

**Wordless Laughter:
Performing Animal Trials in Francisco de Monteser's *La ballena* (1657-58)**

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In the last two decades, the presence of animals in zoological treatises, literary texts, and the visual arts in Renaissance and Baroque culture has received significant attention from critics who have devoted themselves to examining the categories of the wild and the domestic as well as the complex relationship between humans and animals. The field of Human-Animal Studies (HAS)¹ has explored in great depth the spaces that animals occupy in the sociocultural environment, as well as the interactions with humans and the meanings we assign to these relationships. As social anthropologist Garry Marvin has written, “for scholars in Human-Animal Studies, it is important to remember that we cannot talk, write, or even think about animals in any sense except in the context of humans, if only because we can never get away from ourselves” (Marvin & McHugh, 12). We know that in early modern Spain, animals were not only used for consumption, companionship, and entertainment but were also important indicators of national identities and socio-cultural aspects of daily life (De Mello, 5).² Their literary representation, particularly, derived from a human gaze that contemplated itself in the natural world. For example, the large dog known as the Spanish mastiff was used as a symbol of Imperial economic strength, and the depiction of the dog in art and literature reflected the practice of othering.³ While England represented the spaniel, a dog of Spanish origin, as small, Spain portrayed the American dog as small and tended to associate it with women and Native Americans (Beusterien 2013, 112).⁴ Another significant case to be found in some testimonies of the time was the bee, which was considered a symbol of chastity as it was thought that bees did not mate to reproduce themselves: “las abejas no engendran por ayuntamiento, y por eso, son símbolo de la castidad” (Fuentelapeña, 19).⁵ In recent years, John Beusterien, Steven Wagschal,⁶

¹ This area of study is also known as Anthrozoology or Animal Studies. However, these disciplines have different approaches to the study of the animal. Anthrozoology deals with the scientific study of human-animal interaction, whereas Animal Studies has been instituted by the Natural Sciences to focus on the medical and scientific study of animals (DeMello 5).

² In *Transoceanic Animals as Spectacle in Early Modern Spain*, Beusterien focuses on the analysis of the rhinoceros, the bull, the elephant, the armadillo, and the lion that were used for spectacle, collection, and entertainment in Spain in the Modern Age.

³ For more on the canine representation in Spanish arts and literature see Beusterien in *Canines in Cervantes and Velázquez: An Animal Studies Reading of Early Modern Spain*.

⁴ As Beusterien explains in *Canines in Cervantes...*, “the fear of out-of-control and impure animals directly linked to the creation of race in the Spanish Atlantic mindset” (112). He observes that the racial terms of the Early Modern came about precisely from the vocabulary assigned to “impure” animals. For example, “Mulatto” or “mulato” came from horses, while “mestizo” and “cholo” had their origin from impure breeds of dogs. For an in-depth approach to the symbolic importance of the dog, see Dolores Carmen Morales Muñoz, “Nobles e Innobles: Perros y lobos en el medioevo español” and José Julio García Arranz, “De fiel compañero a instrumento de las fuerzas del mal: atribuciones simbólicas del perro en la literatura emblemática hispana”.

⁵ In *El ente dilucidado: Tratado de monstruos y fantasmas (1676-77)*, Fray Antonio de Fuentelapeña added that bees “no sólo aborrecen la deshonestidad, sino que conocen por el olor del hombre que poco antes la cometió, y lo persiguen” (19). However, today we know that only the queen can mate with male bees. For an insightful article on bees and their symbolic chastity, see Ryan D. Giles, “Divine Food: Honey in the Cantigas de Santa María,” in *The*

and Abel Alves,⁷ among others, have focused on animals such as the horse, the bull, the elephant, the lion, and the dog to broaden the perspective of the Baroque subject and its complex interaction with the natural world. This essay builds on their work by focusing on a less-studied animal such as the whale—whose fictional treatment has limited itself to the analysis of Quevedian poetry and a selected number of portraits (Garzelli, 85-96)—and claims that in Golden Age drama whales not only emerged as metaphors for sociocultural anxieties but also evoked concerns about the animal world. Through the analysis of Francisco de Montesión's *La Ballena*, I thus argue that the theatrical representation of the whale illuminates its presence as a dramatic component that criticizes human-centric discourses of the time and allows its audience to reflect on legal, religious, and ethical views concerning the punishment of animals.

The Whale in Early Modern Spanish Theater

For centuries the whale has been a fascinating creature due to its physiological and cognitive qualities, as seen in its different pictorial and literary representations. The staging of the whale in Golden Age theater made its metaphorical and allegorical appearance without playing a substantial role, but despite its discreet presence, it revealed essential aspects of Spanish culture.⁸ In the *entremés El guardainfante* (1645), for example, Luis Quiñones de Benavente (1581-1651) presented the image of the "whale-woman" (*la mujer emballenada*) by using the cetacean as a moralizing tool displaying a tone of distrust towards what could be hidden under the infamous *guardainfantes* (farthingales).⁹ Even though this female attire was considered one of the most original and creative ones in seventeenth-century Spain, it obtained a dubious reputation that resulted in the prohibition of its use except for prostitutes. Critics and moralists considered that wearing farthingales was often a way to hide illegitimate pregnancies and intervene in reproductive processes, especially for married women. They further argued that the weight of these garments put severe pressure on the hips and kidneys, which caused spontaneous abortions since they thought that the lower part of the skirt allowed cold air to enter the female reproductive organs while the warmth provided by its layers caused the uterus to overheat and dry out (Wunder, 134).

El guardainfante revolves around a woman named Josefa who is arrested and brought before a mayor to be judged and sentenced after being accused of wearing a farthingale that

Gastronomical Arts in Spain: Food and Etiquette, where the author points out associations of male and female chastity with honeybees that can be traced from Ambrose of Milan and the Biblical verses of the *Song of songs*.

⁶ In *Minding Animals in the Old and New Worlds: A Cognitive Historical Analysis*, Steven Wagschal examines the zoological vision in Alfonso X's *Cantigas de Santa María*, the Bestiary and a selection of Cervantine narrative.

⁷ Abel Alves examines the appreciation of Spain's intellectual community towards the animal from the fifteenth to the nineteenth century in *The Animals of Spain: An Introduction to Imperial Perceptions and Human Interaction with Other Animals*.

