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THEORIZING THE LANGUAGE OF LAW

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Law transforms reality, *de iure* and *de facto*, inasmuch as it attempts to bridge the gap between that which is done *de facto* and that which is regulated *de iure*. It is standard practice, for Alfonso X of Castile,¹ to reinvent the means of writing the law. He does not limit himself to compiling or revising existing legal statutes; rather, he elevates the corpus of the law to the level of juridical science. Dominating the meaning of the word—its hermeneutics and its relation to truth, lies, rhetoric, history, and poetry—is also the key to dominating juridical discourse itself and its capacity for creating certainty. Or, at least, for controlling uncertainty. Uncertainty, that is to say, the ambiguity in the interpretation of the relationship between words and things, appears to be one of the targets of Alfonsine juridical science.

It is in the institutions that one can best study this desire for control. In particular, the need for control becomes visible in the court and the places related to it (the palace, chamber, or bedroom), codified by the law in order to put justice into action, in the representation of power, in cultural exchange, in education, and in recreation. Here legislation acquires a special significance with respect to the word, to narration, and to rhetoric. This is a philological problem: How does one compose and administer a text capable of controlling its own interpretation? How does one transpose this same dynamic to the institutions? How does one transmit this notion from the institution to those who inhabit it and who are, after all, the subjects of the legal science?

It is therefore fitting to examine legislation about legal discourse, which is, in itself, the theory of law—not, however, in its abstract aspects but rather in the concrete elements of the formation of a legal vocabulary, in the way in which words, whose semantic and hermeneutic problems are clear, give life to this legal vocabulary. How is legal discourse constructed? In what way is it transmitted? What are the consequences of its dissemination? In what way is the law in charge of words, in particular, those expressed in the institutions?

Perhaps the problem is philological, in the sense supposed by Giambattista Vico. Vico, in his *Principi per una scienza nuova* [1: 10] proposed that the study of philosophy, as a science of truth could not exist independently without a philology, the origin of the conscience of certainty (*coscienza del certo*). Attaching myself, then, to this idea of certainty (although not, of course, from Vico's perspective) throughout this study I shall call "the space of certainty" the theoretical and conceptual construction (which is of both a philological and textual character) stipulated by the legislator in an attempt to control the distinct concepts related to the legal word, its institutional statute and its legal, moral, and cultural hermeneutics. I shall thus attempt to understand the meaning of this space of certainty, in what way it has been constructed, and how it affects legal, political, social, and cultural mechanisms.

For Enrique Gavilán.

1. I use the name "Alfonso" for all the authors of the Alfonsine body of work, following María Rosa Lida de Malkiel. See Francisco Rico [11].

Law and King

In the first title of the first *Partida*, Alfonso outlines the virtues of the laws.² In addition, this first law discusses the overall structure of the *Siete partidas*, as if, in fact, they were nothing more than a lengthy and virtuous discourse about the law. It makes sense as the *Partidas* are not only a legal code capable of being enforced but also an enormous manual on legal theory. The law(s) and legal doctrine, then, come together to form the first expression of legal science. Going further than compilations of Roman law such as the *Liber augustalis*,³ further than the scientific expressions of jurisprudence of specialists from Bologna, the Île-de-France, and Orleans *utroque iure*,⁴ the *Partidas*—and I should like to insist on this—can be considered a constitutional legal text. In this sense the *Partidas* attempts to regulate the actual material from which the laws are made: language. Put another way, the text of the *Partidas* is at once legality, establishment, and discussion of legal language, and, finally, a reflection about and regulation of the effect of legal language on society.

The distinct manuscripts and early printed editions of the *Partidas* reveal an internal debate over the delineation of juridical language. The *Libro del fuero de las leyes*, an early version of the first *Partida*, as it appears in the British Museum manuscript Add. 20.787, indicates that this juridical code has been articulated to solve regulations that have been presented erroneously, as well as in a reduced form, “desaguisadas” and “mingoadas de derecho” [prologue 4]. Even worse, these “libros mingoados de derecho,” or books containing reduced legal doctrine, also contain variations that the legislator finds intolerable:

[las gentes de nuestro señorío] rayen et escriuien y lo que les semeiaua a prodellos e a danno de los pueblos, tolliendo a los reyes su poderio e sus derechos e tomandolo pora ssi lo que non deue seer fecho en ninguna manera. [4]

2. It is always difficult to cite the *Partidas*, although we often attempt to solve this complication by relying on Gregorio López's edition [Salamanca: Andrea de Portonariis, 1555]. This time I have deviated from this norm: for the *Libro del fuero de las leyes*, I read directly from the British Museum ms. Add. 20.787, keeping in mind, however, Juan Antonio Arias Bonet's edition. For the Segunda partida, apart from Title 21, I used López's edition, but I have read on two occasions (not noted, because they do not contribute large changes), the edition by Juárez Blanquer and Flores. As for Title 21, I have used Jerry Craddock's new edition, forthcoming. For the Séptima partida, I cite from Gregorio López's edition. The English translations of all citations from the *Partidas* except those from the prologue are based on Samuel Parsons Scott's translation. Since Scott's translation is very often unreliable, I have introduced several changes throughout. Translations from the prologue are mine.

