

Legal Discourse in *Don Quixote*

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Though a number of recent studies pay close attention to the importance of *economic* terms and concepts in *Don Quijote*—for example Carroll Johnson’s *Cervantes and the Material World* and David Quint’s *Cervantes’s Novel of Modern Times*, the role of legal discourse in the work remains in the shadows. Yet Cervantes’s masterpiece is saturated with formulas lifted from legal documents, such as “*so pena de la pena pronunciada*,” “*sin perjuicio de tercero*,” “*y otras cosas que doy aquí por expresadas*,” “*sin remisión*,” “*ley del encaje*,” “*salir a la vergüenza*,” “*otorgarle la vida*,” “*bien y fielmente*,” “*puesta en ejecución la culpa*,” “*traslado a parte*,” “*quienquiera que sea*,” and many, many more. Several types of legal documents appear, including among them arrest warrants, contracts, letters of payment, Don Quixote’s duly notarized will, a certified register of the *galeotes*’ sentences, and several affidavits. Agents of law enforcement and judicial procedure in the text include members of the Santa Hermandad, commissioners for the galleys, a high-ranking judge (the *oídor* Juan Pérez de Viedma), the Viceroy of Barcelona, and, of course, Sancho himself in his role as governor. Other characters also play the role of judges on a number of occasions, such as the priest in the scrutiny of Don Quixote’s library, Don Fernando in the ‘case’ of the *baciyelmo*, and Roque Guinart, the Catalan outlaw, who acts as judge within the territory he controls. Mock trials and other scenes patterned on legal proceedings recur frequently throughout the work, from the very beginning, with the scrutiny of the books in Don Quixote’s library and Marcela’s defense at Grisóstomo’s funeral early in Part One, and continuing throughout Part Two in scenes like Basilio’s testing of Quiteria and Ana Félix’s last-minute reprieve, granted after she tells her life story with a noose around her neck.¹

The relative neglect of this aspect of *Don Quixote* is unfortunate, first of all, because it leaves an important dimension of the mad knight’s chivalrous mission under-explored, namely, his desire to act as a judge

in the anachronistic manner of a feudal lord. After all, one of the chief activities of the knight errant in his conception is that of redressing torts (*enderezar tuertos*, usually translated 'righting wrongs,' a phrase that diminishes the legalistic nuance of the original). Don Quixote repeatedly acts as a kind of medieval magistrate, starting early in the novel when he renders his judgment against Juan Haldudo for whipping his servant Andrés. In the context of changes in the Spanish judicial system at the time, this aspect of the hero's mission reveals a political dimension of Cervantes's masterpiece. Legal reform played a crucial role in the consolidation of the Spanish Empire. The exploration of alternative approaches to the administration of justice, however playful, implicitly challenges the underlying foundations of Absolutism.

Rather than enhancing our understanding of the work's historical circumstance, however, a one-sided emphasis on economics can lead, as it clearly does in Quint's case, to an over-hasty assimilation of *Don Quixote* to European modernity. Quint focuses on the transition within the work from an archaic, feudal order represented by the knight's madness to a "modern" society in which money regulates human relations. This makes the fictional world of Cervantes's novel fit rather too neatly into the context of British and French mercantilism and even early capitalism. Tellingly, there is no discussion in Quint's book of the social changes brought about by the Hapsburg dynasty and its imperial policies. As Carroll Johnson's emphasis on Spain's "stillborn capitalism" in the opening chapters of *Cervantes and the Material World* demonstrates, paying attention to economic issues in Cervantes's writings does not have to mean collapsing three centuries of European history into one. But legal discourse especially obliges us to look at *Don Quixote* in its historical specificity. In particular, it draws our attention to a major political change occurring at that time: the consolidation of the absolutist state and the role of judicial reforms in that process.

Through legal proceedings and legal language, Cervantes inscribes into *Don Quixote* the expansion, even within Spain, of imperial power. The increasingly ubiquitous presence of the monarchy manifested itself, among other things, in an exponential growth of court cases heard on appeal. Beginning during the reign of Charles V and continuing through that of his son Philip II, a policy of encouraging judicial appeals increased the number of lawsuits so rapidly that, according to Richard Kagan, early modern Spain became one of the most litigious societies in history (16–7). The goal of this policy was

“to promote royal absolutism and, specifically, to increase the power of royal tribunals vis-à-vis those of the municipalities, the nobility, and the church” (Kagan 151). Legal proceedings thus became an important part of everyday life in rural New Castile, and the average peasant of La Mancha would have been familiar with royal proclamations authorizing the interrogation of witnesses, and such processes as swearing to testify truthfully and responding to legal questioning. Due to this tremendous expansion of the judicial system, many more people participated in legal proceedings of one sort or another than ever before, and this clearly left its mark on the culture of Cervantes and his readers. Thus this layer of meaning in *Don Quixote* both reflects and, to some extent, resists the ubiquity of royal power achieved under the Hapsburg monarchs.

