

THE CRIMINAL BAROQUE

LAWBREAKING, PEACEKEEPING, AND
THEATRICALITY IN EARLY MODERN SPAIN

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MONOGRAFÍAS

TAMESIS

CONTENTS

Acknowledgments	xi
Introduction: What Is the Criminal Baroque?	1
1. The Theatrical <i>Jácara</i> and the Celebration of “Desórdenes Públicos”	13
2. The Alguaciles as Theatrical Peacekeepers and Lawbreakers	51
3. The Criminal Leading Man as Brawler and Soldier	90
4. Criminality, Theatricality and Nobility, Part I: Corpus Christi Chaos in Seville	142
5. Criminality, Theatricality and Nobility, Part II: The Spectacular Fall of Don Rodrigo Calderón	172
6. Criminality and Kingship on Stage	200
Conclusion	233
Bibliography	237
Index	255

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Introduction: What Is the Criminal Baroque?

Criminals are fascinating, as any sampling of the latest news headlines will tell you. This fascination extends to fictionalized accounts as well, and the current proliferation of crime dramas on television can rival that of real-life crime reports in the news. This is a book about criminals both real and fictional in contexts that have been relatively ignored. In comparison to the overwhelming emphasis placed by Golden Age scholars on picaresque prose fiction, what has received far less attention are theatrical productions and public spectacles. These can range from humorous musical sketches to solemn executions, in which crime and punishment were used to entertain and instruct mass audiences. Criminality as a theme for performances matched its pervasiveness in society as a whole. Much can be learned about public opinion concerning lawbreaking and peacekeeping by studying how criminals were theatricalized on and off the stage.

Before proceeding to examine the spectacles in question, it is necessary to give a basic definition of the term “criminality” and how it will be used in this study. My methods in this respect are similar to some that I have used before. In a previous book, I defined “humor” in a broad sense without focusing on a single theory or outlining any taxonomies from the start. Only later did the study bring up relevant classifications and theories to illuminate explanations related to specific works.¹ Over the length of that book, the analyses of separate genres and humorous situations therein created a more generalized picture. In this study, I will begin by broadly defining “criminality” as “severe lawbreaking”, with “law” referring to a written statute mostly found in the continually updated *Nueva recopilación de las leyes destos reinos*, and subsequent “cuadernos” and “pragmáticas”.² With some

¹ Ted L. L. Bergman, *The Art of Humour in the Teatro Breve and Comedias of Calderón de la Barca* (London: Tamesis, 2003), p. 2.

² The collection of laws first appeared in print in 1567 as *Recopilación de las leyes destos reynos hecha por mandato de la Magestad Cathólica del Rey Don Philippe Segundo del Rey don Philippe segundo ... Contienen ... las leyes hechas hasta fin del año de mil y quinientos y sesenta y ocho, excepto las leyes de partida y del fuero y del estilo, etc.* (Alcalá de Henares: Andres de Angulo, 1567), was amended over time, and officially replaced in 1805 by the *Novísima recopilación de las leyes de España*:

exceptions – such as begging, price-gouging, or defying authority, all cited in Chapter 4 – a lawbreaking act is hereby defined as severe if it leads to grievous bodily harm or the deprivation of property. Much like today, the occurrence and severity of a crime is determined by three parties, namely: (1) the person or persons suspecting and reporting the possible crime; (2) the officials investigating the crime and possibly apprehending the suspect; and (3) the magistrate who makes an ultimate determination of whether a crime was, in fact, committed.³ Sometimes the person who suspects the crime can be the same one making the arrest, or additionally the same person making the ultimate determination as well. Even in its simplest practical form, there is a definition of “criminality” that can easily depend upon circumstance. An act in itself, or the person perpetrating it, cannot automatically be deemed criminal unless somebody else – an accuser or a law-enforcement official – reacts to it, or is at least expected to react to it. This study will deal with lawbreaking in practice and very rarely in theory. Nearly every single character used as an example, whether historical or fictional, has performed some transgressive action. Either that, or he or she is at least part of a group of people (e.g. pimps, thieves, brawlers) who perform transgressive actions. These are actions that attract, directly or indirectly, a constable or similar official who will likely arrest that person.