3. The *Liber augustalis* is a jurisprudential compilation based on imperial Roman law; consult the introduction and English translation of James M. Powell, *The Liber augustalis*. It is most similar, perhaps, to Alfonso's earlier legal writings, those prior to the *Siete partidas*. See also Jerry Craddock, “La cronología de las obras legislativas de Alfonso X el Sabio”; and *The Legislative Works of Alfonso X el Sabio*; José Sánchez-Arcilla Bernal, “La obra legislativa de Alfonso X el Sabio.” The general and relative chronology of the works continues to be debated, as the last comprehensive bibliography of the learned king demonstrates [see Salvador Martínez, Alfonso X].

4. With regard to the construction of juridical discourse from a conceptual and linguistic perspective, Johannes Kabatek's illuminating study, *Die bolognesische Renaissance, is essential*; see also his “¿Cómo investigar las tradiciones discursivas medievales? El ejemplo de los textos jurídicos castellanos.”

[the people of our dominion used to delete and write that which was profitable to them at the cost of harming the people, taking the power and privileges of the kings, and appropriating them for themselves, which should have never been done.]

These corrections and interventions, which will inspire that the *Partidas* be regulated with determination in the legal body, produced a particularly damaging effect: the “[G]entes de nuestro señorío” (people of our dominion) acquired the privilege to write the law, an acquisition that, at the same time, caused a reduction of the powers of the king (correlated to the increase of the power of these “people”) and harm to the “pueblos,” a concept that perhaps still refers to the lowest classes in the dominion, the “common people.” Thus we might suppose that “gentes de nuestro señorío” is a way to refer to certain categories of the nobility which traditionally had jurisdictional powers, and not to the people in general (the definition given in *Partidas* 2.9.1). In any case, the “pueblos,” here, are those subject to the law. Those who had witnessed a reduction of their rights (“mingoarse”) had also been objectified by the judges who administered justice to them “at random” or because they “wished,” and not “rightly” or “completely,” two concepts that derive from all legal hermeneutics based on stable and reliable texts.

Faced with a text that reflected a reduction of lawfulness, that was constantly corrected without restrictions, and that limited the power of the king and caused harm to the people, Alfonso proposed, as known, a different approach to legal doctrine, which would be “a pro comunal” (for the common benefit) to the recipients, so that in time, these subjects would “connoscan e entiendan” (know and understand) the law. These two verbs represent the cultural and hermeneutic dimensions of legal science according to Alfonso, which will manifest themselves even more in the laws of *Partidas* 1.1. These dimensions constitute, precisely, the integration of juridical science into the legal code as one of the missions of the legislator. The concepts of understanding and comprehending are so important, that in the *Partidas*, although memory takes precedence over any action, it should only be the first step to a thorough understanding: “el saber de las leyes non es tan solamente en aprender e decorar las letras dellas, mas el verdadero entendimiento dellas” (the knowledge of the laws is not only to learn and memorize them by heart but to understand them completely) [*Partidas* 1.1.13]. In this way Alfonso aims to legislate that the body of law produce a legal state of certainty, and that, as a consequence, the administrators could execute justice “rightfully.” The juridical language used in the prologue of the *Libro del fuero de las leyes* is centered particularly in the concept of legal doctrine and its integrity, from the perspectives of legality and justice, and also as the basis of a dialectic between the king and the “gentes de nuestros señoríos” when by acting as legislators, reduce the kingly privilege to be the creator of the legal doctrine, which is to say, the power of the king, and the well-being of the recipients of justice.

In subsequent versions of the *Partidas*, this prologue is replaced by a completely different one. The version of the *Partidas* in the editions of Montalvo (1491) and López (1555)—similar in most respects—contains a much longer prologue in which certain juridical concepts stand out or are highlighted. It would be impossible to consider all of them here, in particular because the new prologue is very long and is replete with these concepts. Simply, this prologue makes central the concept of the monarchal institution as an inextinguishable and timeless political body, and therefore the text of the *Partidas* constructs an Alfonso who, in many aspects, is simply a medium between the previous kings and those to come. The text itself is situated in the eternity of universal history by being related to all calendars and by having the same seven-part structure of the physical and metaphysical universe. In this sense, the text, and also juridical science in its entirety, are promoted as universal *truths*. This detail was not found in the *Libro del fuero de las*

leyes, but it is partially expressed in the illuminations that accompany British Museum manuscript Add. 20.787.

Alfonso's text in fact incorporates the concept of truth for the first time in this prologue:

ca mucho conviene a los reyes, e señaladamente a los desta tierra, conocer las cosas segund son e estremar el derecho del tuerto e la mentira de la verdad.
[Partidas 1, prologue, ed. López, fol. 3v]

[It is very advisable that kings, particularly those of this land, be familiar with how things are and separate right from wrong and the lie from truth.]