Those who have treated this theme in *Don Quixote* and other Cervantine writings generally speak of an opposition between spontaneous or “natural” justice and the legal bureaucracy of the emergent modern state. As we will see, however, this apparent dichotomy dissolves on closer inspection, for monarchical power ultimately contains both. Thus Carmen Vega-Carney has observed that the former model, an anachronistic holdover from chivalric romance, prevails in Part One, while royal justice overwhelms and contains that autonomous local form of power in Part Two. Over eighty years ago, Américo Castro discussed Cervantes’s utopian longing for swift justice: legal judgments pronounced by a sage, commonsensical, and well-intentioned individual, executed without lengthy appeals (191). Nonetheless, ambiguity surrounds the scenes in which this form of justice is actually practiced—such as the liberation of the galley slaves, or Roque Guinart’s punishing a member of his band who has criticized him in front of the others by cutting his head open, without a word of warning. Here, it helps to recall Maravall’s subtle argument in *Utopía y contrautopía en Don Quijote*. In Maravall’s view, Cervantes perceived the degradation of utopian thought, how it had fallen away from the forward-looking orientation of Renaissance Humanism, becoming instead a nostalgic yearning for an earlier social order by means of which an ineffectual nobility justified its high social status. Beyond the romances of chivalry, it is this idealization of feudalism that Cervantes satirizes in *Don Quijote*. Though it seems to offer an alternative vision of the social order to that of the Absolute Monarchy, in the last analysis this reactionary ideology only aims at

the incorporation of the aristocracy into a new monarcho-seignuerial regime. Increasingly, during Cervantes's own lifetime, all forms of power lead back to Madrid. There is no 'outside' of the monarchy.

In both early modern Spain and the Spanish colonies of the New World, this ubiquity of royal power was achieved in large measure through the generation of a pervasive demand for narrative.² The imperial bureaucracy appropriated the practice of gossip, common in traditional agrarian communities, integrating local knowledge obtained by neighbors spying on each other into a centralized administration controlling the population. Knowing that anything one said could find its way into a lawsuit or Inquisition trial led to an awareness of the potential consequences of speaking in front of witnesses and an increased attention to who was present when a given statement was made. This encouraged a calculating, duplicitous approach to interaction, and gave the public sphere a distinctly theatrical quality. It also meant that royal power operated not only by getting people to tell their stories, but also by getting them to listen to and judge the stories others told. Ultimately, the absolutist state projects an unattainable limit point where royal power would be operative in every social interaction, no matter how trivial, but without any one individual actually exercising it.

This demand for narrative exerted an intense pull within Spain. The range of techniques used to extract from people what they knew about their neighbors included, notoriously, torture; but the invitation could be benign, and in many instances empowering. It could mean an opportunity to accuse rivals or to defend one's own reputation and status. But whatever the use to which it was put locally, demand for narrative strengthened imperial authority, for it served to introduce monarchical power into the everyday lives of its subjects. The demand for narrative did not always present itself as an external imposition. More than the power to pass judgment, it is an active power to generate stories, penetrating into the interiority of the subject. Often, self-interest motivated the subject of imperial power to tell his or her tale—but of course, this interest had itself been implanted by the administration.³ The first great literary reflection of this colonial condition as the generator of narrative comes in the fictional prologue of *Lazarillo de Tormes*, addressed to a mysterious "Vuestra Merced" who has demanded that Lazarillo "relate el caso muy por extenso"

In Cervantes's novel, this form of power frequently manifests itself as the nexus between narrating and judging. Often a character

or group directly requests that someone tell his or her story, thereby introducing a secondary narrative. It is true that the demand is generally placed in a sympathetic light: tell us your story so we can help you, or at least offer you the consolation of sharing your grief. Nonetheless, the requests take the form of rhetorically elaborate speeches calculated to overcome anticipated resistance by convincing the hearers that sharing their stories is in their best interest. Don Quixote both “supplicates” and “conjures” the wild man Cardenio to tell him who he is and why he has withdrawn into the mountains to die, swearing solemnly to help him, either by remedying his suffering or by lamenting it with him. The priest exhorts Dorotea in similar terms, promising to advise her in her distress, “pues ningún mal puede fatigar tanto, ni llegar tan al extremo de serlo, mientras no acaba la vida, que rehúya de no escuchar, siquiera, el consejo que con buena intención se da al que lo padece” (*Don Quixote* 319–20; bk. 1, ch. 28).

