

*From Transparency to Darkness*JUSTICE AND PUBLICITY IN THE MIRROR  
OF CRIMINAL JURIES

BETWEEN 1869 AND 1929, MEXICO'S capital housed the institution that best embodied the possibilities and limits of the pursuit of truth in crime: the jury system in penal courts. A group of randomly selected male city residents had the power to decide over the facts in felony cases. Attorneys and judges maintained a prominent role in the process, and the voices of witnesses and suspects were also heard during public audiences, but the decision about justice was ultimately in the hands of a few good men who, lacking any direct interest in the conflict at hand, voted with their conscience to represent public opinion. Despite constant criticisms from legal experts, the popular juries, as they were often called, worked with sufficient transparency and independence to achieve considerable authority. By the 1920s, the institution had reached the peak of its influence, but it was abolished in 1929 by a presidential decree that replaced the Federal District's penal code. Criminal processes then followed an inquisitorial system, identical to the one already established in other jurisdictions, which kept most of the work of prosecutors and judges out of the public eye. The reasons for the abolition of the jury system, as we will see, were as much political as juridical. Starting in 1929, in any case, the penal process became completely opaque to common citizens.

During the 1920s, jury trials were prominent in the public sphere as the venue where diverse actors presented narratives and explanations of crime to broad audiences. Famous cases mobilized the rising power of newspapers and the radio. Those cases were particularly fascinating to the public because they exposed the subjectivity of those actors to the public's probing scrutiny while simultaneously channeling criticism of the postrevolutionary regime.<sup>1</sup>

Jury trials were the framework for influential debates about femininity, and they in turn contributed to the transformation of the role of women in public life—although, as we will see, not necessarily in a way that empowered them. Jury trials were a key site for constructing criminal literacy, and they catalyzed the emergence of publics that would tackle the problem of violence and impunity in subsequent decades. Studies of criminal juries in other countries stress their role as a space in the public sphere to explore many topics other than justice: emotions, gender roles, privacy, race. Jury trials did look like theater, and it is indeed tempting to see them as a stage where a variety of interesting plots and roles were performed as melodrama. Changing expectations about women in relation to violence and domesticity played out in this theater. In Mexico, however, jury trials were also the main stage for the pursuit of truth and justice. Multiple actors, from lawyers and suspects to audiences and journalists, participated in contentious debates, while jurors considered competing narratives.<sup>2</sup> State agents had only limited control over the process. The result was the emergence of an enduring skepticism toward the law. Looking at how jury trials operated beyond the structure of melodrama shows that women and political adversaries of the government could also use them to challenge their subordination.

After a brief history of the jury trial and its political context, this chapter will describe its operation through the testimonies of its defenders and adversaries. It would seem that nothing about jury trials was serene or balanced: the debates among lawyers about a particular case could be as acrimonious as the disputes on the way the institution worked. The basic question that divided those opinions was whether jurors were easily manipulated by base emotional appeals or hidden interests, or whether they were the custodians of a truly democratic institution. The second part of the chapter will deal with a famous case that marked the zenith of the jury trial's influence in the public sphere, when in 1924 a girl was acquitted after murdering a politician. The third part will consider the fall of the institution, after the trial of the assassin of the president-elect in 1928, and a verdict that was reached in the context of political pressure, religious conflict, and the media's obsessive interest. These two cases exemplify another lasting legacy of jury trials: the open vindication, by members of civil society, of informal justice and extrajudicial punishment as the best ways to deal with the limitations of the state.

Established after half a century of civil war and foreign invasion following independence, jury trials promised an enlightened way to address the conflicts that still riddled the nation at every level of public and private life. Justice Minister Ignacio Mariscal and other liberals who proposed the institution identified it with democracy and progress and offered a prestigious genealogy: the jury was an invention of ancient Rome and Greece, perfected by the English people, codified by the French Revolution, and embraced by the United States.<sup>3</sup> The Mexican 1856 Constitutional Congress, summoned by a liberal coalition, had debated the idea of including criminal juries in the new constitution, failing to approve it by only two votes. After the civil war with conservatives (1857–1861) and the French invasion in support of a monarchy (1861–1867), the same group of liberals returned to the idea. This time they established jury trials in the Federal District through a law that Mariscal proposed, which Congress passed almost unanimously and President Benito Juárez signed in April 1869. As a space where the common citizens could, at least in theory, intervene directly in the process of justice, “the popular jury,” as it was often called, seemed to be a lively expression of popular sovereignty.<sup>4</sup> There was a Mexican antecedent that Mariscal was reluctant to acknowledge. Journalists had been tried before juries from the 1820s until 1882, with some interruptions brought by political instability. In 1869, however, Mariscal was trying to avoid the impression that criminal juries would have the same flaws as press juries, which many saw as chaotic and biased in favor of suspects.<sup>5</sup>

Proponents of the jury believed that it could teach the public to tackle complex ethical and political situations while redeeming a justice system that lacked authority. Benjamin Constant, a strong influence on early Mexican liberals, argued that the jury was a mainstay of governance because it channeled private citizens’ concern about the law.<sup>6</sup> The jury was valuable because it allowed ordinary citizens to not only enforce but also transcend the law, using their common sense to perform a basic function of public opinion in its classic role of judging reputations. Even though they were asked to decide only on the facts of a case, jurors took their common sense further, embracing the emotions of the trial and adopting a negative view of the law when they thought it was flawed. Jurors in criminal cases placed their conscience above the letter of the law and judges’ instructions. For old liberal Guillermo Prieto, too much guidance from authorities altered the essence of the jury and

turned it into merely another branch of the judiciary.<sup>7</sup> If education could lead to injustice, ignorance was a virtue.

And ignorance was not difficult to attain. By 1869, penal legislation was still a hodgepodge of colonial codes, national laws, and traditional norms. Upheaval and civil war had made magistrates vulnerable to corruption, political pressures, or, among lower-court judges, inexperience. Liberals argued that only the direct participation of citizens could remedy such “judicial putrefaction.”<sup>8</sup> The jury’s democratic nature helped it to gain the broad support it won early on as a testimony to the struggles that the country had just survived. Writing from *El Monitor Republicano*, “Juvenal” argued that the people had to claim the power to judge: “Let’s not delegate to the hands of power,” he admonished, “the very rights that we have been able to take from it only with great effort.” Mariscal contended that the jury was a new right of the Mexican people: as a representation of the people, the jury would prevent the politicization of justice and other abuses of power.<sup>9</sup>

More than a right, the jury was an expression of popular sovereignty, a direct representation of the popular will through the conscience of individual citizens. Prestigious liberal ideologue Ignacio Ramírez explained that “the sovereign people” were the quintessential judge, just as they had been in the public square of antiquity and were at the time in the United States.<sup>10</sup> According to the 1869 law, jury verdicts could not be appealed if nine jurors out of eleven were in favor of conviction. A simple majority was enough for a verdict even if it led to a death penalty. In the following years, critics saw this broad authority as an idealistic aberration. Subsequent reforms gave judges authority to hear an appeal against the jury’s decision in case of procedural error, but maintained the exception when the vote was close to unanimous. The premise was that only individual citizens could be honest, free from the influence of money and power that so easily corrupted public officials. Each juror decided within the subjective realm of his beliefs, where he was accountable to no one, except perhaps God.<sup>11</sup> Thus, for example, even if a juror was asked to vote on the facts of the case, he was free to rule instead on the basis of his appraisal of the morality of the suspect’s action. Unlike the judge, by “applying the moral law that each man carries in his conscience,” the juror was above the letter of the law and the intentions of the legislator.<sup>12</sup>

The letter of the law, however, was equivocal about jurors’ obligations. The questions posed to them by the judge were restricted to matters of fact (“Is J. Jesús Soto guilty of having taken the life of Marcos Tejeda by inflicting the wound described in the medical certificate?” Or, “Was the death of N caused

by peritonitis caused by the wound?”).<sup>13</sup> Yet when jurors began to deliberate, they were sworn “to fulfill the obligations of the jury without hate nor fear and to decide, according to your conscience and your intimate belief, the charges and the means of defense, conducting yourself with all impartiality and firmness.”<sup>14</sup> Beyond that subjective demand, the law did not impose any rule as to how jurors should reach their decisions. After all, the jury’s authority resided in the individual conscience of each juror: it was not his intelligence or knowledge that mattered but his sincere belief about the moral value of the suspect’s actions.<sup>15</sup>

From its inception, the jury trial elicited resistance from sectors of the legal profession. At first, lawyers could see the benefit of a system that enhanced the impartiality of judges. Before juries were tasked with deciding on matters of fact, judges had to carry the double role of prosecutor and adjudicator, gathering evidence and then dictating the sentence. The popular jury, and the special prosecutorial office created to supplement it, would leave the judge to coordinate the process and decide on matters of law, thus preserving his impartiality. But as the legal profession grew in size and expertise, some began to voice criticism of such “democratic improvement” on the administration of justice.<sup>16</sup> Thus, the 1869 law was followed by rulings and legislation that reflected growing skepticism. The Federal District’s highest court proposed to eliminate criminal juries as early as 1880. Instead, the 1881 Code of Penal Procedures for the Federal District narrowed the jury’s purview to crimes with a penalty of more than two years of jail. A new code of procedures from 1894 further limited the crimes that juries could decide and expanded the role of judges. More crimes, like bigamy, were excluded in 1902, and in 1907 juries were restricted to crimes with penalties of more than six years of prison; juries were also excluded from hearing cases involving dueling, adultery, and attacks on public officials. During those years, other states that had also had criminal juries abolished them.<sup>17</sup> Just before the revolution, jurists augured that the days of the popular jury were numbered. However, Primer Jefe Venustiano Carranza included the popular jury in his project for a new constitution in late 1916, and this time constituent deputies approved it.<sup>18</sup> Regulations for the Federal District remained in effect until 1929, when a new penal code was approved. The possibility of using juries instead of judges remained in the constitution until 2008, but only for a few crimes, like treason and libel.

Critics of the jury system voiced pessimism about the average citizen and his ability to express the popular will. For Santiago Sierra, the illusion of “our

democratic experience” had consecrated an institution that was a poor and ephemeral reflection of justice.<sup>19</sup> Forty years later, another Porfirista, Francisco Bulnes, argued that the jury’s authority had to be constrained because “we do not deserve justice, because whoever cannot make it does not deserve it.”<sup>20</sup> Bulnes described the jury in Mexico as bad parody of august models: “The twenty six just men of the prudish England . . . became in Mexico twelve coarse men who congratulated rapists for the good bodies they have enjoyed, mocked husbands who suffered scandalous adulteries, admired the exquisite horror of those who murdered their concubines or public women, exalted in the heroism of the troublemakers, the astuteness of treacherous murderers, the trickery of thieves.”<sup>21</sup> The most coherent indictment against the jury, however, came from prominent lawyer Demetrio Sodi, a judge and jurist who acquired considerable influence and wealth during the Porfirian period. Sodi published *El jurado en México* in 1909, calling for the end of the jury trial, which he believed was imminent: most states had already eliminated it and established “procedures that are in accordance with the scientific advances of penal law.”<sup>22</sup> The book echoed the positivist critique against liberalism but stressed the perspective of a legal profession that had already acquired greater prestige by the time. Sodi argued that the jury was not a democratic institution (how could it be, if the lists were arbitrarily produced by government officials?), and he dismissed the idea that juries were necessary because of the flaws of the judicial establishment. Even if most judges were poorly educated, the defects of the jury were such that its abolition was still a better option. Based on his long trial experience, Sodi combined the usual quotations from legal authorities with outrageous anecdotes from actual Mexican jury trials. He listed the many ways in which justice could be undermined. One of the main dangers were lawyers’ tricks and rhetoric “because juries decide by impression and not by intimate belief.”<sup>23</sup>

Reports of frequent irregularities in the court buttressed calls to abolish jury trials. Courtroom spectators tried to influence the jurors with their vociferous responses to speeches and testimonies. Bribes and threats were discovered in some cases. Jurors often hurried, not taking the time to seriously consider the evidence. Lawyers used sophistry or encroached on the court’s roles. The strongest indictment of jury trials came from a few particularly scandalous cases in which juries acquitted suspects of crimes like homicide. Although newspapers reported most of these instances as routine, a few examples seemed particularly outrageous, prompting early calls for abolishing the institution or temporarily suspending constitutional guarantees.

