

Extradition, Extraterritoriality, and Murder: Managing Portuguese Criminals in Chinese Port Cities

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Abstract

Using a 1933 crime case known as the “Shanghai trunk murder” as a point of access, this study explores Portuguese extraterritoriality in China to shed light on the trans-border legal system of the Portuguese empire and the various purposes it served that went far beyond the pursuit of justice. The Portuguese legal system in China was integrated into a broader network that required legal processions concerning major criminal cases to move across the border and take place in Portuguese-controlled cities within and outside of China. Apart from revealing its trans-border features, this study also reveals through various extradition and criminal cases the political and diplomatic purposes that extraterritorial rights served for Portugal and the Macau administration, which went beyond the confines of justice.

Keywords

Portuguese extraterritoriality, Modern China, Macau, Judicial, Colonialism

Resumo

Usando o caso de um crime ocorrido em 1933, conhecido como o caso do corpo encontrado na bagagem de um navio que fazia a carreira entre Xangai e Yokohama, como ponto de partida, este estudo explora a extraterritorialidade portuguesa na China para lançar luz sobre o sistema jurídico transfronteiriço do império português e os vários propósitos a que serviu, que iam muito além da busca pela justiça. O sistema jurídico português na China foi integrado numa rede mais ampla que exigia que os processos judiciais relativos a casos criminais graves transpusessem fronteiras e ocorressem em cidades controladas por portugueses dentro e fora da China. Para além de relevar as suas características transfronteiriças, este estudo revela também, através de vários processos de extradição e criminalidade, as finalidades políticas e diplomáticas que os direitos extraterritoriais serviam a Portugal e à administração de Macau em domínios que ultrapassavam os limites da justiça.

Palavras-chave

Extraterritorialidade portuguesa, China moderna, Macau, Judicial, Colonialismo

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For months from 1933 to 1934, a homicide case known as the “Shanghai trunk murder” sent tremors across Asia’s port cities. Two brothers of Portuguese descent killed a Chinese woman in Shanghai and sent her corpse off to Yokohama. The *Straits Times* described the case as “one of the most sensational in the recent history of the Far East” (7 September 1933, 19) and the *Malaya Tribune* (28 February 1934, 2) and *South China Morning Post* (21 February 1934, 14) hailed it as one of the most sensational crimes in the annals of the Shanghai International Settlement. A month after the murder, a local adaptation was staged in a theatre at North Szechuan Road, Shanghai (*The Shanghai Times*, 15 September 1933, 18). The case caught wide attention not only due to the brutality of the murder, but also because of the complexities of managing Luso-Asian subjects scattered across different regimes on Chinese territory.³ The brothers were handed to the Portuguese consul in accordance with the regulations of Portuguese extraterritoriality under the 1887 Sino-Portuguese Treaty of Peking. What followed was a complex legal process that encompassed the Shanghai International Settlement and the Portuguese territories of Macau, Goa, and Timor, with Portuguese authorities in each city displaying different degrees of legal capacity.⁴ Using the Shanghai trunk murder as a point of access, this study explores the characteristics of Portuguese extraterritoriality in the Shanghai International Settlement and discusses the trans-border legal system of the Portuguese imperial sphere in semi-colonial spaces. It also sheds light on the use of extraterritoriality in protecting Portugal’s interests and shielding Portuguese nationals who had committed serious crimes from severe punishment.

The Shanghai International Settlement was a complex port city, torn between various foreign authorities and colored by a multiracial population. A strand of studies has shown how its fragmentation offered residents opportunities to negotiate nationality, race, and class by competing for privileges through the use of national, regional, imperial, or colonial affiliations (Bickers 1998; Scully 2001, 94, 97; Mohanram 2007, xxii; Ladds 2013, 5). The elected Shanghai Municipal Council (SMC) governed the semi-colonial Shanghai International Settlement, with representation allocated by nationality. More often than not, Britons, Americans, Japanese, and Germans dominated the SMC (Bickers 2012: 864), leaving little space for individuals of other nationalities to gain a seat in the Council. Although the

³ Throughout this paper, “Portuguese” will be used in referring to Luso-Asians of Portuguese nationality and interchanged with Macanese.

⁴ “Macanese” in this study refers to Macau-born subjects and their descendants that self-identified, in varying degrees, as Portuguese in nationality, ethnicity and culture. For an extensive study of the Macanese, see Ana Maria Amaro 安娜·瑪里亞·阿馬羅 (1993), *Dadi Zhizhi: Aomen Tusheng Puren Yanjiu* 大地之子——澳門土生葡人研究 (Filhos da Terra; Sons of the Land), trans. Jin Guoping 金國平 (Aomen: Aomen wenhua sishu).