These requests usually take place in the context of quasi-legal proceedings, in which other characters (and the reader) evaluate and judge the person speaking, or those about whom they are speaking. Such “mock trials” include Marcela’s defense at Grisóstomo’s funeral, the galley slaves’ account to Don Quixote of their crimes and the sentences they received, and Dorotea’s pleading of her cause before Don Fernando at the Inn. The captive’s tale culminates in his reconciliation with his brother, an *oídor* about whose judgment he is initially extremely anxious. Thus the demand for narrative in *Don Quixote* belongs to a thematics of justice and judicial processes, much as it did in the social world of sixteenth-century New Castile or in the *relaciones* emanating from the New World.⁴

On numerous occasions, Don Quixote himself exercises this judicial function, behaving more like a local magistrate than a knight-errant. In the first example, to which I already briefly alluded, he finds a rich man, Juan Haldudo, whipping his poor servant, Andrés. After questioning them closely, he pronounces his judgment: Haldudo should pay Andrés his back wages, a sentence Don Quixote insists he must obey, invoking the legal formula “so pena de la pena pronunciada” (66; bk. 1, ch. 4). His speech and actions prompt Andrés to refer to him as “buen juez.” At Grisóstomo’s funeral, his friend Ambrosio bitterly accuses Marcela of his death, and she delivers an impressive speech protesting her innocence, for she never led him to believe she loved him. Don Quixote responds in a way that clearly

frames her discourse as the defense at a murder trial, at the same time as he casts himself as judge:

Ninguna persona, de cualquier estado y condición que sea, se atreva a seguir a la hermosa Marcela, so pena de caer en la furiosa indignación mía. Ella ha mostrado con claras y suficientes razones la poca o ninguna culpa que ha tenido en la muerte de Grisótomo [. . .]. (156; bk. 1, ch. 14)

Deciding such cases on his own initiative, he acts according to a conception of justice based on a frontier feudalism typical of medieval Iberia. In late sixteenth-century New Castile, though, it is absurd to imagine that one can administer justice independently of the centralized judicial system of the Hapsburg dynasty. At no moment is this anachronism more in evidence than in the one instance where Don Quixote directly flouts royal authority: the freeing of the galley slaves.

In Chapter One of *Penal Servitude in Early Modern Spain*, Ruth Pike discusses the use of condemned prisoners to row the galleys (3-26). Her research shows that the practice increased dramatically from 1532 until 1552, maintained a high level for nearly a century, and then went into decline after 1650, when the proportion of Muslim slaves began to increase. Forced labor on the galleys was abolished altogether in 1748. Though military necessity surely played a role, it cannot be a coincidence that the use of service on the galleys as a punishment for criminal offences peaked during the period of judicial expansion during which the absolutist monarchy was being consolidated. As Pike points out, the galleys were particularly feared, and thus provided an important incentive for prisoners to appeal their cases. Arguably, the legal maneuvering prisoners went through to avoid going to the galleys was as important, judicially speaking, as the *galeotes* themselves. Incidentally, Pike includes a map of the route by which prisoners from the central holding prison in Madrid traveled to the port of Cartagena to embark on the galleys. It sliced right through La Mancha, passing through such towns as Campo de Criptana and Socuéllamos, in the vicinity of El Toboso. While one did not see a group of men chained together like so many rosary beads and led on a forced march across the plains of La Mancha every day, still it would have been a fairly frequent occurrence, even though a rather strange and melancholy sight to behold.⁵

