

# Don Quixote and the Spanish Criminal Justice System

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This paper evaluates how convicted criminals in 17th-century Spain were punished for their crimes from the perspective of author Miguel de Cervantes. The evaluation is based on a literary analysis of Cervantes' depiction of galley slaves throughout the twenty-second chapter of *Don Quixote* where he used humor as a literary device to illustrate Don Quixote's encounter with the slaves. Cervantes's past as a prisoner before writing his esteemed novel and a historical assessment of Spanish judicial traditions are also used to understand further the message the author is trying to convey. In this analysis, it ultimately becomes clear that Don Quixote is used by Cervantes to advocate for criminal justice reform in a highly creative manner. Instead of simply speaking out against the manner convicted criminals were punished, Cervantes opts to create a fictional scenario that mimics the unfortunate realities of being a galley slave. Today, the twenty-second chapter of *Don Quixote* can be utilized for commentary in regard to how little criminal justice systems have changed since Cervantes's time.

## Introduction

When literature examines or critiques government, it often does so by examining a nation's criminal justice system and its implications. Novels such as *Les Miserables* by Victor Hugo focus entirely on critiquing the French judicial system and its impact on those convicted of crimes. An episode in, Miguel de Cervantes's *Don Quixote* examines the Spanish judicial system through an encounter Don Quixote has with galley slaves in Part I, Chapter 22. Scholars studying the chapter have long argued about whether Cervantes is advocating for the galley slaves through his writing or simply writing the episode as another one of Don Quixote's antics. Given Cervantes's various stays in prison, it appears likely that he is advocating for the liberation of the slaves. Through the episode of the galley slaves Cervantes is able to suggest that the slaves, although self-admitted criminals, are victims of society and thus should not be subject to forced labor.

## Background

Cervantes wrote *Don Quixote* when the Roman Catholic Church

attempted to reform and fortify its members' faith. During the fifteenth and sixteenth centuries, Spanish Catholics attempted to ensure the country's integrity through religious orthodoxy and classifying individuals based on their ancestral religion; however, this proved to be difficult (Busic 28). When Cervantes wrote *Don Quixote*, Spain emerged from this difficult time, and these ideas of racial and religious purity were still present in Cervantes's audience. There was simply no way for *Don Quixote* to exist without some sort of influence from Catholic orthodoxy, and the twenty-second chapter of the novel is no exception.

Another important note is that the galley slaves depicted in *Don Quixote* are based on an actual history of the Spanish navy using convicts on their warships. These slaves were responsible for rowing the galleys and acted as an essential component of the Spanish army. Though not all oarsmen were convicts being punished through slavery, they did outnumber all other rowers (Wheat 329). The fact that most galley rowers were slaves indicates there was difficulty in finding individuals willing to take on the role. Still, it was necessary for the government to have oarsmen for their ships. To ensure that slaves did not escape they were chained in the galleys and were likely still in custody outside of the ships (Wheat 334).

Convicts proved to be valuable because they provided an easy supply of rowers because they could be forced into the role.

### The Case Against the Slaves

Cervantes's novel often references popular chivalric novels of the time. The novel that is alluded to the most throughout *Don Quixote* is the early sixteenth-century *Amadis de Gaula* by Garci Rodriguez de Montalvo, which *Don Quixote* owns and uses as a source of inspiration to act as a knight. A particular instance in which the novel is referenced occurs after *Don Quixote's* books about chivalry are set to burn, but, a priest decided that the Books of Amadis of Gaul are too valuable to burn, "and so we'll spare it life for now" (I,xi,46). The act of burning the other chivalric novels makes it clear *Amadis of Gaul* stands out as an exception. Cervantes's decision to have *Amadis of Gaul* as the only novel not to burn emphasizes just how much *Don Quixote* was influenced by this book.

Due to *Don Quixote's* frequent references to chivalric novels, some scholars maintain that Cervantes is attempting to mock these stories through his novel. Among the scholars who discuss *Don Quixote* being a mockery of chivalric novels is Anthony Close, who states, "The comedy of Part I is generated by the recurrent

conflicts between the hero and the world around him,” which is “designed to ridicule the popular genre of chivalric romances” (12). The various conflicts in which Don Quixote finds himself as he acts as the “hero” are a direct result of reading an excessive number of chivalric novels. To the audience, it is evident that Don Quixote is not being heroic, but is simply acting like an insane man.

From the beginning of the novel, Don Quixote is clearly meant to be a mockery of a knight. He is described as a weathered fifty-year-old scrawny man with a gaunt face (I,i,19) in contrast to the young and handsome man that is typical of chivalric novels. The novel’s mocking tone becomes even more apparent when we learn that Don Quixote read so many of these novels that “his brains dried up” and he went mad as a result (I,i,21). Having novels of knight-errantry be the primary cause of Don Quixote’s madness indicates that from the author’s perspective such novels serve no benefit to readers. Cervantes often uses humor in the novel to exemplify the standard plot of a dire situation occurring and a knight coming in to save the day, except Don Quixote usually manages to worsen the day for whomever he was trying to help.

