SPANISH *COMEDIAS* AS COMMODITIES: POSSESSION, CIRCULATION AND INSTITUTIONAL REGULATION[1]

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Early Modern theater, between private initiative and public intervention

The development of theater in sixteenth-century Europe was characterized from its beginnings as participating in very complex—and sometime apparently conflicting—social processes. In countries such as Italy, Spain or England, the advent of a populist scenic practice aimed at a broad and urban audience was based on the professionalization of actors: that is, the possibility that those who embodied performance could live off their art without the need to practice another trade in order to support themselves. In the case of Spain, this professionalization was feasible from the moment the theatrical phenomenon stopped being related exclusively to church, nobility and academia, and extended itself among an urban audience that had appeared with the demographic growth of cities such as Seville, Madrid or Valencia. Starting in the middle of the sixteenth century, theater became a practice of consumption, an entertainment industry whose demand was formed by the new and heterogeneous audience.

The insertion of theater in the logic of the market (a demand exists to which supply adapts itself) meant that the professionalization of actors took place eminently as a private commercial venture: actors participated through temporary contracts, in which they established their working conditions, and their objective was to sell a product—their performance technique—to the

[1] A first draft of this paper was presented at the conference *400 años del* Arte Nuevo de hacer comedias *de Lope de Vega. XIV Congreso de la AITENSO*, held in Olmedo in July 2009. This article has also benefited from my participation in the following research projects: *Spanish Classical Theatrical Patrimony. Texts and Research Instruments*, coordinated by Joan Oleza Simó (MICINN reference CSD2009-00033), *Manos Teatrales: An Experiment in CyberPaleography*, directed by Margaret R. Greer, and *Las comedias y sus representantes. Base de datos de las comedias mencionadas en la documentación teatral (1540-1700)*, directed by Teresa Ferrer Valls (MICINN reference FFI2008-00813).

audience-consumers. Thus, this commercial theater began occupying an autonomous social space, and it was a practice that made itself from within as it expanded and consolidated. The fact that during a significant period of time *ad hoc* spaces were used for performances or that companies could adopt different configurations (sometimes put together by a leading actor, sometimes formed as an association of actors) are good proof of the protean nature of the European scenic practice and its continuous capacity to adapt to the circumstances as it carved out its own space in society. In a way these origins reflect the development of early mercantile capitalism that was taking place in Western Europe, with the concentration of capital that allowed for the emergence of new types of economic enterprises: "we may say that the sixteenth century witnessed the first long, sustained, and widespread quantitative and qualitative development of capitalism in its mercantile stage and the first period of concentrated capital accumulation in Europe" (Gunder Frank 52). As Greer and Junguito have pointed out, "the 'blood' that kept that theatrical heart pumping, nourishing it and the social organism it served, was money — the cash to buy scripts from playwrights, pay actors, buy costumes, and pay the theatre lease" (32).

The consolidation of commercial theater made possible the appearance of stable spaces built specifically for theatrical praxis, which was a logical consequence of the process itself: the regularity with which companies began to perform in large urban areas led to a stable income, which made the creation of permanent spaces dedicated to theatrical performances a profitable investment. Oehrlein has shown how Spanish professional companies became "un cuadro estable que a su vez tenía un efecto estabilizador sobre el ejercicio teatral de la época" (114). If an essential part of what became the organization of the Baroque theatrical phenomenon was the result of the practice itself, at the same time there was a process of opposite sign to theatrical autonomy: the direct implication of the authorities in its regulation. With the passage of time, theater was influenced by a parallel process to protocapitalist development: the expansion of the modern state, based on centralizing forces around a court (Madrid, London, Paris) and the increase in a bureaucracy that organized multiple aspects of society in order to assist in their control. Among these social spaces that were submitted to the institutional control of power was theatrical activity.

In the history of Early Modern theater, its relationship with established power is a complex and fascinating chapter, which perfectly illustrates the liminar position theater occupied in Spanish society. At the same time vilified by certain spheres of power (I am thinking of the

controversies surrounding the licitness of theater) and actively encouraged by others (the municipal authorities that each year commissioned the performance of *autos sacramentales* and plays as part of the celebrations of the Corpus), commercial theater participated in this double condition of profitable business and of social practice subject to the supervision and the rules of the authorities. The success obtained by some of the first professional companies, such as those of Lope de Rueda or Alonso de Cisneros, together with the expansion of the theatrical activity that this success made possible, led to an increase in performances, and at the same time opened up the way for different local institutions to assume a predominant role in this growth. Thus, the construction of the first buildings in Madrid specifically designed for theatrical performances—the *corrales* of the Cruz and the Príncipe—was feasible due to the investment made by the local brotherhoods of the Soledad and the Pasión.[2] At the same time, municipal councils, brotherhoods and cathedral chapters boosted this activity by hiring companies to perform as part of public religious celebrations, such as the aforementioned Corpus festivity or those held in honor of a saint, for example.[3]