In this chiasmus, *derecho* (right) and *verdad* (truth) are defined, above all because the syntactic confluence between *tuerto* (wrong) and *mentira* (lie), which occupies the center of the chiasmus itself, also benefits from a semantic identification. This chiasmus is key in rhetorical terms, because it places virtue at the end and positions in the center that which the law should combat and substitute until it disappears. Loyalty, that is, *legalitas*,⁵ must be maintained “con verdad” (with truth), as the legislator immediately declares. The King must be the only origin of this truth: first, as a natural body, inasmuch as he alone writes the laws, and also as a political, transhistoric body, insofar as all the future kings “must observe themselves in this book as they would in a mirror” (todos los reyes de nuestro señorío . . . se caten en este libro ansi como en espejo) [Partidas 1, prologue].

We could say that this mirror creates a virtual image of a universe of certainties. The law will thus act as an instrument to establish not only sociopolitical and cultural certainty but also certainty itself in the construction of laws, that is to say, that the laws will be adjusted to a form of linguistic equilibrium related to the isotopic traps of truth. This linguistic equilibrium is particularly important, given that the laws themselves reside in a separate authority, different from the “entendimiento” (understanding) and the “seso” (intelligence) of the king. It would not have been enough to “fablar,” to simply speak about it, and base them in the “palabras” (words), the “buenos dichos que dixeron los sabios, que entendieron las cosas razonadamente [i.e. through “ratio” or “rhetorically and dialectically appropriated discourse”]” (the good sayings that the wise men said, they who understood things by means of discourse) [Partidas 1, prologue]. The laws are thus “leyenda en que yaze enseñamiento e castigo escrito que liga e apremia la vida del hombre” (legend in which lie instruction and written punishment that bind and control the life of man) [Partidas 1.1.4, fol. 6v]. The concept of “leyenda” (legend), from Latin *legenda*, that which must be read, is an innovation of the *Partidas* as opposed to *Libro del fuero de las leyes* and was undoubtedly introduced for etymological reasons that connect the words “ley” and “leyenda.”⁶ It affirms a fundamental element found in both versions, however, the written-read character of the laws, the preeminence of a vocabulary presented with precision.

This vocabulary has a complex series of demands whose objective is that the text be presented as completely as possible, without “palabras menguadas,” that is, without imprecise words, and “sin punto e sin escatima,” that is, with monosemic words, which do not present an opportunity for commentary.⁷ The law bases part of its state of certainty

5. Alfonso himself highlights the etymological relationship among “ley” (law), “legalidad” (legality), and “lealtad” (loyalty) in Partidas 1.1.4.

6. Francisco López Estrada and María Teresa García Berdoy treat this etymology for this particular law of the Partidas in their text [38–41].

7. The interpretation of the word “escatimar” is difficult. López Estrada [74] considers it to be “escasez de palabras” (scarcity of words) but the legislator expresses that with “palabras

on the impossibility of supplementing it. If it is commented, it should receive only those comments made by the same agent that emits and promulgates (two very distinct concepts) the law:

Dubdosas seyendo las leyes por yerro de escriptura, o por mal entendimiento del que las leyesse, porque deviessen ser bien espaladinadas e fazer entender la verdad dellas, esto non puede ser por otro fecho sino por aquel que las fizo o por otro que sea en su lugar; que aya poder de las fazer de nuevo e guardar aquellas fechas. [Partidas 1.1.14]

[If laws are doubtful by reason of errors in writing, or because they have been incorrectly understood by the person who reads them, for this reason they should be explained well and their truth made clear, and this must be done by the one who made the laws, or by another who has his position, who has the power to make new laws and to preserve those already made.]

The law and the king speak in the same register of certainty, and they both command equally. The law proposes, by means of the *Primera partida*, to organize souls, and, from there, touches every legal and political universe imaginable. The king seeks, as is clear from the *Segunda partida* (although also in the words of the prologue to the *Partidas* and in the first *Partida*), to establish the political body. The guarantee of the certainty of the word of law in abstract and in general, however, is also based on the certainty of the king's word in concrete terms. This is what is inferred when taking into account the complex network of laws concerning a theory of the king. If I prefer to speak about a theory of the king as opposed to a theory of the monarch, at least at this point, it is because of the way in which all legality is organized with respect to the body of the king, that is to say, the identification of the king as a space and as a space in which discourse resonates. With this metaphor, I want to express how this space is described as a function of the way in which the words, the histories, the narratives, and finally, the space of certainty resonate.

In the space of certainty, the voice of the laws is *performed* by means of the king's voice. The concept of performativity, that is, putting a discourse in action, is particularly useful from the perspective of the law, since, according to the law, the word not only is what enables men to understand one another [*Partidas* 2.4.1], but is also always indicative of the way that they carry out their tasks "la manera que fazen sus fechos." Title 4 of the *Segunda Partidas* in its entirety is dedicated to "quál deue ser el rey en sus palabras" (what the king should be in his speech). After defining the types of possible speech, the legislator establishes the advisability that, like the law, the king not say "palabras menguadas" (imprecise words) [*Partidas* 2.4.3]. The meaningless words can be of two types, the first being when "se partiese de la verdad e dixiese mentira, a sabiendas en danno de si mismo o de otri, ca la verdad es cosa derecha e igual" (he parts from the truth and knowingly tells a lie, harming himself and others, for truth is a just and uniform thing), and the second "quando dixiese las palabras tan breues e tan apriesa que las non pudiesen entender aquellos que las oyesen" (when he says words so quickly that those who hear them cannot understand them). As we can see, this law summarizes the same concepts established in *Partidas* 1.1 concerning the monosemic and explicit qualities of the law: the law should not contain "palabras menguadas" and, further, should be written without abbreviations, in such a way that it be "paladina" (plain), containing no elements that require new explanations.