From the moment Sancho explains to him that the *galeotes* are being taken against their will, Don Quixote intends to intervene in their favor. Nevertheless, he withholds judgment until he has heard their stories, which he directly demands of them himself. In the speech announcing his ‘sentence’ and his intention to free them, Don Quixote stresses that the galley slaves have already been punished: “aunque os han castigado por vuestras culpas.” Obviously, he believes the whippings they have received are sufficient punishment for the crimes they committed. Now, in actual legal practice, when appeals to higher courts were made by those sentenced to the galleys, the years in the galleys were frequently commuted to the same number of years of banishment from the town of residence. It is typical of the cases that go through all the steps up to the highest grade of appeal (*grado de suplicación*) that there is at least some reduction of the sentence. Presumably this acted as an incentive to appeal. It is reasonable to assume that these galley slaves have not had their cases heard on appeal; they have been sentenced only by a local court. Of his own accord, Don Quijote takes it on himself, then, to hear their appeals and mitigate their punishment. He thus short-circuits the justice system, breaking the continuous chain that links the humblest *alguacil* to the highest court of appeal. He dispenses justice independently, like a medieval lord, although that had not been possible in La Mancha for more than one hundred years. To some extent, then, it appears that Don Quixote’s nostalgia is not so much for the military activities of the knight errant, as for the autonomous power to govern of the landed gentry of the Middle Ages.

At this point, I would like to describe briefly a few instances I have come across in the Archivo Histórico Nacional (AHN) of individuals sentenced to the galleys, who appeal their sentences—initially rather harsh—and get them reduced. As it happens, all three are Moriscos from Granada, resettled in La Mancha after the War of the Alpujarras—but this is simply because I am currently researching that particular group. I am confident that similar cases could be found for other groups, or in other areas. All three cases come from towns belonging to the military orders, so their appeals were heard by the Consejo de Órdenes. They are housed today in a subsection of the Órdenes Militares (OO MM) section of the AHN, called the Archivo Histórico de Toledo (AHT) because it was once housed there. In February 1572, Hernando Pérez and two other Moriscos apparently stole from the cash box of a makeshift tavern in Ocaña. They got the

innkeeper's thirteen-year-old daughter to leave the room on a pretext, and tried to rob the place while she was gone. She caught them red-handed. Within a week of his arrest, Hernando had been sentenced to being publicly whipped, and eight years in the galleys. Eight years is a severe penalty—only Ginés de Pasamonte gets more than six in the galley slaves chapter in *Don Quixote*. Local law enforcement officials in Ocaña quickly carried out the public whipping, not allowing the accused enough time to appeal. His lawyer denounced a number of irregularities in his trial, finally insisting that “el dicho mi parte está bastantemente castigado en haberse ejecutado en su persona la pena de azotes.” In March the Consejo de Órdenes commuted the eight years in the galleys into one year of banishment. In June his final appeal ended with even the *destierro* being repealed (AHN OO MM, AHT, núm. 15.455). My second example: García de Molina was accused, in 1585, of violating the crown's decree that the Moriscos taken from Granada should not change their place of residence without permission. He was *alistado* in Albalate de Zorita, but had been living for about five years in the neighboring town of Almonacid, ever since he married a Morisca in that town. For this rather trivial offense he was sentenced to four years in the galleys. Early in 1586 he received a more favorable decision, in which the four years became four years of exile from Almonacid (AHN, OO MM, AHT, núm. 37.019). Finally, we have the remarkable case of Pedro Marín, condemned and fined in 1570 for falsifying passports authorizing himself and other Moriscos to travel from place to place within Spain. In 1574, he is again found guilty of forgery, and this time he is to receive two hundred lashes and go to the galleys for four years. When the Consejo heard his case, the lashes had already been administered. The judgment on appeal reduced his sentence to just the lashes: “confirmar en los azotes y en lo demás revocar” (AHN, OO MM, AHT, núm. 38.462).

These cases resemble those of the galley slaves Don Quixote frees in several ways. First of all, the disproportion is similar between the relatively insignificant crimes and the severity of the punishment. This is most obvious in García de Molina's case—all he was guilty of was moving a few kilometers so he could live with his new wife, and the idea of sending a sixty-year-old to the galleys is rather appalling. Another similarity is the humble station of the accused. Like the *galeotes* Cervantes depicts, they cannot really afford to pay for an elaborate defense. Yet unlike those *galeotes*, they find lawyers willing

to take their cases all the way to Madrid on appeal. A widespread reading of this episode in *Don Quixote* is that it satirizes the harsh and unjust system of punishment in Cervantes's Spain, implicitly arguing in favor of a more 'modern' approach. Particularly emphasized is the idea that justice is too autocratic, depending too much on the will or the whim of a single local official, who could be corrupt. This view does not hold up to scrutiny however, for once we know a bit more about the actual functioning of the judicial system in the late sixteenth century, we are forced to admit that at least a fortunate few obtained fair and equitable justice by appealing to the royal bureaucracy. On appeal, these cases would have been scrutinized once more, as Don Quixote does; new testimony might have been brought in, to better understand the mitigating circumstances of each case. Though such a process might well have led to the release of the galley slaves, Don Quixote has no patience for the slowly turning wheels of bureaucracy. So he takes the law into his own hands and frees them immediately. What is ultimately at stake in the episode is not the substantive question of what constitutes justice for these men, but rather the formal one of who can administer it. Don Quixote's 'madness' is in this sense a bid for restoring local autonomy in governance, against the centralizing tendency imposed by the absolutist monarchy.