Macanese first settled in the port eight decades ago, and by 1930 it was the sixth largest community in the International Settlement (Dias 2008, 202; SMC 1931: 333), they did not attain political representation in the Council. In 1920, several Macanese residents wrote to the local newspapers accusing the SMC of discrimination against the Portuguese and questioned why the Macanese had been made to bear taxation without political representation.⁵ Nevertheless, the circumstances of the Shanghai International Settlement allowed Portuguese nationals to enjoy extraterritorial rights, sanctioned by the 1887 Treaty of Amity and Commerce and highlighted in the 1926 *Report of the Commission on Extraterritoriality in China*. Adding to the existing volume of works that reveal the fragmented, overlapping, and conflicting political and judicial authorities in the International Settlement (Kroll 2019, 140-155; Whewell 2015, 2-3; Cassel 2011, 67-76), this study will show the linkage between Portuguese jurisdiction in Shanghai and the wider legal framework of the Portuguese empire in the Far East.

Spanning across three continents, the Portuguese empire's legal system was of European foundations, yet with local adaptations (Camarinhas 2018; Hespanha 2002). Although civil and commercial jurisdiction in semi-colonial spaces was constrained by treaties and consular regulations, probing extraterritorial practices within such circumstances allow us a glimpse of who were considered Portuguese and the extent to which they were managed and protected by Portuguese law. In semi-colonial Siam, the Portuguese acquired extraterritoriality in the wake of the Bowring Treaty of 1855, giving Portugal not only jurisdiction over all descendants of Portuguese nationals regardless of birthplace, but also the option of selling protection papers to Chinese residents seeking for privileges (Rego 1982, 19-21).⁶ According to the Portuguese treaty signed in 1859, the Portuguese Consul would not interfere in questions concerning Siamese subjects and vice versa, except in criminal cases where delinquents had to be punished according to Portuguese laws or tried in Macau (Sayre 1928, 72).⁷ The Portuguese Consulate in Bangkok also ran its own prison, using a building that was adjacent to the consular house (Guerra 2010, 131-132). Cases involving homicide, violence resulting in death, arson, violation of children under the age of twelve, counterfeiting currency, and subversion of state power had to be forwarded to the courts of

⁵ See, for instance, Lusitano, "Chinese and Portuguese members in the Municipal Council," *The China Press*, 6 April 1920, 10; C.M.R., "Portuguese and Council," *The China Press*, 23 November 1920, 14.

⁶ For an extensive study of Portuguese extraterritoriality in Siam, see Susanna Guerra (2008), *Portugal no Sião – Origens e renúncia da extraterritorialidade (1820-1925)* (Portugal in Siam—Origins and Renouncing Extraterritoriality (1820-1925; Lisboa: Ministério dos Negócios Estrangeiros.

⁷ Portuguese extraterritoriality would be abolished in 1925 with the signing of a new treaty.

Macau, Goa, Mozambique, or Lisbon, depending on which city was closest to the consulate where the crime took place. Apart from not having a prison for Portuguese subjects, practices in handling Shanghai's Portuguese-related criminal cases were generally similar to Siam's: the consul and the consular court exercised jurisdiction over Portuguese citizens but serious offenses that required imprisonment from two to eight years followed by exile from eight to twenty-five years had to be sent to Macau with the shortest delay possible. Sentences passed in Macau were subject to appeal to the high judicial court in Goa and further appeal on questions of law and procedure were directed to the Supreme Court of Justice in Lisbon (Department of State Washington 1926, 136-137). In both Siam and Shanghai, the consuls loosely defined Portuguese subjects. Portuguese nationality was given to whoever was registered in the consulates with evidence that one had a Portuguese ancestor (Guerra 2010, 132). Focusing on Chinese cities, this study explores the trans-border nature of the Portuguese legal system and the extension and transfer of criminal cases in semi-colonial port cities to other Portuguese territories across different stages.

In non-Portuguese territories, extraterritorial rights became a point of departure in safeguarding Portugal's legal and financial privileges on foreign soil. This was seen in Siam where Siamese criminal codes leading to lenient sentences were sometimes adopted by the Portuguese consul (Guerra 2010, 131). Across the vast geographical territory of China, the Portuguese were certainly not alone in squeezing benefits out of a feeble Qing regime. Foreign powers forced the Qing government into granting extraterritorial rights even before the signing of "unequal treaties," extending from thereon their economic, political, legal, and cultural influences (Tait Slys 2014). From British courts to American consuls, foreign governments sought to not only regulate and protect the growing number of expatriate communities, but also to safeguard national interests. While a strand of works has centered on the impacts and developments of British, American, and Japanese extraterritoriality in China (Cassel, 2012; Howland 2012; Teemu 2008; Anghie 2005, 52-65), a scant volume of studies has focused on questions of Portuguese extraterritoriality and extradition in China (Reis 2015; Ceng 2017). Aiming to build on this limited volume of literature, this study threads together newspaper articles, archival documents from the Foreign Offices of the United Kingdom and the Arquivo Histórico de Macau, and English-, Chinese-, and Portuguese-language sources to provide a detailed exploration of the challenges and methods in managing Portuguese criminals in foreign-controlled Chinese cities. In order to demonstrate the functions and importance of extraterritorial rights, the first section provides an overview of the challenges and conflicts that emerged out of managing Portuguese

criminals in spaces where Portugal did not have extraterritoriality. Delving into the Shanghai trunk murder, the second section analyzes the complex, trans-border legal process of the Portuguese that connected the cities of Shanghai, Macau, and Goa. The third section sheds light on the bias in punishing criminals of Portuguese nationality brought forth by extraterritoriality. All in all, this study aims to rethink the complications of managing Portuguese criminals in foreign-governed Chinese port cities and highlights the characteristics, limitations, and purposes of Portuguese extraterritoriality in foreign-occupied Chinese cities.