⁸ Other whales also emerge in Baroque literature as metaphors that comment on sociocultural events. In *Averiguéelo*, Vargas (1634) Tirso de Molina explores the relationship between the fictional whale and incestuous desire and its relation to animal transmutation. Also, in other pieces the whale began to be represented as the carriages (*coches*), which were criticized in moral treatises and considered as a cause of economic ruin. In *El escondido y la tapada* (1683) Calderón de la Barca presents a scene in which two women have an accident in a car and a servant says they manage to get out as if the whale was spitting "juanazos", namely, Jonas. Likewise, in *El Diablo Cojuelo* (1641) Luis Vélez de Guevara calls the cars "ballenas con ruedas" to expose the excessive consumerism of the contemporary man obsessed with material goods.

⁹ For more on the Spanish use and reception of farthingales, see Amanda Wunder, "Women's Fashions and Politics in Seventeenth-Century Spain: The Rise and Fall of the Guardainfante"; and Laura Bass and Amanda Wunder, "The Veiled Ladies of Early Modern Spain: Seduction and Scandal in Seville, Madrid, and Lima".

stopped traffic in the town square. Several witnesses appear at the trial to demand the return of materials that she carries on her skirt. Among them are a fisherman (Pescador) who asks for the whalebone and a dead man demanding that Josefa return his hair, which she uses as a wig. Finally, an old man, made to represent the Winter season, shows up to denounce her for being “*esteradas para el frío*” (“too warm”) (283) and demands that she return her farthingale. However, beyond its comic features, the piece reveals a concern for the exploitation of cetaceans for consumption through a scene where a fisherman appears onstage, accusing the woman of “deburring” the whales:

PESCADOR. De parte de las ballenas
pongo a esta moza demanda,
porque después que andan huecas
traen a todas desbarbadas;
piden sus barbas y costas. (281)

The fisherman’s intervention has a historical basis: the frame of the farthingales was made of whale baleen, which explains the disgust, albeit ironic, of the fisherman regarding the dismal situation of the whales that have been “debarbadas” for female consumption. The concern for whaling expressed in these scenes captures the controversy resulting from a practice dating from the Middle Ages—particularly in Galician waters—, which was a conversation still active during the author’s time. Although this reflection on whaling does not drive the piece, its mere mention reveals an awareness by these writers concerned with animal exploitation. This concern is also evident in the celebrated court playwright Francisco Antonio de Monteser y Espinosa’s *La ballena* (1657-58),¹⁰ where he enters the debate by staging a whale that emerges as the center of the plot. In this article, I will discuss how this *mojiganga* widens the scope of ethical concerns surrounding the question of animal punishment in its relationship to language. It further unveils a critique not too distinct from the one seen in Quiñones de Benavente, thus inviting readers and spectators to reflect on the legal debates of the time by inserting the whale into a fictional space that displays it as a living entity that cannot defend itself.

Francisco de Monteser was a Spanish playwright known for using metaliterary elements, atypical situations, absurd dialogues, and a vocabulary that ironically and humorously reflected the reality of the time. His lesser known *mojigangas* have been edited by Catalina Buezo in her edition entitled *Mojigangas dramáticas (siglos XVII y XVIII)*, where she dedicates a section to Monteser’s short dramatic pieces. In these pages, I delve into *La ballena*, a nautical play written to be performed at the end of the comedies *Endimión y luna* by Juan Vélez and *Triunfos de amor y fortuna* (1656) by Antonio de Solís y Rivadeneyra.¹¹ In Monteser’s short piece, a fantastical whale emerges to devour the *mojigangas* that an *alcalde entremesil* expected to receive. Its appearance takes place on the shores of the Manzanares river, where the beast opens its mouth and a whole array of *mojigangas* with the bodies of extraordinary and grotesque creatures is released, including a parrot, a peacock, an elephant, a half lion and half eagle character (“de medio abajo león y de medio arriba águila”), and four Asturian bears. Monteser deftly uses metaliterary elements reflected in the whale that steals the *mojigangas* destined for the burlesque spectacle. However, this cetacean ultimately makes the event possible by regurgitating them all, as each of these creatures will sing and dance. One character that emerges from the whale’s body

¹⁰ I cite from Catalina Buezo’s edition *Mojigangas dramáticas: (siglos XVII Y XVIII)*. Madrid: Cátedra, 2005.

is Ma[nue]la, described as a tiger halfway down and a serpent halfway up (“de medio abajo tigre, de medio arriba sierpe”). She appears riding an elephant to announce her quest for fame and the favor of her audience: “Para lograr más aplauso, / aunque tigre y sierpe soy, / a vista de tantos rayos / no habrá en la sierpe veneno / y el tigre estará muy manso, / y porque las mujeres / de buena cara, / tigres son si desprecian, / sierpes si engañan” (300). At the end of the show, a sphere comes out of the whale, and from it, three boys dressed as monkeys finish the spectacle with their dances.

This theatrical performance of a whale in the Manzanares river has folkloric roots that mock the ingenuity of the *madrileños* and the river’s low flow. It was presented in traditional short stories or fables with elements of visual deception since what was initially thought to be a whale in the river turned out to be a piece of wood or a large tree. In the folktale, on the other hand, linguistic ambiguity was integrated into the plot, surprising residents of the region with the anecdote of a tavern owner whose barrels fell into the Manzanares. After observing several drunks by the riverside, the *tabernero* asks them to stop the barrels from floating away. However, when they ignore him, he tries to convince them by shouting: “una va llena, una va llena,” but the drunks instead hear “una ballena, una ballena”. As a result, the news of a whale in the river spread until it became a local legend (Rebollar, 455-56).

The scene I analyze in this article depicts a mayor “mojiganguero” or *entremesil*, known as Escamilla, whose function included the preparation of festivities by recruiting ridiculous figures for the Carnival (Rebollar 62), ordering his servants to seize the whale. If the whale happened to resist, it would be tamed and deburred:

¿Hay tan grande desvergüenza?
A prenderla luego vayas
y, si acaso se resiste,
para poder amansalla
llamen los que hacen las sillas
y las pelarán las barbas. (297)

