such as François Guizot (1787-1874) and Nicolas-Jean de Dieu Solt (1769-1851), who knew how to separate personality from the more general interests of homeland. Without acting on impulse, both were aware that the position they held did not give them permission to do everything that came to mind.

Carefully analyzing this issue, we see that Barreto explicitly addressed the nature of a Minister of State's role when he reflected that the office

requires from those who exercise it the duty to ensure, in their sphere of action, the public good and happiness of communion. This will not be in the laws or regulations, but, evidently, it is contained in the essence of such an administrative function (Barreto, 2004a, p. 339)

If the prerogatives of good politics involved the aediles duty to ethics, this did not seem to be the case with Rio Branco - at least in the records that Barreto made, because although the writer recognized the notable services that Rio Branco dedicated to the country, his turbulent behavior in public management did not go unnoticed.

An example of these oversights by the minister mentioned by Barreto appears in his failure to comply with the Constitution, by failing to present annual reports in accordance with his position, with details of the business of his portfolio,

adding documents referring to the main matters and other measures that could elucidate the paths of its management. This requirement was expressed in chapter IV, article 51 of the Constitution - on the duties of Ministers of State -, providing that the documentation produced should be addressed to the President of the Republic and distributed to all members of the National Congress. In particular, this material could be requested by the Legislature so that information and clarifications could be provided.

Barreto's initiatives, in articulating his protests based on the constitutional text, clearly define what we seek to identify as his image as a jurist. If, on the one hand, this figure denoted the possibility of everyone being knowledgeable and astute critics to debate and create different ways of seeing and saying Law, the facade proved to be less universalist, accessible and democratic when assumed by women.

However, it is necessary to be diligent when concluding this aspect of the reflection, as erasures in a constitutional reading possible for women are indirectly opened by Barreto in *Triste Fim de Policarpo Quaresma*, by making the "right to happiness" debatable. It is worth remembering that this theme was not constitutionally supported in the 1891 text, nor was it foreseen in infra-constitutional legislation before and during the initial years of Brazil's republican regime (1881-1930).

Yet, the problem did not go unnoticed by Lima Barreto, who was certainly aware of what was set out in the preamble of the Declaration of the Rights of Man and of the Citizen<sup>11</sup>, written by Thomas Jefferson in 1789, which announces that "the demands of citizens, from now on founded on simple and indisputable principles, are always directed towards the conservation of the Constitution and general happiness".

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<sup>11</sup> The evidence that Barreto was aware of the content of the aforementioned declaration is supported by a record made in the chronicle *No ajuste de contas*, published in *A. B. C.* in 1918, in which the author mentions article XVII of the declaration to deal with the right to property, a situation that allows us to estimate that the other normative provisions of the law were not strange and indifferent regarding their form and content to our author: See: Barreto, 2004a, p. 338.

An approximate reading of this statement seems to have been made by the narrator of *Polícarpo Quaresma* in the passage in which he presents the situation of the character Ismênia in relation to marriage, in which he expresses the following:

life, the world, the intense variety of feelings, of ideas, our own right to happiness seemed like trifles to that little brain; and getting married was so important to him, a kind of duty (Barreto, 2021, p. 17)

Without aiming to exhaust the subject, we highlight José Tomás Alvarado's (2016) observation that proposing a right to happiness implies advocating a fundamental right is put on the table - in legal relationships, they are generally established by constitutional norms or enforced through diplomatic relations in which international treaties are signed - belonging to all human beings with legal personality. Barreto outlines this interpretation in the quote above and narrows down<sup>12</sup> the statement to explain this possibility for women, particularly the use for self-inscription, with the interruption of a social flow that places motherhood, marriage and home as natural for them.

Barreto invokes the right to happiness to discuss marital disruptions and the 'architecture of the happy home' which confined men and women within a rigid normative structure (Maluf; Mott, 1998, p. 382)<sup>13</sup>. It is remembered as an argument for individuals, especially women, to get out of disastrous marriages, from a life together in which feelings no longer represent respect, fidelity and kindness. It is remembered to denote that marriage is not a life sentence where the penalty imposed is to have an unhappy life alongside someone else for all eternity.

In this context, the right to happiness - within Barreto's understanding - can be interpreted as a call to say 'enough!' Enough of the gags of marriage and the normalizing and disciplinary inflections of patriarchal society that made women

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<sup>12</sup> In a more general perspective of the city, the right to happiness maintains a direct relationship with the idea of social well-being, and it is possible to find traces of this dialogue with the interpretations that the literate made about the teachings of the theologian Jacques-Bénigne Bossuet (1627- 1704) about the art of governing, stating that politics should have the happiness of the population as its aim.

<sup>13</sup> Translation by the author.

silence their desires, impulses, desires and their own experience with sex. In a period in which there was no legal provision for divorce<sup>14</sup> in the civil code of 1916, only a *desquite* was possible, which promoted only the separation of bodies and assets, while the marital bond remained. The right to happiness appears, if not as a legal guarantee expressed and affirmed in text, as an agenda for women's emancipation.

This issue gained Barreto's attention, possibly due to the constant reading he carried out of the plethora of articles that daily bloodied the pages of Rio's newspapers with narratives of atrocious murders of women by their partners. Likewise, those who, maintaining small courtships and exchanges of affection, were located within the scope of conjugality<sup>15</sup> and equally suffered from those who did not accept the end of the relationship, their insubordination and desire to be able to warm their affections in other arms. News of violence that did not appear in print in an unpretentious way, because as Elizabeth Cancelli (2001) points out, the entire spectacle produced by crimes of passion in the newspapers would be another part of the day-to-day life of crime, a vibrant and appealing subject in the press and the *raison d'être* of repressive and vigilant apparatuses. Thus, spectacularization, before representing the banality of evil, reflected its prestige, the fascination that individuals have with the forbidden and illicit.

However, if for Lima Barreto literature was a powerful tool for action, its mechanisms were finely tuned by Law, as evidenced by his constant references to the first Republican Constitution. However, wouldn't they also be a way for the literate to re-territorialize himself in the bureaucratic space? Undoubtedly, journalism and literature were ways of removing the corporeality of that energetic man, whose emotions were made pale by the bureaucratic machine. Which does not mean, in

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<sup>14</sup> Leal and Borges assessed that the conservative barriers, manifested in the National Congress during the discussion of the 1916 civil diploma, blocked the initial proposal of Clóvis Beviláqua, author of the draft of the aforementioned diploma, the opposite intention of qualifying the relative incapacity of married women, in all acts of civil life. See: Leal; Borges, 2017.

<sup>15</sup> Margarida Danielle Ramos observed this issue when she stated that when two people were interested in maintaining a stable relationship, it could be said that there were interactions between them that led to the understanding of a "conjugal life", with its rights and duties. See: Ramos, 2012.

agreement with the thoughts of David Le Breton (2018), a movement of depersonalization, but of impersonalization, of getting rid of all the obligations of identity in order to exist as little as possible.

When an individual enters a state of impersonalization it is as if they are disconnecting from the world, indifferent, little affected by the movements around them. It would be an exile from sociability in which the individual no longer feels the obligation to participate; a dead angle, although the subject does not disconnect completely. Literature and journalism managed to reactivate the bureaucrat man and did not cause the deterioration and aggravation of the desires he had to be a writer, to live without deprivations and limits imposed on intellectual activity and art. The “juristinish”, perhaps, was more of a keynote and the expressed desire to be the revolutionary on the platform of letters.

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