In the case of Spain, it did not take long for the authorities to directly intervene in theatrical praxis and begin to regulate it,[4] defining its organizational structure with a degree of detail that even surpasses the regulations of other European countries like England, Italy or France.[5] Theatrical activity was normalized with its own regulations and was institutionalized within certain moral and political parameters so that it would generate profitable economic (and symbolic) capital without risks, that is, without compromising the *status quo*, in a similar way to what had happened in the past with the printing business.[6] This is also the reason why during the

[2] As Greer has studied, the central location that the *corrales* in Madrid occupied in the city's topography contrasts with the scenic spaces of other theater cities such as London and Paris, a difference that symbolizes the diverse integration and acceptance of theatrical activity in the respective institutional structures of Spain, England and France: "What is striking about the *corrales* of Madrid, when viewed comparatively [to theaters in London and Paris], is their absolute stability and relative centrality within the topography of the city" ("A Tale" 395).

[3] On the development of commercial theater during Philip II's reign, see Sanz Ayán and García García.

[4] Davis and Varey (*Corrales* 38) point out how already in 1574 the companies needed to obtain permission from the authorities in order to be able to perform in Madrid.

[5] Cohen, when comparing theater in Early Modern England and Spain, thought that "state control of late-sixteenth-century professional drama was pervasively and remarkably alike in the two countries" (152). However, the documentation that has been uncovered in the archives and published since then shows that even though both countries followed similar general guidelines in relation to state control, the degree of regulation and supervision was greater in the case of Spanish authorities, at least in theory. For the regulation of theater in England by the government, see a summary in Gurr (91-99).

[6] For a study of the dynamics of control of the editorial activity that took place in Spain since the time of the Catholic Monarchs, which comprised both promotion and regulation, see Reyes Gómez.

periods when the theaters were closed in Castile because of royal mourning or the influence of moralist detractors, the pressure to reopen them came mainly from institutions such as the hospitals and the town councils, which were particularly interested that the theatrical machinery should not stop due to the income they obtained from it. With its institutionalization, theater obtained a social support that served as protection from the condemnations thrown from the moralist camp.

A good proof of the degree of imbrication of theater with the authorities can be found in the fact that in the kingdom of Castile the task of supervising theatrical activity was assigned to a member of the Council of Castile, who had originally been in charge of matters related to the hospitals of Madrid's brotherhoods. At first the title of this member of the Council was *Protector de los hospitales,* but once his role of regulator of theatrical activity became more important he was known as *Protector de las comedias*.[7] This task of direct control by the authorities began to unravel when it was codified in the shape of specific rules shortly after the *corrales* of the Cruz and the Príncipe were built. The first rules referred to Madrid and were made public in 1590; they would be followed by others in 1608, 1615 and 1641 (Shergold and Varey, *Teatros* 13-19). These rules, drawn up to organize theatrical activity in Madrid but effective in Castile as a whole, regulated a myriad of aspects of scenic praxis: from matters such as the establishment of censorship by civil and religious authorities before plays were allowed to be staged, to the limitation of the number of companies that were granted the official license to perform, down to issues such as the time of day when companies could perform or even the salary that actors could receive.[8] State intervention was profound and sometimes even the highest instances had to pay attention to really minor issues.[9] Theatrical activity therefore articulated itself as a combination of practices regulated internally by the profession and externally by the institutions of power.[10]

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[7] This significant change in name took place sometime after 1615, although we are unsure exactly when. See Shergold (386-389) for the duties and responsibilities of the *protector*.

[8] The *autor de comedias* Juan de Morales Medrano stated in a document dated on 27 January 1632 that "hay un auto del Consejo que no puede ganar ningún representante ni darle el autor más de diez y seis reales [de salario diario]" (Bolaños Donoso 173).

[9] For example, the crown even intervened directly in 1684 and again in 1692 due to the complaints by the lessors of the theaters in Madrid that soldiers from the royal guard wanted to enter free to see the performances (Shergold and Varey, *Representaciones* 78-79, 205).

[10] Ioppolo has noticed this same interaction of internal and external regulations in contemporary English theater: "By the time [Shakespeare] and Jonson had begun writing in the early 1590s, the performance of plays for money had already become an externally regulated and self-regulated industry and remained that way until the closing of the theatres [in 1642]" (70).

The work done by scholars over the past decades has cast light on this control of the theatrical phenomenon exercised by the authorities, as well as on the nature of the regulations and the consequences that they had on the daily activity of the world of theater. In relation to dramatic texts, critics have mainly highlighted how they were subject to the control of the authorities through the enforcement of a double process of preliminary censorship and performance surveillance.[11] However, if their intervention of power in the ideological, political and religious content of plays has been studied, critics have not paid enough attention to the influence of institutions on the scheme of the texts's appropriation, possession and circulation among playwrights and actors that derived from their nature as commodities. Did the authorities attempt to modify the way texts circulated among theatrical agents? How did they do so? Did these interventions reinforce the usual ways companies managed their texts or did they try to modify them? How did they affect the perception of theatrical texts as cultural goods that were working within a specific social and legal system? To these questions I will devote the following pages.