There were plays inspired by such injustices, and extensive coverage of particularly grievous acquittals resulting from jury votes that contradicted the evidence. Even faced with a suspect's multiple confessions, as in the case of accused murderer Felipe Guerrero in 1895, juries did not always deliver a guilty verdict. For critics, the conclusion was plain: the kind of people who served in juries were selfish and therefore sympathized with the criminal, or they were so crass and base that they failed to see the abnormality of crime.<sup>24</sup>

These arguments neglected the fact that in many cases acquittals were supported by strong evidence, and guilty verdicts in others led to the death penalty.<sup>25</sup> A count made in 1929 by judges who presided over jury trials found that of 260 trials, 70 percent resulted in a guilty sentences, 5 percent were "absurd verdicts, mainly because of defects in the way the accusation was formulated" (where prosecutors requested harsh punishment for minor offenses), and the rest were acquittals for "crimes of passion."<sup>26</sup> The numbers, even if partial, contrasted favorably with the data collected in 1880, when juries in a small sample of cases acquitted more than 70 percent of the accused.<sup>27</sup> The improvement, newspapers argued, was the result of their coverage, which had made the operation of the trial more transparent. Even the jury selection could become a public event, with newspapers printing the names and portraits of those chosen.<sup>28</sup>

The social profile of jurors was the main reason for professional lawyers' opposition to jury trials. According to the 1869 law, juries were composed of eleven members. There were no income requirements, but jurors could "not be an employee, public official, physician, nor hold a profession that would prevent them from having free time without losing wages."<sup>29</sup> They simply had to be, legislators explained, men of "good habits and good common sense."<sup>30</sup> Thus, the exclusions were based on social status and not ideology. The illiterate were excluded, as well as artisans, and later those below a certain income level. Lucio Duarte, who owned a pulquería, successfully petitioned to be excused from jury obligation "for lack of the knowledge that must be held by the person who fulfills such commission."<sup>31</sup> Foreigners with three years of residency, and former supporters of the Second Empire, otherwise deemed traitors, could be included—they tended to be educated, upper-class men, after all. In 1880, moderate liberal Santiago Sierra called for a smaller "but well-chosen [jury] of citizens who satisfy the qualities that constitute honorability."<sup>32</sup> A 1891 reform to the law reduced the number of jurors to nine and established that they had to earn one hundred pesos a year or have a profession.<sup>33</sup>



Before each trial, the names of the jurors were randomly drawn from a list compiled by municipal authorities of “well-known persons” in each neighborhood.<sup>34</sup> In practice, the social profile of jurors was determined by the process of selecting the names to be on the list. Many citizens asked to be excluded, claiming illness, ignorance, deafness, old age, or other reasons. Those with friends in government could easily be removed from the list. The result was arbitrary, incomplete, and out-of-date lists, which often included people who did not exist. According to one judge, this caused “great problems that, little by little, destroy[ed] and degrade[d] the institution of the jury.”<sup>35</sup> Juries, critics claimed, included people with little education, merchants, shady Spanish immigrants motivated by interest, and even drunkards. Demetrio Sodi denounced the existence of “professional jurors,” also known as “coyotes,” or “milperos” (corn farmers), who were familiar with legal procedures. They were “vagrants” who arranged to be selected for juries in order to receive the small stipend that came with the job. Their trick was to guess the judge’s desired outcome in order to be “selected” again.<sup>36</sup> Twenty years later, newspapers continued to pillory jurors for hire who did not represent “the clean and spontaneous naivety of the humble citizen” but rather the cunning of slightly educated urban characters seeking profit in the interstices of a flawed system. Turning jury service into a job, they perverted the institution’s goals and made possible a “threatening sewer where corruption boils.”<sup>37</sup> Corruption could work for all sides. The jurors for a 1929 murder case came together from Ixtapalapa; they were, according to *El Universal*, “Indians” sent by a cacique. During a break in the court sessions, they had lunch with an employee of the defense who told them how to vote.<sup>38</sup>

A look at the rest of the participants in trials suggests that there were indeed other actors who could undermine the expression of popular sovereignty through the jury. Judges controlled the process of trials before the final public audience. They were in charge of the initial investigatory phase of the process, which consisted of gathering all the evidence in a written file. Public hearings before the jury began with the court’s secretary reading the prosecution’s indictment and the defense’s case in a monotone that put jurors and audience to sleep. Then suspects answered questions, and additional evidence was presented to jury. During this phase of the trial, according to the law, the judge “can do whatever he deems necessary for the clarification of the facts: the law leaves to his honor and conscience the use of means that might strengthen the manifestation of the truth.”<sup>39</sup> The judge was the most aggressive and powerful actor in the proceedings, grilling and scolding the suspects



if their statements contradicted any part of the existing evidence, or if they claimed not to remember the events. According to Carlos Roumagnac, a keen observer of the world of crime and prisons, judges acted on the assumption that the suspect was guilty, leaving aside “the calmness and the impartiality . . . that must be the main features of a true judge.”<sup>40</sup> Judges lost some of their power in the next phase of the trial, when the prosecutor and defense lawyer summarized the case using all their rhetorical weapons. This was the moment when everyone paid attention, and oratory acquired a central role because skillful defense lawyers could turn the jurors and the audience against the prosecution.<sup>41</sup>

Attorneys deployed the tools of rhetoric and personal emotion, undermining the structure of the process established by the law. The code instructed prosecutors to limit their conclusions to “a clear and methodical exposition of the charges lodged against the accused,” without citing authors or laws, and it allowed the defense attorney to speak “with all freedom except to attack the law, morality or authorities, or insult any person.”<sup>42</sup> In practice, there was considerable leeway. Although the judge could stop the speeches if they transgressed these boundaries, attorneys used a variety of resources in order to influence jurors. Some began with jokes. Prosecutors cited criminologists to stress the obvious criminal features of the suspect. Both sides deployed “flashy rhetorical figures and dramatic effect” in which literary inspiration took precedence over facts.<sup>43</sup> But it was the defense that could most effectively use art to elicit emotions and to encourage jurors’ empathy for suspects. The same effect was harder to achieve with victims: revenge was easier to imagine than suffering.

Their ability to mobilize sentiment over the law made a few defense lawyers quite popular. They were talented orators regarded as artists whose work had political significance. The best known among them was Querido Moheno. A lawyer and congressman during the Porfiriato, Moheno advocated for a parliamentary regime and strong restrictions on voting rights in order to secure a peaceful transition out of the benevolent dictatorship of the aging Díaz. This meant, in his writings, a greater role for public opinion, which he defined as the voice of the most educated sectors of society. During the civil war that started with the coup against President Francisco I. Madero in 1913, Moheno joined General Victoriano Huerta’s cabinet, and he had to leave the country when the revolution prevailed. He returned in 1920, ostensibly renouncing politics, to work as a journalist and defense attorney in Mexico City. During that decade, his speeches, some of them several hours

long, were praised as works of art, while his newspaper columns lambasted the postrevolutionary regime. He was so popular that audiences applauded him before he started to speak, and listeners celebrated the conclusion of his speech with “shouts, applause, cries, wriggling hands, all combined in honor of the great tribune”; they even carried him on their shoulders, despite his considerable weight.<sup>44</sup> His successes in court were often interpreted as political victories. Government deputies referred to him as “the cynic Querido Moheno who, not satisfied with having tarnished himself with the crime of *huertismo*, now wants to be tarnished by his complicity with all the crimes committed by prostituted women in Mexico City.”<sup>45</sup> Moheno used all the resources of oratory to persuade jurors to vote for acquittal, combining the basic dictates of classical rhetoric with a cunning manipulation of the audience’s emotions.

Moheno embraced political sociologist Gustave Le Bon’s ideas about the crowd. In doing so, he made the jury trial the keystone of a broader political theory about the role of sentiment and violence in public life. Le Bon, admired by Porfirians and revolutionaries alike, argued that crowds could be studied and manipulated as living organisms. He described them as impulsive, simplistic, authoritarian, and conservative. Juries were just a particular variety of crowd, and as such, they were influenced more by imagination than reasoning or evidence. Le Bon offered a few rules to influence juries: exploit their tendency to be lenient with crimes that usually do not affect them, modify the speech according to jurors’ reactions, and address those who seem to be the leaders within the group.<sup>46</sup> *El Universal* translated this to the Mexican context: “A jury is a crowd, and a crowd does not operate by reasons but by feelings. Nobody can persuade a crowd, but it seems very easy to move it. And to move it is to defeat it . . . even at the cost of justice.”<sup>47</sup> From this perspective, emotions could be a legitimate foundation for verdicts; jurors were assumed to simply channel the judgment of public opinion. This obviously contradicted the model of the rational, logical truth that was supposed to characterize judicial investigations. But it worked as part of Moheno’s rhetorical strategies. He often refused to base his defense on factual details, arguing that the fate of his clients “will not be decided with those details but with great facts and generalizations.”<sup>48</sup>

For Le Bon, “to know the art of impressing the imagination of the crowds is to know the art of ruling them.”<sup>49</sup> The political implications of these ideas were particularly relevant in 1920s Mexico. In Moheno’s hands, they made oratory a weapon against the postrevolutionary regime’s abuse of power. In

his speeches before juries and in his newspaper columns, he defended the use of violence as heroic resistance against tyranny. As a lawyer in the 1920s, Moheno argued that the jury was the highest representation of public opinion—much as he had argued about Congress before 1913. He and other famous defense lawyers insisted that the jury was the only institution that could provide a measure of justice in a corrupted judicial system—“the only true guarantee that the citizen enjoys among us.” The jury superseded written law because it was “the summary of social conscience.”<sup>50</sup> “Official justice” was nothing more, after all, than a temporary delegation to the government of people’s right to seek justice. Jurors’ “intimate conviction” translated into public action a deep skepticism of the state, which Moheno cultivated in speeches that framed defendants’ actions as resistance against the regime’s corruption. Defending Alicia Jurado, who had killed her husband, he argued that the revolution had created moral confusion and impunity, and that as a consequence justice had lost its authority; if the murderers of Madero and Zapata had not been punished, and the men who had stolen Moheno’s own furniture during the revolution now used it without fear of punishment, how could the jury condemn a defenseless woman?<sup>51</sup> The revolution had been “this horrible nightmare, these ten years of butchery between brothers in which a million Mexicans died.”<sup>52</sup>

Moheno’s vindication of public opinion was based on a racialized view of society. He claimed that a truly independent jury had to be drawn from a list that represented the “intellectual level” of Mexican society: neither intellectuals nor ignorant “huarachudos” (sandal-wearing people),<sup>53</sup> and he argued that “the only possible form of democracy is the rule of the people by the best of the people.”<sup>54</sup> The judiciary’s decadence was a result of the *mestizaje* (inter-racial mixing) that was “strangling the republic.”<sup>55</sup> Moheno, who had lived in Cuba and the United States during his exile, alluded to the “African savagery” of blacks in Cuba who, he claimed, killed and ate white children. In his writings, he praised the U.S. South, where “the Lynch law authorizes certain kinds of popular executions” as a protection for white women’s honor and a direct representation of popular sovereignty—the same reasoning used by liberal Ignacio Ramírez six decades earlier, when jury trials were first proposed.<sup>56</sup> Other Mexican authors shared Moheno’s racially tinged view of social hierarchies, and his conservative rejection of the revolution.<sup>57</sup> The success of Moheno’s speeches probably pushed the government to eliminate the institution in 1929.<sup>58</sup> While these ideas did not lead to fascist ideologies similar to those developing at the time in other countries, in Mexico they left a

less overt but more resilient legacy of generalized skepticism toward the judiciary and the police, as well as tolerance of extrajudicial punishment.

