

*Don Quixote:*  
Interdisciplinary Connections

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On the cover: Santiago Moix "*Señores*" said *Don Quixote*, "*let us go slowly, for there are no birds today in yesterday's nests*" (*Don Quixote* series, hand colored), 2008, Drypoint with hand-coloring, Paper Size: 19 1/2 x 25 inches, Image Size: 14 7/8 x 20 7/8 inches, Edition of 5. Courtesy the artist and Pace Prints.

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## Love and Contracts in *Don Quixote*

MARTHA ERTMAN

VIEWING LOVE AS A contract seems, initially, like mistaking windmills for giants, or a peasant girl for a grand lady. This paper seeks, like *Don Quixote*, to convince you to suspend your practiced views of everyday relationships in order to see them in a new light. What seems crazy at first glance may come to look as good, and sometimes better, than the more conventional view. As a law professor, I usually write about love and contracts by focusing on legal opinions and statutes, and recently I have added real-life stories from books and newspapers, as well as my friends, family, colleagues, and students.<sup>1</sup> But if I am right that love and contracts often complement instead of oppose each other, then my argument that contracts shape the beginning, middle, and demise of love relationships ought to hold true in fiction as well, especially for the jump-off-the-page characters and situations in *Don Quixote*. Applying this analysis to *Don Quixote* invites new readings, and may even bring yet more readers to this brilliant text.

Three stories from the novel illustrate some intersections between love and contracts. Together, they show that while Cervantes may not have used the word “contract” to describe intimate, reciprocal bonds in romance, friendship, and marriage, he wrote each story presuming that readers would already see love relationships as voluntary, mutual exchanges, which, when breached, give rise to damages. The three scenes mirror the three key stages of a contractual relationship: forma-

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1 Martha M. Ertman, *Love & Contracts: The HEART of the Deal* (manuscript copy on file with the author).

tion of the contract, its breach, and, finally, calculation of the damage caused by the breach. The first two passages concern formation, and the last addresses all three elements of formation, breach, and damages:

Don Quixote forms a chivalric knight/lady bond with the peasant girl Aldonza Lorenzo, rechristening her Dulcinea del Toboso, apparently without as much as speaking with her (Cervantes 1.1.23-24);

After the beautiful and monied shepherdess Marcela rebuffs a young gentleman, Grisóstomo, and he dies of unrequited love, Marcela successfully defends herself against her community's charge of murder by arguing that she does not have to love him just because he loves her (1.12.83-102); and

In the novel-within-a-novel, *The Man Who Was Recklessly Curious*, Anselmo and Lotario, famous for their great friendship, agree that Lotario will court Anselmo's wife Camila to prove her fidelity, which brings about a breach in both marriage and friendship vows as well as fatal damages to all three of them. (1.33.272-312)

Like commercial contracts, these agreements are tailored to the desires of the people involved.

In the first passage, Don Quixote forms a love contract—governed by the rules of courtly love—with the newly christened Dulcinea. The story—and the “contract”—establish Don Quixote as a ridiculously idealistic protagonist, by having formed a love bond with a woman he seems never to have met, then adding to the lopsidedness by giving her a name that is the very antithesis—“lady sweetness”—of a rough, illiterate peasant girl. A love relationship, like a contract, requires reciprocity, and Cervantes's use of Don Quixote's entirely delusional, one-sided courtly love deal with Dulcinea as the catalyst for all of his eccentric actions from then on, make humor and logical impossibility the very foundations of the text. The second passage, in contrast, makes a seemingly serious argument about marriage that likely resonated with readers' experiences with changes in the contractual nature of marriage

in sixteenth-century Spain. Cervantes gives the rich and beautiful Marcela a platform to defend her right to remain single, although her uncle and innumerable suitors, including Grisóstomo, excoriate her as “cruel,” “heartless,” and even a “savage basilisk” (1.13.93; 1.14.98). She asserts her right to choose a mate—or no mate—declaring, “I am free and do not care to submit to another” (1.14.100). While the passage concludes with an equivocal affirmation of Marcela’s independence, her extended, logical monologue, paired with Don Quixote’s support for her position, seems to support the then-growing trend toward women’s ability to exercise choice in picking a mate. The third and final passage, a novella about Anselmo’s reckless curiosity, entwines marriage contracts with ancient practices of men cultivating relationships with one another by exchanging women. Here, Anselmo and Lotario agree that Lotario will court Camila to prove Camila’s fidelity. Anselmo breaches his marriage vows to Camila by setting up the deal, and when Camila and Lotario become lovers, she breaches her marriage contract, and Lotario breaches his promise to Anselmo. The story ends by reciting the damages caused by these three breaches: all three die. A key to reading these passages, I think, is recognizing how mutual exchanges can shape intimate relationships. It shows that, despite our common view that love and contracts are opposites, readers across the centuries must have seen the love as at least partly contractual in order to laugh and learn from these stories.