Plays as "mercadería vendible"

The evolution of theater as a lucrative activity directly affected the status of texts, since they became cultural artifacts that operated at the same time as commodities. The fact that from early on in Spain the functions of writing plays and performing them were specialized between differentiated agents—playwrights and professional actors—made the commercial nature of these texts even more visible, for companies had to buy the plays they wanted to perform from the poets who wrote them. Once the theatrical activity became professionalized, the plays, dances and *entremeses* acquired an economic value determined by the capital that circulated among companies: the troupes's average income determined, once the essential expenses were covered, what percentage could be put towards buying new texts in order to renovate their repertories, and this fixed the limits of demand and the plays's commercial value.

Miguel de Cervantes reflected these changes in the first part of his *Don Quijote* when he had the character of the *canónigo* lament that the transformation of theatrical literature into a business had turned plays into mere "mercadería vendible" subject to the ups and downs of the market,

[11] See the studies of Wilson, Vargas Hidalgo or Granja.

more specifically to the interests of those who constituted the direct demand of these texts. The most worrying consequence of this economic transformation was that playwrights had to follow the demands of the *autores de comedias* who bought the plays, thereby subjecting theatrical writing to factors that were not based on the precepts of art but on calculations of cost-effectiveness:

> no tienen la culpa desto los poetas que las componen, porque algunos hay dellos que conocen muy bien en lo que yerran y saben estremadamente lo que deben hacer, pero, como las comedias se han hecho mercadería vendible, dicen, y dicen verdad, que los representantes no se las comprarían si no fuesen de aquel jaez; y, así, el poeta procura acomodarse con lo que el representante que le ha de pagar su obra le pide. (Cervantes 1: 555)

Some years later, Lope de Vega would refer to how the decisive importance of the market had changed the way poets wrote for the stage when in his *Arte nuevo de hacer comedias* he stated that "como [las comedias] las paga el vulgo, es justo / hablarle en necio para darle gusto" (46-47).[12]

The existing contracts that document the purchase of plays, although scarce in number (only five have been preserved), are nonetheless tangible testimonies that record the commercial transaction between the playwright who sold a play and the *autor* who paid a certain amount of money for it. In other words, they document the public act by which a play's commercial value was generated and the transfer of property took place. That four of the five known contracts are dated between 1585 and 1602 is a good indicator of the commercial value that theatrical texts had already acquired in the initial phase of the *Comedia Nueva*.[13] These contracts presented in their formal configuration the same elements of many other purchase contracts of the time (such as a specification of what was being sold, the price that seller and buyer had agreed on, or the consent of each side, to name a few),[14] as well as legal formulae pertinent to this type of commercial exchange. From a legal point of view, plays did not enjoy a differentiated status from other goods: the sale of a theatrical text was legally categorized as any other object of consumption and

[12] Gilbert-Santamaría has stressed how the existence itself of this market-audience implied an objectivization process that helped theatrical texts acquire their status of commodities: "as a participant in a market-driven process, the audience for consumerist culture is given a role in the attribution of value as a matter of necessity. By definition, that role implies a necessary separation between the audience and the cultural experience that the audience witnesses. In this respect, the cultural artifact becomes literally an object of consumption" (18).

[13] For the nature of these contracts, see García Reidy.

[14] According to Álvarez Coria, "cosa, precio y consentimiento son, pues, los tres elementos sustanciales del contrato de compraventa" during the sixteenth and seventeenth centuries (195).

did not receive special consideration due to its literary nature. On the other hand, these legal documents not only certified the existence of a commercial agreement between a playwright and an *autor*, but they also generated the process by which a play acquired abstract values of property, as Loewenstein has analyzed in relation to English theater: "Only in the hands of an acting company did the work begin to acquire abstract property values that needed protection: the right to exclusive performance and the right to control the reproduction of the manuscript, either by release to a scrivener or by sale of a copy to a printer or publisher" (102). When playwrights sold the manuscript of a play they had written, they willingly forfeited all possession and rights of use to whomever had paid them for their text.

These property rights implied that theatrical texts, just like any other commodity, were susceptible to transfer to owners different from those who had first bought them. An *autor de comedias*, if he saw fit, could sell a text of his repertoire to another company, either by giving them the same fair copy bought from the playwright or by selling a newly made copy while he kept the original in order to continue performing it with his own troupe. This kind of sale usually took place several years after a play had been premiered and once it had lost a relevant part of its profitability, so it was to an *autor*'s advantage to give up the exclusive rights to perform an older text in exchange for some additional income. Since plays were a company's most precious possessions, great efforts were made to prevent other companies from surreptitiously obtaining copies of texts. In those cases when an *autor* discovered that a rival troupe had managed to obtain a copy of a play of his, he was protected by the common trade laws that allowed a person to sue those who possessed goods that were legally his.[15]

In short, the development of commercial theater from the middle of the sixteenth century eventually led to the existence of implicit guidelines that not only internally regulated the praxis, which covered a wide variety of issues such as the way companies were formed through contracts or the distribution of roles among actors and actresses, but also how companies bought, sold and protected theatrical texts. These specific dynamics of the profession were a result of its commercial nature and of decades of practical experience. However, it is precisely the economic value of plays as commodities bought and sold by companies, and the needs of these companies

[15] Thus, law XXIIII of the "Partida V" in *Las siete partidas*, which were still in force during the sixteenth and seventeenth centuries, stipulated that "cosa agena vendiendo un home a otro, aquel cuya fue puédela demandar al comprador a quien la falla" (*Las siete partidas* III: 192).

to protect their investments, the main reason why authorities tried to regulate certain aspects of the possession and circulation of these texts.