As noted above, in Part Two of *Don Quijote* this opposition between local autonomy and centralized bureaucracy unravels, revealing them to be two sides of a single coin: the ubiquitous monarchical system sometimes manifests itself as a slow process allowing for almost endless appeal, but at other times permits swift, unrelenting punishment. A curious instance of the latter is embedded within the Maese Pedro episode (Chapter 26), when the boy narrator praises Marsilio, the Saracen King of Zaragoza, for avoiding delay in administering the two hundred lashes to which he sentenced a member of his household for sexually assaulting a captive Christian princess, Melisendra. After describing how he was taken without delay through "las calles acostumbradas de la ciudad, 'con chilladores delante / y envaramiento detrás,'" the boy adds the extra-diegetic commentary for which Don Quijote chides him: "y veis aquí donde salen a ejecutar la sentencia, aun bien apenas no habiendo sido puesta en ejecución la culpa; porque entre moros no hay 'traslado a la parte', ni 'a prueba y estése', como entre nosotros" (242; bk. 2, ch. 26).⁶ Several factors complicate this apparent praise for Muslim judicial procedure. First, the anachronistic

image of the form of punishment, public whipping mounted on a horse or donkey, paraded through the customary streets, obviously derives from Cervantes's own Spain, rather than from eighth-century Muslim Iberia. "Por las calles acostumbradas" is in fact a legal formula appearing in the sentences of those condemned to be publicly whipped. Further, the descriptive phrase evoking the Baroque performativity of early seventeenth-century ceremonies of public humiliation, "con chilladores delante / y envaramiento detrás," comes from a *jácara* by Quevedo, written around 1612: "Ya está guardado en la trena / Tu querido Escarramán" (298–306). In the poem, a thug writes his lover to tell her how he was arrested for fighting in a tavern in Seville and taken out the very next day to receive a hundred lashes. The contrast the boy makes between Muslim (autocratic) and Christian (bureaucratic) judicial practices does not hold up, then. Or, to say the least, Sevillian practice more closely resembles 'theirs' than 'ours.'

In this regard, let us also recall the boy's error a little further on, when he speaks of the ringing of all the bells in the towers of the mosques of Zaragoza to sound the alarm at Melisendra's escape. Again Don Quijote interrupts to criticize him, pointing out that Muslims do not use bells to call the faithful to prayer. Once more, it appears that the Muslim setting of these events is only a disguise, like that of the shepherds of pastoral literature, and the artificiality of the cultural othering to which these Moors are subject is allowed to show through. Again, there is a concrete association with Seville, home of the most famous converted mosque tower into which bells had been installed, La Giralda. Underneath, they behave more like Christians than we might really be comfortable with. After all, what may appear an enviable efficiency in the judicial system when viewed from afar, and in a culture considered exotic, perhaps even a bit savage, begins to look a bit too much like tyranny if brought close to home.

As numerous sources attest, including several of Cervantes's own texts, late sixteenth-century Seville, the largest city in Spain at the time, teemed with corruption and crime, both organized and independent.⁷ To 'clean up' the official port to the New World, the Crown appointed the Count of Puñonrostro, Francisco Arias de Bobadilla, as Asistente of Seville—a chief executive answerable directly to the Consejo de Castilla. The Count embarked on a vigorous program of reform, a chief element of which was the enforcement of price controls. Typically, all those caught selling any foodstuffs or