Like Quiñones de Benavente, Monteser connects the current practice of whale-hunting to women’s aesthetics. Note that, in the only surviving manuscript of the piece, Monteser used “cotilla” instead of “silla” (chair), alluding to a sleeveless doublet made from whalebone to fit the female body (Rebollar 465). The playwright’s concern for whale exploitation shows how human vanity does not care for the cetacean’s ability to feed itself and live, because whales with baleens instead of teeth use them to feed themselves by collecting small fish, krill and plankton. This denunciation may surprise a twenty-first-century reader considering that, during Monteser’s time, hunting was recommended to prepare soldiers for war since through this practice, as Alonso Martínez de Espinar stated in his *Arte de ballestería y montería* (1644), “se pierde el horror de la sangre y escándalo a la muerte;” and the preventive measures for environmental protection were not implemented until the nineteenth century. Indeed, the whale was highly coveted during the sixteenth century since materials extracted from hunted or stranded cetaceans, such as ambergris, were used for medicinal purposes, but they were accessible only to patients with financial means (Azolini, 308). However, the depiction of whaling in chronicles of the time was addressed and described quite differently than Monteser and Quiñones de Benavente. Francisco Núñez de Velasco, in his *Diálogos de contención entre la Milicia y la Ciencia* (1614),

for example, wrote about the hunting activities in the Cantabrian Sea on the north coast of Spain, comparing the dangerous activity of whaling to the spectacle of bullfighting in the plazas:

El pescado que se siente herido, hace bravezas, y bascas, y estando detenido en aquello le hiere otro por otra parte, ayudándole con tan presteza y destreza, que dentro de poco rato le desangran y matan ... De suerte, que esta es una vistosa montería y un peligroso lidiar de toros en la espaciosa plaza del fructuoso mar. Desta mesma suerte he oído, que en el mar Cantabrico Septentrional de España pesca las gruesas Ballenas. Y porque lo que he referido de la pesca deste peligroso pescado se hace a modo de pelea, me parecido contarle, pues no es salir del sujeto (14–15).

Another hunted-whale sighting was narrated by the Jesuit missionary and naturalist, José de Acosta (1540-1600) in *Historia natural y moral de las Indias* (1590), who admitted being surprised by how the Amerindians were capable not only of facing but of defeating “la más fiera y disforme bestia de cuantas hay en el universo” (189). Acosta described the hunting of a whale on the coast of Florida as if it were a chivalrous narrative granting heroic traits to the man who faced it while portraying the cetacean as a perverse threat:

Brama la ballena, y da golpes en la mar, y levanta montes de agua, y húndese dentro con furia, y à saltar, no sabiendo qué hacerse de rabia. Éstase quedo el indio y muy caballero, y la enmienda que hace del mal hecho es hincarle otro palo semejante en la otra ventana, y gorpearle de modo que le tapa del todo, y le quita la respiración, y con esto se vuelve a su canoa, que tiene asida al lado de la ballena con una cuerda; pero deja primero bien atada su cuerda à la ballena, y haciéndose a un lado con su canoa, va así dando cuerda à la ballena, la cual mientras está en mucha agua, da vueltas a una parte y a otra como loca de enojo, y al fin se va acercando a tierra, donde la enormidad de su cuerpo presto encalla, sin poder ir ni volver. Aquí acuden gran copia de indios al vencido, para coger sus despojos... (234-35)

Acosta interprets the whale’s feelings during that fight as anger, noting that when the Amerindian attacks it, the cetacean moves in and out of the water “no sabiendo que hacerse de rabia.” Interestingly, what today could be perceived as a scene where a whale is terrified and desperately fighting for its life, Acosta describes it as a furious whale whose meat is “harto perversa,” fighting against “el indio y muy caballero.” Undoubtedly, these appreciations of whaling as a “vistosa montería” similar to the spectacle of bullfighting and of the whale as an evil creature contrast with the concern that the playwright expresses in its piece.

“Echalda un par de grillos”: Animal Trials and *Teatro Breve*

In *La Ballena* Monteser not only criticizes the practice of whale exploitation, but he also exposes one of the most forceful denunciations against animal trials through an unnamed character that approaches Escamilla to question the *alcalde*’s reasoning:

ESCAMILLA. Pues echalda un par de grillos,
que quiero hacerle la causa.

GODOY. Yo pienso que no tenéis
jurisdicción en el agua.
 ESCAMILLA. De todos cuatro elementos
tengo la primera instancia.
¡Ea! Que jure y declare
todas cuantas mojigangas
se ha engullido.
 3.º. La ballena
¿qué ha de jurar si no habla? (298)

In these lines, the mayor orders his servants to apprehend the whale in order to make her confess before proceeding with the sentence. However, the servant Godoy and the unnamed character refute the mayor's authority. The mayor is first asked under what jurisdiction he would bring the whale to justice, given that if a trial were to proceed, it would belong to the jurisdiction of the sea; then, he is warned about the impossibility of defense because the whale lacks human language. The obstinate mayor justifies his irrational action by reminding them of the human domination over all four elements, thus revealing the disapproval of a Spanish playwright who, behind the mask of humor, appears to be condemning the trials of animals. Similar to the aforementioned thesis that we cannot think of the animal without disassociating ourselves from it, Monteser challenges the religious and anthropocentric perspectives of the time, which promote that man was endowed with power "de los cuatro elementos" to justify human domination over the animal as obedience to the divine order. Specifically, the playwright is alluding to Genesis 1:28, in which God commands: "Be fruitful and increase in number; fill the earth and subdue it. Rule over the fish in the sea and the birds in the sky and over every living creature that moves on the ground" (*Santa Biblia Reina Valera*). In this sense, Monteser enters the sixteenth-century debate concerning the punishment of animals by pointing out that the animal is prosecuted and punished not because of its wrongdoing but because humans consider that only they have the power to rule over it. Indeed, some animals, whether domestic or wild, must face trials and excommunications implemented by the existing legal and ecclesiastical authorities.

It is believed that criminal trials of animals were of French origin, dating back to the Middle Ages. In these trials, an animal was criminalized as a threat to the community's physical and moral well-being, including its sustainability through agriculture.¹² Pigs, bulls, and horses were often accused of murder and bestiality, and consequently sentenced to death. Their punishments were exemplary and a means of condemning the perversity of the natural world and preventing, through public spectacle, the consequences faced by potential destabilizers of the social order (Phillips, 81).¹³ These were legal processes that integrated protocols of the judicial system to determine how to proceed in cases involving the animal world, including, on occasion,

¹² Oldridge points out that this practice was originated in northern France, with the first recorded case in 1266. He also shows how this practice spread throughout different cities in the Netherlands, Germany, Italy, and Spain, where there was an uptick in criminal trials during the sixteenth and seventeenth centuries (40). However, according to a well-known intellectual such as Benito Jerónimo Feijóo, in Spain there were no judicial processes of animals before the fourteenth century (Sanz 335).