A lawsuit between companies

At the end of 1598 two companies coincided in the city of Zaragoza: those of Luis de Vergara 'el Bueno' and Mateo de Salcedo. Both troupes had been forced to work in the kingdom of Aragón since the prohibition to perform in Castile that had been promulgated the previous year was still in effect. However, this encounter led to a small quarrel because Salcedo's company had somehow obtained copies of several plays that were part of Vergara's repertoire and that they had been performing in Zaragoza and other places of Aragón. When Vergara discovered this, he reported Salcedo to the governor of Zaragoza, who issued an order by which he revoked Salcedo's license to perform in the city. Since this situation was extremely detrimental to his interests, Salcedo reached an agreement with Vergara: Salcedo signed a notarized document on 13 January 1599 in which he promised to not perform any of the plays that were part of Vergara's repertoire, except for *El hijo honrado*, which he could continue to perform with his company (maybe a concession of Vergara to Salcedo for having agreed to solve this conflict in a friendly manner). In turn, Vergara promised to withdraw the legal actions he had started against Salcedo. The interesting part of this document is that in it Vergara stated that when Salcedo had performed plays that were not his he had gone against the "prem**á**ticas" of Castile that established that "ningún autor de comedias puede representar las que otro tiene" (San Vicente 334).

What laws were these *prem**á**ticas* mentioned by Vergara? The truth is that I have been unable to find a single law passed in Castile that explicitly prohibited companies from performing plays that were part of repertoires of other troupes. No law of this nature is included, for example, in the *Novísima recopilación de las leyes de España*, which collects a majority of laws passed during the reign of Philip II. It therefore seems that this is a case of a law (or laws, since the document speaks of "prem**á**ticas", in plural) of which we do not have direct copies. The notarized document from Zaragoza is the only currently available source of information and unfortunately it offers very few details of the exact nature and content of these laws. According to Vergara's testimony, they would have represented a legal recognition that *autores de comedias* had the

exclusive right to the plays they bought since they forbid other *autores* to perform them ("ningún autor de comedias puede representar las que otro tiene"). A second aspect of these laws that we can deduce from Vergara's declaration is that they included a series of penalties for the offender, since in it he stated that Salcedo, having performed plays that were not his property, had "incurrido en las penas en dichas prem*á*ticas contenidas" (San Vicente 334). It seems probable that these penalties were of economic nature, that is, that the guilty party would have to pay a certain amount of money to the *autor* who was the owner of the texts in compensation for the loss of profit he might have suffered. This hypothesis is supported by the fact that Vergara was able to pardon the penalties established by the law once he had reached an agreement with Salcedo: "perdono, absuelvo y relajo a los dichos Mateo de Salcedo y Lope de Avendaño todas las penas en que conforme a dichas prem*á*ticas habían incurrido" (San Vicente 335). This implies that Vergara was the sole beneficiary of these "penas" and therefore had the legal right to forfeit them. This would not have been possible had the penalties affected third parties, for example, if the guilty party had been required to pay a fine to the royal treasury or the local authorities (as we will later see, this could have been another possibility).

On the other hand, it is interesting that Vergara supported his complaint by invoking a law that, due to its Castilian origin, was not effective in the city of Zaragoza, which was within the kingdom of Aragón. Vergara himself must have been well aware of this and yet he asked for these *prem*á*ticas* to be taken into consideration, as if they were legally valid in the territory of Aragón: "las cuales [prem*á*ticas] aquí quiero haber, conforme a fuero del presente reino, por debidamente puestas y especificadas, como si aquí palabra a palabra lo fuesen" (San Vicente 334). By referring to these *prem*á*ticas*, Vergara probably wanted to give more weight to his complaint when he presented it to the local authorities. They could serve as established legal doctrine in his favor, even though they were not necessarily valid in Zaragoza. Maybe he also used them as a way to pressure Salcedo into a quick and friendly agreement to put an end to this conflict, since Salcedo would also know the content of this law in Castile and would be aware that he had no legal basis to perform plays that were not his.