abreviadas" (abbreviated words) as opposed to "*palabras cumplidas*" (complete words). Taking into account other occurrences of "*escatimar*," as in the law on heretics in *Partidas* 7.23, the word seems to refer to the scholastic game that consists in establishing variations of meaning concerning words and concepts; *Corominas* and *Pascual* propose a root similar to *existimare*.

All that might be added to the word of the law or to the word of the king is a determinant to justice, because it causes not only imbalance, as both truth and law are just and equal, but also hermeneutic errors from which, according to the exegetic principles of tropology and anagogy, “nasçeria danno e grand blasmo en este mundo e en el otro dar les ya dios pena” (great injury and harm will come to this world and in the next, God will punish them) [1.1]. The words are air and have a dangerous quality that the laws reference on two occasions: “después que fueren dichas no las pueden tornar que dichas no sean” (after they are spoken, they cannot be unspoken) [*Partidas* 2.4.5], or, if you prefer, “después que sale de la boca no puede onbre fazer que no sea dicha” (after it leaves his mouth, no man may cause it to be unsaid) [*Partidas* 2.4.1].

As we will see momentarily, the problem of words—of their adaptability, not only to truth but also to verisimilitude, to rhetoric, to hermeneutics, and, above all, to the communicative pact—is fundamental to the maintenance of social peace within the space of certainty. For this reason Alfonso articulates and places in relation with concrete places a key concept, that of *retraer*.

2

Rhetoric of Irony

Retraer is a technical term that undoubtedly comes from Provençal and French poetic vocabulary. In both cases it alludes to the oral relating of an argument, such as, for example, in Gaucelm Faidit’s well-known *planh* (elegy) on the death of Richard the Lionheart:⁸

*Fortz chausa es que tot lo major dan
E-l major dol, las! q’ieu mais agues,
E so don dei tostemps planher ploran,
M’aven a dir en chantan e retraire.*

*[It is a terrible thing that the worst wrong
and the greatest pain that I have ever felt
about which I should always cry and lament
I must say now singing and telling.]*

It is used in this way in troubadour poetry, both among the twelfth-century classical troubadours, such as Peire Cardenal or Guilhem de Berguedá, and thirteenth-century troubadours like Rigaut de Berbezilh or the anonymous author of the *Novas de l’eretje*.⁹ The act of *retraer* is primarily associated with memory and oral narration, and it is with this meaning that the author of the *Libro de Alexandre* promises the following in the third verse

*Qui oir lo quisiere, a todo mi creer,
avrá de mi solaz en cabo grant plazer;
aprendrá buenas gestas que sepa retraer,
averlo an por ello muchos a connoçer.¹⁰*

8. Pillet and Carstens 167, 22; Mouzat’s text, from *Martín de Riquer* 2: 770.

9. Cortanzo di Giralmo, “Repertorio.”

10. Although I reproduce Cañas Murillo’s text, I revise the accentuation and punctuation of the second verse. In this case, I think that *solaz* is a Provençalism or Gallicism that means “conver-

*[Whomever would like to hear this
in the end will obtain great pleasure from my conversation,
he will learn many good adventures to tell.
Many will know of him.]*

The story of Alexander is more than just the solid body, both measured and scanned, that the poet predicates in his well-known (and perhaps not yet understood) theoretical introduction.¹¹ It is also a *summula* of narrations, a sea of stories that can gain autonomy, as do *gestas*, incidents particularly susceptible to being broken up, memorized in a fragmented way, and disseminated, *retraídos* (told) without a precise order. Thus, both the story and that which is told are known and recognized by many; the erroneous and ambiguous (whether intentionally or not) final verse of this *cuaderna* is, here, doubly important because it joins the fame of the narration to that of those who recount it in a game of reciprocal authorization.

The legislator refers to that very concept when he composes the thirtieth law of *Partidas* 2.9, “Quántas cosas deuen ser catadas en el retraer” (What things should be observed in narrating). This *retraer* is conceived from a perspective that might easily combine with the nuances that Aristotle establishes in paragraph 1451b of his *Poetics*, where he makes the distinction between poetry and history. The legislator advises that it is both convenient and appropriate to “retraer en los fechos o en las cosas como fueren, o son o pueden ser” [*Partidas* 2.9.30] (to tell about deeds, or about subjects as they were, are, or can be). Adopting this Aristotelian perspective we could understand the act of *retraer* as a way to regulate not agreement between words and events, but rather between words and their hermeneutic problems. The task of the law consists in ensuring that the words and stories, whether or not they correspond to a reality that is otherwise incomprehensible, remain inside the limits of verisimilitude. The law expresses this possibility by means of the subjunctive and modal periphrasis “poder ser” (to be able to), which, in this case, seems to be a direct reference to the passage from Aristotle that I mentioned just now.¹²