Seeking Protection without Extraterritoriality

The presence of Macanese communities in Chinese port cities under varying regimes complicated the management of Portuguese criminals, particularly in cases that involved subjects of other countries and/or crimes that were committed in ambiguous spaces. Handling Portuguese criminals in British Hong Kong, in particular, was a problem due to the growing Macanese population: by the early 1870s, Hong Kong recorded 1,367 individuals registered with the Portuguese consul (*The Hongkong Government Gazette*, 6 May 1871, 196). Owing to the proximity between the two colonies, Hong Kong became a safe haven for Macau's criminals and vice versa. Extradition, thus, emerged as a common point of interest and contention. In 1868, the Macau authorities tried to negotiate for the right to manage Portuguese deserters who had fled to Hong Kong. British Governor Sir MacDonnell and the Duke of Buckingham proposed an ordinance that would enable the Hong Kong government to arrest and surrender to the Macau government "persons charged with heinous crimes, not of a political character."⁸ The Ordinance, titled "the Extradition of certain Fugitives from Justice" was drawn and passed by the Hong Kong Legislative Council in 1871, with a reciprocal measure passed by the Macau government.⁹ In 1881, this was expanded into the "Macao Extradition Ordinance," which required the extradition from Hong Kong of subjects who had been charged in Macau with crimes ranging from murder and larceny to burglary and desertion (*The Hongkong Government Gazette*, 19 March 1881, 190-

⁸ "Report from Foreign Office to Under Secretary of State," 7 September 1868, CO 129/134, The National Archives, Kew.

⁹ J. Gardiner Austin, "Proclamation," 1 July 1871, *The Hongkong Government Gazette* XVII (26).

197). The Ordinance was reciprocated by the government of Macau in 1882.¹⁰ As the following cases will show, the Ordinance was not effective in preventing disputes from arising.

In a number of cases where the Hong Kong government asked for the surrender of Portuguese criminals who had escaped to the Portuguese colony, the Macau authorities refused to honor the mutual agreement on extradition. In 1883, a Portuguese sailor named Diaz was accused of involuntary homicide after pushing a Chinese subject overboard a British steamer during a riot on the waters near Canton.¹¹ He escaped to Macau onboard the Portuguese gunboat *Tamega* (*The Hongkong Telegraph*, 20 October 1883, 3). Since the crime was committed on a British vessel, the Hong Kong police asked for Diaz to be surrendered to the British colony. The Macau authorities refused as according to instructions from the Portuguese Minister in London. It then negotiated for Diaz to be tried in Macau instead of Hong Kong, giving the reason that they could not withdraw Diaz from the jurisdiction of the Macau court.¹² He was eventually tried and charged in Macau in 1884 (*The China Mail*, 19 August 1884, 2). In 1885, another case concerning a Macanese broker wanted by the Hong Kong police for larceny led to tension between the Portuguese and British colonial governments.¹³ Jorge Maria Guedes fled to Macau after being charged for misappropriating securities belonging to a client.¹⁴ The Macau government rejected the request to surrender Guedes. The Portuguese Minister for Foreign Affairs argued that although the Portuguese penal code did not forbid the surrender of natives, the principle of “non-surrender of natives” was laid down in the international treaties in all other European states except for Great Britain. The Lisbon authorities further pointed to the Portuguese Law of the first of July 1868, which empowered Portuguese tribunals to try and punish any Portuguese subjects who had committed crime in foreign countries.¹⁵ Of the dispute between the governments of Hong Kong and Macau, *The North-China Herald* observed that although the two colonial

¹⁰ “Projecto do regulamento da extradição de criminosos para Hong Kong,” 10 August 1882, MO/AH/AC/SA/01/00434, Arquivo de Macau, Macau; “Governo da Província de Macau e Timor,” *Boletim da Província de Macau e Timor* XXVIII (41), 14 October 1882, 1.

¹¹ “Riots at Canton, as to the Portuguese Sailor Diaz,” 4 December 1883, CO 129/213, 24-31, The National Archives, Kew.

¹² “Trial of the Prisoner Diaz,” 27 February 1884, CO 129/219, 28-31, The National Archives, Kew.

¹³ “Pedido feito pelo Governo de Hong Kong, da prisão e extradição para essa Colónia, do súbdito português José Maria Guedes, acusado pelo crime de roubo,” MO/AH/AC/SA/01/00663, 4 July- 19 July 1885, Arquivo de Macau, Macau.

¹⁴ “Extradition in Hongkong and Macao,” *The North-China Herald and Supreme Court & Consular Gazette*, 17 July 1885, 63.

¹⁵ “J.V. Barboza to the Governor of Hong Kong,” 6 November 1885, CO 129/224, 405-410, The National Archives, Kew.

governments had previously passed ordinances regarding extradition between Macau and Hong Kong, “these were never exchanged, and when now examined are found to differ materially” (17 July 1885, 63).