The reconstruction of the content of the law through this document generated by the lawsuit reveals how sometime before 1599 the authorities in Castile regulated such a fundamental issue of scenic praxis as was the protection of the companies's repertoires. It was the first time that the authorities intervened in the way theatrical texts were evaluated by their owners. The existence of

this law (or laws) is probably related to the process of the institutionalization of theater that began in the 1590s. Unfortunately, the absence of more information casts almost more shadows than light on these *premáticas*, as we know nothing of the circumstances that led to their enactment or the exact range of their content. We do not even know for sure if there really were several laws on this matter, as Vergara's words imply, since it is striking that no other document of the time mentions them. This silence leads me to believe that whatever laws were passed had little effect on seventeenth-century theatrical praxis, perhaps because companies did not really need them in order to protect their repertories: the available legal mechanisms already in place were enough for *autores de comedias* to denounce companies that were performing their plays illegally.[16]

A request from the theater lessors of Madrid

Not until 1636 do we find a second reference in the existing documents on the intervention of the authorities in the circulation of plays, although in this case we are fortunate enough to have a much more complete—and complex—testimony compared to the document of 1599. At the end of 1635 or beginning of 1636, Francisco Garro de Alegría, lessor of Madrid's theaters,[17] in his own name and in the name of other parties with interests in the matter (whose names are not given), presented a request to the "Protector de las comedias y hospitals de la corte," Gregorio López Madera (Sánchez-Arjona, 309).[18] In their petition they asked the *Protector* to prevent the *autores de comedias* from performing plays, dances and *entremeses* that belonged to the *autores* who had bought them directly from the playwrights. The reason why Madrid's theater lessors

[16] For example, in 1616 Alonso de Riquelme sued Antonio de Granados for having performed four plays by Lope de Vega that belonged to him (Ferrer Valls "Alonso de Riquelme"). The lawsuit that took place was very similar to the one between Vergara and Salcedo in 1599; however, we find no reference at all to these *premáticas* in this lawsuit.

[17] As such he is mentioned in the document, although it seems that the person who officially appeared as lessor of the theaters of Madrid between 1633 and 1637 was Juan de la Serna y Haro. Among his guarantors was Francisco Garro de Alegría, who had been lessor of the *corrales* between 1629 and 1633, and would still be connected to the renting of these theaters in the years after 1637 (Varey and Shergold, *Teatros* 111-12, 150).

[18] We have relatively little information on the life of this Spanish lawyer: see Martínez Torres and García Ballesteros. López Madera was related to the theatrical activity in Madrid for many years: in 1619 he was a member of the King's Council and "Protector de los Hospitales de la Corte" (Varey and Davis 79); he was renewed as "Protector de las comedias" on 30 November 1621, a post that he would continue to hold until the summer of 1632 (Varey and Shergold, *Teatros* 20, 62, 185-86) and that he would again hold, as we have seen, at least in 1636. He was still linked to the world of theater during 1638-1642, although by then he did not hold an official position related to theatrical activity (Varey, Shergold and Davis 14-15).

wanted to get directly involved in a matter that was generally settled among *autores de comedias* is economic: that way they guaranteed legal support for themselves on their investment. If they hired companies whose plays had already been performed by other troupes, the audience would be less interested in seeing them again, which would mean less income due to lower ticket sales. It seems that the lessors in Madrid thought that obtaining a directive from the *Protector* would act as a deterrent for theatrical piracy.

This was not the first time that somebody addressed the *Protector de las comedias* asking for his direct intervention in order to prevent practices that were detrimental to theater. When in 1620 Lope de Vega published his play *La Arcadia* in his *Parte XIII*, he dedicated it to Gregorio López Madera, who had just recently taken on the responsibility of supervising theatrical activity in Castile. In this dedication Lope expressed the wish that López Madera would make use of his new position to prevent *memoriones* from having access to the theaters and memorizing the plays that were being performed in order to then sell them to other companies:

> Espero … se dolerá de los que escriben, y que ahora tendrá remedio lo que tantas veces se ha intentado, desterrando de los teatros unos hombres que viven, se sustentan y visten de hurtar a los autores de comedias, diciendo que las toman de memoria de sólo oírlas, y que éste no es hurto, respecto de que el representante las vende al pueblo, y que se pueden valer de su memoria … Esto no es sólo en daño de los autores, por quien andan perdidos y empeñados, pero, lo que es más de sentir, de los ingenios que las escriben. (Case 55)

Despite Lope's arguments that the *memoriones*'s activities caused great harm to poets and actors, it seems that López Madera did not pay heed to this petition. Lope occupied a dominant position in the Baroque literary field, but this was not enough to convince the *Protector* to intervene in the issue of the *memoriones*.