Before continuing with my analysis of this law, I shall point out that this (perspective of a) narrative that functions on the fragile border between history and poetry (in keeping with the Aristotelian distinction in *Poetics* 1451b) takes on special meaning in the space of the resonance of discourse, which I referred to earlier as the space of the body of the king, or the space in which it is possible to legislate from the position of a theory of the king. This space is so important that the legislator dedicates the entirety of the three laws prior to the one dedicated to *retraer* to explaining it. These three laws define the court, subject the court to a variety of metaphors, and, finally, define and describe the palace. Law 27 of *Partidas* 2.9 indicates that the court is the space in which the body of the king and the body of his officials gather with the objective of administering justice, including attending to legal disputes and where the “bondades” reside, that is, the very essence of the political and social virtues. In this space of “bondad,” of exemplary virtue, the process of education takes place, which the law calls “cortesía” (courtesy). Education, here,

sation, chat”; in accordance with this reading, the verse would not mean “obtendrá de mí placer, al final gran placer” (will obtain from me pleasure, at the end, great pleasure), which does not correspond with the syntactic structures of the rest of the verse, but rather “obtendrá de mi charla al final gran placer” (at in the end will obtain great pleasure from my conversation).

11. See Isabel Uría, *Panorama crítico del mester de clerecía [17–51]*, and Amaia Arizaleta.

12. It is difficult to attribute this aspect of Aristotelian thought to specific readings of Aristotle’s *Poetics*, although Hermann the German’s translation is available from Averroes’s commentary onward, from 1256, and is conserved in some Spanish manuscripts of this translation. However, I am interested in pointing out here not so much a direct source (which, by the way, Alfonso is always in charge of dissolving and transforming) but rather what could be called a poetic Aristotelian climate that is related to and distinct from Aristotelian poetics.

consists of selecting and utilizing a determined vocabulary capable of representing all the virtues of the space itself: space and words are represented and mutually realized in the presence of the king's body. The aim of courtesy and education is to maintain truth and virtue "de dicho como de hecho" (both in speech and in action) so that the court "finque quita de todo mal e abundada e conplida de todo bien" (is taken away from all that is bad and made complete with everything good) [*Partidas* 2.9.27].

One of the many things that Walter Map and his *De nugis curialium* have in common with Alfonso the legislator is the need to control and preserve the life of the court just as it is described, regardless of the actual mobility of its clients and inhabitants. At the moment in which Alfonso introduces the metaphor of the court in Title 9 of the *Segunda partida*, he also constructs the court as a problematic space, and, correlatively, the norm that all those in the court obey the word of the king. The court is one, but its habitants are mobile, as Map affirms in a familiar passage at the start of his work:

"In tempore sum et de tempore loquor," ait Augustinus, et adiecit, "nescio quid sit tempus." Ego simili possum admiratione dicere quod in curia sum, et de curia loquor; et nescio, Deus scit, quid sit curia. Scio tamen quod curia non est tempus, temporalis quidem est, mutabilis et uaria, localis et erratica, nunquam in eodem statu permanens. In recessu meo totam agnosco, in reditu nichil aut modicum inuenio quod dereliquerim; extraneam uideo factus alienus. Eadem est curia, sed mutata sunt membra. Si descripsero curiam ut Porphyrius diffinit genus, forte non menciar; ut dicam eam multitudinem quodammodo se habentem ad unum principium. Multitudo certe sumus infinita, uni soli placere contendens; et hodie sumus una multitudo, cras erimus alia.

[*"In time I exist, and of time I speak," said Augustine, and added, "What time is I know not." In a like spirit of perplexity I may say that in the court I exist and of the court I speak, and what the court is, God knows, I know not. I do know however that the court is not time; but temporal it is, changeable and various, space-bound and wandering, never continuing in one state. When I leave it, I know it perfectly: when I come back to it I find nothing or little of what I left there: I have become a stranger to it, and it to me. The court is the same, its members are changed. I shall perhaps be within the bounds of truth if I describe it in terms which Porphyry uses to define a genus, and call it a number of objects bearing a certain relation to one principle. We courtiers are assuredly a number, and an infinite one, and all striving to please one individual. But to-day we are one number, to-morrow we shall be a different one.*]¹³

Walter Map, just as Matfré Ermengaud does nearly two centuries later in his *Breviari d'amor*, compares the court to hell, making an analogy that would never even cross Alfonso's mind. For Alfonso, the metaphor for the court is the sea: an infinite flow that "çerca toda la tierra" (surrounds the entire earth) and in which is found all possible diversity. That "largueza," used here by Alfonso in the sense of "extension" and not "generosity," is the very base of the fragility of the court as a space of certainty. Put another way, the court's capacity to give shelter to all types of people in search of justice, its mutability, or as Map would say, the variety of multitudes that appear, one after another, forces the court to receive both those who ask for justice rightfully as well as those who ask for it illegitimately. The court is viewed, then, as overwhelmed by the possibility that the types

13. Walter Map, *De nugis curialium* [1.1.34]. The English translation is from Walter Map, *De nugis curialium: Courtiers' Trifles* [1.1.3].