Acceptance of Close’s interpretation of Cervantes’s work being a mockery of chivalric

novels implies that actions such as the freeing of the galley slaves are foolish on Don Quixote’s part. The episode of the galley slaves “begins with a mock-heroic flourish typical of Cervantes’s narrative strategy in the novel” (Close 13), a commentary regarding Cide Hamete Benengeli, the false historian who purportedly wrote the story of Don Quixote in Arabic. The supposed translator of the Arabic text begins the galley slave episode by calling Benengeli the author of a “serious, high-sounding, detailed, sweet, and inventive history” (I,xx,163), which of course is sarcasm on Cervantes’s part. The irony comes in that none of what Cervantes is saying is true. In fact, the opposite of what he is saying is true, and the audience should be well aware by the twenty-second chapter that Benengeli is not a trusted source of information. Benengeli is just one example of how Cervantes uses humor as a device in his storytelling. However, this is significant due to the character’s parallel with Cervantes. Critics suggest that Cervantes uses Cide Hamete as a mask that allows him to share his own perspective of the story with the reader (Soons 351). Since Don Quixote is viewed as a parody by Cervantes, the mockery of chivalric novels is then reaffirmed through Benengeli.

Cervantes emphasizes that the freeing of the galley slaves was a mockery of these novels

is further emphasized during Don Quixote's first encounters with the prisoners. Sancho acts as a voice of reason when he points out that "justice, which is the king himself, does not force or do wrong to such people, but sentences them as punishment for their crimes" (I,xxii,163). After all, Don Quixote has no legal responsibility or duty regarding the criminal status of the galley slaves. Since these men are condemned to slavery as a result of their past crimes, the slaves are not stripped of their freedom without cause, despite the king's choice of punishment being severe. Even one of the slaves thought that "Don Quixote was not very sane, for he had done something so foolish as wanting to give them their freedom" (I,xxii,172). Don Quixote is ridiculed even by the slaves for freeing them, indicating that the slaves themselves recognize their newfound freedom as a poor choice on the part of their liberator.

### The Case for the Slaves

It is likely that Cervantes's life had a major influence on the events of *Don Quixote*, including the episode of the galley slaves. Born in 1547 in Alcalá de Henares, Miguel de Cervantes was one of seven children. Once he reached adulthood he joined the navy and fought at the Battle of Lepanto (1571), and it was at this point that he experienced what may have later influenced

his depiction of the galley slaves. Cervantes was a prisoner twice in his life, and both times were while he served in the military. He was imprisoned for the first time when he was captured in 1575 following the Battle of Lepanto and held for ransom in Algiers for five years. Later he was imprisoned while working as a commissary for the Spanish Armada that sailed to fight Britain in 1588.

It is plausible that although Cervantes had sympathy for galley slaves, whose plight he had witnessed on navy ships, he could not openly express his sentiment because of the values of seventeenth-century Spain. In "Los Galeotes" M. J. Benardete explains, "Nada señala la índole de una sociedad como la clase de criminales que ella produce." (Nothing signals the nature of a society like the type of criminals that it produces; 58). Whatever qualities a society values the most are shown through the crimes allotted the worst punishments. In the case of early seventeenth-century Spanish society, those sentenced to death or to slavery in the galleys represented the worst crimes. For example, one of the slaves is sentenced to six years for making, "too merry with two girls who were cousins of his" (I,xxii,16). This makes it clear that sexual misconduct such as the violation of kinship taboos was taken very seriously by the Spanish judicial system because the punishment

for it was six years in the galleys. Other crimes committed by the slaves include theft and other forms of sexual misconduct that violate biblical teachings.

The King was responsible for ensuring that the religious teachings at the center of seventeenth-century Spanish society were being obeyed. It was in this manner that the judicial system was intertwined with the Catholic Church. Rulers were thought to derive from God directly and believed to have a hereditary right to their position (Exum 429). A king's position came with a variety of responsibilities including judicial power. This allowed the King to sentence those who transgressed the law and since the King had his title by divine right, his judicial rulings were thought to come directly from God. To question the King was therefore the equivalent of questioning God himself.

Had Cervantes not been subtle in his criticism, his novel would not have been published. Since the judicial system in Spain at the time was so strongly tied to the Catholic Church any opinion at odds with the teachings of the Church or the Spanish Crown would have been considered inappropriate. Due to Spain's judicial culture in the early seventeenth century, Cervantes would have had to be extremely cautious in suggesting that the galley slaves

shouldn't be subject to forced labor because they are victims of society. At the time inquiries resulted in the burning of heretics and those who mocked religion (Benardete 58). To directly say that straying from biblical teachings did not merit punishment in the form of forced labor could have even cost Cervantes his life.