Only after hearing these speeches and the judge's instructions did the jury become the key actor in the proceedings. The judge presented jurors with the questions upon which they had to vote. The questionnaire followed a logical order in which a negative response to one question would preempt discussion of the next one. Mitigating and aggravating circumstances, therefore, were considered only after the jury had voted on the suspect's guilt. The judge had to avoid technical terms and make the questions as simple as possible, but often the jury's answers were illogical—offering aggravating circumstances after declaring that there had been no crime, for example. Along with the questions, the jury received a handbook with relevant articles from procedural codes. The judge also gave them instructions intended to preserve the integrity of the decision process. For example, jurors were told to disregard the fate that the suspect would expect according to their verdict. Nobody took these orders too seriously, and the jury did keep punishment in mind when voting on the facts of the case. Beyond this, there were no rules for the jury's deliberation. The judge could only enter their chambers to clarify a point of law, but he could pressure the jury to reach a prompt verdict, ordering jurors not to leave court until they voted or refusing to bring food to them, even though sessions were scheduled in the afternoon and evening. These tactics, some critics argued, led to obviously erroneous votes caused by exhaustion.<sup>59</sup>

The role of the jury was not limited to its deliberation and vote after the hearing. The jury provided a unifying perspective throughout the trial, actively engaging with the other participants and maintaining, despite the arguments of critics of the system, a fair competition in the pursuit of the truth. The best panorama of the diversity of voices heard at jury trials during the 1920s comes from the 1961 memoirs of Federico Sodi, *El jurado resuelve*. Unlike his half-brother Demetrio, who in 1909 wrote *El jurado en México*, Federico celebrated the institution and its polyphonic chaos, and he did not pay much attention to juridical questions. The great speeches by famous lawyers, according to Sodi, “never determined the fate of an accused. A case was won or lost through the evidence placed in front of the jurors.” Rather than being the object of emotional manipulation, “the jury’s instinct allowed it to distinguish truth from lies with mathematic precision . . . through a wonderful intuitive phenomenon,” so that its opinion was already formed before the lawyers’ closing remarks. Thus, for example, Sodi was able to get an acquittal for homicide suspect Bernice Rush despite the prejudice against her U.S. nationality and

her past as a prostitute. Over several days, jurors began to understand her, despite her poor Spanish, thanks to “those small, fleeting elements . . . that can only be perceived and transmitted between human souls.”<sup>60</sup>

Evidence came to jurors from different perspectives. Four parties interrogated suspects and witnesses in order: the judge, who usually tried to support the results of the prior investigation; the prosecutor, who contributed to the case hoping for a guilty verdict; the defense attorneys (often a team, including court-appointed and pro-bono lawyers), who were trying to both cast doubt on the accusation and create an alternative story; and the attorneys representing the civil party. The latter were hired by the victims or the family of a murder victim to seek monetary compensation and defend the reputation of the deceased. They sat at a table on a platform next to the judge, prosecutors, and defense attorneys; they participated in the interrogations, and they also gave a concluding speech. Their role could be important: in María del Pilar Moreno’s case, the representative of the victim’s family was more vociferous in demanding punishment than the prosecutors.<sup>61</sup> Representatives of the civil party could also add to the emotional color of the trial. In a case in which a man who had killed his cheating wife and her lover moved the audience with his tears, the lover’s relatives countered the effect with a lawyer who was, in Sodi’s opinion, ridiculous but effective: “Some said that he charged a schedule with three categories of fees: defense with teary voice, defense with cries, and defense with continual sobbing cries.”<sup>62</sup> All lawyers could work, at different points in their careers, in any of the four capacities mentioned above. Thus, even after the worst battles, they sought to have a drink together with their adversaries, often in a bar across the street from court.<sup>63</sup>

Jurors also heard other voices during the presentation of evidence. Prosecutors and defense attorneys, in Sodi’s view, could be overpowering during speeches but lose control during interrogations. The best ones, like Moheno, gathered information about the witnesses before the trial, surprising them by revealing information about their lives, and laying the groundwork for the summation, a melodramatic narrative with starkly delineated characters. The truthfulness of testimonies was exposed also during the *careo*, a face-to-face confrontation between the suspect and witnesses or victims. The judge enjoined both parties to reconcile their testimonies, and let them speak freely, without the intervention of the attorneys. The result yielded little new evidence but produced fascinating dialogues spiced with insults and gossip accusations, as in one case involving two wives of a murder victim who challenged each other’s morality, or another between two men involved in a duel

who were reluctant to admit that the cause of the dispute was someone else's wife. Suspects could otherwise intervene in the discussions, and even under the prosecutor's interrogation they conveyed their own explanations and criticisms of the evidence. Jurors could also ask questions through the judge or, as in the case against Rush, comment on the accuracy of the translation of her deposition.<sup>64</sup> Witnesses were also active in the process beyond their testimonies. They included all kinds of fascinating people, from a mentally ill man brought from the asylum to a famous detective; they could sleep while waiting for their turn or remain actively engaged as part of the audience.<sup>65</sup>

The most dissonant among these voices, of course, was that of the suspect. Some of them had such a commanding presence that they became celebrities of sorts. Women acquitted thanks to Federico Sodi's work ended up, as he feared, victims of their own sudden fame, but others acquired enduring reputations.<sup>66</sup> Audiences came to court to see those fascinating characters up close. A Spanish man accused of murder, for example, attracted everyone's curiosity because his appearance did not fit any of the stereotypes of the criminal offered by science. In the famous *Desierto de los Leones* case, the image of a woman in black, covered by a veil, sitting next to the skull of the man she helped kill and bury, surpassed any movie in terms of its impressive staging.<sup>67</sup> Suspects manipulated the jury, according to Sodi: "They tried to ingratiate themselves with the court, making the judges laugh, or moving them with sentimental stories and faked afflictions"; female suspects rented children "to cause pity, with a feigned maternity, among the simple and naïve jurors." Some also hid the purported anatomical evidence of their criminal propensities, such as large ears, long arms, dark skin, or sparse beard—all of which, as a good positivist, Sodi considered objective evidence of criminal tendencies.<sup>68</sup>

The staging was much appreciated by the crowds attending jury trials. The court distributed a limited number of free tickets, which in famous cases were sold outside the courthouse. The spectators' physical presence in the courtroom was palpable; as the temperature in the courtroom rose, the smells of sweat, food, cigarette smoke, and flashbulbs could be suffocating. People hissed, booed, cried, clapped, and in some cases, chanted "Acquittal! Acquittal!" as if they were attending a sporting event.<sup>69</sup> In at least one case, examined below, they physically attacked the suspects. Those who could not enter the courtroom had to be kept out by soldiers, but these would-be spectators could still express their opinion from the street. Lawyers and journalists liked to compare these crowds to the audiences found in theaters, cheap cinemas, street markets, or cabarets. In 1907, writer Federico Gamboa





FIGURE 1. Jury tickets. *Excelsior*, 29 April 1928, p. 6.

"She: Well, if there are no plays, take me to the jury.

"He: I could not get tickets, woman . . .

"She: Damn! Where are we going to have fun, then?"

attended jury trials in the morning to hear promising orators and then enjoyed lunch at the country club. He was fascinated by the diversity of the audiences. People from all walks of life could get tickets and make their presence felt: from upper-class women, highly placed bureaucrats, foreign diplomats, and other "decent people," to the "gangsters" and assorted rabble from the neighborhoods around Belem prison where the Mexico City courtrooms were housed.<sup>70</sup> For the sensual and bored woman shown in figure 1, the jury was a necessary distraction if theater was not available; she was annoyed because her husband could not get tickets for her.

By the 1920s, jury trials had their own specialized reporters, who generated innovative photographic and narrative coverage. Chronicles featured the dramatic intensity of the setting, the personality of the actors, and the sequence





FIGURE 2. María del Pilar Moreno's acquittal. *Excelsior*, 29 April 1924, sec. 2, p. 1.

of events, from the crime scene to the final speeches in the courtroom.<sup>71</sup> Figure 2 captures the most striking elements of María del Pilar Moreno's case: her slight yet dignified figure, the support of her mother, the crowds in the street, the jurors' faces, a reconstruction of the moment of the shooting, and the desks of judge, attorneys, and journalists in the courtroom.<sup>72</sup>

Though jury trials were a spectacle, they were not frivolous. Women, as we will see in the next section, probed the limits of the female exercise of violence in defense of dignity. Jury trials were living laboratories of justice and schools to build criminal literacy. Chroniclers of a famous case in 1906 noticed members of the audience, including law students, commenting on points of jurisprudence. Gamboa kept coming back to trials in order to gather material for his fiction, even as he decried the jury as a “democratic stupidity” akin to universal suffrage.<sup>73</sup> Criminologists observed a variety of criminal types and situations in a setting that, like the prison, was inherently connected to the “world of crime.” Roumagnac recommended that those studying the science of policing should attend jury sessions; among the “public in attendance it is rare not to find members of the underworld and particularly recidivists.”<sup>74</sup> Roumagnac himself interviewed prison inmates who told him that they attended trials not only to pass the time but also to learn lawbreaking techniques and ploys to avoid investigators. The radio, a medium that emerged during the mid-twenties, only expanded the reach of these lessons. The political ramifications of jury trials, as we will see in the next section, were also multiplied by audiences and the media.<sup>75</sup>

#### MARÍA DEL PILAR MORENO

The case of María del Pilar Moreno is useful in order to understand how the practices and arguments related to the criminal jury came to produce enduring narratives. Her story became a powerful focus of public interest throughout the country because it incorporated several plotlines, both political and private. As a current affair, a theme of *actualidad*, the details of the case circulated across the country by word of mouth and through the mass media over the course of several months. Newspaper readers, judges, lawyers, suspects, students, women, and even writers (“all social classes,” according to *El Heraldo*) knew about the details of the case and spoke about it with emotion and knowledge. The coming together of such a diverse public was the consequence of a complex story that was rich in meaning. The opinions inspired by the murder and the trial reflected changing understandings of age, gender, privacy, and justice.<sup>76</sup>

On July 10, 1922, when she was fourteen years old, María del Pilar killed Senator Francisco Tejeda Llorca outside his house at 48 Tonalá Street, Mexico City. Two months earlier, Tejeda Llorca had killed her father, Deputy

Jesús Moreno, but he had escaped prosecution because he was a member of Congress. María del Pilar's action provoked demonstrations of popular support immediately following her crime, and there were celebrations after her acquittal in April 1924. She owed the result in large part to Querido Moheno's defense, but her case was also helped by her own explanation of her motivations, disseminated through the press, a volume of her childhood memoirs, and the trial itself. The "tragedy," as contemporaries labeled the case, would not have been so powerful had it not taken place in the middle of a political upheaval that endangered Álvaro Obregón's government from several sides. In that setting, the story of María del Pilar exposed the masculine ferocity of politics, the widening gap between judicial institutions and true justice, and the uncertainty about the role that women had to play in a new era of increasing political participation. The trial garnered more public support for the use of private violence to remedy the flaws of the law and the impunity associated with politics.