#### CONTRACT LAW 101

A contractual reading of these stories must begin by setting out two basic tenets about contract law. First, as my students learn on the first day of law school, the term “contract” is a term of art that lawyers use to describe the kind of agreement courts enforce (American Law Institute § 1). You “contract” to rent an apartment, which means that when you do not pay, the landlord can sue you. But courts will not enforce some agreements, like an agreement to pay your rent in sexual favors (American Law Institute § 178). But as any person who is not a lawyer knows, the law is not everything. Every day, in every country, city, and town, people make agreements knowing they are not legally binding, from making out to “compensate” your date’s paying for dinner to get-

ting engaged.<sup>2</sup> But these agreements, which are, like contracts, voluntary exchanges, still shape our lives. In my book *Love & Contracts*, I distinguish between legally binding contracts and nonbinding agreements by calling the unenforceable agreements—like engagement—“deals.” Both contracts and deals shape our love relationships. At the outset, people dating enter contracts with Match.com, restaurants, theaters, and, if it all works out, moving companies, landlords, and wedding planners. All these contracts help make two people an “us.” Deals matter too, like cooking for a date to “repay” him for taking you out to dinner, or, much later, agreeing that one will do the cooking and the other the laundry. These contracts and deals pile up, day in and day out, shaping our family lives.

Second, you need to know that there are three steps to winning a lawsuit for breach of contract. If, say, you do not pay your rent, your landlord must show a court that (1) you formed a lease contract; (2) you breached the contract; and (3) the breach caused the landlord harm (usually, lost money). If your landlord establishes all three, the court orders you to pay up, and if you do not, the sheriff can seize your couch, car, or other property to pay the landlord what he or she is owed. This logic holds true for deals as well as contracts, though, of course, the people involved resolve their dispute informally instead of taking it to court.

#### LOVE & CONTRACTS 101

But what does all this have to do with love? Consider my research assistant’s parents. They formed a deal that he mowed the lawn in exchange for her cleaning the house. When he developed an allergy to grass, she half-jokingly refused to take over the lawn unless he took on something she did. They agreed to what lawyers call a “modification,” that he would vacuum if she would start mowing the lawn. No courts were involved, nor ever intended. But my research assistant’s parents clearly formed a deal, maybe through actions as much as words, which he breached by stopping mowing. As in a business deal, this unexpect-

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2 See Lithwick and Goldstein.

ed event led them to modify the deal. This kind of deal proliferates through all of our personal lives.

Other deals are bigger, like the classic agreement “if we sleep together, we’ll have to get married,” which bound many in my parents’ generation, and still resonated strongly enough in the 1970s to make Meat Loaf’s song “Paradise by the Dashboard Light” a party favorite. In 2008, Michelle Obama bargained with Barack Obama and his campaign staff to exchange concrete promises of his continued engagement in soccer games and family dinners for her support for his candidacy (Case 259; Heilemann and Halperin 66-68). Like many couples, they had agreed to swap homemaking by one spouse for wage work by the other. As Obama recounts in his memoir, Michelle invoked his breach of this deal early in their marriage by complaining, “[Y]ou’re gone all the time *and* we’re broke? . . . How is that a good deal?” (Case 258). Ordinary mortals strike more specific deals, like the following real-life examples:

A wife agrees to sleep with her husband after dinner in exchange for his doing the dishes;

A dad agrees to participate in his son’s bar mitzvah if the mom agrees to get a third basset hound;

A woman agrees to move to Dayton, where her boyfriend works, if he proposes;

One parent drops the kid off at school, and the other picks him up;

An elderly widower tells his daughter, “If you move home and take care of me, you can have the house”;

A Chinese American wife and her Jewish husband swap raising the kids Jewish for enrolling them in Mandarin classes;

A woman who half-knows her boyfriend is dating around exchanges silence for a standing Saturday night date;

A seven-year-old swaps ten minutes of piano practice every day for a week for the DVD of *Harry Potter and the Deadly Hollows: Part II*.<sup>3</sup>

If I am right that deals like these shape our relationships, then you should be thinking of deals and contracts in your own family.