Instead, Cervantes had to be creative in suggesting ideas that went against the crown. One manner in which he went about this was by providing a dialogue between Don Quixote and Sancho regarding the galley slaves. When Sancho first took note of the slaves he turned to Don Quixote and said, "This is a chain of galley slaves, people forced by the king to go to the galleys" (I,xxii,163) to which after some questioning Don Quixote responds with, "for whatever reason, these people are being taken by force and not of their own free will" (I,xxii,163). Later in the chapter, Don Quixote questions the slaves, providing them an opportunity to explain their own perspectives. In this manner, Cervantes is able to provide a sound argument as to why the galley slaves should be free despite their crimes without explicitly providing his own opinion. Since Don Quixote is portrayed to be insane but well-educated, his arguments likely carry merit but not in a way that would get Cervantes in trouble for his suggestions, because he could just

pass them off as the arguments of a madman.

Cervantes's implied idea that galley slaves shouldn't be subjected to forced labor despite being criminals is supported by the possibility that he bases this chapter on previous works with similar concerns. The work Cervantes may have looked at focused on the conditions of forced laborers inside Spanish mines. Konstantin Mierau explores the work of a man named Mateo Alemán who published the *Informe Secreto* (*Secret Report*) in 1593. This work interviewed slaves in the quicksilver mines of Almadén on their working and living conditions. Mierau concludes that it is likely that the galley slave episode is an allusion to Alemán's work. Don Quixote's interview of the galley slaves appeared a little more than decades after Aleman's work and the coincidences between the two works are notable (Mierau 359). As documented in his work, immediately after arrival Alemán saw resistance from officials in his questioning of the slaves and was eventually allowed to speak to the slaves, much like what happened to Don Quixote.

The resemblance between Don Quixote and Alemán in their process of questioning the slaves becomes apparent when he first approaches the mounted guards to inquire about the galley slaves Don Quixote is quickly met with hostility with the guard stating that they are, "His

Majesty's prisoners who were condemned to the galleys, and there was nothing more to say and nothing else he had to know" (I,xxii,164). Don Quixote of course persists, nevertheless. Similarly, Alemán was met with hostility by the officials when trying to question the slaves, but like him, he eventually was able to interview the slaves. When Don Quixote does approach the slaves, he asks, "the first man what sins he had committed to be taken away in so unpleasant a manner" (I, xxiii,164), which parallels Alemán's work in that he asks the slaves directly, which was unusual at the time. Interviewing galley slaves, or any criminal, directly was so unusual at the time that the connection between Aleman's work and Cervantes's writing seems clear.

As the conversation between Don Quixote and the galley slaves continues, the slaves have the opportunity to express their own points of view and their sense of marginalization. One of the prisoners points out the disadvantages he had in comparison to someone who has a higher economic status. When Don Quixote asks him why he was going to the galleys, the prisoner responds that it was because he didn't have twenty ducados and went on to say, "if I had those twenty ducados your grace is offering me now at the right time, I'd have greased the quill of the clerk and sharpened the wits of my attorney"

(I,xxii,165). This allows the reader to deduce how much influence a person's socio-economic status can have. Through this example, Cervantes reveals how money, not justice, often determines outcomes in the Spanish criminal justice system. Perhaps, had the prisoner had the money to pay for an attorney or even ten ducados to begin with, he might have been able to walk as a free man, but instead he is subject to forced labor for five years.

Don Quixote's response to the prisoner provides the argument with merit among seventeenth-century Spanish readers. In the dialogue following his questioning of slaves, Don Quixote suggests that the slaves may have been judged unfairly according to the testimony provided by the galley slaves (Garcia-Posada 200). Quixote's suggestions are valuable given his higher-than-average level of education giving more weight to his arguments. He believes "the reason heaven put [him] in the world and made [him] profess the order of chivalry," was to help "those in need and those oppressed by the powerful" (I,xxii,170). In the case of the slaves, they are being persecuted by the Spanish criminal justice system which is controlled by the king. Quixote brings a theological perspective to the reader that would have adequately brought justice into question without putting Cervantes at risk as an author because it is Don Quixote claiming God

put him on earth to defend the people oppressed by the Spanish crown. Including theology in his argument was so important because of the connection between the church and the judicial system; essentially Cervantes was arguing theological interpretation.