Someday, 2007
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of words that create uncertainty—for example, “palabras sobejanas” (extravagant words) [*Partidas* 2.9.28], that is, words that not do convey “la naturaleza del fecho sobre que se deuen dezir” (the nature of the fact about which they are spoken) [*Partidas* 2.4.2], and that therefore can result in confrontations between those who use them—will enter the court:

Otrosí los que vienen a la corte con cosas sin razón pierden y sus pleytos e foga se les aquello que cobdiçian auer, e algunas vegadas vinieron y con derecho e beuiendo el amargura de la iustiçia por los yerros que fizieron. Onde primera mente el rey que es cabeça de la corte e los otros que son y para dar el conseio e ayuda conque mantengan la iustiçia deuen ser muy mesurados para oyr las cosas de sin razon, e muy sofridos para no se arrebatat ni mouer por palabras sobejanas que los onbres dizen ni por los desamores, ni por las enbidias que los onbres han entresí porque han a desamar al rey. [*Partidas* 2.9.28].

[Likewise those who come to the court with unreasonable complaints lose their suits and are overwhelmed by that which they seek to obtain, and sometimes they deservedly taste bitter justice for the errors that they have committed. Wherefore, in the first place, the king is the head of the court and the others there, who provide council and assistance, by means of which he may maintain justice should be very prudent in hearing unjust causes and very patient so as not to be hasty or affected by extravagant words that men say, or by enmities or envy that men entertain toward one another so as to cause others to stop loving the king.]

The space of certainty’s only guarantee is knowing how to distinguish the varying importance of the words that are pronounced, and correlatively, the way in which the interpretation of the words by the king’s officials coincides with his will. The space of the court is thus unstable, subject to the uncertainty that the utterance of certain words brings about. The best means of control is the correct interpretation of these words in accordance with the law’s central concept, justice, which “es medianera entre dios e el mundo” (is an intermediary between god and the world), a guarantee of the correct transcription of natural law in positive law, and that acts in the same way that the “aguja” (compass needle) that sailors use as a “medianera entre la piedra e la estrella” (mediator between the magnet and the star—the Great Bear) [*Partidas* 2.9.28].

If the court is a space of uncertainty and instability, it stands in contrast with the palace, “qualquier lugar do el rey se ayunta paladinamente para fablar con sus onbres, e esto es en tres maneras: o para librar los pleytos, o para comer, o para fablar en gasajado” (anyplace where the King meets explicitly with his men, and this is done in three ways: in deciding suits, in eating, or in pleasant conversation) [*Partidas* 2.9.29].¹⁴ Alfonso’s etymology of the palace makes the palace similar to the characteristics of the law and also to an integral characteristic of the before-mentioned theory of the king: it is a palace because it is “paladino,” that is to say, because all communication expressed there must be distinguished by its clarity, public character, and certainty. In this way the law regulates, above all, the ways in which the king and his officials should converse in this space. Conversation should be limited to “palabras . . . verdaderas, e conplidas, e apuestas” (words that are true, sincere, and polite):

14. The main difference between “court” and “palace” is that the court can receive people from any social space, whereas the palace is the center where the king meets with the nobles and other officials that constitute his group of administrators.

ca si es en iuyzio ha menester que sean verdaderas e muy çiertas para librar el pleyto derechamente; ca si es en el comer deuen ser muy conplidos segund conuiene aquel lugar, e no además, ca no deue estar muy callando, ni otrosí hablar a la oreja, ni mostrar por signos lo que quieren dezir como onbres de orden, ni otrosí dar granes bozes. [Partidas 2.9.29]

[For in judicial proceedings words must be true and very accurate, in order that the suit may be justly decided. When entertainments at table are concerned, a man should be very courteous, as becomes a palace of a king, and should not keep silent or whisper in the ear of another, or indicate by signs what he wants to say like men of a religious order, nor should he speak in a loud voice.]

The legislation of this space of certainty declares a communicative pact that has concrete political and social consequences. One of them is the clear and explicit “paladina” disclosure of all of the people who participate in the meetings in the palace, which equates the king’s having the right to be familiar with all conversations that occur between his men, because “el palacio en aquella sazón no ha de ser muy de poridad” (the palace, at such a time, should not be a place of secrecy) [Partidas 2.9.29]. This idea clearly connects with the corresponding laws concerning the explicitness of both the word of law and the word of the king, in this case, projected onto the words that surround the king, that is, onto the space of certainty in which discourse must resonate together with the body of the king. That communicative pact with political consequences is oriented toward the protection of the body of the king, which is the instance from which the law, legal doctrine, and, finally, justice spring. The body of the king is the origin and the end of a central jurisdiction, which perhaps is the most important juridical and political thesis in the *Partidas*, a thesis in which the theory of the king and the theory of the monarch are found.