Some of these agreements used to be legally enforceable—breach of promise to marry cases clogged US courthouse dockets in the nineteenth century (Larson 383-84)—but today, they mostly play out in the shadow of the law. They are not negotiated by lawyers (unless the people themselves are lawyers, like the Obamas), and no one expects them to end up in court. But legal concepts of voluntary, mutual exchange permeate them nevertheless. Likewise, the law seems to hover in the background of Cervantes's stories of love and contracts in *Don Quixote*.

#### LOVE AND CONTRACTS IN DON QUIXOTE

The law was in flux in early modern Spain as Cervantes wrote *Don Quixote* and the first generations of readers engaged the novel (González Echevarría xvi-xvii). The sixteenth and early seventeenth centuries ushered in an increasingly centralized and organized judiciary and police presence to Spain, which increased legal enforcement mechanisms. Cervantes himself was imprisoned in Seville in 1597 and 1602, a fact to which he alludes in the prologue by describing his great book, “the child of my understanding,” as “dry, withered, capricious, and filled with inconstant thoughts,” as would be expected from “a person begotten in a prison, where every discomfort has its place and every mournful sound makes its home” (I.Prologue.3). In the very first paragraph of the novel, Cervantes situates his book as the product of law, for only law could land him in jail, where he apparently gestated his great story.

The changes to the law governing marriage are particularly influential in the three passages we examine here. The Council of Trent (1545-63) changed marriage conventions and laws in Spain and all over

3 Friends, family, colleagues, and a woman I met on a plane told me about these deals. Others are from Banks; Chua; and Szuchman and Anderson.



Europe by requiring for the first time that a priest officiate at a wedding for it to be legitimate. Before then, two people could privately agree to marry, forming what were called informal or clandestine marriages (Carrión xiii). In contractual terms, one could say that, prior to 1563, mere consent was enough to form a marriage contract. After the Council of Trent, marriage became more of a status, created only by one who had priestly status to convey those rights and obligations.

But the proportions of status and contract in marriage are extraordinarily hard to measure with any precision. At the very same time that priestly involvement made marriage less a matter of private contract, marriage also became more contractual during the sixteenth century as people, bit by bit, attained the right to choose their own spouses. Prior to that, families often arranged marriages for their children, making the marriage contract as much a contract between families as between the two people getting married. However, people's freedom to marry whom they chose came slowly, and was hardly self-evident during the sixteenth century. Even though canon law condemned coercion in selecting a spouse, as late as 1812 the Constitutions of Cádiz protected parents' right to arrange their children's marriage (Carrión xiv). When Cervantes wrote *Don Quixote*, and as the first generations of readers engaged the book, both author and readers likely had encountered some of the many sermons, marriage manuals, and treatises debating the issue of exercise of free will in choosing one's mate, especially when opposed by economic, social, and political pressures (Carrión xiv).

The three passages explored here implicate those legal changes, especially the then-new idea that a woman could choose her mate, or even choose to remain single and independent. With humor and gravity in turn, Cervantes contributed to the discourse of his time about the limits, and price, of contractual freedom in love relationships.

#### A. DON QUIXOTE AND DULCINEA ENTER INTO A COURTLY LOVE DEAL

The first story introduces us to the hero Don Quixote in all his anachronistic, idealistic, and delusional glory by having him enter a one-sided love relationship with a virtual stranger, elevating her from peasant

to lady into the bargain. His exceedingly short courtship of the woman he dubs Dulcinea is itself so short that we can quote it in its entirety:

Having cleaned his armor and made a full helmet out of a simple headpiece, and having given a name to his horse and decided on one for himself, he realized that the only thing left for him to do was to find a lady to love; for the knight errant without a lady-love was a tree without leaves or fruit, a body without a soul. He said to himself:

“If I, because of my evil sins, or my good fortune, meet with a giant somewhere, as ordinarily befalls knights errant, and I unseat him with a single blow, or cut his body in half, or, in short, conquer and defeat him, would it not be good to have someone to whom I could send him so that he might enter and fall to his knees before my sweet lady, and say in the humble voice of surrender: ‘I, lady, am the giant Caraculiambro, lord of the island of Malindrania, defeated in single combat by the never sufficiently praised knight Don Quixote of La Mancha, who commanded me to appear before your ladyship, so that your highness might dispose of me as you choose?’”