Cervantes uses Don Quixote's dialogue to advance the narrative that the galley slaves should not be subject to forced labor against their will. By the end of the chapter, Quixote is aware of the crimes of the slaves, however, he maintains the position that the men are being unjustly punished for their crimes. He believes that the criminals have had extenuating circumstances such as, "one's need for money" (I,xxii,169), and even, "not having justice on [their] side" (I,xxii,169) that have led them to commit their crimes. He argues that had the men in shackles come from more privileged backgrounds perhaps they would have never committed their crimes., Nonetheless, they did commit crimes, and now they are paying the consequences for their actions. Don Quixote argues that it is not man's place to punish, but rather that it is God's responsibility to punish, and no justice system can adequately provide justice. Cervantes takes a religious position that would have appealed to his Catholic audience in an efficient manner. As a former prisoner himself, Cervantes almost certainly sympathized with the

galley slaves and used their experiences to point out that the law was not all that just. Additionally, Cervantes seems to advocate for a closer examination of the law in order to determine a better alternative to sentencing criminals to hard labor. Such an idea is demonstrated when after being freed by Quixote the slaves, particularly Ginés de Pasamonte, who had already been in the galleys, continue with his antics, thus proving the current justice system as inefficient because it fails to actually reform behavior.

### The Slaves of the Modern Criminal Justice System

Today the criminal justice system in the United States has its origins in Christian theology. The ideologies that the Spanish used to construct their criminal justice system in the seventeenth century are therefore not much different from the ideologies that are used in the present day in the United States. A main assumption of Christianity is that humans are responsible for their own actions regardless of external influences and can participate in the common moral vision if given the opportunity to face discipline and reflection on their actions (Skotnicki 86). In the case of the criminal justice system displayed in *Don Quixote* this ideology manifests when Sancho explains the galley slaves were thought to be responsible for the crimes they had committed, and sending them

to the galleys is seen as a way to discipline them. In the United States Christian ideology is seen in prison systems through the limited access to society prisoners have and the strict rules that are enforced upon them.

There are varying manners in which prisons in the United States create a secluded environment meant to discipline criminals and one of these is through forced labor. The slaves depicted in *Don Quixote* are not all that different from convicts who are a part of the prison industrial complex. U.S. prisons take advantage of convicts by using their labor for financial gain while simultaneously ensuring that this form of cheap labor is always readily available (Hammad 67). Though galley slaves are not directly used to make money for the Spanish Empire they are forcefully used for the benefit of the state. The only difference between the two groups is that contemporary American prisoners are led to think they have a choice from the government. These prisoners are trapped in the prison industrial complex because it is the only option they are given to escape the harsh prison environment, and it is one of the only ways they have access to mainstream society.

A more specific comparison to the galley slaves can be drawn through the case of prisoners putting out wildfires in California.



Like the galley slaves, the firefighter prisoners played an essential part in the functions of the government. The firefighters are compensated through minimally reduced prison sentences and one dollar an hour, with the added incentive of not being locked inside a prison (Hammad 84). The prisoners in California are an essential component of the state's fire departments as they are often the ones to be called to put out massive wildfires that would otherwise cause widespread destruction. It is true that the galley slaves did not get any compensation for their work, however, both situations fail to create a way in which convicts could be reintegrated into society, as the ideologies behind their prison systems suggest.

To truly reintegrate convicts into mainstream society there may be other more viable options besides unpaid or very minimally paid labor. The Christian theology used to create these prison systems is based on the idea that prisoners will be able to participate in the common moral vision if they are disciplined for their crimes, and reflect on them as one would repent to god. In such a case forced labor is not an effective punishment. Prisoners in California do not truly gain any benefits from their labor as they can't be employed by the fire department upon release, which prevents them from spending time learning skills that may actually be valuable

to their future (Hammad 89). The exploitation of imprisoned convicts' labor is therefore a barrier to reintegration into society which goes directly against Christian theology that is used to design the prison industrial complex. Providing opportunities for prisoners to learn skills they can actually use would be one way in which prison systems could meet their original goals.

### Conclusion

In the episode of the galley slaves of *Don Quixote*, Cervantes succeeds in expressing the idea that, although convicted criminals, the slaves should not be subject to forced labor because extenuating circumstances have put them in their current situation. Some critics argue that Cervantes's intention is not to suggest anything through the galley slaves episode, and the chapter should instead be taken in a literal manner given that the whole novel is meant to be a mockery of chivalric tales. Bearing in mind that Cervantes had been incarcerated twice before writing *Don Quixote*, and there are documents indicating that Cervantes based this episode on other works presenting the point of view of slaves, it seems likely that the episode is favoring the freedom of the prisoners. The episode is written in a manner that allows the slaves to present their own points of view with Don Quixote as their advocate,

further suggesting the intentions of the author. Ultimately, the reader must determine which interpretation of the chapter they will regard as true. However, the interpretation that criminals should not be subject to forced labor calls for criminal justice reform in the seventeenth-century Spanish judicial system and makes us reflect on the failures of our own criminal justice system today.

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