¹³ I suggest this may be one of the possible reasons for animal trials in Europe, according to E. P. Evans and Nicholas Humphrey. Other reasons could be punishment as deterrence to avoid the repetition of the animal crime, the community's protection, and preserving and fulfilling God's will (Phillips, 81).

their imprisonment while awaiting trial and the participation of lawyers for their defense. In fact, human prisoners and animals received almost equal treatment since they were often kept in the same jailhouse (Phillips, 18). Monteser, specifically, ridicules the practice of imprisoning an animal in the scene in which Mayor Escamilla orders: “Pues echalda un par de grillos, / que quiero hacerle la causa” (298). Although imprisoning a fictional whale in this way alludes to the absurd (given that a body without limbs cannot be shackled), the playwright uses humor to expose the equally questionable historical realities of his time.

Animals were not treated as morally conscious subjects but rather as property in many of these cases, and their owners were not considered responsible for their behavior. This circumstance begs an important question: What reason or objective could explain the punishment of a being alien to the human understanding of ethical and moral behavior typical of an organized society? It is possible, historian Darren Oldridge suggests, that villagers of the time could have attributed some degree of reason to animals, using anthropocentric perspectives to classify animal behaviors as being “ferocious and cruel,” which ultimately could determine the final verdict (Oldridge, 52). For a contemporary reader, it would be ethically questionable, for example, a case like the one that took place near the monastery of St. Martin de Laon in 1494, where a convict pig was sentenced to death after being accused of attacking and murdering a child (Oldridge, 40).

Other examples can help us understand the complexity and prevalence of this practice. While numerous animal trials were carried out in French cities, locust plagues led to frequent trials in Spain throughout the sixteenth and seventeenth centuries.¹⁴ Even though the judicial practice of the time established the principle of self-responsibility to define the conscious and voluntary perpetrator of the crime as guilty, animals were involved in cases as exceptions (Tomás y Valiente, 295).¹⁵ However, in 1480, the Catholic kings ordered that if a beast fell from a bridge or injured another beast or person, it should not be taken to justice as was customary in other places, “pues es injusta esta extorsión y corruptela” (Tomás y Valiente, 297). Francisco Tomás y Valiente argues that the law of the Catholic Kings changed over time since the Law of Partidas continued applying the idea of animal responsibility in cases of bestiality. Later, during the reign of Carlos I, a locust plague wreaked havoc in the fields of Valladolid, leading to an agricultural collapse that, as a result, destabilized the finances of the Church.¹⁶ A month later, its neighbors were still unable to remedy the situation, and the ecclesiastical authorities decided to begin a trial at the Abbey of Valladolid. The prosecutor petitioned the assigned judge to have the locusts leave the region under threat of excommunication (Sanz, 337). The locust’s lawyer argued that the swarms could not be submitted to temporal and spiritual jurisdiction due to the animal condition of the defendants. He also argued their inability to respond to a spiritual order due to their lack of rationality and Christian faith. He added that if the case were under any jurisdiction, it would be in the court of God. In other words, God’s divine power was considered responsible for sending the locust swarms as punishment for the people of Valladolid’s sins. He closed his statement by arguing that a lawsuit against irrational beings implied superstitious attitudes that contradicted Catholic doctrine. Therefore, the presiding judge should declare himself

¹⁴ On this matter, see Juan Cosme Sanz Daroca’s thought-provoking dissertation titled *Las respuestas religiosas ante las plagas del campo en la España del siglo XVII*.

¹⁵ According to *Ley 63* of the *Ley del Estilo*, which coincides with several laws of *Derecho Real* and the *Partidas*, “nadie puede ser penado sino por cometer un delito con dolo o culpa” (Tomás y Valiente, 295).

¹⁶ Specifically, locusts caused great damage to the production of herbs, bread, and wine which prevented them from paying tithes and first fruits to the Church (Sanz, 336).

incompetent and transfer the case to the jurisdiction of a secular judge or the court of God (Sanz, 336). In *La ballena*, a series of concerns analogous to these legal debates emerge when Monteser stages the trial of a cetacean. Although both fictional and historical records present their cases to a jurisdiction under which the animal should be subjected, Monteser's argument stands out as a defense that suggests a maritime jurisdiction, thus appropriately placing the mammal in its natural space. In contrast, the lawyer of the historical case appeals to contemporary understandings of religious dogma by placing locusts within a spiritual jurisdiction.

Although I have not yet found trial records of a case against a whale in the Iberian Peninsula, we have a particular case of another cetacean no less fertile for literary creation, the dolphin. In 1616, the priest Andrés García de Valdés brought a lawsuit against the dolphins before the Bishop of Oviedo, Don Martin Mando, explaining that “los Delfines de aquellos mares les rompían las redes con que les quitavan el sustento de sus personas y casas” (González Dávila, 90). As soon as the bishop ordered the censures against the mammals, he appointed Dr. Juan García Arias de Viñuela as the defense attorney and Dr. Martin Vázquez, a professor at the University of Oviedo, as the prosecutor. Witnesses, lawyers, a prosecutor, and a notary attended this trial on board a ship. Afterward, a verdict was read aloud to the dolphins exiling them from those waters. González Dávila argued that the censures worked: “desde aquel día hasta los nuestros no se han visto en puertos, playas, ni costas” (91). This case leads us to two essential points of reflection on the *mojiganga*: on the one hand, the possibility of a whale appearing in court was not far from reality; on the other, appealing to the jurisdiction of the sea, as Godoy's character suggests to Escamilla by arguing “yo pienso que no tenéis jurisdicción en el agua” (289), could be a reasonable and “fair” alternative at the time.