Oh, how pleased our good knight was when he had made this speech, and even more pleased when he discovered the one he could call his lady! It is believed that in a nearby village there was a very attractive peasant girl with whom he had once been in love, although she, apparently, never knew or noticed. Her name was Aldonza Lorenzo, and he thought it was a good idea to call her the lady of his thoughts, and, searching for a name that would not differ significantly from his and would suggest and imply that of a princess and great lady, he decided to call her *Dulcinea of Toboso*, because she came from Toboso, a name, to his mind, that was musical and beautiful and filled with significance, as were all the others he had given to himself and everything pertaining to him. (1.1.23-24)

While they don't marry—they may never have met—Don Quixote does give Aldonza Lorenzo a name that he has devised. The joke romance is conveyed in part through the double meaning of the name that Don Quixote assigns Aldonza. Her name is his because he makes it up for her, and also because her new name, like his, is made up of a new name and a place of origin, a template that would not differ significantly from his.

The passage is only funny—and ridiculously delusional—if we expect relationships between lovers to be reciprocal. Contracts, by definition, are voluntary, reciprocal agreements. They require that one person offer something and the other accept it, for example, when I offer to sell you my bike for \$500 and you agree to buy it. But Don Quixote never makes an offer of love to Aldonza Lorenzo. Even if he had, there is good reason to expect that this “very attractive” peasant, young enough to be called a “girl,” might well spurn the advances of a delusional 50-year-old man with a weathered complexion, and flesh both scrawny and gaunt. He does not even have wealth to offer her (1.1.19).<sup>4</sup> Having never received an offer, of course she does not accept, so there is no agreement. But Don Quixote single-handedly transforms the usual two-way relationship into a one-sided monologue. Rather than falling in love with a person, as would happen in real life, Don Quixote falls for a virtual stranger, and then amplifies the fiction by giving her a name that describes her very opposite. He is in love with a woman he does not know, who does not know of this love, and does not even know her new name. Thus we come to know and like Don Quixote in all his wackiness.

This one-way pseudo love agreement conveys a message we get elsewhere in the novel: that the life of the imagination may be more real than we think, and better than mundane reality. Dulcinea's utter ignorance of Don Quixote's service does not keep him from invoking her protection in his battle with the muledriver, in which he prevails (1.3.32). Unfortunately for Don Quixote, however, the mere thought of her is not enough for him to vanquish the windmills (1.8.59). Like

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4 According to Edith Grossman, Don Quixote's clothing and dining habits peg him as rural gentry in reduced circumstances (191). However, González Echevarría suggests that Aldonza's parents would have thought Don Quixote a catch (41-42).

Don Quixote coaxing a woman he has never met to accompany him on the ups and downs of his imaginary journey, Cervantes invites us into a one-way relationship between author and reader in which he shares the depths of his brilliance, idealism, humor, and wisdom. Granted, we do buy the book and benefit the memory of Cervantes in collections like this one. Moreover, unlike Dulcinea, who has no choice in the matter, we choose to pick up and hold the big book, accepting Cervantes's offer to follow Don Quixote in his adventures. Like Sancho Panza, we get the pleasure of suspending our disbelief for a short while, imagining a world like the one Cervantes paints, where fact and fiction continually blur, as when Sancho finally gets to govern the island Don Quixote promised him as payment for his squirely services. Moreover Sancho, like the duke, duchess, Knight of the White Moon, other characters, and the reader, comes to believe, along with Don Quixote—and Cervantes—that imagination may play a bigger, and better, role in our real lives than we realize.

Those insights hold true to this day. *Don Quixote* continues to offer belly laughs and insights fully four hundred years after Cervantes penned these words because he managed to capture some of the ridiculousness and seriousness of love and life everywhere, for everyone. Three hundred years after Cervantes published *Don Quixote*, Virginia Woolf spoke to the continued pattern of women serving as mirrors for men to gaze on enlarged versions of themselves: “Women have served all these centuries as looking-glasses possessing the magic and delicious power of reflecting the figure of man at twice its natural size” (38). Roberto González Echevarría echoes this view by describing Dulcinea as “a projection of Don Quixote’s own quest for self, an image of his own buried longings” (47). As a character, she exists only to reflect Don Quixote’s delusion, at twice its natural size, by magnifying his lunacy through their unilateral love pact.

Great literature, of course, delivers more than one message. The second passage, about the nonformation of another love contract, builds on the funny story of Don Quixote and Dulcinea’s nonconsensual relationship by exploring the much more serious question of whether Dulcinea would have had the power to refuse Don Quixote’s offer of love, had he made it to her.