The law fights against any possibility of uncertainty. In that sense, the law concerning the palace explores one of the possible complications of the communicative pact and its possible social and political consequences. This particular complication could arise from conversation conducted in a joking manner, “en manera de gasajado” [Partidas 2.9.29], when conversation (“deparir”), talking (“fablar”), or oral relation (“retraer”) incorporates concepts that are difficult to define in legal terms, but that in effect can involve a rupture in the space of certainty. That very concept is the “gasajado,” or the “game,” and can anger the person who hears it, if the law does not regulate it appropriately.

There is where the law on *retraer* takes on its full meaning, the law that initiates in a very Aristotelian way the establishment of the delicate line that separates what was, what is, and what could be. It is important to understand the law on *retraer* as being at the heart of the legislation and its drive to find a space of certainty, that is, as a means of safeguarding the communicative pact among the instances that participate in the exchange of words and, in this particular case, oral narratives, histories, adventures, or *gestas*, in accordance with the meaning of *retraer* I have presented. The protection of the space of certainty and of the communicative pact is based on political and social concepts that are also regulated in the *Partidas*, not only in the laws analyzed up to this point, but also in the laws that form part of the penal section of the *Partidas*, the *Séptima partida*.

The act of *retraer* is a moral one, a narration in which a story or memory is articulated with the purpose of soliciting a moral or political consequence, which could be demonstration of a “buena palabra” (good word), “buen exemplo” (good example), or “buena fazaña” (good case). These are not three synonyms, but rather three very different varieties of discourse. The word, “cuando es dicha verdaderamente muestra con ella aquello que quiere dezir e lo que contiene en el corazón” (when it is properly uttered it explains what it really means and what the utterer has in his heart), and it is at the center of both

the production of meaning and the relationship between meaning and the acts it inspires [Partidas 2.4.1]. The example, or “exemplo,” establishes a model of acting in relation to a perfect and authorized model, according to Rolandino Passegieri’s definition, which culminates aphoristically: “exemplar pater est, exemplum quod generatur” (the exemplar is the father, and the exemplum its generation).¹⁵ The “fazaña,” finally, is a narrative that is legal, or, more properly, jurisprudential at its core, and that in legal discourse expresses foresight of how much it could be. The three forms of discourse contribute to shaping the criteria of verisimilitude of the space of certainty and thus must be fitted to a “time,” that is, an appropriate occasion for their expression. The link that these three forms of discourse maintain with the law, with the universes of predication and rhetoric, and with legal casuistry places them as well in a privileged position in relation to the construction of history, which, as we will see later, is one of the ways in which the law of *Partidas* limits the expansion of the text.

The concept of *retraer* is linked to an educational act that consists of the “palabra” (word), “ejemplificación” (demonstration by example) and narration of “fazañas,” all “buenas” (good) before a specific audience, that of the “omes que se aprouechen dello, assi como si quisieren castigar a ome escasso diziéndole un esemplo de omes granados, e al couarde, de los esforçados” (men who will learn from it; as, for instance, where it is desired to rebuke a parsimonious man, by offering an example of men who are generous and to the coward, an example about men who are brave) such that “aquellos a quien los dizen ayan sabor de lo oyr e de lo aprender” (those whom they are addressing may desire to hear and learn) [Partidas 2.9.30]. This pedagogical act converts the noble places, both the palace and the court, into a *schola*, a place representative of the body of the king as *magister*; not only as *pater*.¹⁶ The educational act is not limited, however, to the more or less formal education that the king encourages, which is in line with Adeline Rucquoi’s observations about the court of Alfonso VIII, but rather is aimed at laymen, placing the education of the common man in a type of rhetorical continuity of the narrations that fit within the space of certainty. It is for this reason that the legislator is interested in legislating the rhetoric of *retraer*.

It would be easy merely to say that such legislation is rare within the law, and that therefore, we should understand the *Partidas* as a very different treatment of the concepts of legal doctrine. To do so, however, would be nothing more than to displace the true problem that the *Partidas* pose: that Alfonso converts everything he touches into law. What is particularly fascinating is that in this process the law maintains its force, its literal and obligatory character, its public and private performativity, and that therefore we can speak of a qualitative and theoretical leap between jurisprudential law and the theory of legal doctrine. Alfonso begins with legal elements with a jurisprudential character, only later to convert them in juridical science. The *Partidas*, from this perspective, are at once a legal code and a theory of legal doctrine which until that moment did not exist in a single European political space. The creation of the space of certainty is precisely one of the ways of realizing this theory of legal doctrine, of juridical science itself. Neither Frederico’s *Liber augustalis* nor the *Magna charta* signed by John Lackland can come close to the explosion of legal language produced in the *Partidas*.

15. Rolandino Passegieri, *Summa de arte notaria* 3.10, qtd. in Louis J. Bataillon, “Exemplar, Pecia, Quaternus.”

16. See Adeline Rucquoi, “La royauté sous Alphonse VIII de Castille,” esp. 218–22. Francisco Márquez Villanueva, “El concepto cultural Alfonsí [19–27], maintains the possibility of linking the “rex magister” (as it is expressed in Latin) with Platonic and Averroistic virtues of the perfect imam (leader) and considers that the idea of the “rey sabio” (wise king) can be related to the image of the Islamic prince.