staple products for more than the price set for them by the municipal authorities received two hundred lashes, “por las calles acostumbradas,” with no possibility of appeal. This practice made him a popular hero, since it guaranteed the availability of basic necessities at affordable prices. As Francisco de Ariño recounts in his colorful memoir, crowds gathered to celebrate these whippings, and street poets composed anonymous satirical lyrics in praise of Puñonrostro. Moreover, fascinating anecdotes circulated of how the Count himself strolled through the markets of Seville, stopping people to ask how much they had paid for things. Thus the demand for narrative could work both ways, since in the end it is only a technique for leading people to identify with the structures of power governing their lives. But the Count ran afoul of the Sevillian *Audiencia* when he arrested a Celestinesque *jabonera* named María de la O. In addition to selling soap and cosmetics, she dealt in love potions and served as a go-between in illicit affairs. She had enough influence in high places to get the *Audiencia* to confiscate the key to the iron gate of the jail so the mule on which she was already seated, stripped to the waist, could ride forth to parade her through the streets. Enraged, Puñonrostro had the gate ripped out to allow the punishment to proceed. The *Audiencia* lodged a formal complaint with the *Consejo de Castilla* for what they considered a violation of their jurisdiction, but they lost their case. Puñonrostro’s victory over María de la O. and the corrupt officials who supported her strengthened his position both politically and in the public eye (Ariño 45–87). In his narrative, Ariño emphasizes the fervor with which people followed these events: “Con estas cosas y otras andaba la ciudad muy alborotada, que por parte ninguna que fuesen no se trataba de otra cosa sino de lo pasado” (73). This little episode inverts the association of local autonomy with autocratic decision-making, on the one hand, and centralized authority with bureaucracy, on the other. Thus we see that Absolutism, as the first phase of the modern state, could not yet establish a single, homogeneous set of judicial practices. Rather, its ubiquity was achieved through a complex arsenal of overlapping institutions, whose jurisdictions, ultimately all leading back to the Crown, often came into conflict with one another.

Cervantes was certainly aware of the local drama taking place around the question of law enforcement and jurisdiction in Seville in those years. In *La ilustre fregona*, he places bitter complaints about

Puñonrostro's reforms and praise for the *Audiencia* for standing up to him in the mouths of a pair of Sevillian *pícaros*:

Sábeta, amigo, que tiene un Bercebú en el cuerpo este conde de Puñonrostro, que nos mete los dedos de su puño en el alma. Barrida está Sevilla y diez leguas a la redonda de jácaros; no para ladrón en sus contornos. Todos le temen como al fuego, aunque ya se suena que dejará presto el cargo de Asistente, porque no tiene condición para verse a cada paso en dimes ni diretes con los señores de la Audiencia.

-¡Vivan ellos mil años -dijo el que iba a Sevilla-, que son padres de los miserables y amparo de los desdichados! ¡Cuántos pobretes están mascando barro no más de por la cólera de un juez absoluto, de un corregidor, o mal informado o bien apasionado! Más veen muchos ojos que dos: no se apodera tan presto el veneno de la injusticia de muchos corazones como se apodera de uno solo. (147-48)

In the above passage, the first speaker's anger ironically redounds to the Count's praise, but the second's theory of jurisprudence appears reasonably sound as a general principle. In typical Cervantine fashion, we are left with an ambiguous juxtaposition of contradictory attitudes. Though the passage in the Maese Pedro episode of *Don Quijote* refers to a *rey moro*, everything points, as we have seen, to the Seville of the Count of Puñonrostro, suggesting that his reforms, though they may appear attractive to those impatient with the slow wheels of judicial bureaucracy, amount in the end to 'Saracen justice.' Though Maese Pedro's boy appears confident of his ability to distinguish between 'us' and 'them' where legal rights are concerned, the web of allusions his own discourse puts in play renders the distinction hopelessly problematic. For the Count, in his attempted reforms, was not simply acting autocratically, but as an agent of the Christian monarch *par excellence*. Again, there is no outside to monarchical power.

By way of conclusion, let us return for a moment to the scenes that mimic legal proceedings, to see how the shift from Part One to Part Two has affected them. Though almost all the characters in *Don Quijote* participate in evaluating others' discourse (both oral and written), a small group of clerics and high-ranking aristocrats engage in a

special kind of judgment: they decide which stories can and cannot be told, either by means of censorship (the Priest, the Canon) or by directly staging them (the Priest, Fernando, the Duke and Duchess). Thus they do not merely respond to the demand for narrative and operate within its dictates; they initiate that demand and serve as its intradiagetic agents. They exercise a power over other characters that goes beyond the ability to persuade through a good performance, such as Marcela and Dorotea exhibit. Their power is over the means of representation. In a number of scenes, written narratives, including the different versions of *Don Quixote*, are treated as the object of legal or quasi-legal inquiry and “sentencing”: the scrutiny of Don Quixote’s library, which parodies an inquisitorial *auto de fe*; the Canon of Toledo’s discourse on censorship; or the debate over the merits and demerits of Cide Hamete’s history at the beginning of Part Two, where Sansón Carrasco, who brings the news that the book is already circulating widely throughout Spain, serves the function I have been describing.