B. MARCELA SUCCESSFULLY REFUTES CLAIM THAT SHE SHOULD HAVE ACCEPTED GRISTÓSTOMO'S OFFER OF LOVE

Sixty pages after the story of Don Quixote selecting and naming Dulcinea, Cervantes revisits the question of one-sided love affairs. Here, even more than in the pseudo deal between Don Quixote and Dulcinea, law structures the narrative. Don Quixote first hears about the alluring Marcela from Pedro, a young man who tells him:

This morning the famous student shepherd named Gristóstomo died, and they say he died of love for that accursed girl Marcela, the daughter of Guillermo, the rich man, the same girl who dresses up like a shepherdess and wanders around the wild, empty places. (1.12.81)

We learn that both Marcela and Gristóstomo were just playing at being shepherds, since he was a student from Salamanca, “very learned and well-read,” while she, “a very rich girl,” had inherited her parents’ money and been raised by her uncle (1.12.82-83). By the time she was a teenager, “no man could look at her and not bless God for making her so beautiful, and most fell madly in love with her” (1.12.83-84). Marcela’s uncle let her choose among her many suitors, Pedro reports approvingly, because he believed, rightly, that “parents shouldn’t force their children into marriage against their will” (1.12.84). But Marcela refused them all, opting instead to don shepherdess’s garb and “go out to the countryside with the other shepherdesses and to watch over her own flock” (1.12.84). Her beauty so entranced the local men that “rich young men, nobleman and farmers, began to dress up like Gristóstomo and to court her in these fields” (1.12.84). She refused all of them, apparently leading Gristóstomo to kill himself.

The locals blame Marcela for Gristóstomo’s death, deriding her as “cruel and ungrateful,” and stand watch to see which of the men will finally triumph over the “beautiful Marcela, free and self-assured” (1.12.85). As they further discuss the case, the accusations turn much more serious, denouncing Marcela as “the murderous shepherdess” (1.13.87). When Marcela shows up at Gristóstomo’s funeral, one of the men accuses her directly, asking, “Do you come, O savage basilisk of

these mountains, to see if with your presence blood spurts from the wounds of this wretched man whose life was taken by your cruelty?” (1.14.98), referring to the medieval legend that a victim’s wounds reopened in the killer’s presence (Grossman 98n1).

By charging Marcela with murder, the men invoke the law’s power to punish her. “Murder,” like “contract,” is a legal term of art. Just as only agreements that meet the definition of “contract” are legally binding, the law punishes only those killings that fit the definition of murder (or a lesser crime, like manslaughter). While the definition of murder changes from place to place and over time, one traditional definition of murder is unlawful killing with malice aforethought (Garner 1114). Marcela delivers a lawyerly two-and-a-half page defense, effectively arguing that she is not liable for murder because she had no malice for Gristóstomo or any of the other suitors. Her central claim is that she had no obligation to accept Gristóstomo’s offer of love. Like a lawyer arguing to a jury, she begins by presenting an overview of her defense:

I return here on my own behalf to explain how unreasonable are those who in their grief blame me for the death of Gristóstomo, and so I beg all those present to hear me, for there will be no need to spend much time or waste many words to persuade discerning men of truth. Heaven made me, as all of you say, so beautiful that you cannot resist my beauty and are compelled to love me, and because of the love you show me, you claim that I am obliged to love you in return. . . . I cannot grasp why, simply because it is loved, the thing loved for its beauty is obliged to love the one who loves it. (1.14.98-99)

She then adeptly switches from her focus on a “thing” that is loved, to a person, herself, first asserting an autonomy that must have been startling to early seventeenth-century readers, and then cleverly turning the tables on her accusers by asking if she has the right to demand love from everyone:

true love is not divided and must be voluntary, not forced. If this is true, as I believe it is, why do you want to force me to surrender my

will, obliged to do so simply because you say you love me? But if this is not true, then tell me: if the heaven that made me beautiful had made me ugly instead, would it be fair for me to complain that none of you loved me? (1.14.99)

Next, Marcela directly refutes the murder charge by claiming that nature, or Gristóstomo himself, caused his death. As lawyers often do, she presents alternative arguments from which her listeners (and readers) can choose, including an analogy that puts the blame on nature, and another that puts it on Gristóstomo's "impatience and rash desire" (1.14.100):

you must consider that I did not choose the beauty I have, and, such as it is, heaven gave it to me freely, without my requesting or choosing it. And just as the viper does not deserve to be blamed for its venom, although it kills, since it was given the venom by nature, I do not deserve to be reproved for being beautiful, for beauty in the chaste woman is like a distant fire or sharp-edged sword: they do not burn or cut the person who does not approach them. . . . Why should a woman, loved for being beautiful, lose that virtue in order to satisfy the desire of a man who, for the sake of his pleasure, attempts with all of his might and main to have her lose it? (1.14.99)