On the other hand, when some years later it was the lessors of the theaters who presented a formal request for help, López Madera acted promptly and responded favorably to them. The economic weight that the lessors had and the social capital that this gave them were, without doubt, decisive factors that contributed to the direct intervention of the *protector* in the form of an official order:

> En la villa de Madrid, a 19 días del mes de febrero de 1636 años, vistos estos autos por el Sr. Gregorio López Madera, Caballero de la orden de Santiago y protector de las comedias y hospitales desta Corte, para remedio de los daños que resultan de que los autores de comedias representen comedias, bailes y entremeses que no son suyos propios ni los han comprado, mandaba y mandó que ahora y de aquí alante ninguno de los dichos autores ni los representantes de sus compañías puedan hacer ni representar comedia

> alguna, baile ni entremés que no sea propio del autor que los representare y los haya comprado al poeta, teniendo escrito y firmado del dicho poeta en el original de la dicha comedia, baile o entremés que lo hizo para el autor que se lo compró, y estando aprobada la comedia por el señor protector, y los bailes y entremeses por el examinador para ello nombrado, pena de 300 ducados al autor que contraviniere a lo susodicho; y a cada uno de sus compañeros que estudiare y representare las tales comedias, bailes o entremeses, 20 ducados, aplicados todos por cuartas partes a la Cámara de S.M., juez y denunciador, y el autor cuya fuere la tal comedia, baile o entremés. Y aunque las tales comedias, bailes o entremeses estén impresos con licencia, tampoco las puedan representar si no fuesen los autores que las hubiesen comprado y cuyas fuesen, hasta después de pasados ocho años desde el día de la fecha de la tal comedia, baile o entremés en adelante, so la misma pena, aplicada en la misma forma. (Sánchez-Arjona, 309)[19]

Few critics have taken an interest in this document and it has not received the attention it deserves due to its relevance.[20] López Madera's order, publicized as a result of the lessors's petition, was set up as an attempt to protect the property rights of the *autores de comedias*. However, it went beyond the mere legal sanction of the theatrical practice of the time as it also regulated matters pertaining to the use of theatrical texts. On the one hand, this order acknowledged that those who bought a play also had the exclusive rights to perform it: thus, it prohibited *autores* and actors from performing plays or short pieces that did not belong to them. On the other hand, López Madera established two requirements for companies to be able to perform. The first one was a reiteration of a practice already put in place many decades before: companies had to send the text they intended to perform to the *protector* so that it could pass preliminary censorship. The second requirement was entirely new: companies had to possess the original copy of the text they wanted to perform, which had to include the poet's signature and a declaration with the name of the *autor* who had bought it from him.

This regulation is based on the uniqueness that was inherent to the manuscript that was considered the complete and final *original*.[21] In spite of the possible existence of several copies of the same play, this order recognized the existence of only one manuscript as the original that granted its owner specific rights. Even more, this order stated that the manuscript had to include the playwright's signature, an element almost empty of textual content strictly speaking, but that triggered some of the features of the author-function described by Foucault: the association of a

[19] This document has also been published more recently by Pineda Novo (55-56). As I explain later on, we have not preserved the original order, but a copy made in Seville shortly afterwards.

[20] For some scholars who have mentioned the basic content of this document, see Iglesias Feijoo (82) and Davis and Varey (*Actividad* 1: CLXXVII-CLXXVIII).

[21] This original was usually a fair copy made either by the playwright himself or by a professional scribe from foul papers, although sometimes the original could be the rough draft itself on which the poet had been working. This is the case of many of Lope de Vega's manuscripts, most of which are working drafts that were sold directly to the companies for their performance.

text with a specific name, that of the individual who is acknowledged as responsible for it, and the connection of the text to a system of property legally sanctioned by the institutions of power. As Foucault states, "la fonction-auteur est liée au système juridique et institutionnel qui enserre, détermine, articule l'univers des discours" (17). Herein lies one of the most relevant implications of this document: for the first time, an authority in Spain tried to regulate an aspect of the professional relationship between playwrights and actors by demanding that the poets sign their works so that they could be performed. None of the rules that had been compiled until then had been concerned with this type of matter.

The implications of the requirements outlined in this document are extremely interesting. Foucault related the historical roots of the author-function with the authorities's need to be able to identify an individual who could be criminally liable, a trait that the French philosopher considered had preceded the one of literary appropriation: "Il faut remarquer que cette propriété a été historiquement seconder, par rapport à ce qu'on pourrait appeler l'appropriation pénale. Les textes, les libres, les discours ont commencé à avoir réellement des auteurs … dans la mesura où l'auteur pouvait être puni, c'est-à-dire dans la mesure où les discours pouvaient être transgressifs" (12). However, as Chartier (41) has pointed out, the development of this author-function was far more complex than the way Foucault presented it, especially in relation to the cultural and literary context of seventeenth-century Europe. In the case of López Madera's order, we see how it grants theatrical texts an authorial value through the inclusion of the poet's signature. It is true that in this case the concept of author is related to a certain legal punishment since any company that was caught performing a play whose signed original they did not own led to a severe economic sanction. Nonetheless, this penalty was not directed towards the playwright but towards the *autor de comedias* who had performed a play that was not legally his.[22] In this case, the relation of a theatrical work with a playwright—an author—was not intended to exercise an institutional control on those who wrote the plays but on those who performed them. The requirement that poets had to sign each play they sold fulfilled a different purpose: to acknowledge the property of the play precisely so that the authorities could sanction the transfer of the use of the text from the playwright to the *autor* who had bought it (and thus became the

[22] The fine for those who failed to follow the order was rather high: three hundred ducats for the *autor de comedias* who performed a play he had not bought directly from the poet, plus twenty ducats for each actor that had taken part in the performance (which could easily add up to another two hundred ducats). Towards 1636 companies would pay around seventy ducats for a new play.

sole legal owner). We cannot forget the context in which this requirement of authorial authentication emerged: López Madera's order was the result of the Madrid lessors's desire for an institutional intervention to put an end to piracy practices that harmed their business. In this sense, the author's name functioned as a guarantee of a play's property transfer from the playwright to a particular buyer.