Apart from issues associated with extradition, another point of contention came with differing practices in punishing criminals. In an 1898 case, the Hong Kong court convicted João de Matta Osório (or Ozorio), a Portuguese subject who worked as a clerk for the Hongkong and Whampoa Dock Company, for murder. Prior to the incident, he had called off an engagement on suspicion that his fiancée was not a virgin and was romantically linked to another Macanese, Francisco Xavier de Jesus.¹⁶ Osório fired four shots that killed Xavier in an incident the press called the “Caine Road murder.”¹⁷ During the trial, his lawyer argued that Osório was delusional and showed signs of insanity when the crime took place, in spite of having insufficient medical evidence. He plead guilty. When the judge begged him to endeavor by prayer to make his peace, he responded with: “I need not, because my conscience is clear” (*The Hongkong Weekly Press*, 2 July 1898, 12). As according to British laws, the court sentenced Osório to capital punishment. Upon learning of the court’s decision, the Lisbon authorities became concerned. The Portuguese charge d’affaires pressed the third Marquess of Salisbury, then Prime Minister of the United Kingdom, to ask for intervention from the British Foreign Office. He had hoped that the Foreign Office would instruct the Hong Kong government not to inflict capital punishment on the subject of a country where death penalty was no longer in place.¹⁸

The Foreign Office refused to forward the request to Hong Kong on the grounds that they could neither suggest the “prerogative of pardon” nor interfere with the colonial government’s operations.¹⁹ The King and Queen of Portugal questioned the Hong Kong court’s insistence of punishing Osório according to British law but the Britons maintained that “there [was] no room for surprise in the failure of the intercession exerted” because “the case was in no respect one of extradition [and] the circumstances of capital punishment being excluded by Portuguese law had no bearing upon it.” The letter to Lisbon concluded, “the law of England exacts that penalty for the crime of willful murder; and there is consequently no more to be said.”²⁰ As a sign of protest, the Macanese community signed and presented

¹⁶ “The Caine Road Murder, Ozorio Again before the Magistrate,” *The Hongkong Weekly Press*, 21 May 1898, 9-10; “The Murder at Caine Road, Trial of Ozorio,” *The Hongkong Weekly Press*, 25 June 1898, 5.

¹⁷ “Capital Sentence, Execution of J. de M Ozorio,” 13 July 1898, CO 129/284, 52, The National Archives, Kew.

¹⁸ “Letter from Foreign Office,” 18 May 1898, CO 129/287, 114, The National Archives, Kew.

¹⁹ “Murder Trial of a Portuguese,” 18 May 1898, CO 129/287, 115-116, The National Archives, Kew.

²⁰ “C. Conway Thornton to Lisbon,” 26 August 1898, CO 129/287, 352-353, The National Archives, Kew.

a petition to the British governor asking for his clemency. The Macanese claimed that most local-born or naturalized Portuguese in Hong Kong were law-abiding people who had contributed to the colony's prosperity. They added that the community would be "put to shame" if the governor did not revoke the sentence. The petition also highlighted that under Portuguese law, British subjects would never be given capital punishment for committing crimes on Portuguese territory (*Hong Kong Daily Press*, 9 July 1898, 2). In addition, the Macanese published their concerns in a Macau-based Portuguese-language newspaper, *Echo Macaense* (*The Hongkong Weekly Press*, 23 July 1898, 4). All of these were ineffective in reversing the decision of the Hong Kong court. On the morning of 11 July 1898, Osório was executed by hanging at the Victoria Goal (*The China Mail*, 11 July 1898, 4). The British colonial authorities made it clear that the British rule of law was to be upheld on British territory. The editor of *The Hongkong Weekly Press* showed his support, writing that any exemption due to nationality would not have been acceptable in the face of justice (23 July 1898, 4).

The aforementioned cases demonstrate the challenges in managing and protecting Macanese criminals in foreign-controlled Chinese port cities where Portugal did not have extraterritoriality. In order to protect Portuguese subjects, the Macau government resorted to negotiation, sometimes at the expense of dishonoring signed agreements. As seen in the cases of Diaz and Guedes, the Portuguese authorities went against the extradition ordinance by refusing to surrender the Portuguese criminals wanted by the Hong Kong police. Criminal cases like Osório's, committed in spaces where Portugal did not have extraterritoriality, further demonstrated the importance of extraterritorial rights in protecting one's countrymen. The next section explores the functions of extraterritoriality in favor of Portuguese criminals and shows a contrasting murder case that took place in the Shanghai International Settlement where Portugal had extraterritoriality and ran a consular court. It traces the process of managing Portuguese subjects charged with serious crimes and reveals bias through leniency towards Macanese criminals.

The "Sensational" Shanghai Trunk Murder

On the night of August 4, 1933, twenty-three-year-old Patrício José dos Remédios killed his common-law wife, Choy Ling (also known as Mary Chun), with an icepick and smothered her with a pillow at their residence in 15 Kashing Road, Hongkew district. Early the next morning, Remédios headed to a shop at 1112 Broadway and purchased a black trunk for eight dollars. He moved Choy's dead body into the trunk, labeled it "Mr. Q.H. Man.