Marcela continues her defense by reminding her accusers that they bear the burden of proof, and must produce evidence of some wrongdoing by her, like breaching a promise to Gristóstomo, before the law can punish her:

Let the one I deceived complain, let the man despair to whom I did not grant a hope I had promised, or speak if I called to him, or boast if I accepted him; but no man can call me cruel or a murderer if I do not promise, deceive, call to, or accept him. (1.14.100)

In the same vein, she contends that the suitors could have avoided their losses by simply avoiding her:

Let him who calls me savage basilisk avoid me as he would something harmful and evil; let him who calls me ungrateful, not serve me, unapproachable, not approach me, cruel, not follow me; let him not seek me out, serve, approach or follow in any way this savage, ungrateful, cruel, unapproachable basilisk. For if his impatience and rash desire killed Gristóstomo, why should my virtuous behavior and reserve be blamed? (1.14.100)

Finally, Marcela rests her case by returning to her initial claim of personal autonomy, giving voice to an argument that prefigures Virginia Woolf's early twentieth-century assertion that a woman needs money of her own and "a room with a lock on the door" (115): "As you know, I have wealth of my own and do not desire anyone else's; I am free and do not care to submit to another" (1.14.100).

Rather than waiting to hear the men's response to her speech, Marcela underlines its substance with her actions by turning on her heel and leaving. Cervantes describes the men as impressed, if not convinced, by her argument. But some, "pierced by the powerful arrow of the light in her beautiful eyes," so missed her point that they wanted to follow her into the woods (1.14.101). But Don Quixote did not. He dissuaded them, declaring:

Let no person, whatever his circumstance or condition, dare to follow the beautiful Marcela lest he fall victim to my fury and outrage. She has shown with clear and sufficient reasons that she bears little or no blame for the death of Gristóstomo, and she has also shown how far she is from acquiescing to the desires of any who love her, and therefore it is just that rather than being followed and persecuted, she should be honored and esteemed by all good people in the world, for she has shown herself to be the only woman in it who lives with so virtuous a desire. (1.14.101)

In the dialogue between Marcela, her accusers, and Don Quixote, it is difficult to determine which position Cervantes adopts. But Marcela's long, eloquent, and logical speech, coupled with Don Quixote's siding with her, suggests that Cervantes's formidable imagination may



have extended centuries into the future, foretelling seismic changes in gender politics. However, the text can also be read to condemn Marcela. Cervantes gives the last word to the accusers, via Gristóstomo's epitaph:

Here lies the sad cold  
body of a lover,  
a shepherd destroyed  
by an icy heart.  
The pitiless hand killed him,  
extending the power  
of love's tyranny. (1.14.101)

Ultimately, the text leaves open the possibility of female autonomy. The artist Santi Moix, whose drawings from *Don Quixote* have recently brought Cervantes's genius to new audiences, reminds us that great art is "ever-young and never docile" ("Paul Kasmin Gallery"), which both allows us to entertain the possibility that Cervantes prefigured centuries of social and political thought and prevents us from holding him firmly to any political position. All we know for sure is that Marcela gets the stage for several pages to argue that women are people whose consent is necessary to finalize a love deal, not things to be bought off a shelf, and that Cervantes has not presented her position as comedic or insane. The third and final contract-related passage becomes more serious yet in revisiting this issue of whether men may treat women as objects of exchange.

#### C. ANSELMO, LOTARIO, AND CAMILA CREATE AND BREACH FRIENDSHIP AND MARRIAGE DEALS

Cervantes's novel within a novel tells the story of a marriage contract within a friendship contract. In *The Man Who Was Recklessly Curious*, the primary relationship is the friendship between Anselmo and Lotario, who are widely known as "the two friends" (1.33.272). When Anselmo marries Camila, seemingly to maintain the intimacy of that friendship as well as prove Camila's virtue, Anselmo gets Lotario to promise to court her. Lotario's courtship is so smooth—making his

moniker shorthand for seduction itself to this day—that Camila succumbs and they become lovers. That breach of both marriage and friendship deals results in the ultimate damage, for all three lie dead by the end of the tale.

According to anthropologists like Claude Lévi-Strauss and Gail Rubin, kinship has long been structured around exchanges between men, especially the exchange of women (Lévi-Strauss; Rubin). That pattern survives to this day, despite modern laws and customs that have elevated women from things to human beings. At marriage, most American women still give up their “maiden name,” generally their father’s, to take their husband’s name. A good number of weddings similarly feature a reenactment of the exchange of a woman between father and husband when fathers walk their daughters down the aisle to give them away, as it is put, at the altar. These ancient patterns were just beginning to change in early modern Spain, a process that took centuries and may not yet be complete.