López Madera's requirement that each manuscript that a company wished to perform had to include the poet's signature and a note stating the name of the *autor* who had bought it also permitted the establishment of a new distinction within the circulation of theatrical texts: the differentiation of the *original* from all other possible copies of the same text. Since plays, dances or *entremeses* circulated in manuscript form during the Early Modern period, the simultaneous existence of multiple copies of the same text was possible. Calderón's sacramental play *A Dios por razón de estado* is a good example: we currently know of seventeen manuscripts of this text that can be dated to the seventeenth and eighteenth centuries, as the *Manos Teatrales* database shows (Greer, *Manos*). According to this order, once a poet signed the manuscript he was selling to a company, this copy became *de facto* the *original*, that is, the definitive version of the text that passed to the actors's hands.

Finally, in his order López Madera also dealt with the use of printed theatrical works for performances. Any company could add them to their repertories since they were available to whoever was willing to pay the price of a volume of plays. Why did the *protector* include a rule on this matter, banning the use of recently published texts, which does not seem to be directly related to the piracy problem that interested the lessors? The reason lies in the date the order was publicized: the beginning of 1636. This would in fact be a preemptive measure towards a practice—performing printed texts—that could very well begin to spread among companies due to the number of plays that had recently been published. The main consequence of the lifting in 1634 of the ban of publishing plays and novels in Castile (which had been in force since 1625 as a result of the recommendations from the *Junta de la Reformación*) had been a frenetic editorial activity carried out by several playwrights. Seven volumes of plays by different poets were published by presses in Madrid between the end of 1634 and during 1635, which meant eighty-four plays were publicly available.[23] López Madera probably thought that companies might be

[23] Juan Ruiz de Alarcón's *Segunda parte* of plays appeared in 1634; volumes *III*, *II* and *IV* of Tirso de Molina's plays were published in 1634 and 1635; Lope's volumes *XXI* and *XXII* were published in 1635 (and he had obtained a license to publish a third volume of plays that never saw the light of day); the *Primera parte* of Juan Pérez de

tempted to use printed plays of playwrights as renowned as Lope, Calderón or Tirso in order to increase their repertories without having to pay for the original manuscripts of the plays, and thus decided to also regulate this possibility.

The decision of the *protector* was to insist that the *autores de comedias* could perform only those plays that they had originally bought from the playwrights: "Y aunque las tales comedias, bailes o entremeses estén impresos con licencia, tampoco las puedan representar si no fuesen los autores que las hubiesen comprado y cuyas fuesen" (Sánchez-Arjona, 309). At the same time, López Madera also established a time frame—eight years—after which a printed play could be performed by any company that wished to do so. In this way, the order tried to fill a legal vacuum. The property rights of published plays were regulated by the printing privileges granted by the king to the publishers, but these patents only regulated the publishing of plays and did not take into consideration the performative use of these texts. This is why López Madera could dictate that eight years after a play had initially been published it could be performed by any company, even though printing privileges were usually valid for ten years. So, theoretically, during a two-year period no one could reprint an already published play, but anyone could perform it according to López Madera's order: a legal inconsistency that points out the dual condition of plays as literary texts and performative texts.

The first question we must ask ourselves is up to what point López Madera's order was effective in the context of seventeenth-century scenic praxis. We know, for example, that on 4 March 1636, just two weeks after it had been publicized in Madrid, a copy was made by order of "don Juan de la Calle, Juez de la Audiencia de Grados de Sevilla, para que si algún autor de comedias se quejase ante él, pudiese, sin emplear ejecutoria, proceder a la cobranza de las mencionadas condenas" (Pineda Novo 55-56). The interest of this judge from Seville to have a copy of López Madera's instructions seems to be related to a desire to speed up procedures, especially in order to be able to impose and collect the fine if an infraction was detected. In other words, the object of collecting money was more important than actually protecting the *autores*'s rights and repertories. This copy also proves that López Madera's order was taken into account at least by the local authorities in Seville. We also know that one *autor de comedias* mentioned this order to support his intention of preventing other companies from performing plays that belonged

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Montalbán's plays was also published in 1635, and in 1636 the *Primera parte* of plays by Calderón de la Barca and Tirso's *Quinta parte* would be published.

to him. Sometime in 1637 Tomás Fernández Cabredo sent a power of attorney to a merchant in Seville to ensure that the troupes that visited the city would not perform any of his plays. Together with this power of attorney there was a document that stated that it was in accordance with López Madera's order and which gave a detailed list (with over fifty entries) of all the plays, dances and *entremeses* that Fernández Cabredo had not yet performed in Seville (Ferrer Valls "Tomás Fernández Cabredo"). The fact that López Madera's order was quite recent and that the authorities in Seville were well aware of its content and Fernández Cabredo's interest in protecting his repertories's novelty for the audience in Seville were probably the main reasons why he mentioned the existing order when sending this power of attorney.