The criminal prosecutions of animals were not a practice perpetuated by ignorant people, nor can it be defined as irrational behavior. Instead, we must trace their roots to a theological belief with which they gave meaning to reality and used it as a guide to deal with political and legal concerns. One could even suggest that what they performed as “animal trials” resembles what we understand nowadays as euthanasia.¹⁷ Indeed, dogs, alligators, bears, and other animals are euthanized for killing or hurting humans, and even though there is no trial where the animals are processed as defendants, animal rights activists play the early modern lawyers' role. In this sense, we cannot ignore early modern beliefs regarding the hierarchies of creation that, from the Biblical myth, invited humans to dominate and master the natural world and were adopted to justify acts of violence against the animal. Firstly, the scholastic view of the *ordo naturae*, which established that the animal had a function in the cosmos by which it had to abide, was still valid in Monteser's time. This view argued that if the animal did not fulfill its function, the order would be broken, and for that reason, it should be punished (Tomás y Valiente, 298). Using the Holy Scriptures, these practices were justified in the divine order documented in Leviticus 20, which stipulated that if a man or woman had sexual relations with a beast, they should apply the

¹⁷ For example, in May 2022, two alligators were captured and euthanized after an alligator killed a man in a Florida lake. There were signs warning people not to enter since it was mating season, and these reptiles tend to be more aggressive and territorial (Alex Traub, “Alligator Kills Florida Man Retrieving Frisbees in Lake, Officials Say”). Also, during the 2020 spring, investigators were trying to extract enough DNA to identify the bear that attacked a father and his son, who were walking in a part of the Dolomites in Trentino, Italy. Animal rights groups have accused Trentino's governor, Maurizio Fugatti, of signing an ordinance to euthanize the bear before the DNA investigation is completed (Elisabetta Povoledo, “After Death Warrant for Bear, Animal Rights Groups Demand Fair Trial”).

death penalty to both the individual and the beast involved.¹⁸ Indeed, in cases of bestiality in Spain during the Middle Ages, the animal, considered as “co-author” of the crime or sin, was in most cases sentenced to die at the stake along with the man or woman involved. Likewise, in Exodus, God instructed Moses on penalties and punishments for an ox that killed a man or a woman, which should be stoned, and whose meat could not be consumed.¹⁹ Particularly relevant to our discussion are the instructions from God to the ox owner, who would only face punishment if he was aware of the beast’s violence and decided not to assume responsibility for its behavior. The verdict was simple: both parties should be sentenced to death if the owner was already aware of its aggressiveness. Even though the punishment of an animal during the sixteenth century reflects the significant influence of divine law in these matters, authorities started to disregard this sense of human responsibility since the owners of the animals were not usually subjected to punitive acts in criminal trials of animals.

The distance the human has established with the animal, understanding it as an other that must be dominated, has an implied negative perception innate to its nature that could be considered a reasonable justification to punish a disrupting animal. However, the punishment could imply not only an attempt to restore order but also to convey a moralizing effect on the spectators since sentences against animals involving violence or exile were carried out publicly. Parallel to the carnivalesque spectacle Montser intended to stage, the criminal trial aimed to cause a reaction in the spectator through violent theatricalization. In this dramatization, the roles were reversed: the criminal became an object of sorrow or admiration, while the executioner resembled the criminal in such a way that the spectator became accustomed to the staging of violence (Foucault, 9). In fact, Foucault explained in his *Discipline and Punish: The Birth of the Prison* that the public spectacle in which the condemned person is punished has a didactic objective, since

men will remember public exhibition, the pillory, torture and pain duly observed. And, from the point of view of the law that imposes it, public torture and execution must be spectacular, it must be seen by all almost as its triumph. The very excess of the violence employed is one of the elements of its glory: the fact that the guilty man should moan and cry out under the blows is not a shameful side-effect, it is the very ceremonial of justice being expressed in all its force. (34)

In front of the spectator, the convict’s body is punished causing fear, albeit in a discontinuous and irregular way. The accused is requalified as a legal subject using “not marks, but signs, coded sets of representations, which would be given the most rapid circulation and the most general acceptance possible by citizens witnessing the scene of punishment” (Foucault, 130). In some European regions, in fact, the spectacle of the penal ceremonies consisted of hanging the

¹⁸ In Leviticus 20:15-16, it is instructed that “if a man has sexual relations with an animal, he is to be put to death, and you must kill the animal. If a woman approaches an animal to have sexual relations with it, kill both the woman and the animal. They are to be put to death; their blood will be on their own heads”. I consulted the *Santa Biblia Reina-Valera* edited by Valera de Cipriano and Reina de Casiodoro.

¹⁹ In Exodus 21:28-30, God gives specific instructions to Moses on how to deal with a murderous ox: “If a bull gores a man or woman to death, the bull is to be stoned to death, and its meat must not be eaten. But the owner of the bull will not be held responsible. If, however, the bull has had the habit of goring and the owner has been warned but has not kept it penned up and it kills a man or woman, the bull is to be stoned and its owner also is to be put to death. However, if payment is demanded, the owner may redeem his life by the payment of whatever is demanded.”

condemned beast upside down. In the same way, some Jewish convicts were placed next to animals to symbolically degrade them and accentuate their crime as savagery (Oldridge, 51).

Animal Trials and the *Mojiganga*: The Performance of Laughter

In Monteser's *mojiganga*, after a brief reflection on the animal world, the whale regurgitates hybrid and grotesque beings, which quickly diverts the audience's attention to the dance and music that each animal performs. In what could be considered brief moments in the piece infiltrating the chaos and deliberate nonsense very characteristic of the genre, a small window is opened to encourage the audience to rethink this practice that had been adopted as a fair and usual process in contemporary Europe. It has been suggested that the piece was first performed before Philip IV, possibly between 1657-58, and for a second time at the Buen Retiro Palace before his son Charles II around the winter of 1667 (Buezo, 289). In the manuscript of the *mojiganga*, Monteser explains that "una ballena, por donde han de salir las figuras de la *mojiganga* por la boca, como que las arroja o vomita" (289). In light of the fact that he composed most of his *mojigangas* for Court events, we can safely assume that Monteser had resources at his disposal to broaden their visual potential—for example, when building the silhouette of the whale's mouth so that actors dressed as animals could come out of it.

Considering that this piece was staged in the El Buen Retiro Palace and that Monteser dedicated himself to writing his plays for the delight and entertainment of his patrons, one must ask: What did the playwright intend to do by choosing a minor genre like the *mojiganga*, as well as by sharing a concern with an aristocratic audience? Firstly, the carnivalesque and grotesque character of this genre allows the author to ridicule the customs of the time as well as certain aristocratic privileges, since *mojigangas* were written to be performed between the second and third acts of a play to entertain and make the public laugh with dances, music, and extravagant characters, including mayors, devils, and masked actors dressed as animal figures. "El mal llamado teatro menor", argues Buezo, "se nos aparece, entonces, como una atalaya desde la que puede contemplarse la sociedad de la época de la que, amparada en la deformación risible, se nos ofrece una visión crítica . . ." (14). This idea had already been advanced by Mikhail Bakhtin, who argued, as is widely known, that Renaissance humor had three important features: universalism, freedom, and its relationship with the unofficial truth of the people.²⁰ Bakhtin explained the latter as "an external defensive form of truth" because laughter has privileges that allow it to be free from censorship and oppression, a victory "not only over awe, over the sacred, over death" but also "the defeat of power, of earthly kings, of the earthly upper classes, of all the oppresses and restricts" (92). Monteser thus understands that the carnivalesque character and the humorous function of the *mojiganga* make it an appropriate genre to criticize the legal system, as laughter "cannot be transformed into seriousness without destroying and distorting the very contents of the truth which it unveils" (Bakhtin, 94). His piece, I argue, is designed to be performed precisely in front of an audience who simultaneously approves and reproduces the violence against animals in the name of state justice and divine order.