Destination: Yokohama, S.S. Shanghai Maru,” and asked his brother, José Eulálio, to help carry the trunk onto a rickshaw. Together, they transported the trunk to the N.Y.K. Wayside Warf, where it was taken aboard the Shanghai Maru. Two days later, customs in Kobe discovered Choy Ling’s body in a decomposed state, wearing only a pair of shorts, her hands and feet bound by rope and her face seemingly smashed by a blunt instrument (*The China Press*, 11 August 1933, 1). The Japanese consular police and the Shanghai Municipal Police launched an investigation, with traces initially pointing to two foreigners but eventually leading to the arrest of the Macanese brothers. Of their arrest, *The Shanghai Times* reported that “several hundred morbidly curious Chinese, Japanese and foreigners milled up and down the Yi Feng Li, an alley off Woosung Road” to witness the special crime branch of the municipal police whisk the brothers away to the Amoy Road jail (15 August 1933, 1). By the time Remédios confessed to the crime in late August, the case had already, quoting *The China Press*’s headline news, “thrilled Shanghai for the past several weeks” (27 August 1933, 1).

Not much is known of their lives except for fragmented information revealed during the trial that was documented by the press. Both brothers were born in Yokohama but were schooled in the prestigious St. Francis Xavier’s College (*A Voz de Macau*, 15 August 1933, 3). They were also linked to a prominent Macanese family in Hong Kong though no evidence show they were in contact with their relatives (Forjaz 1996, 33, 37). Choy Ling was presented by the media as a cabaret girl with a troubled past, as demonstrated by an account from Hong Kong’s *South China Morning Post* (13 September 1933, 13):

It appears that the girl Choy Ling was a native of Canton, and when taken to Shanghai seven years ago, was in a situation described as being something similar to the lot of the *mui-tsai*.²¹ Her earlier career after arrival at the Northern port is not clear, but it is understood to have been a very chequered one. She eventually met Patricio dos Remedios, it is said, in a cabaret, and later became his common-law wife (13 September 1933, 13).

The Remédios brothers were amongst the population of over 1,300 Macanese subjects in the Shanghai International Settlement in the 1930s (Wang 2004, 11). Although the Macanese diaspora to Shanghai began in the 1850s, the Shanghai Macanese remained affiliated to the Portuguese empire through Macau. Unlike in British Hong Kong where anglicized members

²¹ *Mui-tsai* 妹仔 is Cantonese term for young Chinese women who were bought and sold to affluent Chinese families as domestic servants and were typically orphans or from poor families.

subsequently served in the legislative council in unofficial capacities, the Shanghai Macanese did not have representatives in the SMC, thus sustaining their primary identification to Portugal and Macau (Chan 2020).

Representing Portugal and in charge of its subjects, the Portuguese Consul organized national celebrations and handled civil, commercial, and criminal cases. It also tended to cases concerning Chinese individuals who were registered as Portuguese, as seen from a 1923 case where a woman named Tsang Sung-sz pleaded guilty in the Portuguese court for physically abusing a ten-year-old “slave girl” (*The North-China Daily News*, 6 December 1923, 7). In the same year, a Chinese man named Nien Han-chung successfully requested to be heard by a Portuguese assessor at the mixed court upon suing a Chinese man for libel (*The North-China Herald*, 29 September 1923, 945). Yet the consul had its limitations, prompting the Macanese to turn to Portugal and the Macau government for assistance when needed. In 1916, for instance, Portuguese citizens in Macau held a mass meeting and sent a deputation to the Governor after the SMC promulgated a law allowing the imprisonment or expulsion of Portuguese subjects without trial (*The North China-Herald*, 31 March 1916, 888). The Macau Governor telegraphed the Portuguese premier, and the Lisbon authorities subsequently instructed the attorney general of Macau to head to Shanghai (*The North-China Herald*, 6 May 1916, 245). The law was eventually withdrawn with the intervention of Portugal and the efforts in negotiation of the Macau governor (*The North-China Daily News*, 14 January 1918, 8). The Portuguese consul also required help from the SMC in dealing with complex cases. In tracing Macanese men who escaped to Japan after committing fraud in Shanghai, the Portuguese sought help from a Japanese detective from the Shanghai Municipal Police Force. The suspects were sent to the British gaol upon arrival and a public prosecutor from Macau proceeded to the Shanghai International Settlement to oversee the case (*The North-China Herald*, 20 April 1918, 159). Notably, the Portuguese Consular Court was not equal in footing to other courts in the Shanghai International Settlement. Only Britain and the United States had established special courts in China with a special staff, and Japan had trained consular judges in the consulate-general at Mukden, Tianjin, Shanghai, and Tsingtao (Department of State Washington 1926, 11).