Cervantes’s story *The Man Who Was Recklessly Curious* may well have played a role in that gradual progression away from marriage as exchange between men and toward marriage as consensual contract between men and women. While all three characters pay with their lives for the breach of both friendship and marriage deals, the narrative suggests Anselmo may be most at fault by starting it all with his treatment of Camila as an object of exchange.

The story adopts the framework of a deal from the outset, describing Anselmo and Lotario’s relationship as “a mutual, reciprocal friendship” in which the friends took turns doing each one’s favorite pastimes, which worked as smoothly as a well-adjusted clock (1.33.272). Their friendship took such precedence that Anselmo needed Lotario’s assent, and skills as an intermediary, in order to marry the “distinguished and beautiful” Camila (1.33.272-73). Anselmo acts as if his friend is a person, and his wife is a thing. When he marries Camila, he finds himself “in possession of what he desired,” and he tells Lotario that Camila had “no wish or desire other than what he wanted her to have” (1.33.272-73). But Lotario treats the marriage as a relationship rather than a property acquisition, and keeps his distance from Anselmo and Camilla’s household since, he reasons, “one should not visit

or linger at the houses of married friends as if both were still single” (1.33.273).

Anselmo wants to have deals, marriage, and the old intimate friendship. The two friends argue back and forth, Anselmo entreating Lotario to resume their old intimacy, and Lotario resisting. Finally, Anselmo succeeds in reeling Lotario back in through an agreement by which Lotario will court Camila to prove her virtue to Anselmo’s satisfaction. Like any contract, it starts with an offer. Anselmo tells Lotario that he is miserable because Camila may not be “as good and perfect” as he thinks, since her virtue has never been tempted:

my desire is for Camila, my wife, to pass through these difficulties, and be refined and prove her value in the fire of being wooed and courted by one worthy of desiring her; and if she emerges, as I believe she will, triumphant from this battle, I shall deem my good fortune unparalleled. (1.33.275)

Lotario refuses, and the two again go back and forth, comparing Camila to valuable and luxurious objects of trade like diamonds, ermine, and mirrors (1.33.279-80). Lotario tries, unsuccessfully, to argue Anselmo out of the deal, first in religious terms, reminding him that marriage is a sacrament, then in economic language, contending that the costs of the deal would greatly outweigh any benefit (1.33.282). Finally, they agree that Lotario will woo Camila “indifferently and falsely,” and that Anselmo will be content with that modest beginning (1.33.283).

But lukewarm courting does not satisfy Anselmo’s curiosity. Anselmo insists that Lotario court Camila aggressively, and Lotario obliges and falls in love with Camila as he spends so much time with her and appreciates her dogged resistance to his advances. Anselmo even puts Camila in a catch-22 situation when she tries to get away from Lotario, ordering her to remain, so that she cannot safeguard her virtue without disobeying her husband. When Camila finally succumbs to Lotario’s advances, Lotario lies to him that Camila passed the test, and tries to call off the deal. But Anselmo persists in treating Camila as an object of exchange between the two friends, importun-

ing his friend to continue what Anselmo thought was a charade, “if only for the sake of curiosity and amusement” (1.34.291).

Predictably, the three are destroyed by the twin breaches of friendship and marriage promises. After Camila and Lotario run away, Anselmo dies of grief. Lotario dies in battle, and Camila’s life “ended in the pitiless embrace of sorrow and melancholy” (1.36.312).

Cervantes adds little commentary to the tale, other than to have the priest who reads it opine that it was unlikely to actually happen between husband and wife, though lovers might create such a mess. However, Cervantes himself was embroiled in an affair with a married woman, which produced a child (Echevarría xix.). Rather than view the *Reckless Curiosity* as a simple morality tale, we can read it as one of several meditations on the mix of love and contracts. The contractual nature of marriage—including the contractual exchanges between men that traditionally structured marriage—was under reconstruction when Cervantes wrote, and his stories seem to engage the pros and cons of that transition. While he does not clearly argue for contractual freedom—Marcela’s defense against murder charges ends ambiguously and Anselmo, Lotario, and Camila all die—he does seem to invite us to imagine what life might look like if women had more contractual freedom in marriage.