The characters of the story presented that dilemma in the stark lines of melodrama. On May 24, 1922, Tejeda Llorca bumped into Jesús Moreno, María del Pilar's father, at the doors of the Secretaría de Gobernación. The two were trying to meet with Minister Plutarco Elías Calles. A scuffle ensued and Tejeda Llorca, encouraged by his friends, who were holding the victim, shot Moreno at close range. Tejeda Llorca surrendered and gave a statement at the police station. As a federal deputy, however, he could not be charged unless Congress stripped him of his *fuero*, or parliamentary immunity. In the following weeks, María del Pilar and her mother, Ana Díaz, met with several high-ranking politicians, including Calles, asking for the arrest of Tejeda Llorca. Nothing could be done, they were told, because of Tejeda Llorca's immunity. Tejeda Llorca exemplified the privileges enjoyed by a political class of violent men who seemed to be above the law. Congressmen were the object of particular scorn, as Congress itself was losing influence in relation to the presidency and as a representation of public opinion.<sup>77</sup> The press attributed Moreno's death to "political passion" and electoral struggles in the state of Veracruz. Although both men belonged to the Partido Nacional Cooperatista, they were trying to undermine each other's run for Congress—Moreno for deputy again, and Tejeda Llorca for senator. Both claimed to have popular support, but they knew it was Calles, Obregón's likely successor, whose blessing would decide their future. The following year, while the trial hearings were under way, a military rebellion supporting Calles's rival for the presidency within Obregón's cabinet, Adolfo de la Huerta, created a

serious threat to the government, magnifying the political implications of the case. Friends of Jesús Moreno were now among the Delahuertistas, and during the trial María del Pilar's lawyers paid homage to some of the rebels executed by the government.<sup>78</sup>

The fourteen-year-old girl at the center of the case seemed to be above politics, though, as she attracted the sympathy of everyone interested in the case. After her father's death, María del Pilar reacted with dramatic gestures: when she saw his corpse at the hospital she tried to climb over a railing to kill herself; then, she embraced his body and promised to seek revenge. At the funeral, under heavy rain and in front of politicians and relatives, she erupted in "moving cries" and exclaimed, "Justice, sir! My father has been villainously murdered!"<sup>79</sup> After her crime, she confessed that she was finally at peace. She began to receive flowers at the police station, at the Correctional School, and during the trial, and after her acquittal, she left the courtroom "walking on flowers" into a crowd outside the Belem courthouse that stopped traffic for almost half an hour.<sup>80</sup> People from around the country wrote to her or approached her in person to embrace her or to kiss her hands. María del Pilar inspired these feelings because, after her crime, she constructed a narrative of her life that pitched her vulnerable femininity against the violent disruption of domesticity brought by politics. According to her memoir, *La tragedia de mi vida* (written with the help of journalists and published in 1922, after the homicide), she was not afraid to intervene in defense of her father: she once threw herself in front of officers coming to arrest him, and on another occasion she followed her mother on a long trek into the countryside in order to nurse her sick father.<sup>81</sup>

María del Pilar's killing of Tejeda Llorca was just another demonstration of her filial love. When she decided to shoot him, she dressed herself in white and ordered her chauffeur to take her to her favorite church, the Sagrada Familia, at the Colonia Roma. Her aunt Otilia accompanied them. In Tonalá Street, two blocks away from the church, María del Pilar stepped out of the car and approached Tejeda Llorca, who was standing on the sidewalk with other men. She grabbed him by his lapel and told him, "Kill me, like you killed my father." He grabbed her arm and tried to force her to her knees, but she was able to draw her gun and shoot him four times. There were more gunshots, it seems, and Manuel Zapata, a friend of Tejeda Llorca who had also been involved in Jesús Moreno's death, disarmed María del Pilar and beat her. Her mother arrived shortly afterward in another car and took her to the offices of *El Heraldo*, the newspaper that Jesús Moreno was running at

the time of his death. The newspaper's new director accompanied them to the police station, where María del Pilar confessed, was arrested, and spent the night in the company of her mother.

In her statements, María del Pilar gave differing accounts, first saying that she had done it for revenge, then adding details that diminished her penal responsibility. At first she said that the crime was premeditated and that she was satisfied with having avenged her father; she did it also "to defend my life, . . . my father's honor, and . . . my orphanhood." But when questioned about the facts of the crime, she stated that she was not looking for her victim on Tonalá Street, that she had used her gun because she believed that Tejeda Llorca was going to draw his, and that she did not intend to kill him but was forced to pull the trigger by the victim's painful pressure on her arm. Witnesses, however, suggested that it had all been planned; some had seen, days before the crime, a "mysterious car" parked on their street with a man and two women inside; others stated that they saw a "strong man" shooting twice at Tejeda Llorca as he stumbled, already wounded, toward his house. The autopsy later revealed that Tejeda Llorca's body contained a .38 caliber bullet, along with the .32 caliber bullets from María del Pilar's gun. The ensuing investigation, however, did not lead to another arrest, and the contradictions between her statements, those by witnesses, and the physical evidence were never resolved.<sup>82</sup>

The proceedings following María del Pilar's indictment focused less on the facts than on the antagonism between multiple actors. Tejeda Llorca's relatives sued María del Pilar for 30,000 pesos, and thus became directly involved in the trial. More than money, their goal was to clear the victim's name before public opinion. María del Pilar framed the process as a confrontation against powerful adversaries. When she was offered freedom on bail, she refused it against the advice of her lawyer, explaining that she felt safer at the Correctional School. This implied that her enemies might use violence against her, but it was also a way to declare her trust in justice: rather than obtaining freedom without a clear resolution, she preferred to wait in prison and let the jury decide her fate. The case, however, dragged on for almost two years, a delay that was in itself a form of punishment. María del Pilar stayed eight months at the school, leaving only twice a week to place flowers at her father's grave, until it became clear that prosecutors and judge were delaying the conclusion of the trial, at which point she moved back in with her mother.<sup>83</sup>

The delay allowed María del Pilar to put forth a narrative of her own life that expanded on the contradictions between the violence of politics and the



happy domesticity of a prosperous and protective household. She had studied with private tutors, at the prestigious Colegio Francés, and at the Escuela Normal para Profesoras. His father encouraged her to learn piano, singing, and embroidery, and he hoped she would become a journalist. He instructed his wife to spare María del Pilar any domestic chores that might hurt her hands, and he expected her to dress well but without ostentation. The respectability of the family was embodied in the house where they lived in 1922. Her father had built it, naming it “María del Pilar,” and he put the deed to the house in his daughter’s name. She had told him she liked the Colonia Portales, a sparsely populated area south of downtown. Journalists and Moheno himself in his concluding speech at the trial described the house to evoke the bliss of the modern, self-sufficient life of American-style architecture and automobiles characteristic of Mexico City’s new *colonias*.<sup>84</sup>

Politics, the source of the prosperity that had made this happiness possible, also threatened it. María del Pilar and her mother often asked Jesús to abandon his run for Congress and focus on journalism. His political work had brought him time in prison, persecution, exile, illness, and duels. In the 1920s, the job of congressman still implied considerable risks, with gunfights and even homicides taking place on the very floor of the Chamber of Deputies. Political intrigue was probably the reason that several masked men stalked the Colonia Portales house at night and tried to climb onto María del Pilar’s terrace. However, María del Pilar’s defense of a vulnerable household departed from the femininity found in most respectable families: she fired a small rifle she had received as a gift to call attention to the intruders. Since the rifle was too flimsy, her father gave her another one which proved too heavy, and he later gave her a small handgun that she kept in her night desk and eventually used to kill Tejeda Llorca. During the trial, Moheno tried to downplay María del Pilar’s unfeminine familiarity with firearms because it could evoke foreign *criminelles passionnelles*, and influence juries against her. Despite Moheno’s strategy, her male admirers could not help but notice her courageous use of such a masculine symbol of her father’s legacy. She trusted such identification would help her, knowing that jurors “had a father and have children” and would have to acquit her.<sup>85</sup>

María del Pilar’s clearest departure from normative age and gender roles, however, was her awareness of the impact of her actions and words on public opinion. After she killed Tejeda Llorca, she described to journalists the emotions that had moved her to commit the crime. She wrote a memoir and continued to give interviews to newspapers up to the final days of the trial,

always stressing her vulnerable but dignified femininity. For example, she assured *Excelsior* that she was calm despite her “feminine and nervous temperament.”<sup>86</sup> Her performance during the jury hearings was fine-tuned to affect the audience. She cried several times during the interrogations and speeches, but when it was time for her to testify she delivered a clear and moving version of her story. In addition to narrating the basic events, she derided Calles’s rejection of her pleas for justice. In contrast to the usual image of mournful and silent women in criminal trials (which she and her mother nevertheless provided for photographers), she was outspoken, almost commanding; she asked the judge not to expel the boisterous public from the courtroom, she invited the audience to show respect to her prosecutors, and she thanked the victim’s relatives for dropping their request to have her father’s murder discussed as part of the trial. The latter intervention prompted “a storm of applause from a deeply moved audience.”<sup>87</sup> María del Pilar was thus able to invest her deed with a clear moral meaning. She would not write again, as she promised in her book, but her gestures and words before the jury audience, her memoirs, and her pictures in the press created a paradigm of filial love and dignity. Her triumph was celebrated as one of femininity, but her active defense of domesticity and her claim for revenge seemed to confound gendered contemporary notions of the use of violence.

Moheno’s summation before the jury provided an effective rhetorical form for this tension between gender norms and the use of violence in the name of justice. He began in a minor key: mercy, he argued deceptively, was the goal of a good defense speech, so he professed humility. But he then introduced himself as a man who had successfully defended other women accused of homicide. In those cases, he had also faced the hostility from the government which characterized him as “a representative of the reaction” whose triumphs were “a threat to the nation.” He reminded jurors and the audience that he was working pro bono, having previously rejecting a retainer from the relatives of Tejada Llorca.<sup>88</sup> Moheno’s presence dominated the stage and contrasted with María del Pilar’s image; sweaty and corpulent, at one point he requested a break, explaining that he was very tired.

In the main part of the speech, he framed the jury’s decision in terms of the crime’s moral implications rather than the facts. He painted an idealized scene of the Morenos’ domestic bliss at the Portales house, contrasting it with “the sordid two-room apartment in a horrible tenement” where the accused and her mother had to move after the father’s death. María del Pilar now had to do domestic work.<sup>89</sup> Such misfortune was the product, Moheno explained



to a teary audience, of “our lowly, bloody, and suicidal politics.”<sup>90</sup> The strategy was calculated to steer jurors’ reasoning toward causes that were both larger than the crime at hand and equally emotionally charged. The real crime, Moheno stated, had been the electoral fraud that gave Tejada Llorca a seat in the Senate, maintaining his impunity, after he had committed murder. Lifting a page from Le Bon’s ideas about the crowd, Moheno encouraged the intervention of the courtroom audience and of public opinion more generally; he cited his own books, newspaper columns, and interviews. He also sought to move jurors to action, as classic rhetoric dictated, through the warmth and passion of emotions. His tools in this and other speeches were few but effective: repetition of “great ideas” and metaphors, constant references to religion, mythology, national history, and literature, attacks against the prosecution’s witnesses, depictions of the defendant’s suffering, and pathetic calls for forgiveness. The climax, however, was a vindication of violent revenge that showed little mercy for the victim. Moheno appealed for jurors to take justice into their own hands, as María del Pilar had done, and to acquit her, voting with their conscience but disregarding the letter of the law. He was applauded for several minutes, and even the judge congratulated him on the beauty of the speech. After the verdict, he was carried out of the courtroom on the shoulders of the audience.<sup>91</sup>

The resolution of María del Pilar’s trial was an emblematic example of how jury trials had become a venue where gender roles could be openly discussed and transformed to a certain extent. Her case and others during the 1920s created a prominent space for the public to hear stories that brought together women and violence. These were fascinating narratives, complex enough to allow for different interpretations, all sharing a strong female protagonist. Through the words and images produced in the courtroom, these women explained how they used violence to defend their honor and physical integrity. The acquittals that several of them obtained, as in the case of María del Pilar, demonstrated that juries were willing to vote in favor of defendants even when such a vote contradicted a strict interpretation of the law.

It would be a mistake, however, to conclude that these cases were part of a process of female empowerment through socially legitimate uses of violence. The system that gave these female murderers a public voice and impunity was, after all, entirely controlled by men. As a result, the emotions that lawyers mobilized in jurors were not associated with gender empowerment or equality, although these feelings could lead jurors to interpret suspects’ actions as a plea of weak women for masculine help. Moheno’s defense of

María del Pilar invoked patriarchal gender roles and depicted her story as a tragedy in which the roles of daughter and wife had been challenged by external factors (namely, Mexican politics), and these roles had to be restored to their proper balance by a countervailing force, the jury system. Thus, when jurors and public opinion defied the written law to enact their moral interpretation of violence, they were protecting the same masculine order that excluded women from any prominent role in the penal system. The cases of female defendants in front of the jury could be fascinating, but they were not a chapter in an unequivocal trend toward gender equality.