²⁰ Bakhtin explains that the universal feature of laughter is "directed at all and everyone; including the carnival's participants" (11). The carnivalesque aspect of freedom consists of liberation from "conventions and established truths, from clichés, from all that is humdrum and universally accepted . . . to enter a completely new order of things" (58).

Advocacy and the Power of Language

Along with the literary objections to the criminalization of the animal, some of the leading non-fictional writers of the time addressed similar concerns, thus building an autochthonous tradition devoted to questioning these practices.²¹ For example, Benito Remigio Noydens (1630-85), a lexicographer member of Clérigos Regulares Menores in Spain, disagreed with excommunications and legal proceedings against plagues, particularly locusts. In his treatise *Práctica de exorcistas y ministros de la iglesia*, he condemned the practice of excommunication sentences and criticized those who carried them out as if animals had “free will” and could obediently and knowingly submit. He also accused these practices of “superstitious ceremonies” introduced by the devil, who used natural remedies to deceive them and make them think such an outcome was correct. Noydens’ disapproval stemmed from his assertion that insects did not have free will, namely, the ability to act and make decisions, as if the divinity directed them:

Porque ay algunos que suelen descomulgarlas y formar contra ellas cabeça de processo, con sus procuradores de una, y otra parte para alegar cada uno su derecho, y después de muchas demandas, y respuestas, fulminan sentencia de descomunióon mayor, para que las langostas se aparten de los términos del lugar, como si tuvieran libre albedrio, y fuesen capaces de las censuras, que ordena la Iglesia, para reducir á los hombres contumaces á su obediencia. (185)

He then proposed that the best way to deal with the problem of pests consisted of natural measures such as starting fires in the fields to drive them away and spiritual remedies such as using holy water, prayers, and holy spells. However, Noydens showed more concern that these practices were orchestrated by the devil than the fate those animals would face.

Even though other writers of the time addressed animal sensibility through fiction, such as Miguel de Cervantes (who reflected on animal abuse and its exploitation for human entertainment)²², what makes Monteser’s intervention so relevant is his concern about the impossibility of language for animals that are facing a trial and his critique against human-centered discourses that justify human domination over animals. In fact, this issue of communication through language occupies the center of the theatrical experience. In the confrontation between the mayor and the whale in *La ballena*, the former demands a confession: “Que jure y declare / todas cuantas (mojigangas) / se ha engullido” (297). Foucault reminds us that a confession is a “semi-voluntary transaction” considered the weightiest evidence that allows the use of absolute authority over the accused and “the only way in which the truth might exert all its power, was for the criminal to accept responsibility for his own crime and himself sign what had been skillfully and obscurely constructed by the preliminary investigation” (38). In Monteser’s piece, mayor Escamilla tries to guarantee a successful penal ritual by obtaining the whale’s confession, but the animal’s inability to speak obstructs the process. However, the

²¹ We could also consider this tradition in contrast to France, where the sentences of animals were frequent and more severe.

²² Alves suggests that Cervantes exposed a critique against animal abuse through the narrator’s voice, who calls the boys that were hurting Rocinante and Sancho’s donkey “más malos que el malo” (59). Beusterien, on the other hand, observes that “Cervantes was well aware of the humorous tradition of animal abuse when he set out to write his prologue. The supposedly comical story of a crazy man slamming a dog with a rock appears in Correas’ compilation of proverbial expressions, showing the popularity of a rather gruesome dog story in the early modern period” (Beusterien 2013,67).

playwright's intervention is presented with the question with which I began this essay: "La ballena / ¿qué ha de jurar si no habla?" Undoubtedly, the playwright was influenced by the Scholastic views that were still relevant at that moment in which Aristotle, considered a seminal authority in the understanding of animals, had observed a distinction between the voice in animals and the human discourse (Wagschal, 7). Such views understood that, even though animals could communicate with each other, they were not able to express abstract principles and rationalized ideas as humans do (Alves, 13). This vision is also reflected in the literature of the time, as seen in *El coloquio de los perros*, where the dogs decide to avoid the origin of their discursive speech that separates them from the "brute animal" to take advantage of the moment of the miracle, given the impossibility of explaining this phenomenon (Cervantes, 299).²³ Moreover, the French philosopher Michel de Montaigne (1553-92) addressed in *An Apology for Raymond Sebond* (1569) the lack of a shared language between humans and animals by arguing that their inability to communicate with us should not be considered a "defect" because "we can only guess whose fault it is that we cannot understand each other: for we do not understand them any more than they understand us. They may reckon us to be brute beasts for the same reason that we reckon them to be so" (17). Montaigne suggested that humans might have some understanding of what animals mean through the interpretation of their sounds and movements. But, for Montser, this "modest understanding of what they mean" (16) proposed by Montaigne would not be enough reason to hold a fair trial since the playwright is very clear with his statement. In this sense, Montser's intervention evokes a reflection on the legal debates of the time by proposing a dramatic language operating in defense of an animal that does not have access to a juridical lexicon.

Beyond this reflection as an argument against animal trials, Montser criticizes the political and legal parameters of his time. In the play, before the whale's appearance, Godoy had already questioned the lack of justice under the mayor's administration because Escamilla had ordered his servant to arrest two women who had simply mocked him. The *alcalde entremesil* admitted that his authority allowed him to imprison anyone who had "redículas circunstancias."