Over the decades covered by this study, laws changed, legal theories changed, and written definitions and prevailing social attitudes about lawbreaking also changed; but the basic acts remained constant: people accused each other of breaking the law, and officials intervened to arrest, jail, and punish the accused. Rather than focus on the tensions and debates in lawmaking and problems related to the construction of a justice system, this study will concentrate on moments when the law is applied, twisted, or outright abandoned to provide or remove opportunities for prosecution. Both in real-life situations and theatrical fictions, negotiations can take place between the potential criminal and the other parties involved, quite independent of large-scale legal debates about what constitutes criminal behavior. In *La justicia penal de los Austrias en la Corona de Castilla*, José Luis de las Heras Santos makes a great effort to compare legal theory to practice. He writes in his introduction: “In laws and ordinances, agents of law enforcement are described as how they ought to

dividida en XII libros; en que se reforma la recopilación publicada por el Señor don Felipe II en el año de 1567, reimpressa últimamente en el de 1775: y se incorporan las pragmáticas, cédulas, decretos, órdenes y resoluciones reales, y otras providencias no recopiladas, y expedidas hasta el de 1804; mandada formar por el Señor don Carlos IV (Madrid: 1805).

³ Of course, every rule has an exception, such as that of the king, who can handle cases of capital punishment. The king’s status as both a lawbreaker and law-enforcer will be covered in Chapter 6.

function. Archives describe in detail how they worked in reality.”⁴ It is the spirit of Heras Santos’s approach that we will follow in this study.

When we move from the real world into theater’s fictional realm, we must add another party among those who determine whether or not a crime has been committed, and whose opinions can widen the gap between legal theory and practice. Spectators become witnesses and judges who are free to support, refute, or show indifference toward accusations and punishments performed or narrated on stage. To borrow from Heras Santos, reactions to theatrical representations of criminality and law enforcement do not necessarily correspond to how audiences “ought to function”, especially if we assume that they would blindly cheer for the police and celebrate the capture of criminals. Concrete audience reactions are, of course, impossible to measure without specific documents referring to specific performances. Nevertheless, play texts can strongly indicate how audiences were expected to react. In Chapter 1, these expectations will be patently obvious in the form of actors who are planted in the audience. Their aim is to incite spectators to behave raucously and celebrate the arrival of violent criminal characters on stage. On other occasions, the conflict between messages on how law enforcement “ought to function” will become impossible to ignore. Simultaneously, audience expectations are not as easily identifiable through the text. In an example from Chapter 3, the act of stabbing two non-enemy soldiers in their sleep and then burning their bodies should fall into the category of criminal behavior. But this act is negotiable in terms of whether or not the perpetrator is prosecuted. Because the perpetrator is also the protagonist, and violent behavior is part of his charm, the audience can be expected to forgive him. His charisma may even drive spectators to support him in the bloody endeavors that attract the eye of law enforcement. A protagonist who does not pay for his crimes is not necessarily a problem for the audience, despite such remorselessness contravening the spirit of the law and defying dramatic conceits. Both real life and theater often do not correspond with how the law “ought to function”, and the audience was fully aware of the disparity. This awareness and its entertainment function are keys to understanding what I call “the Criminal Baroque”.

“The Criminal Baroque” is the intersection between theatrical fiction and public reality in the context of criminal behavior and potential prosecution. Like criminality itself, the idea requires some additional clarification. In the simplest terms, it refers to the spectacular representation of criminals in early modern Spain. A more precise definition must be split in two because the Criminal Baroque can equally refer to fictional representations of criminal acts on stage or to real-life lawbreaking and its punishment in full public view. The effect of both representations is to entertain the audience but also to imbue

⁴ José Luis de las Heras Santos, *La justicia penal de los Austrias en la Corona de Castilla* (Salamanca: Universidad de Salamanca, 1991), p. 17.