Women were central in the public created by juries. *Excelsior* noted that the audience in María del Pilar's trial and the crowd outside Belem little resembled the usual group of jury spectators: this time, women outnumbered men in the courtroom, which held a large number of middle-class people and many "beautiful and elegant women."<sup>92</sup> These "señoras and señoritas from the best of society" brought María del Pilar flowers, listened to her every word, cried with her, visited and hugged her at the Correctional School, and even offered their homes as surrogate prisons.<sup>93</sup> *El Heraldo* justified its extensive coverage of the case arguing that "we are interested in the Mexican woman, whether she is a mother, daughter, wife or sister."<sup>94</sup> This presence of women in jury trials was also a feature of other famous cases. Writing about the audience for the trial of Luis Romero Carrasco, in 1929, José Pérez Moreno described for *El Universal* an anxious audience whose "curiosity had reached paroxysm." Elderly ladies trained their binoculars at the lawyers, an elegant man struggled for a good seat, and "many women" provided the color, their garments creating "red or lilac blots" in the room. Pérez Moreno compared the scene in the courtroom with that of a "theatrical stage."<sup>95</sup> Even cases in which men were accused of killing their wives provided an opportunity to express normatively feminine sentiments: army officer Alfonso Francisco Nagore shot his beautiful wife and her lascivious boss and photographer in 1928. During the trial, and against the advice of his attorney, Nagore cried openly and at length, as did many women in the audience.<sup>96</sup> Female spectators may have been attracted to these trials by something more than seedy stories, artistic oratory, or melodrama. In the courtroom, they also laid claim to criminal literacy and participated in debates about women's place and rights in postrevolutionary society.

Critics were concerned about the capacity of jury trials to undermine gender hierarchies: in addition to Moheno's cases, they viewed other famous trials involving women during the 1920s as a symptom of the institution's

decadence. Something about the presence of women in courts seemed to be changing in ominous ways, starting with the presentation of female suspects before juries. The recent past offered a contrasting example of order. In several famous cases during the Porfiriato, lawyers characterized some murderesses as lowly “rags of societies” who deserved mercy because of their ignorance even though they also represented the worst moral attributes of their sex. Such was the case of María Villa, a prostitute found guilty of killing another woman out of jealousy; her own attorney called her a “terrible panther who does not have cranial resources.” These perceptions of female offenders, informed by positivist criminology, were giving way to new attitudes.<sup>97</sup> By the 1920s, women who killed appeared more complicated and interesting even if juries still found them guilty. Newspapers printed female suspects’ portraits, and people at their trials wanted to see them in person. Defense attorneys asked judges to have the soldiers guarding them step aside to avoid blocking the audience’s view. With her use of violence, María del Pilar provided an example for others to follow. *El Universal* suggested as much when a thirteen-year-old girl in Torreón shot a soldier who was accosting her mother. Now men felt endangered by popular reactions instigated by women: friends of Tejeda Llorca received anonymous threats and refused to attend the jury trial in fear for their own safety. The personal stories of other suspects, not just the fact that they were women, became relevant in order to understand their need to use violence against men. Such was the case of María Teresa de Landa, the first “Miss Mexico,” who in 1929 killed her bigamist husband, General Moisés Vidal, and who was acquitted thanks to her defense by Federico Sodi. Another similar case was that of sixteen-year-old María Teresa Morfín, who killed her husband when he announced that he was leaving her, and was acquitted in 1927. To critics, her case perfectly illustrated the negative consequences of jurors’ lenience: after her release, Morfín became a cabaret dancer and was later murdered in Ciudad Juárez.<sup>98</sup>

María del Pilar’s experience demonstrated that women, even very young women like her, could now be praised when they engaged in violence like men. María del Pilar, Moheno argued, had committed a crime of passion. Her behavior compared with that of “strong men deserving reverence.”<sup>99</sup> It was commonly accepted that the usually male perpetrators of crimes of passion were not authentic criminals—not at least in terms of the somatic classifications and hereditary causality of positivist criminology—because they committed crimes inspired by heightened emotions, raising honor above the law. Moheno appealed to male jurors’ “intimate” identification with the

female suspect. He asked them to imagine the cadaver of their own father and invited them to empathize with the “tempestuous disorder of [her] feelings of tenderness, hopelessness, and indignant rage.” In such circumstances, taking justice into one’s hands deserved anyone’s praise.<sup>100</sup> Women also had the right to kill when they were exploited or dishonored. Responses to María del Pilar’s predicament from male members of the public echoed these feelings: Federico Díaz González, for example, declared his “respect and veneration” for her as she had no choice but to “take justice in her own hands” and to fulfill the “duty of a loving daughter.”<sup>101</sup> Other men emphasized the importance of her age and filial duty, and her bravery in placing her love as a “model daughter” above the law. Some offered their help to complete the manly deed: Adolfo Issasi was willing to provide 40,000 pesos to cover the girl’s bail, and others offered their own bodies to take her place at the Escuela Correccional or at the Islas Marías penal colony if need be. For these men, María del Pilar had acquired masculine traits that were all the more admirable because of her sex: a “strong personality” and a “virile attitude.” After all, a group of “*obreros honrados*” (honorable workers) from Matamoros argued, with some irony, she had accomplished what neither men nor revolutionary institutions could do: she had punished a politician.<sup>102</sup>

This enthusiasm for women performing masculine actions coexisted with views that stressed more conventional roles. María del Pilar was the embodiment of femininity: other women had killed men who lived with them, but she came from “the heights of her virginal bed” as “a strong and avenging virgin” in a slight body.<sup>103</sup> Tejeda Llorca offered a suitable contrast: he was muscular, wealthy, and untouchable, and he threatened the purity of the defendant. Even her defense lawyers played the part of the chivalrous protector of powerless women. Moheno’s reputation, after all, was based on a perfect record defending female murderers.<sup>104</sup> The moral lesson of the melodrama was as strong as its characters were emblematic of gender roles.

It should not be surprising, therefore, to see negative responses to women’s criminal agency in the same venues and sometimes from the same actors who praised María del Pilar’s actions. In multiple cases in which men murdered women out of jealousy, attorneys justified homicide as a natural reaction against the freedom that women were gaining. In a 1925 speech in defense of a fellow deputy who had killed another congressman who had accused him of being of “dubious sex,” *agrarista* deputy Antonio Díaz Soto y Gama argued that murder was an obligation in such situations. “Had [Deputy Macip] not done that, women would become more terrible to men, like the prostitutes

that Moheno defends.”<sup>105</sup> Díaz Soto y Gama warned about the challenges to sexual hierarchies such cases seemed to encourage: “The Mexican woman is becoming a criminal woman, wild . . . Now our women are almost not women at all; it is frightening.”<sup>106</sup> Tejeda Llorca’s murder by a weak, young woman gave a graphic example of gender disorder. The press transcriptions of his autopsy graphically presented the politician’s body exposed and vulnerable: one of the bullets, according to the doctors, had exited through his penis. Violence against women could therefore be excused as a way to restore balance. While María del Pilar’s trial unfolded, several other cases of men who killed in defense of their honor ended in acquittals or the early dismissal of charges. This was the result of the Federal District attorney general’s instruction for prosecutors to facilitate the release of men accused of murder in such circumstances. In a later trial, Moheno, never one to worry about contradictions, asked the jury to acquit a man who had killed out of jealousy.<sup>107</sup>

The end of the jury system in Mexico City can be interpreted, in this context, as an effort to maintain the masculine monopoly over justice. The last three notable cases brought to the jury before its abolition in 1929 involved women who had killed men. Courtrooms henceforth became spaces even more dominated by men, where women were losing even a modicum of protection. Preserving a limited role for women in national life was clearly the general goal when the 1916–1917 Constitutional Congress debated voting rights: assemblies and crowds were not rational, representatives argued, but governed by “sentimentalism” and the influence of “idealists[,] dreamers,” and the clergy. Deputies decided then not to pass a proposal to extend voting rights to women.<sup>108</sup> By contrast, during the 1920s, the government saw state intervention in the domestic realm as a key tool for social and economic reconstruction. This meant a greater concern about childhood and a renewed emphasis on women’s domestic responsibilities. The suffragist movement failed to capitalize on women’s mobilization during the 1920s and 1930s and could not achieve a constitutional reform despite attempts by the sympathetic government of Lázaro Cárdenas (1934–1940).<sup>109</sup> But this might not be the right way to assess the legacy of this particular story. María del Pilar Moreno personified a courageous brand of femininity, yet she was also an example of domesticity disrupted by politics. After her moment of fame, she seems to have completely departed from public life. Her trial mobilized emotions as a legitimate element of public life, cultivated new audiences that included women, and recast the links between truth and justice in a way that, however briefly, challenged state power.

An example of this challenge to state power can be found in the most important case ever tried before a jury in Mexico. On July 17, 1928, president-elect Álvaro Obregón was murdered by José de León Toral at a restaurant in the southern Mexico City suburb of San Ángel. The assassination came at a moment of great tension within the political elite marked by threats of military rebellion, a religious war raging in some western states, and confrontations between obregonistas and political groups more closely identified with President Plutarco Elías Calles. Such was the complexity of the situation that those who watched Toral shoot Obregón stopped short of killing the assassin in order to find out who had sent him. A group of politicians confronted Calles in the following hours and told him that public opinion was blaming Luis N. Morones, leader of the Labor Party, loyal to the president, and open enemy of Obregón; they told him, according to the memoirs of Emilio Portes Gil, that the people did not trust the current police chief and demanded that well-known obregonista General Antonio Ríos Zertuche be put in charge of the department and the investigation.<sup>110</sup> Calles was quick to recognize that the caudillo leadership inherited from the revolution, and epitomized by Obregón, had to be replaced with a more stable system. In the following months, Calles negotiated an end to the civil war with the church hierarchy, put to rest any notion of his own reelection, assured that Portes Gil was named interim president, and founded a unified party. He also maneuvered politically to maintain a preeminent influence for the next six years.

Calles had no choice but to agree with the demands of the men who confronted him after the assassination: he saw that his position was weak and did not know himself what had transpired. Although he could not sacrifice Morones right away because doing so would make him look weak, as he explained to Portes Gil, Calles made sure that the truth of the case was brought to light. He interrogated Toral himself soon after the murder but extracted nothing from him; the murderer refused to talk, other than to say that he was doing God's work. Although the investigation itself did not depart from the usual practices of the Mexican police, the political and juridical consequences of the trial itself were unexpected. The agents working under Ríos Zertuche included the famous detective Valente Quintana (further discussed in chapter 3), who was recalled from private practice to join the efforts, and other men who were close to the victim, including the vengeful Colonel Ricardo Topete, who had seen Toral acting suspiciously at the restaurant but

failed to prevent the shooting of his boss. They tortured Toral and threatened his family for several days before he decided to talk, revealing his true name, and take Quintana and Topete to meet Concepción Acevedo de la Llata, “madre Conchita,” a nun who would also be accused of the murder. An explanation emerged in a matter of days: Toral was a religious fanatic who had decided to kill Obregón in order to stop the state’s persecution of Catholics. People who had influenced and aided him were also arrested, but the findings did not lead to a clear intellectual author other than Acevedo. She was an independent-minded nun who hosted Toral and other figures of the urban Catholic resistance in an illegal convent where she lived with other nuns after they had to vacate their original dwelling because of a government decree.