In spite of this evidence that López Madera's order was taken into consideration shortly after it was publicized, the truth is that it did not alter the dynamics of theatrical practice, either in Madrid or in other cities. We have no proof that after its enactment playwrights began to systematically sign the manuscripts they sold and indicate what *autor de comedias* was buying them, as required by López Madera. This practice is documented since the end of the sixteenth century, but it was always something sporadic. For example, we have preserved more than thirty of Lope's manuscripts, but only one, that of *El maestro de danzar*, has an annotation indicating the company he wrote that play for (Presotto 182).[24] In this sense, López Madera's order did not involve many changes. We do not find that after 1636 all playwrights always signed their manuscripts and indicated who they sold them to, since we have manuscripts both with and without this information. A search in the *Manos Teatrales* database shows that when Calderón finished his play *El secreto a voces* in 1642, he wrote on the front page that it was written "para Antonio de Prado" (Greer, *Manos*). However, in the case of *La desdicha de la voz*, which this same playwright wrote in 1639, there is no indication as to what company bought it, and we know that it was used for at least two different performances that same year.[25] The inconsistency we find in the works of the same playwright point out that the decision to include or not include

[24] The preserved manuscript is an eighteenth-century copy of Lope's original. In the annotation Lope stated that he finished the play in 1594 for Melchor de Villaba.

[25] Other examples taken from *Manos Teatrales* confirm the complete absence of systematization: the autograph manuscript of *La honra vive en los muertos*, by Juan de Zabaleta, includes the note "Escribiose para Pedro Ascanio, año de 1643" on the first page, whereas the autograph of *Nuestra Señora de Atocha y Segundo Jepté*, by Rojas Zorrilla, ends with this note by the playwright: "Acabada en Madrid a 11 de febrero de 1639 años, para Antonio de Rueda, autor de comedias" (Greer, *Manos*). However, at the same time we have other manuscripts from similar dates, such as *Celos, industria y amor*, by Cristóbal de Monroy y Silva, or *Los Condes de Montalbo*, by Roque Francisco Romero, which do not include this type of information.

the name of the *autor* who bought a play remained the poet's prerogative or depended on the particular circumstances of the sale. Regarding the part of the order related to the performance of printed plays, the truth is that we cannot document that prior to 1636 any company had performed an already published play. Even the avalanche of plays printed in 1634-1635 did not change this, as we also do not have any news from the 1640s concerning companies that performed printed plays. Actors probably had little interest in putting on stage plays that had been published, since they were available to everyone and they would not be extremely profitable as the audience would have almost certainly have seen them.

The fact that we find hardly any references to this order in more seventeenth-century documents suggests that either it was poorly implemented and quickly forgotten, or that companies found no real use for it. In practice, López Madera's order was too restrictive for the mechanisms of textual circulation that were at work in Early Modern theater. Since *autores de comedias* could sell copies of the plays they owned to fellow actors so that they could then perform the plays with their own companies, a troupe did not always possess the signed original manuscript of a play they were entitled to put on the stage.[26] The signature requirement would also be problematic in the case of collaborative plays, which started to become popular precisely in the 1630s (Alviti 15). Would one signature be enough to comply with López Madera's order? Or would all two, three or even eight poets have to sign the manuscript? In other words, this order was directed to fight a phenomenon—piracy among companies—that was already regulated within theatrical praxis through the lawsuits companies could start against those who performed plays that they did not own. At the most, López Madera's order ratified some of the practices already in existence, and those novelties it tried to introduce did not modify the conditions surrounding the circulation of texts among playwrights and actors.

In short, the peculiar balance between the profession's internal regulations and the institutional control that characterized theater in the Early Modern period worked in an unusual way in the case of the possession and circulation of theatrical texts. The fact that manuscripts were the core of commercial drama and that they were bought and sold as commodities, led from the beginning to the development of well-defined dynamics as to how companies bought,

[26] The manuscript of the play entitled *San Carlos* is a copy sold by Andrés de la Vega to Bartolomé Romero, at the end of which we find a note in de la Vega's hand that states that the copy belonged to Romero, whereas he kept the *original*, which included a license to perform issued by López Madera himself (Paz y Melia 1: 494). This is actually a rare case, as most existing copies do not include explicit information on the sale of the manuscript between companies.

protected and put into use plays, dances or *entremeses*. The authorities, more interested in the consequences of theatrical activity as a performative act, paid relatively little attention to the way the play's property and possession rights were generated. The two documented cases when this did happen were based almost entirely on established practices and the proposed modifications never caught on. The market and the profession itself were in this case more efficient than the institutions: a sign of the modernity of Spanish Baroque theater, based on the revolutionary transformation of plays into "mercaderías vendibles."

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