GODOY. ¿Qué justicia es esta, alcalde?
 ESCAMILLA. Vos no entendéis de alcaldadas
 yo he de prender cuantos tengan
 redículas circunstancias
 para tener cuatro reales
 sobrados de mojigangas,
 cumpliendo así con mi oficio
 que, a más moros, más ganancias. (294)

Since these lines precede his order to arrest the whale, the playwright prepares his audience by exposing a blunt albeit subtle critique against animal trials. Parodying the mayor's character, he suggests that animal involvement in absurd and meaningless circumstances resulted in animal prosecutions. If we consider the economic factor of animal trials around Europe, prosecutions required financial resources to provide food, lawyers, the hangman that had to be brought into

²³ "Así es la verdad, Berganza, y viene a ser mayor este milagro en que no solamente hablamos, sino en que hablamos con discurso, como si fuéramos capaces de razón, estando tan sin ella que la diferencia que hay del animal bruto al hombre es ser el hombre animal racional, y el bruto, irracional" (Cervantes 299).

town, and even the cost of the gloves that would be used in the execution. However, animal trials were also a substantial source of income for law professionals (Phillips, 25; 78), which could apply to Spain's trials as well, considering the historic animal cases and excommunications previously discussed where the processes required judges, defense attorneys, prosecutors, notaries, and even construction materials to facilitate exile. In fact, there was a trial against rodents in Oviedo, documented in the *Teatro Eclesiástico de la Santa Iglesia de Oviedo* (1635) by the chronicler Gil González Dávila, where some farmers brought a case against rodents before Diego Pérez de Villaviciosa, the Vicar General, who oversaw the trial and assigned a prosecutor and an attorney to the rodents. As a sentence, they were given three days to vacate the farmland and the defense attorney requested that logs be placed over the rivers that would serve as bridges for the accused to facilitate exile (90-91). Thus, these lines show how Monteser ridicules the mayor's unethical legal maneuvering, whose objective is not to exercise justice but to obtain greater profit, as a mockery to legal authorities of the time.

Can a Whale Feel? The Animal Trials Debate

Just as there were arguments to oppose animal trials, fiction was also a tool to voice arguments that justified these practices. At the end of the sixteenth century, the publication of *Antoniana Margarita* (1554) by the Spanish philosopher and natural humanist Gómez Pereira led to a debate on animal awareness among philosophers, humanists, and doctors. In his text, Pereira theorized about an animal automatism that preceded Descartes by denying animals the ability to feel and move by themselves. Particularly, this debate was reflected in the taxonomic terms of the time where the whale was included in the category of fish until the end of the eighteenth century, when it passed, along with the dolphin and other marine species, to the category of mammal. Steven Wagschal notes that Covarrubias describes fish taxonomy in his *Tesoro de la lengua castellana español* (1613) just as “el pez que se cria en el agua” (“the fish that grows up in the water”) (Wagschal, 12). Contrasted with his detailed descriptions of other animals, such as dogs or horses, fish were assimilated as a species lacking cognitive complexities, feelings, and consciousness. Although the whales were appreciated as fish, some chroniclers and naturalists, such as Gonzalo Fernández de Oviedo, thought the whale did not quite fit into this category. For example, Oviedo documented the sighting of a whale with its calf, distancing it from the characteristics of a fish and bringing it closer to the category of mammal as we know it today. From an anthropomorphic point of view, Oviedo's chronicle gave it the capacity for agency and emotion by detailing that he observed the whale, and the immensity it showed when it emerged astonished the entire crew, causing fear of what could happen. Nevertheless, to the surprise of the chronicler, the cetacean did not attack them, rather, in the witness's view, it seemed to announce its joy in anticipating good weather to come: “... a lo que podemos sospechar, este animal parecía que sentía leticia del tiempo futuro, que presto saltó en gran vendaval o Poniente” (Oviedo, 58). The whale's non-violent behavior and excitement for the weather made Oviedo realize its cognitive traits and capacity for feeling. In addition, Spanish naturalists and philosophers such as Olivia Sabuco de Nantes Barrera considered that some animals, particularly cetaceans, could exhibit “expressions of emotions.” In her *New Philosophy of Human Nature* (1587), Sabuco recognized in a dolphin the ability to feel sadness and hopelessness since it had died of mourning after the passing of the child who used to feed it; she explained that “these emotions operate in animals due to their instinct and sensitive memory” (48).²⁴

²⁴ Sabuco added that “The dolphin kept coming day after day to the place of their encounters, and because the boy did not come, it went on moaning in such extreme sorrow that it was found dead there” (48).

A year later after Pereira's debate on animal automatism, the *Endecálogo contra Antoniana Margarita* was published, whose authorship has been attributed to a doctor from Medina del Campo, Francisco de Sosa. This text merits our attention given that De Sosa not only joined the debate on animal awareness that Pereira's text had sparked (with a wider reception abroad than in Spain) but also used fiction to state an important justification for performing animal trials. In his *Endecálogo*, De Sosa resorts to theatrical elements, mixed dialogue, and fable to represent the subjection of Pereira's text to judgment by eleven animals that act as interlocutors (ape, bat, crocodile, lion, wolf, elephant, monkey, Mercurio, and of course, a whale). The author argues that "los tales brutos" (the animals) have a living soul and demonstrate the ability to dream, learn, adopt behaviors, and have an active memory. He also believes that some animals have developed sensory skills better than humans. However, he clarifies that animals can feel, but not at the level of reasoning that humans possess:

Declaramos, empero, los tales brutos no conocen lo blanco por blanco, ni colorado por colorado ni saben qué cosa es calor ni frialdad, mas declaramos que sienten el daño o provecho que el calor y la frialdad los hacen aunque no como el hombre lo siente con ánima racional, y los brutos con ánima sensitiva. (575)

The *Endecálogo* presents animal characters moving in a kind of theatrical space through monologues in which they describe the tasks they have carried out to bring the author of *Antoniana Margarita* to trial before the court of Jupiter, where they are summoned "para que en nombre de todos parezcan ante su Majestad y se queje y criminalmente acuse a un filósofo más atrevido que sabio, el cual dice que los brutos no sienten ni por sí se mueven" (541). First, they wrote the criminal petition and visited the elephant, who was considered to be the best lawyer, to review the lawsuit. Later, it was signed by representatives of various species: the lion, representing land animals; the eagle, in the name of the *volátiles* (birds); and the whale, as queen and representative of the marine species. Finally, the crocodile takes the lawsuit to court, and the final verdict orders that the book must be "sepultado en los infiernos" (575). Before concluding, the whale officially warns that if justice is not served, it will swallow the philosopher just as it swallowed Jonah:

E si más en esas cosas insistiese, no entienda jamás con él en la venganza bruto alguno, que yo en prometo, aunque sus especies lo resistan, de le tragar entero y le terné en mi estómago no tres días como hice a Jonás, mas muchos millones de años. (581)