The prosecution against Toral was intended to be part of Calles’s efforts to advance institutionalization. Discovering the true motivations behind the crime through a regular judicial process was supposed to restore a sense of normalcy to otherwise extraordinary circumstances. As a consequence, Toral was not executed immediately after his crime, as the police had done with other Catholic would-be assassins of Obregón the year before. On November 1927, days after a bomb was thrown at the caudillo’s car on his way to a bullfight, four men were shot by a firing squad, without a trial, at police headquarters. Even though the evidence against some of them was weak, Calles ordered a swift execution as a lesson against the Cristeros—as the Catholic fighters were called. The event was carefully photographed but, rather than instilling fear, the images became part of the popular devotion to one of the victims, Jesuit Miguel Agustín Pro.<sup>111</sup> His funeral was attended by tens of thousands, and in the eyes of the public his sacrifice became an example of the regime’s abuses.

One year later, the political context and the growing strength of the Catholic resistance forced Calles to try a new approach. A judge granted Toral an *amparo* (order of protection) after his arrest to prevent an execution, and he was properly indicted, interrogated by a judge, and tried, along with Acevedo, before a popular jury just like other common criminals. Treating the crime as a common homicide was central to the government’s strategy. The goal was to project an image of peace and progress to Mexican public opinion and the world. The hearings took place at the San Ángel municipal building, not far from the site of the murder, in the local city council’s meeting room. Nine local residents of humble background were chosen to be jurors. Toral and Acevedo were represented by good lawyers, the main one being Demetrio Sodi, the Porfirian critic of the jury, already an elder figure



in the field. Since Toral confessed and chose not to claim insanity, Sodi focused on avoiding his execution by invoking article 22 of the constitution, which prohibited the death penalty for political crimes. The prosecution ignored the constitutional protection by closely following the penal code's definition of aggravated murder. Federal District *procurador de justicia* Juan Correa Nieto, acting as the prosecutor, did not foresee any problem since the crime was almost universally condemned. The judicial setting was only a way for society to channel the nation's "just outrage." Even the Catholic Church hierarchy distanced itself from Toral and Acevedo, keen to manage its conflict with the government and control a religious rebellion that was escaping the church's own authority.<sup>112</sup>

However, as in other jury trials of the period, things found a way to get out of the government's control. Even though Toral's culpability was beyond question, the trial hypnotized the nation and echoed the trials of other famous criminals. With its political and religious undertones, it invited too much attention, and according to *Excelsior*, it was comparable only to Maximilian's trial in 1867, another case in which a liberal regime executed a conservative enemy. As with Pro's execution, an event that was intended to serve as propaganda would ultimately further tarnish the government. Media coverage was extensive. The proceedings at the San Ángel courtroom were broadcast by the Secretaría de Educación Pública radio network across the country.<sup>113</sup> A movie camera captured footage of the suspects. There was a special table set up for the numerous reporters and photographers from the national and international press. *Excelsior* vowed to offer "the greatest, as well as the truest and most impartial information that has ever been published in any organ of the national press," and the paper deployed photographers, famous caricaturist Ernesto García Cabral, writer Rafael Heliodoro Valle, and several reporters. The newspaper also paid for stenographers to write down every word uttered during the trial. Querido Moheno wrote comments and observations, and M. de Espinosa Tagle offered a column entitled "What a Woman Thinks about the Jury."<sup>114</sup>

During the first few days of the trial, which started on November 2, 1928, *Excelsior* devoted several pages to it, at least two of them with large photographic compositions depicting the "main persons" in the drama, the crowds outside and inside the courtroom, the gun used in the crime, and the drawing of Obregón that Toral had used as an excuse to approach his victim. Readers were immersed in every detail of the proceedings. Short interviews with the main actors provided a sense of proximity to the events that complemented

the use of photographic and hand-drawn portraits. After the jurors' names were drawn by lot, a reporter found their addresses in San Ángel, interviewed them, and took their pictures. Several of them were textile workers, a couple owned pulquerías, and all responded to the reporter's questions about the jury as an institution and their expectations for the case. J. Cruz Licea, an employee at a nearby mill, declared that he would offer no opinion until he was shown the evidence and could "decide according to my conscience" without any external influence.<sup>115</sup> Reporters carefully recorded the gestures and reactions of judge, jurors, lawyers, witnesses, and suspects, and feature columnists wrote their "psychological observations." García Cabral showed his drawings to Toral, who was also an artist, and the suspect nodded his approval. Acevedo had photographers take a picture of her with Toral and prosecutor Correa Nieto outside the courtroom. Foreign journalists praised the "color" and "intimacy" of the setting. *Excelsior* received congratulations for its coverage during the first days of the trial, including the crowd's applause outside the courtroom. Its printings sold out during those days, even though sellers raised its price to one peso.<sup>116</sup>

The people who gathered outside the courtroom, according to a reporter, wanted to see the trial "in a setting of Greek tragedy." Yet they were not different from "those crowds that attend impressive spectacles: people of peaceful faces, good bourgeois like those you see in festivities and parks, and above all young women, flapper style, who laugh and comment with an indifference that borders on perversity."<sup>117</sup> Women were prominent in the courtroom, too. Besides Acevedo, there were Toral's mother, his wife, who was about to give birth to their third child, and Sodi's daughter, among many others. According to Espinosa Tagle, women used to be excluded from jury audiences, but "today, when modernism has changed habits, we can see the enthusiasm among women to attend these debates. . . . Toral's case has demonstrated this great interest."<sup>118</sup> As with María del Pilar's trial, the visibility of women in the court of justice raised concerns from some male observers. *Excelsior* detailed the feminine behavior in such crowds: "Juries are theater shows paid for by the state. Its audience swings according to its feelings, according to the impulses of its affections."<sup>119</sup> The events in the last days of the trial would come to reverse the initial lighthearted tone.

As often happened in high-profile jury trials, the suspects became the protagonists. José de León Toral (figure 3) was, by all accounts, a shy young man, a devout Catholic, a good father and husband, art student, and soccer player. He did not fit very well at the center of a cause célèbre. When he arrived for

the beginning of the trial in San Ángel, he was surrounded by a crowd and greeted them with a relaxed demeanor—he even took off his hat for the pictures. In one image, he smiled at the camera while eating a humble meal inside his cell. In another, he seemed to have a pleasant conversation with madre Conchita. Yet he would most likely be executed in a few weeks. Rafael Cardona explained: “The personality of José de León Toral has aroused great curiosity since the events of last July 17. Lawyers, physicians, psychology aficionados, and writers, all those capable, in sum, to penetrate the mystery of criminality . . . have proposed hypotheses and suggested ideas about Toral’s character, his criminal motives, his background, his mental constitution.” Cardona believed that Toral did not lie during his testimony, although he did reveal a susceptibility to female influence: he was, by his own admission, driven to act by some words from Acevedo (who had casually said that only the death of Obregón and Calles would solve the situation of Catholics), and by the biblical story of Judith, who seduced and decapitated the Assyrian Holofernes in defense of her city. Although “effeminate” or similar terms were not among the insults directed at him during the trial, Toral’s persona little resembled the dominant masculinity of revolutionary politics. His clean-cut, lean, and youthful appearance might have helped him approach Obregón at La Bombilla, where he passed as an artist without raising suspicion.<sup>120</sup>

From the outset, Toral deflected the antagonistic interrogations of judge and prosecutors, and he presented his story with great deliberation, looking at the jurors, occasionally consulting his notes, citing the newspapers, showing his drawings, and making sure the microphone captured his voice. The English section of *Excelsior* noted that thanks to his “remarkable composure, demonstrating intelligence, and an intense religious fervor, the youthful murderer practically conducted his own case.”<sup>121</sup> Although his initial plan was to be killed right after murdering Obregón, he explained, he now embraced the platform provided by the trial. He told *Excelsior* that he did not know how jury trials worked but trusted there would be justice if the arguments made by his defense and Acevedo’s were heard. He accepted Sodi’s strategy to spare him the death penalty; doing otherwise, he explained, would mean committing suicide. Putting up a defense also meant extending the opportunity to speak directly to the country through the media, which he did carefully. Before the start of the trial he gave interviews, and during the the San Ángel hearings, he asked the judge’s permission to read the newspapers so that he could respond to them and avoid repetitions in his statements.<sup>122</sup>



FIGURE 3. José de León Toral, Concepción Acevedo de la Lata, and guards outside San Angel courtroom. Colección Casasola, Fototeca Nacional, Instituto Nacional de Antropología e Historia.

Toral did not present an openly political argument—even though that would have supported Sodi's case—but offered what he thought was a deeper message. He confessed, detailing the preparation of his crime and its execution. He stressed that he had acted alone, and that Acevedo had only inadvertently influenced his decision, but she was not otherwise involved in the crime. Toral explained that he was concerned about religious freedom and admired the example of his friend and soccer teammate Miguel Agustín Pro. Toral did not hate Obregón but had to kill him at the service of a higher cause. For that cause, too, he expected to suffer like a martyr and, as such, to become a witness

for the truth. This resonated in the media. Toral was, for *Excelsior*, “a walking dead man” who “looks at the world as do ghosts: without any moral condescension.”<sup>123</sup> Citing his legal and religious obligation to speak truthfully and thoroughly about the circumstances of the case, Toral interrupted the prosecutor’s questioning at one point and began a detailed account of the way he was tortured at the police station. Though shocking in its detail and surprising to everyone, the revelation was not challenged by the judge or prosecutors, nor was it invoked by the defense to disregard his previous statements.<sup>124</sup> Rather than using his torture as an argument against the government, Toral presented it as evidence of his sacrifice and faithful adherence to the factual truth.

Renato González Mello has argued that Toral’s drawings also reveal his central concern, as an artist and juridical subject, for the truth. While in jail, he drew on a piece of paper the different positions in which he had been tortured (hanging from his thumbs, from his armpits, from ankles and wrists), wrote on it “my martyrdom,” and with the judge’s permission, showed the drawings to the jurors. Although he was ready for martyrdom from the moment he conceived the crime, Toral wanted also to achieve it within the rules of secular justice: “I want this to be clearly understood, that what I am saying is the truth, in case one day I am justified.” When Toral met with Calles, the day of the murder, he told him that “what I did was so that Christ would reign over Mexico.” Asked by Calles to explain what kind of kingdom that was, Toral told him that “it is a reign over the souls, but far-reaching, absolute.”<sup>125</sup> He was probably alluding to John 18:36–37, where Jesus states that “my kingdom is not of this world” and that “for this I have come into the world, to testify to the truth. Everyone who is of the truth hears My voice.”<sup>126</sup> The trial provided Toral with the best opportunity to embrace the martyr’s role of witness of Christ’s suffering. He explained that after his arrest, “I only asked for one grace during the days of the jury trial: that He spoke through my mouth. I did not want to defend myself but to justify myself and to invite love for Him in preparation for his impending arrival.”<sup>127</sup> Toral’s truth, which he conveyed with apparent sincerity to jurors, was subjective. The naturalism of his drawings of torture and other images with religious themes produced in jail used his youthful, masculine body to convey the solitary pain and humility that emulated Christ’s sacrifice. In the three months of imprisonment between the sentence and his execution, Toral wrote religious thoughts on small cards and presented them to those who visited him: “To know Jesus is to love him,” read a typical one.<sup>128</sup> The truth, in Toral’s testimony, was the word of God.