The case of the Remédios brothers provides us with an opportunity to examine the functions and limitations of Portuguese extraterritoriality in Shanghai. After the SMC police traced the involvement of the Remédios brothers, the case was transferred to the Portuguese Consular Court. There, a lawyer was appointed, and a hearing arranged. A Portuguese official hinted that if there were sufficient evidence to press a charge, the case would proceed in

Macau because the consular court had never seen a similar case and was not competent enough to take on the affair.²² Excitement erupted on the day of the hearing; a large crowd gathered outside the Portuguese consulate to catch a glimpse of the two suspects (*South China Morning Post*, 22 August 1934, 10). At 10:40 in the morning of 26 August 1934, the hearing took place with lawyer T. Rangel, the Macanese brothers, nine witnesses, prosecutor Captain A. Lico, consular judge Dr. J.P. Ferreira da Silva, and chancellor of the consulate Mr. A.S. Braga serving as clerk of the court. Following conventional practice, the session was conducted in Portuguese. A translator was present as the Remédios brothers did not speak Portuguese. Patrício confessed to killing Choy Ling but maintained that his brother José did not play a part in transporting the trunk that carried the corpse.²³ After all witnesses had testified, a formal arraignment immediately took place at the Portuguese Consulate General. This was done “in camera” per Portuguese practice. Owing to Patrício’s willingness to confess and a requirement under the Portuguese legal code that suspects be charged or released within twenty-four hours after the completion of interrogations, it did not take long for the court to reach a decision. It charged Patrício with murder and declared José an accomplice.

Without the power to sentence criminals facing serious offence, the Portuguese court in Shanghai transferred the case to the Macau judicial court. Portuguese Consular Courts were responsible for investigating and hearing all criminal cases concerning Portuguese citizens and individuals on-board vessels flying the Portuguese flag. This was, however, with the exception of major crimes that corresponded to prison sentences ranging from two to eight years, followed by exile from eight to twenty-five years, as prescribed in articles 55 to 57 of the penal code (*Código Penal Português 1886* 1919, 21). Penalties imposed by the consular court included caution, suspension of political rights for five years or less, a fine of up to 1,000 escudos, banishment for six months or less, and imprisonment not exceeding six months. In handling serious offences concerning Portuguese nationals in Chinese cities where Portugal had extraterritoriality, the 1926 *Report of the Commission on Extraterritoriality in China* of the Secretary of State of Foreign Affairs stated that major cases were to be handled by the Macau judicial court with the least possible delay. The high judicial court of Goa was responsible for general appeals. Further appeals on questions of law and procedure could be made to the *supremo tribunal de justiça* (supreme court of justice) in Lisbon (Department of

²² “Trunk Murder: Remedios Brothers on Trial, Macao Hearing,” *South China Morning Post*, 22 August 1933, 10.

²³ For a detailed account of the first hearing, see “Patrício Remédios confessou o crime,” *A Voz de Macau*, 28 August 1933, 3; “Portuguese Consular Court: Shanghai Maru Trunk Murder,” *The North-China Herald*, 30 August 1933, 348.

State Washington 1926, 136). The existence of multiple concessions in the Shanghai International Settlement confused the public. One resident, unfamiliar with the Portuguese Consular Court's procedures and dissatisfied with the absence of a sentence, sent a letter of threat to T. Rangel, criticizing him for representing a "low down client" and asking for justice for "the poor Chinese girl" (*The Singapore Free Press and Mercantile Advertiser*, 31 August 1933, 2). Rangel dismissed the threat and told the press that the general public did not understand the legal system of the Portuguese court. This contributor's concerns were not unfounded. They had raised an important question on the biases of extraterritoriality. This was affirmed by how the Portuguese judicial court in Macau demonstrated leniency towards the Remédios brothers as will be discussed in the next section.

From a Treaty Port to a Portuguese Colony

Exempting their subjects from Chinese law, foreign-controlled Consular Courts on Chinese soil were often biased (Harowitz 2004, 459). While the Portuguese Consular Court in the Shanghai International Settlement had restrictions, Portuguese interests were ultimately secured by the trans-border connectivity of the Portuguese legal system.²⁴ Less than two weeks after the charges were pressed in consular court, the Shanghai Municipal Police escorted the Remédios brothers to the M.M. liner Felix Roussel bound for Macau. Before making its way to Saigon and Europe, the steamer berthed alongside the Kowloon wharf, Hong Kong on the morning of 13 September 1933. A water police launch transferred the brothers to the S.S. Sui An to Macau at half past five in the afternoon. The press followed the events closely, sketching different descriptions of the Remédios brothers. The *South China Morning Post* reported, "They appeared not to be greatly depressed by their position, but were in fact quite cheerful and reading the evening papers. This was characteristic of their demeanour throughout the whole trip, and they slept and ate quite well" (*South China Morning Post*, 13 September 1933, 13).

On the day of the trial for Patrício, a Macau correspondent wrote that he looked tired and unsettled at the Macau criminal court, quoting: "His eyes were bloodshot [...] and his manner betrayed nervousness." He refused to be interviewed, saying his mind was very upset and he did not feel justified to make a statement for the press.²⁵ As the brothers awaited trial,

²⁴ In a similar manner, more serious cases concerning Dutch and French nationals were transferred respectively to the Netherlands courts at Batavia and the French courts at Saigon and Hanoi.

²⁵ "Trunk Murder: Accessory after the Fact," *South China Morning Post*, 15 September 1933, 13.

The China Press remarked on the potential consequences based on their knowledge of Portuguese law:

The fate of Pat Remedios, who murdered his Cantonese sweetheart and shipped her body to Japan in a trunk last August, now rests on the mercies of the Macao High Court. Fever swamps of Timor or fever-beaches of Portuguese East Africa undoubtedly await the young Shanghai Eurasian who shocked the city by his brutal crime (14 January 1934, 18).