In Part Two, this function is mainly concentrated in the Duke’s palace, which becomes the setting for an extended simulacrum of chivalric adventures staged for Don Quixote and Sancho without their knowledge. They move and act in these “adventures”—one of which is Sancho’s governorship of the “Isle” Barataria—as if in reality. Throughout, they are, as Henry Sullivan puts it, “the dupes of aristocratic prestige and carefully constructed lies” (57). The elaborate stagings of the Duke and Duchess provide a perfect image of the ubiquitous power of the Baroque. Like monarchical power in Foucault’s interpretation of *Las Meninas*, their power over Don Quixote is a product of the system that gives it representation (3–16). Insofar as Cervantes unmasks this functioning of Baroque power as a simulacrum that envelops characters in a social world in which they have the sensation of acting freely, while others pull the strings from the outside, *Don Quixote* can be described as a counter-Baroque work.

In the *Quijote* of 1615, Cervantes is interested in early modern power *and its limitations*. Sancho is the one character who can move from being enveloped by the Duke and Duchess’s simulacrum of power to stepping outside of it and renouncing it altogether, as he does when he leaves behind the governorship. He thus finds an opening through which to assert the self-governing capacity of the peasantry. Suggestively, Sancho, the illiterate peasant, repository of popular sayings and folk wisdom, occupies here a position analogous to the colonized

indigenous artisans in the Latin American Baroque. His imagination is able to take the structures of fantasy his master meekly inhabits, and hybridize them with his own brand of humor and vitality. In that extraordinary moment when Sancho persuades Don Quixote that Dulcinea is enchanted, and that only Don Quixote sees her as a rough farmgirl with garlic breath, Sancho takes the flesh-and-blood woman he has in front of him and transforms her in accordance with the chivalric style, as he understands it. But the description he offers Don Quixote of her wondrously exotic mole is unlike anything one could find in a romance text: “un lunar que tenía sobre el labio derecho, a manera de bigote, con siete o ocho cabellos rubios como hebras de oro y largos de más de un palmo” (709–10; bk. 2, ch. 10).

While Sancho's energetic optimism at the close of the work seems to suggest that it is to “the people” one must look for any alternative to the monarcho-seigneurial order, to make Cervantes an advocate of the French Revolution nearly two hundred years *avant la lettre* would be an unpardonable anachronism. Yet that is what we do, ultimately, when we simply assimilate *Don Quixote* to the modern novel, the literary expression of the hegemony of the European bourgeoisie. Cervantes was writing during the final consolidation of Absolutism, when the alliance between the aristocracy and the Crown was still being worked out. The resistance to that order we may sense in his work is the expression of a desire to preserve fragmentary pockets of self-governing at a local level. The ambitious and fully modern goal of the ‘people’ themselves overthrowing the monarchy in order to rule the state it had created had not yet appeared on the historical horizon.

Notes

1. Among the handful of studies that should be singled out for mention are Carreras Artau's pioneering book, Américo Castro's pages on the topic in *El pensamiento de Cervantes*, Arco y Garay's Chapter 16, “Gente de justicia,” and Carmen Vega-Carney's three articles on the subject, especially the useful “Righting Wrongs.”

2. I take the term “demand for narrative” from Homi K. Bhabha's essay “Sly Civility” (98–100). Bhabha himself developed the concept based on his reading of Jacques Derrida's “Living On/Border Lines.”

3. In *Myth and Archive*, a suggestive study of the role of legal discourse in the development of Latin American narrative, Roberto González Echevarría points out that most of the colonial texts lumped together nowadays under the loose heading of “chronicles” were written as *relaciones*, formal documents addressed directly to a royal official or to the king himself. “The novel and the history of the New World [. . .] are like letters written to a central authority, because legal rhetoric always implies a textual exchange or dialogue, a petition or appeal or an answer to some sort of accusation” (69-70). For further discussion of the *Don Quijote* in the light of New World chronicles, see my forthcoming article “Baroque Quixote.”

4. In a late essay, Joseph Silverman maintained a strong distinction between “inquisitorial” and “artistic” knowledge of “other people’s lives,” with the former being oppressive and the latter somehow ethically purer. As he paints it, the distinction, though well-intentioned, is hopelessly naïve. In principle, there is a difference, certainly, but it is not as black and white as Silverman would have it, and none of the many gradations is entirely free of the “taint” of coloniality of power.