Concepción Acevedo de la Lata (1891–1978) also claimed to speak the truth, but she offered a sharp contrast with Toral, as a defiant woman at the center of an unruly entourage of Catholic activists. She was a Capuchin nun who ran a convent in Tlalpan until the government closed it in 1927. Despite official orders from the church hierarchy, she continued to live with the other sisters in houses where, free from the strict rules of the convent, she was visited by men and women who wanted to read the Bible, hear mass, or socialize. She met Miguel Agustín Pro there, and after his execution she began to take food to other Catholics in prison. Her popularity in Catholic circles often resulted in conflicts with her superiors, who had criticized her emphasis on harsh physical penitence at the convent. During the trial, Correa Nieto revealed that she used an iron brand to mark her arms with the initials of Christ and had encouraged other nuns to do the same. Members of the Catholic resistance then used the brand as a way to mark their commitment to the cause.<sup>129</sup> Acevedo did not seek to be at the center of the trial, but neither did she avoid its consequences. When Toral brought the police to her door, he asked her if she was ready to die with him, and she said she was. The political circumstances that had caused the convent to be closed were now thrusting her into a new kind of mystical suffering. Acevedo was imprisoned, tried, and sent to the Islas Marías penal colony. In her memoirs, she described her suffering at length: hunger, humiliation, illness, and even a broken bone as a result of the attacks by Obregonistas in the courtroom. Her notoriety itself was a form of punishment, for she had vowed to dedicate her life to God in silence and humility. She became the object of lurid speculation: while prosecutors tried to characterize her as a powerful figure who pushed Toral to commit the crime, others on the government's side castigated her on moral grounds: "She was very perverse and good looking, very sensual . . . and had great orgies with champagne."<sup>130</sup> Hostile crowds in the courtroom called her "whore."<sup>131</sup> She rejected false accusations against her because she wanted to "go to martyrdom through truth and justice." The truth she pursued centered on the government's persecution of Catholics. In her statements during the trial and after, she defined her sacrifice as a religious and political obligation. She had to be cautious, however, not to demonstrate vanity. She was a woman, after all, whose religious role called for patience and piety.<sup>132</sup>

Like Toral, however, Acevedo was not shy to embrace her central role. Following her arrest, she denied her participation in the preparations for Obregón's assassination yet also stubbornly refused to condemn the crime.<sup>133</sup>



She gave interviews to the press before the trial, posed for the cameras, and was heartened by the crowd that received her outside the San Ángel courtroom. While Toral's words fascinated the public because they came from a man who was certain to die soon, Acevedo's comments intrigued audiences in ways that resembled those of other cases of women accused of homicide who challenged gender roles in jury trials. During the hearings, she spoke with considerable freedom, adopting a defiant tone toward lawyers, addressing the audience directly, and criticizing those who booed her but applauded the prosecutor. Later, at the penal colony, where she became friends with the warden, General Francisco J. Múgica, and after she married another man accused of conspiring to kill Obregón, Acevedo wrote her memoirs, in which she defended both her political commitment and her reputation in the eyes of public opinion and the church.<sup>134</sup>

During the trial, Toral and Acevedo shifted the focus of the trial onto a terrain that tended to undermine the state's accusation. Correa Nieto and the other prosecutors berated the suspects, portraying Toral as a single-minded, fanatic avenger of Pro, and Acevedo as a conniving woman who manipulated him and other would-be assassins in the pursuit of darker goals. These characterizations were meant to counter the justification that both advanced, and to prove that theirs was not a political crime inspired by religion but a vulgar homicide motivated by lowly passions. Yet both suspects consistently offered an alternative that was politically plausible and apparently sincere. At the heart of Acevedo's narrative during the trial was a defense of the political value of her kind of religious resistance. When asked by the prosecutor whether she was aware that her influence, through a casual comment heard by Toral, might have caused the crime, she retorted that "it was the national influence": in other words, it was a broad social reaction to state religious persecution that had caused it. She argued that she only spelled out what many people in Mexico believed—though, she added sarcastically, not all of them would be prosecuted.<sup>135</sup> Her words at the trial and her later writings intimated that higher church and even political figures were behind the assassination. But her defense lawyer proposed that she was not the "intellectual author" of the crime or any other conspiracies, as the government claimed, and that she rejected the Cristeros' military approach. Several witnesses were brought to testify against her, but they did not provide any incriminating evidence. While Toral's culpability was beyond doubt, her attorney asked the jurors to acquit her.<sup>136</sup> Acevedo's willingness to abandon the role of a quiet and passive religious woman undermined her claim of



complete innocence, yet under the government's custody and in national broadcast, she advanced the thesis that the assassination of Obregón was justifiable.

Toral's words lent themselves to further elucidation. In his columns, Moheno wrote about Toral as "the regicide," one of those criminals who, offering their lives in exchange, murder the monarch or head of state in pursuit of a higher good such as religious freedom. Regicide, added Moheno, had a long history but was new in Mexico. Other presidents had been assassinated (most recently Madero and Venustiano Carranza), but, according to Moheno, the label fit this case because of the crime's deeper meaning. Without openly embracing the Cristero cause, Moheno explained the regicide (he did not use the word *tiranicidio* but *regicidio*, to avoid implying Obregón was a tyrant) by noting that the country suffered under a "state of intense hopelessness that demands a new faith."<sup>137</sup> Toral, therefore, killed Obregón for political reasons, yet "he feels chosen by God for that mission." Toral was a mystic, according to Moheno, who expiated the sins of others with his suffering. His crime was political in the same way Lombroso classified as political the resistance of Christian martyrs in Rome. Understanding Toral's deed required a definition of politics that encompassed, as in Le Bon's views of the crowd, the role of emotions. Religion, wrote Moheno, shapes politics when "the religious feeling of the masses plays the role of instigator."<sup>138</sup> Yet the conflation of sentiment, religion, and politics personified by Toral was anathema to the liberal tradition embraced by the postrevolutionary regime. Moheno exemplified the consequence of this chasm with the exchanges between the suspect and prosecutor Correa Nieto: "That interrogation resembled a dialogue between two people who spoke different languages." Unable to understand the suspect's logic, Correa Nieto gave speeches rather than asking questions. This, in turn, gave Toral room to present his religious mission, recounting his torture in every painful detail, with the monotonous voice of "an indifferent witness" who believed himself a martyr beyond suffering.<sup>139</sup>

Another interpretation of Toral is found in his attorney's interrogation and summaries. Demetrio Sodi wanted to avoid the death penalty for his client, arguing that he had committed a political crime. Sodi was therefore forced to straddle the required adherence to the penal code and an expansive definition of what constituted a political crime; in other words, he was trapped between upholding the law and advancing a critical notion of justice. As a result, his defendant's account contradicted his own strategy. Sodi was further undermined by a hostile courtroom environment aroused by the

political implications of his argument. He challenged the evidence against his client when he pointed out that there was no proper autopsy and that Obregón's body presented many bullet holes of different calibers. This would have meant that there were other shooters shielded from prosecution. The assertion, however sound, proved to be a strategic mistake, as the prosecution accused Sodi of telling a national audience that there had been a cover-up in which Calles was involved. This indignant reaction forced Sodi to quickly abandon the idea. Toral insisted that he had acted alone and tried to exculpate Acevedo, but Sodi had to prove that she had influenced Toral and other Catholic adversaries of the regime. Furthering the thesis of the political crime, Sodi argued that the case was of great historical significance and that even the prosecutors admitted the crime was directed "against the government."<sup>140</sup> In terms of motivations, added Sodi, Toral's crime was equivalent to those for which other men and women sympathetic to the Catholic Church had been recently accused, yet he reminded the court that his client's action did not constitute an endorsement of the Cristero war.<sup>141</sup> Sodi echoed Moheno's argument that Toral had not killed Obregón out of hate but because of a martyr's sense of duty. Citing other cases of regicide in history, Sodi argued that the penal law would have wrongly classified all of them as common crimes. But this was another losing strategy. In his final speech, Sodi made multiple references to the Bible and persecutions against early Christians and other martyrs of intolerance, yet he had to agree with the prosecutor that the murder of Obregón could not be justified by Catholic doctrine, which had condemned tyrannicide since the Council of Trent.<sup>142</sup> His key argument, however, encapsulated a dilemma familiar in jury trials: while the letter of the law defined the crime in its external aspects, if jurors understood the crime's deep reasons, their votes against the indictment were justified.

By spelling out the contradiction between the penal law and the political significance of the crime, Sodi was invoking jurors' honor. When the judge admonished him for discussing the penalty Toral could receive, Sodi responded with frankness: "This is another fiction of the law, a lie in the law. We live amidst complete lies."<sup>143</sup> In his 1909 critique of the jury system, Sodi had argued against the democratic fiction that nine common men could objectively decide on complex questions that were better understood by legal experts. Nineteen years later, as a litigant for the downtrodden in a highly visible case, he expressed a new appreciation for the integrity of the system. When leaflets and voices coming from the back of the room claimed that

jurors had received money from Sodi, he reacted with indignation, saying that he himself was not being paid for his work, much less provided with funds to buy jurors' votes. The accusation also prompted some jurors to break the silence they had maintained during the trial. According to *Excelsior*, "Juror Ausencio B. Lira gets excited and complains, full of indignation, saying that all his life has been one of pure honesty."<sup>144</sup> During his closing speech, Sodi embraced the postrevolutionary racial rhetoric of *mestizaje* by reminding the audience of the "beautiful outrage portrayed in the bronze faces, that are our national pride, of the jurors!" He emphasized the "honesty" of the "humble people" who integrated the jury.<sup>145</sup>

Demetrio Sodi's praise of jurors' "honesty" projected onto the institution his own family's pride in their role against a regime that they saw as increasingly tyrannical. Despite their differences in the past (when Demetrio had collaborated with Moheno against Federico), both Sodi brothers now had a favorable view of the perspicacity of jurors. What Federico would later remember as a space of free speech and camaraderie among lawyers was overwhelmed by the government's hostility in 1928. Demetrio had been "cruelly insulted" and prevented from speaking several times during the sessions.<sup>146</sup> In a book published eight years after the trial, Demetrio's daughter, María Elena Sodi de Pallares, highlighted the irony of that moment: after losing his prominent political position and his money with the revolution, Demetrio began to work in courts again. His defense of Toral was undertaken as a moral obligation although it could also help business. María Elena's book, however, suggests a deeper ideological commitment. Demetrio Sodi thought that Toral "was the deserving representative of the youth of our time, the youth who heroically died moved by mystical feelings." He had planned to present further evidence of the government's attacks against Catholics and freedom of speech, but he was not allowed to do so.<sup>147</sup> *Los Cristeros y José de León Toral* also contains an explanation of the religious conflict from a Catholic perspective, as well as sympathetic biographies of Acevedo and Toral, the latter based in part on his mother's memoirs, reproductions of his drawings, and testimonies of Toral's involvement in the civic life of Catholics during the late 1920s.<sup>148</sup> For María Elena and her father, the jury, however flawed, seemed to be the last space to openly express an oppositional Catholic point of view in the Mexican public sphere.