The trial took place on 20 February 1934 with the presence of interpreter Antonio F. Batalha and judge Vasconcellos. The court appointed F.X.A. da Silva to defend the Remédios brothers. The proceedings of the trial showed Da Silva's attempt to place the blame of her own death on Choy Ling. He stated that Patrício was in a poor state at the time of the crime; he was unemployed and both brothers were living off of their elder sister's charity. According to Da Silva, Remédios acted out of jealousy after learning that Choy Ling had been receiving gifts from other admirers. He appealed for mercy on the mitigating grounds that the crime was merely an "accident" induced by Choy Ling's "provocation" (*South China Morning Post*, 21 February 1934, 14).

Building on pre-existing descriptions of Choy Ling as a "cabaret girl," Da Silva pointed out that it was Choy's inconsiderate actions towards Remédios's poor emotional state that prompted the Macanese to eventually lose control. According to the lawyer, Choy dressed up fancily and was preparing to leave for a night out when Remédios became agitated and accused her of taking gifts from other men. It was further revealed in the trial that Choy Ling tried to hit Patrício with the icepick which he then "took from her hands" and used to strike her. Da Silva claimed that Remédios was "powerfully influenced by passion" and "the fatal blow [of covering her face with a pillow] was struck without any intention to kill" (*South China Morning Post*, 21 February 1934, 14). In contrast to earlier statements that José was not involved in the case, Patrício admitted to enlisting his brother's aid in transporting the trunk to the steamer but maintained that his brother was not aware of what was inside until after the Shanghai Maru sailed off. The court had previously acquitted José Remedios due to insufficient evidence that he knew about the crime (*The China Press*, 1 October 1933, 1). He went back to Shanghai in November 1933, his return widely publicized by some local press. *The Shanghai Times* printed the title, "Jose Remedios is Returning" (22 November 1933, 4) whereas *The China Press* reported "Jose Remedios lands at wayside wharf on N.Y.K. ship"

and highlighted that he was the “brother of the notorious Shanghai trunk murderer” (25 November 1933, 4).

The Macau judicial court showed leniency towards Patrício Remédios. It dismissed a number of testimonies from witnesses in Shanghai that claimed to have seen the Macanese physically assaulting Choy Ling on several occasions. In turn, judge Vasconcellos commended Da Silva’s appeal for clemency as powerful, eloquent, and effective. Vasconcellos proclaimed that he felt “the sorrow expressed by the prisoner” and thus gave Patrício Remédios “the very shortest sentence” for someone found guilty of murder. Remédios was given twenty years’ exile to Timor without imprisonment, to be placed under police surveillance for a period of the sentence. This was not an unusual sentence for Portuguese courts: Lisbon’s murderers were often sent to Africa, India, or the galleys for exile during the sixteenth and seventeenth centuries (Coates 2001, 114, 77). It became more common after the complete abolition of the death penalty in Portugal in 1867 to send convicts of serious crimes to exile in overseas Portuguese territories. Imprisonment was reserved for misconduct during exile or if those under surveillance attempted to escape. Taking note of the sentence, a journalist for the *Malaya Tribune* wrote that by good conduct, exiled prisoners like Patrício Remédios were “able to live a life of comparative comfort, but the slightest carelessness on their part [would] result in severe punishment” (28 February 1934, 2). Da Silva made it known at the trial that he would appeal to the Goan high court for mitigation of the sentence. The attorney general then submitted the decision to the Goan high court for confirmation.

In accordance with Articles 57 and 96 of the Portuguese Criminal Code of 1886, the Macau judicial court considered the crime that Remédios committed as third-grade in gravity on a scale of seven. The heaviest penalty translated to twenty-eight years of exile with imprisonment from eight to ten years. The lenient attitude of the court towards Remédios reflected bias in favor of one’s countrymen that existing literature had associated with extraterritoriality on Chinese soil (Cassel 2016, 34; 2012, 52). The case further exemplifies bias in the Portuguese system in treaty ports, which has been demonstrated in the context of Siam (Guerra 2010, 131). Certainly, the Shanghai trunk murder was only one in many cases that reveal the functions of extraterritoriality. In 1938, for instance, a twenty-nine-year-old Macanese named Vasco Mario Marcal was given a similar treatment after being charged for shooting his British girlfriend Louisa Maria da Cruz in her bedroom at the French Concession. Marcal tried to run away but was seized by the French police and subsequently turned in to the Portuguese consular authorities (*The North-China Daily News*, 7 September

1938, 5).²⁶ An employee of the Hongkong and Shanghai Banking Corporation, he was represented in Shanghai by T. Rangel, who also worked with the Remédios brothers. Marcal confessed to shooting Da Cruz and was brought before the Macau high court (*The North-China Daily News*, 7 September 1938, 5). In Macau, his lawyer produced medical evidence stating that Marcal was “insane” and had a neurologic disorder that prompted him to commit the crime. The court eventually decided to banish Marcal to Timor for twenty years without imprisonment.²⁷