5. In Book Three, Chapter 11 of *Los trabajos de Persiles y Sigismunda*, Cervantes presents another group of galley slaves crossing La Mancha on their way to Cartagena along the same route, though this time they are traveling by cart (543-44).

6. I wish to thank Baltasar Fra Molinero for drawing my attention to the relevance of this passage to the discussion of the *galeotes* episode as analyzed above.

7. Cervantes refers to the situation in Seville in both *El coloquio de los perros* and *La ilustre fregona*, as well as making it the main theme of *Rinconete y Cortadillo*. Arco y Garay provides a number of excellent passages from contemporary accounts expressing horror at the situation (483). Pike discusses the crime problem and Puñonrostro’s aborted attempt to deal with it in *Aristocrats and Traders* (212-13).

Works Cited

- Arco y Garay, Ricardo. *La sociedad española en las obras de Cervantes*. Madrid: Patronato del IV Centenario del Nacimiento de Cervantes, 1951.
- Ariño, Francisco de. *Sucesos de Sevilla de 1592 a 1604*. Ed. Antonio María Fabié. Sevilla: Sociedad de Bibliófilos Andaluces, 1873. Facsim. ed. Sevilla: Servicio de Publicaciones del Excmo. Ayuntamiento de Sevilla, 1993.

- Bhabha, Homi K. *The Location of Culture*. London: Routledge, 1994.
- Castro, Américo. *El pensamiento de Cervantes*. Barcelona: Noguer, 1972.
- Cervantes, Miguel de. *Don Quijote de la Mancha*. Ed. Francisco Rico. Barcelona: Instituto Cervantes/Crítica, 1998.
- . *Novelas ejemplares*. Ed. Harry Sieber. Madrid: Cátedra, 1981.
- . *Los trabajos de Persiles y Sigismunda*. Ed. Carlos Romero Muñoz. 2nd rev. ed. Madrid: Cátedra, 2002.
- Childers, William. "Baroque Quixote: New World Writing and the Collapse of the Heroic Ideal." Ed. Monika Kaup and Lois Parkinson Zamora. *Baroque New Worlds*. Durham, NC: Duke UP, forthcoming.
- Foucault, Michel. *The Order of Things: An Archaeology of the Human Sciences*. New York: Vintage, 1970.
- González Echevarría, Roberto. *Myth and Archive. A Theory of Latin American Narrative*. Cambridge: Cambridge UP, 1990.
- Johnson, Carroll. *Cervantes and the Material World*. Urbana: U Illinois P, 2000.
- Kagan, Richard. *Lawsuits and Litigants in Castile, 1500–1700*. Chapel Hill, NC: U North Carolina P, 1981.
- Lazarillo de Tormes*. Ed. Francisco Rico. Madrid: Cátedra, 1987.
- Maravall, José Antonio. *Utopía y contrautopía en el Quijote*. Santiago de Compostela: Pico Sacro, 1976.
- Pike, Ruth. *Aristocrats and Traders: Sevillian Society in the Sixteenth Century*. Ithaca: Cornell UP, 1972.
- . *Penal Servitude in Early Modern Spain*. Madison: U Wisconsin P, 1983.
- Quevedo, Francisco de. *Poesía varia*. Ed. James O. Crosby. Madrid: Cátedra, 1987.
- Quint, David. *Cervantes's Novel of Modern Times*. Princeton: Princeton UP, 2003.
- Silverman, Joseph H. "On Knowing Other People's Lives, Inquisitorially and Artistically." In Cruz, Anne J., and Mary Elizabeth Perry, eds. *Cultural Encounters. The Impact of the Inquisition in Spain and the New World*. Berkeley: U California P, 1991. 157–175.
- Sullivan, Henry W. *Grotesque Purgatory: A Study of Cervantes's "Don Quixote," Part II*. University Park, PA: Pennsylvania State UP, 1996.
- Vega Carney, Carmen. "Righting Wrongs: Don Quixote and the Rhetoric of Justice." *Indiana Journal of Hispanic Literatures* 5 (1994) 37–55.
- . "Justice in Barataria." *Romance Languages Annual* 2 (1990) 586–90.
- . "The Legal Discourse of Copyright in Don Quijote." In Menchacatorre, Félix, ed. *Ensayos de literatura europea e hispanoamericana*. San Sebastián, Spain: Universidad del País Vasco, 1990. 563–568.