Monteser and De Sosa use theatrical elements to propose animal awareness and share their vision regarding animal trials. While Monteser addresses the language barrier to describe this type of trial as unfair, De Sosa appeals to the sentience of animals to justify punitive methods through the legal system. However, his advocacy ensures that he does not fall into extremes and maintains a certain balance regarding understanding the fauna of the time. He regards animals as sentient others but acknowledges that they lack the capacity to rationalize their reality and precisely because of their ability to feel they must be controlled and processed by human law. Concretely, in his critique against *Antoniana Margarita*, he justifies the practice of animal trials arguing that if Pereira's theory about animal automatism is considered valid, then the condemnation and execution of animals for violating human law or for injuring a human should not be regarded as fair justice:

Lo otro, porque de hoy más, pues los animales no nos movemos, si es así verdad, normalmente antes somos siempre movidos por las especies de las cosas violentamente y como relojes, a vuestra Majestad suplico ninguno sea condenado por daño que haga así a los hombres como a los animales domésticos que los hombres poseen, pues por las especies de la cosa dañada es el tal bruto guiado y movido para hacer el dicho daño sin poder el tal bruto dejarle de hacer. Y esto que yo pido es muy justo, pues los hombres que aojan no hay ley por donde sean punidos por no ser en su poder dejar de aojar. (546)

However, in his *Endecálogo* he provides some insights using a critical tone that could be interpreted as suggestions to improve the animal's juridical processes. I am referring to the ethical and responsible attitude assumed by the animal interlocutors to follow a rigorous and fair legal protocol in suing the philosopher; this legal protocol would show mercy at his sentence by censoring the text without proposing a physical punishment for Pereira:

Así lo sentenciamos y pronunciamos, estando, como estamos, en nuestro muy alto tribunal, en estos escritos e por ellos. Y no le condenamos en costas, usando de nuestra clemencia, porque bastan las que hizo en imprimir las dichas vanidades, sin que sirvan más los papeles que imprimió de para que los especieros echen en ellos las especias que vendieren... (579)

The irony in De Sosa's text is evident: the leniency of the animals demonstrated in Pereira's trial is not reciprocated by human law when an animal is the defendant.

Conclusion: Rethinking Human Interactions with the Natural World

Since the nineteenth century, protective measures for animals have expanded. Such measures were first categorized as an "affective" phase, defined as an attempt to establish a more harmonious and egalitarian relationship between the animal and the human world (Morgado, 72). Since then, notions of vulnerability have developed for whales due to factors threatening their existence: climate change, hunting, and their capture for consumption or display. This is already seen in Monteser and Quiñones de Benavente, for although their fictional whales were not characters who talk, in the pieces examined in this essay they give voice to the voiceless through visuality on the stage. Therefore, through serious laughter, these authors address a historical reality with the representation of two parodic trials: Quiñones de Benavente stages the trial of a woman accused of deburring the whales by wearing the farthingale, and Monteser represents a thief-whale whom they intend to take to prison even though it cannot speak to defend itself. This advocacy for the animal, and especially the whale, was also found in other places in Europe, such as the Netherlands. A compelling example is a Dutch poem entitled "Clachte van de walvisschen, geschreven onder een kaarte van Groenlandt" ("Complaint of the whales, written underneath a map of Greenland"), where its anonymous author gives voice to a whale to express his discontent at the whaling practices in the North Sea at the hands of the English, Basque, and Dutch hunters:

Will the smoke-grimed, resentful race of the Basques,
will the prosperous Dutch, looking for profit,
and the English, who are generally proud and brave,
expel us completely from the northern seas?

our stock is by nature used to the cold,
 will it ever manage to survive in warmer regions?
 And shall we not, even near 'High Mountain' island
 be free and safe from their wicked tricks?
 Or are they trying to exterminate us down to the very last?
 O grief! O sad grief! O cruel resolve of the gods!
 How many of our kin were straight away?
 Killed so tragically around the Spitzbergen land. (Koppenol, 523)

These lines, contemporary to Monteser's, show a sense of empathy for the hunted whales and invite the reader to reflect on the mourning they might go through.

Finally, echoes of Monteser's critique of animal trials can be heard today in documentaries such as *Blackfish* (2013), directed by Gabriela Cowperthwaite, which examine environmental debates triggered by episodes such as attacks that have taken place in amusement parks, where trainers have been killed by orcas—also known as “killer whales”. This documentary presents activists and retired whale trainers who demand a stop to the capture of whales and the attempt to tame them by confining and depriving them of food for entertainment purposes. The star of this film is Tilikum, an orca that was captured in Iceland when it was just a calf, then purchased in 1992 by SeaWorld for reproductive purposes, and exhibited for shows at its Orlando Park in Florida. On February 24, 2010, Dawn Brancheau, one of the best trainers in the park, performed a show where she asked Tilikum for a series of tasks and reinforced them with treats. However, the show ended fatally when it was Brancheau's turn to interact in the water with Tilikum, who mauled her to death, ultimately eating one of her arms. After the terrible accident, the Occupational Safety and Health Administration (OSHA) sued SeaWorld and demanded in court that trainers should not be allowed to be close to whales without the protection of a physical barrier between them. As the case continued in court, the media constantly alluded to the unpredictable nature of the killer whale. One interviewee, similarly to Monteser's character addressing the language barrier between human and animal, said: “These are wild animals, and they are unpredictable because we don't speak whale. We don't speak tiger; we don't speak monkey”. The trainers, on the other hand, suggested that it was necessary to delve deeper into Tilikum's history to understand that his aggressive behavior was not due to an unpredictable nature but rather the result of the frustration that had been growing due to confinement, food deprivation, and certain human demands which he was subjected to. The trainer's arm that Tilikum devoured can be seen as a metaphor representing a reversal of hierarchy and the tensions between the domestic and the wild caused by human intervention. Ultimately, *Blackfish* serves as a visual testimony that shows that the whale continues to be the protagonist of ethical and environmental debates that have even entered the American court system, where judges, lawyers, and witnesses continue to negotiate human intervention in the animal world.

Likewise, in Monteser's *La Ballena* we see how a simple supportive piece can address language as the main argument to question the punishment and execution of the animals of his time. Certainly, Monteser's defense extends to all animals that would face legal trials in sixteenth-century Spain, however, it is the whale he chooses to stage his concern: a mammal that chroniclers observed and described captivated, a cetacean of which a poet has written about its pain for the loss of its family, and about which Quiñones de Benavente writes that fishermen have left without baleens. The whale, for Monteser, is an animal that evokes the fantastic and the

writing itself since he represents it as a creator of *mojigangas*, but also as a theatrical device to denounce the unfair punishment of animals.

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