In addition to shedding light on the favorable treatment of criminals registered under one’s country, such criminal cases further reveal the complex, trans-border legal system of imperial powers in Asia. The limitations of consular courts facilitated one aspect of connectivity between treaty ports and colonies through the management of criminals. Granting Portugal extraterritoriality, the 1887 Treaty of Amity and Commerce and the 1926 *Report of the Commission on Extraterritoriality in China* created space for the expansion of Portuguese jurisdiction to Chinese treaty ports. Due to its small scale and limited functions, the Portuguese Consul in the Shanghai International Settlement was closely associated to the main Portuguese courts in Macau and Goa. The Portuguese consular court in Shanghai handled minor cases, referring major crimes to the higher courts of Macau and Goa. This extensive, cross-border legal procession made it possible for Portugal to manage Portuguese subjects scattered across different port cities in Asia. The cross-border movement and trial of criminal cases, nevertheless, created certain injustice for to non-Portuguese victims. While there was pressure from the Shanghai community to do Choy Ling justice, the Macau judicial court operated within Portuguese domains and was able to function without external pressure or intervention. In contrast to reports made in the Shanghai press, the Macau newspapers showed little interest in the case. The sentencing of Remédios in the Macau judicial court, for instance, was briefly reported and his deportation to Timor was not mentioned (*A Voz de Macau*, 20 February 1934, 5).

Conclusion

The Portuguese Constitutional Law of 1826 considered all individuals born in Portugal and its overseas territories as Portuguese. In tending to subjects spread across its

²⁶ “Young Portuguese Charged with Murder of British Girl,” *The North-China Daily News*, 7 September 1938, 5.

²⁷ “Shanghai Shooting: Inquest on Miss da Cruz Stands Adjourned, Portuguese Charged,” *South China Morning Post*, 13 September 1938, 16; “Portuguese Killer Given 20 Years: Vasco Marcal to Spend Time in Timor for Killing Girl,” 27 October 1939, 4.

vast empire, a uniform legal system was put in place under the extension of the 1867 Civil Code to overseas dominions in 1869. This form of integration, nonetheless, was not effective in controlling and managing Portuguese populations that had migrated to cities under foreign control. The Macanese moved freely between western-controlled port cities in Asia and settled beyond the Portuguese colonies. In such areas, Portugal sought to safeguard the interests of the country and its subjects by negotiating for treaties, extraterritoriality and/or setting up Portuguese consuls. Intended to minimize conflict in handling criminals charged on each other's soil, the extradition agreement between British Hong Kong and Portuguese Macau was ambiguously deployed when useful or ignored when harmful to their interests. The case of Guedes, for instance, showed Lisbon's use of a European treaty to dismiss an ordinance signed overseas in refusing to surrender its subject. Where extraterritoriality was unavailable, as in the case of British Hong Kong, tension and contention was inevitable. It was in these spaces that Portugal demonstrated impotence in protecting its subjects from foreign jurisdiction.

Extraterritoriality, thus, was important in safeguarding the interests of Portugal and its subjects. In contrast with Osório's murder case where the Macanese finally faced death penalty, the case of the sensational Shanghai trunk murder and subsequently the Marcal case demonstrated bias in handling criminals of Portuguese nationality under the Portuguese courts. The Macau court's decision to ignore witness testimonies from Shanghai and leniently punish Remédios was particularly telling of the favorable treatment that foreign courts gave to their own subjects. Although the Portuguese Consular Court in the Shanghai International Settlement had limitations in scale and operation, the trans-border legal procession of the Portuguese empire in the Far East effectively ensured Portuguese criminals were handled, tried, and sentenced by Portuguese courts. While this trans-border legal system facilitated the management of Portuguese subjects scattered in semi-colonial cities, it also helped create injustice: a new set of legal professionals came to be assigned with every change of setting and trials in the high courts were often conducted using old testimonials that had been gathered by the consular courts. Furthermore, decisions were made without the interference of public sentiments that usually existed in the city where the crime was originally committed. In the case of Remédios, the court largely omitted witness testimonials regarding his history of domestic violence and the lawyer focused on putting the blame on Choy Ling.

The presence of Luso-Asian migrants in Shanghai, Canton, and Hong Kong emerged as a complex issue for Portugal, particularly in handling criminals that risked being tried and punished by foreign courts. This prompted Portugal to seek extradition and extraterritorial

agreements, respectively, with the British and Chinese governments. This, nevertheless, did not make the management and protection of Portuguese subjects less complex. Without a prison for its people and the power to handle serious criminal cases, Portugal's Consular Court in the Shanghai International Settlement had to rely on trans-border collaboration with the high courts of Macau and Goa, which was tedious, time-consuming, and costly. While extradition secured the return of Portuguese criminals to the Macau police, the Macau government faced the question of whether to surrender Macanese criminals wanted by the Hong Kong government. Ultimately, flexibility and negotiation substituted rigid agreements in answering the challenges of handling Portuguese criminals scattered unevenly throughout Chinese cities torn between foreign powers. Put together, the various cases examined in this study have demonstrated the inconsistent and resilient ways Portuguese criminals were managed in foreign-controlled Chinese port cities.

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