The Sodis' bitter memories of the case derive from the violent way in which Demetrio's case was thwarted by external interventions in the judicial process. Even though Calles had intended Toral's trial to signal the triumph

of the government's even-handed administration of justice, the proceedings descended into a chaotic fiasco that only fueled the religious opposition and laid bare the ineptitude of law enforcement. During a break in the trial, jurors sent a message to Acevedo, telling her that she was going to be convicted and asking for her forgiveness. She obliged, and in her memoirs asked the reader: "Is this a free people? Sure, we have to believe in that freedom, the judges asking for forgiveness from the suspect, how ironic!"<sup>149</sup> Even an Obregonista insider like Deputy Antonio Díaz Soto y Gama expressed skepticism toward what he saw as a government's farse: as good revolutionaries, "today we are not interested in this case of 'courtroom justice,' nor do we believe in it"; it was all a "maneuver to distract public attention" away from the true culprit—Morones, Soto y Gama's rival.<sup>150</sup>

The government could only blame itself for the fiasco, and it resorted to a heavy hand to change course. With the radio broadcast, authorities had allowed the alleged authors of the murder of the president-elect to speak to the nation about religious persecution. The judge and prosecutors had done a poor job: their interrogations, particularly those of Correa Nieto, were overly aggressive, too general in their questions, and more concerned with communicating a political message against *cristeros* than with properly presenting evidence. On November 4, the third day of the proceedings, things began to change. The judge cut the session short, and the defense complained that the interruption was due to instructions from political authorities. The radio broadcast was interrupted, and photographers were prevented from entering the room for the session of November 5. On that day, Correa Nieto excused himself from the trial, alleging that he had been threatened. He appointed assistant prosecutors who took over the case, including Procurador General Ezequiel Padilla. The new team focused on proving Acevedo's involvement in other conspiracies and limiting opportunities for the defense and the accused to speak.<sup>151</sup>

That same November 5, in the chambers of Congress, federal deputies discussed the need to make a forceful intervention in the Toral trial. Representatives affirmed Congress's responsibility to voice support for the revolution in order to counter the onslaught of messages from "reactionaries" on the radio. In the "deifying of crime," argued congressmen, "the criminal becomes the martyr."<sup>152</sup> They agreed to act forcefully to protect "the masses of the country." More specifically, this meant that if Toral was not found guilty, as the notoriously violent San Luis Potosí cacique Gonzalo N. Santos claimed, "I will empty my gun on him and the jurors." The trial, other

deputies argued, was a national embarrassment: "In other countries, even those that seem more civilized, like the United States, León Toral would have been lynched, but here he is being handled with white gloves."<sup>153</sup> That very afternoon, a group of several dozen federal deputies led by Santos burst into the San Ángel courtroom. Waving guns and sticks, they insulted Sodi, who had to climb on a chair to fight back. The deputies also attacked the suspects, kicking and breaking Madre Conchita's leg, and pulling Toral's hair. They also threatened jurors. In subsequent days, the deputies maintained control of the courtroom, disrupting the defense and creating a tense situation. Some of the members of the jury asked the judge to be excused, arguing that they feared for their lives. The judge denied their requests and guaranteed their safety, but several brought their own handguns to the courtroom. A heavily armed group of soldiers took positions in the courtroom while mounted troops fought demonstrators outside. Although things seemed to calm down on November 6 and 7, the diverse crowd of the first days was gone, and the only woman in the room by that time was Acevedo. On November 8, the final day of the trial, the radio broadcast was restarted, but the large audience, which included public officials and congressmen, made enough noise to cut Sodi's last speech short. When the jury returned with a guilty verdict (only one vote was cast for Acevedo's innocence), there were cheers among the progovernment crowd outside the courtroom.<sup>154</sup> The trial had become a showcase for the violence of Mexican politics.

The actions of Santos and the other deputies demonstrated a concerted albeit belated effort to limit the public impact of the trial. Until their intervention, defense attorneys had relied on the media to prevent distortions to their message: "Fortunately yesterday the entire country heard our words, all the press talks about what we said, and they can attest to the fact that we did not attack anyone," stated Ortega on November 4.<sup>155</sup> By the following day, however, there were no more opportunities for Toral and Acevedo to be heard on the radio. National newspapers did not report on most of the violence taking place inside the courtroom, probably after receiving instructions from the government. In the November 5 debates at the Chamber of Deputies, *Excelsior* was mentioned as a specific target: "The enemies of the revolution: the press and money," declared deputy Mijares; "the reactionary press," claimed Cerisola. Deputies agreed to begin an economic boycott against *Excelsior*, suspending government advertising, canceling subscriptions, and engaging in other forms of direct action.<sup>156</sup> The newspaper drastically reduced its coverage of the trial, replacing the transcripts of the

proceedings with a synthesis. After November 7, *Excelsior* gave more prominence to U.S. election results. It stopped printing Moheno's articles on the trial as well as those of the other writers and artists. The editors tersely noted in an editorial that their journalistic duty had been "interpreted in a twisted way" by the government, leading to threats against them.<sup>157</sup> The newspaper was soon punished in a more permanent way: its circulation was blocked, and Consuelo Thomalen, the widow of founder Rafael Alducín, was forced to sell it to a group of businessmen with close connections to the government.<sup>158</sup>

Toral and Acevedo's appeals were denied, and Toral was executed on February 9, 1929. In front of the firing squad, he began to shout, "Viva Cristo Rey," as his friend Agustín Pro had done just before his death two years earlier. The bullets interrupted Toral's voice. His burial instigated demonstrations and riots, and as *cristero* resistance raged on, assassination attempts continued, the next one against President Portes Gil on the very day of the execution. Instead of serving as an example of good administration of justice, the trial left a lasting legacy as an example of the abuse of power, a stain on the legitimacy of the justice system.<sup>159</sup> Toral was remembered in popular ballads, *corridos*, although he did not acquire the posthumous cult of Miguel Agustín Pro. Decades later, plays by Jorge Ibargüengoitia and Vicente Leñero used the records of the trial to reflect on the authoritarianism established in those days, in the form of a regime for which words had no meaning in the face of power. Written in 1962, *El Atentado* by Ibargüengoitia makes the 1928 trial the climax of a historical comedy that pokes fun at the postrevolutionary regime's discourse of justice. All actors assume that there was a conspiracy involving the Abbess and Pepe to kill president-elect Borges, and they see the trial as merely a theatrical setting for a preordained sentence.<sup>160</sup> Leñero's play, *El juicio*, consists of fragments from the 1928 trial's transcripts. Through the voices of suspects, lawyers, and witnesses, the story is presented in all its ominous ambivalence. Toral, Acevedo, and other men and women accused of plotting against Obregón and Calles claim that violence is a right they can exercise in defense of their religion; government investigators use torture as a normal element of the investigation; prosecutors make their case in terms of *realpolitik*. The threatening voices that burst into the courtroom on November 5 remain, in Leñero's play, anonymous and in the dark: their power, just like the truth about the crime, is unassailable. The play was first staged in 1971, and its audience could easily have connected the darkness surrounding the story with the violent authoritarianism of the PRI regime of their own time.<sup>161</sup> Both plays reflect another historical lesson from the San



Ángel courtroom in November 1928: either as a tragedy or a farce, the jury trial of Toral and Acevedo was an inconclusive, sordid affair that little resembled justice.

### CONCLUSIONS

Educated Mexicans always viewed the criminal jury negatively. Their mistrust articulated Porfirian notions about ordinary Mexicans' unfitness for democracy and lack of integrity. Federico Gamboa threw up his hands: "What great errors are, in my opinion, the famous jury and the no less famous universal suffrage!"<sup>162</sup> Even Querido Moheno, who owed whatever good reputation he had to jury trials, declared after the revolution that juries were in the hands of inferior people only interested in money. If the jury was taken as an "index of collective feelings regarding morality," reasoned *El Universal*, then "we have to mourn a tremendous decline in the ethical level of Mexican society."<sup>163</sup> These views were based largely on the melodrama and rhetoric that seemed to dominate the most famous cases. Suspects inevitably became the main characters, but other actors—victims, witnesses, lawyers, judges, and journalists—also embraced their roles as characters with a stark moral valence; jurors and audiences comprised a sort of chorus which judged the story unfolding in front of them on its aesthetic and moral value. The exchanges between all these actors were emotionally intense, and the stage was charged with echoes of other stories. Melodrama, in other words, provided a set of roles and a narrative structure embraced by actors and public alike. Even critics shared an aesthetic criterion: the jury represented "theatrics of the lowest kind" in which the problem was not the dramatic structure so much as the poor quality of the performances and script.<sup>164</sup>

Yet the histrionics of a few conservative lawyers and the violent femininity of famous suspects were only the most visible part of the process. The motley cast of characters, and the vagaries of jurors who used their votes to acquit, undermined the control of the legal profession over justice. Unexpected voices could challenge the government in the public sphere. The diversity of players involved in jury trials was the defining trait of the institution's influence in public life, and the main source of its enemies' exasperation. Perhaps the most prominent among those players, and the reason for male commentators' anxiety, were a few women whose crimes catapulted them into the center of public life. They had used violence to defend their honor, their

family, or their religion, and these women did not shy away from telling their story once they sat as the accused. The prominent place they briefly occupied thanks to these trials challenged patriarchal notions about women's silence and proper domesticity. Yet their effort to escape conviction led them to embrace the less threatening aspects of modern femininity. Social uses of the law, in other words, could challenge conventions or buttress conservatism. From today's perspective, reading these trials as mere melodrama, a spectacle with a limited cast of contrasting characters, does not help our understanding of the breadth of those social uses of the law.

Over six decades, the trajectory of the jury in Mexico City reflected a deep transformation in notions of justice. The institution came into existence shortly after an era of civil strife, and jury proponents hoped that it would foster transparency in the judicial process. While this basic belief persisted in the following years, in reality the effect of criminal juries was rather diffuse, blurry in the details and often morally ambiguous. In the 1920s, after another civil war, the institution made its greatest impact on the public sphere, but in the eyes of lawyers and politicians, the jury also appeared to erode respect for the law and to politicize justice. As this chapter has shown, it could not have been otherwise: the criminal jury put into practice a popular notion of justice grounded in republican skepticism toward the state. At the most basic level, the jury was a bastion against the abuses of the government because it gave public opinion a tangible role in governance. A premise of Mexican criminal literacy was that, in the circuitous path leading from the truth to justice, it was legitimate to take some shortcuts even if they violated the law. The flaws of jury trials were only the most visible aspect of general decay in the justice system: suspects, witnesses, and lawyers came in many moral shades, nuances which melodrama could not fully express. By the 1920s, mistrust of the entire justice system was widespread. Luis Cabrera, a key intellectual of Carrancismo, decided during those years to return to legal practice because he needed work. Yet he hesitated because of the corruption he observed in the courts, a low "moral level" which, he recognized, had to be blamed on lawyers themselves.<sup>165</sup> Venal jurors, the "milperos" described by the Sodis, were only a symptom of that corruption. By the end of the decade, longstanding skepticism toward the judiciary was turning into disappointment. The Toral and Acevedo trial was just the last straw.

The criminal jury was abolished through a 1929 presidential decree that replaced the 1871 Federal District's penal code with a new one with a strong positivist imprint. The committee that drafted the new code explained that

the jury would be replaced by “a technical committee formed by psychiatrists, psychologists, and other scientific professionals who will sentence according to the new modalities of penal law.”<sup>166</sup> Science, not common sense, was better able to understand crime. This had been the opinion of Porfirian critics of the jury, including Demetrio Sodi, but it could only be put into practice at a specific political juncture. The Toral case had revealed the potential damage that a high-profile case could do to the government’s efforts to control a fractious body politic. The Federal District’s city council had been eliminated in late 1928, reinforcing presidential control over the capital’s governance. Judges now had complete dominance over the investigation and sentencing; hearings were no longer public events. The opacity long associated with routine penal procedures now set in over the most visible part of the system; melodrama gave way to other narrative forms.<sup>167</sup>

The abolition of jury trials marked the end of an era. After 1929, actors continued to take shortcuts in the pursuit of justice: prisoners and victims turned to presidential intervention, policemen to the *ley fuga*, and almost everyone accepted the fact that press reports were more reliable sources of truth than were sentences. The involvement of public opinion in matters of crime and justice no longer took place in the institutional framework of the jury system but in the virtual space of crime news, to be examined in the next chapter. Yet this was not a sustainable structure to maintain the pressure of civil society on the justice system or the police. A paradoxical effect of this transformation of skepticism into disappointment was the acceptance of extrajudicial violence in place of legal punishment. Moheno articulated the theory, and others followed in practice: the sentiments of the Mexican crowd, juries or their audiences, could be channeled as violence and intolerance in the name of justice. This explains his admiring invocations of lynching in the United States. This theory was not often voiced in the following years but remained latent in the apologies for *ley fuga* found in the press and literature after the demise of the jury system.

The memory of the criminal jury continued to influence ideas and representations of crime and justice in other ways. As soon as it was abolished, newspapers and books began to commemorate it with some nostalgia. There were rumors and discussions about reestablishing it. But the negative resonances of its melodramatic excesses prevailed over any argument in its favor. For criminologist Francisco Valencia Rangel, its return would only have encouraged the morbid interest in the crime news which invaded newsstands just as the jury was going away. The jury survived as a trope of popular culture.

It inspired comedies, including plays about famous cases like that of María del Pilar Moreno, and satirical movie scenes, where the stage created by jury trials continued to be useful to talk critically about justice.<sup>168</sup> As we will see in the next chapter, police news embraced this legacy, particularly the vision of justice as the product of multiple actors' participation in a system that was flawed but at least offered the people a chance to speak up.