Today in the United States, couples enjoy more contractual freedom than even Cervantes could have imagined. Courts enforce agreements that cohabitants make to share property (palimony), while gay couples can “contract” into marriage or a mini marriage called domestic partnership or civil union in nearly half the states. Genetic fathers “contract” out of legal fatherhood through reproductive technologies like alternative insemination, and social parents contract into legal parenthood in these transactions. Jews not only can live freely and openly, but even marry whom they choose, and courts often enforce Jewish marriage contracts known as *ketubot*.<sup>5</sup> These relatively new rules became legal doctrine only when imaginative lawyers and parties—and

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5 See *Avitzur v. Avitzur*; *Goodridge v. Dept. of Pub. Health*; *Marvin v. Marvin*; and National Conference of Commissioners on Uniform State Laws.

the occasional novelist—pushed for us to recognize the consensual, reciprocal exchanges that shape marriage and other love relationships.

## CONCLUSION

By depicting voluntary, mutual exchanges as central to relationships, Cervantes shows the web of contracts and deals that thread through relationships in fiction and real life, hidden in plain sight. They shape every stage of ordinary dating, engagement, marriage, and day-to-day family life, as well as divorce. The recognition of these exchanges, and what happens when they are formed improperly or breached, is part of what makes *Don Quixote* so unexpectedly contemporary. Cervantes's imaginative genius may even have extended so far as to imagine a world in which women might be free and independent in marriage, instead of objects to be acquired and controlled. More poetically, Cervantes's conceptual space, located between the literal truth that a peasant girl is not an aristocratic lady, and the emotional truth that devotion can reveal the lady in the peasant girl as surely as mistrust can demote a lady to an adulterer, sets the stage for what I take to be *Don Quixote's* major point: defending the life of the imagination as equally good, if not superior, to a life lived with both feet firmly on the ground. If linking love and contracts is insane, it is an insanity that Cervantes may well have embraced.

“And having said this, may God grant you health and not forget me. Vale” (I.Prologue.9).

## Works Cited

- American Law Institute. *Restatement of the Law of Contracts*. 2nd ed. St. Paul: ALI, 1981.
- Avitzur v. Avitzur. 58 NY.2d 108. NY Ct. of Appeals. 1983.
- Banks, Ralph Richard. *Is Marriage for White People?* New York: Penguin, 2011.
- Black's Law Dictionary*. 9th ed. Ed. Bryan A. Garner. St. Paul: West, 2009.
- Carrión, Gabriela. *Staging Marriage in Early Modern Spain*. Lanham, MD: Bucknell UP and Rowman and Littlefield, 2011.
- Case, Mary Anne. “Enforcing Bargains in an Ongoing Marriage.” *Washington University Journal of Law & Policy* 35.1 (2011): 225-60.
- Cervantes, Miguel de. *Don Quixote*. Trans. Edith Grossman. New York: Harper, 2003.

- Chua, Amy. *Battle Hymn of the Tiger Mother*. New York: Penguin, 2011.
- Ertman, Martha M. *Love & Contracts: The HEART of the Deal*. Forthcoming.
- González Echevarría, Roberto. *Love and the Law in Cervantes*. New Haven: Yale UP, 2005.
- Goodridge v. Dept. of Pub. Health. 798 NE.2d 941. MA Supreme Judicial Ct. 2003.
- Heilemann, John, and Mark Halperin. *Game Change: Obama and the Clintons, McCain and Palin, and the Race of a Lifetime*. New York: Harper, 2010.
- Larson, Jane E. "Women Understand So Little, They Call My Good Nature 'Deceit': A Feminist Rethinking of Seduction." *Columbia Law Review* 93.2 (1993): 374-472.
- Lévi-Strauss, Claude. *The Elementary Structures of Kinship*. Trans. J. H. Bell and J. R. von Sturmer. Boston: Beacon, 1969.
- Lithwick, Dahlia, and Brandt Goldstein. *Me v. Everybody: Absurd Contracts for an Absurd World*. New York: Workman, 2003.
- Marvin v. Marvin. 18 Cal.3d 660. CA Supreme Ct. 1976.
- National Conference of Commissioners on Uniform State Laws. *Uniform Parentage Act*. Seattle: ABA, 2002.
- "Paul Kasmin Gallery Presents Santi Moix on Huckleberry Finn: Watercolors and Wall Drawings." *Artdaily.org*. 4 January 2012.
- Rubin, Gayle. "The Traffic in Women: Notes on the 'Political Economy' of Sex." *Toward an Anthropology of Women*. Ed. Rayna R. Reiter. New York: Monthly Review, 1975. 87-106.
- Suchman, Paula, and Jenny Anderson. *Spousonomics*. New York: Random, 2011.
- Woolf, Virginia. *A Room of One's Own*. New York: Harcourt, 1929.