The nearly cosmogonic capacity to convert all language into law not only affects, in the case of *retraer*, rhetoric from an inventive, prescriptive, or elocutionary point of view but also regulates the space of the *actio*. Describing and regulating all the features of “game” or “playfulness” entails the preservation of social peace within the kingly spaces as well. In this case, the game implies the need to accept the rules of a specific communicative pact in which, regarding *retraer*, could refer to stories whose protagonists are in fact present among the audience. The game implies an explicit and regulated irony, which the legislator names and defines:

En el juego ha de catar que aquello que dixere, que sea apuestamente dicho e non sobre aquella cosa que fuere en aquel con quien jugaren, mas auieñas dello, como si fuere couarde dezirle que es esforçado, e al esforçado jugar le de couardia. [Partidas 2.9.30]

[In the game care should be taken to see that what is said be said eloquently, and not refer to any quality in him with whom they are playing, but rather the opposite, as when he is a coward, he should be told he is brave, and if he is brave, play with him regarding cowardice.]

Here Alfonso regulates a rhetoric of irony *de iure*. The concept of *retraer*, subjected to this rhetoric of irony, is separated from its proper or literal meaning and is temporarily situated on the very threshold of uncertainty. As in any rhetoric of irony, a distance from the narrative with respect to the discursive object is authorized. And, for that very reason, a semantic interference can occur and rupture the space of certainty, since such a space is formed with just, plain, and explicit words. The law also attempts to control this risk by designing the concept of the game in the triangular relationship among the narrator, the narrative’s protagonist, and the rest of the audience:

E esto deue ser dicho de manera quel con quien jugaren non se tenga por escarnido, mas quel aya de plazer e ayan a reyr dello, tan bien él como los otros que lo oyeren. [Partidas 2.9.30]

[This should be done in such a way that he, with whom persons are jesting, will not consider himself treated with contempt, but will be pleased; and he, as well as all others who hear what is said, will be compelled to laugh at it.]

The legislator thus controls confrontation and uncertainty by instilling the rhetorical act with a shared responsibility, in a scenic movement that situates both actors and audience in the plane of the representation in a dramatic and narrative pact that, had he known about it, would have delighted Brecht. It was not enough that the audience listen, but rather that it be influenced by this provisional separation of the space of certainty introduced by the legislation of a rhetoric of irony and demonstrate it explicitly, by means of a performance that, without doubt, is a strange but powerful speech act—laughter.

This irony does not attempt, like dialectical irony, to reveal the failure of the discursive object, or at least that is not what the law indicates. The law places this game in the sphere of a narrative that is rhetorically suitable in all of its terms, above all in its elocutionary aspect, which often insists on inciting members of the court to use “palabras apuestas” (well-ordered words), and to avoid “palabras sobejanas” (extravagant words). It is the use of elocution that categorizes the knights of the court, its ability to produce “alegría” (happiness) and to eliminate all forms of “escarnio” (insult), “tristeza” (sadness) and “saña” (anger) [Partidas 2.9.30]. As we know, thanks to Juan Ruiz, “la mucha tristeza,

mucho pecado pon” [21; 44d] (with much sadness comes much sin) and, most important, it can have extremely grave political consequences. The good knight, the “palançiano” (literally, person of the palace) or those who consider themselves to be knights, have through the rhetoric of *retraer* the capacity to install provisionally the rhetoric of irony, the *juego* (game), and therefore eliminate mocking, sadness, and anger that, if they were expressed, could lead to a confrontation due to defamation and implicate the laws of the resolution of problems between noblemen or *hidalgos* and noble knights established in *Partidas* 7.

The act shared by the *rhetor* and his audience in relation to the law will know how to instill the principle of the game so that it preserves social peace among the noblemen and knights to which it belongs. For this matter, the *rhetor* is “entendido” (knowledgeable) and, in particular, possesses a domination of the word and a rhetorical capability that makes him more than human: “ca pues entendimiento e la palabra estrañan al ome de las otras animalias, quanto más apuesta la ha e mejor, tanto es más ome” (for as understanding and the ability to speak distinguish men from other animals, the more perfect one possesses these qualities, the greater he is as a man) [*Partidas* 2.9.30].

The final authority on the capability of preserving the space of certainty, and the *retraer* and rhetoric of irony that accompany it, belongs entirely to the king:

E los que tales palabras usaren e se sopieren en ellas auenir, deuelos el Rey amar e fazer les mucho bien e honrra. E a los que se atreuiessen a fazer esto non seyendo sabidores dellas, sin lo que se mostrarían por atreuidos e por necios, deuen auer avn pena e ser alongados de la corte e del palacio. [Partidas 2.9.30]

[The king should love and confer great benefits and honors upon those who make use of words of this description, and know how to apply them, and those who venture to attempt this, without being qualified for it, in addition to showing themselves bold and ignorant, should be punished, and expelled from the court and the palace.]

The decision of the king in this respect might seem excessive if we were to consider the problem purely in its rhetorical dimension. However, the temporary rupture of the space of certainty that the act of *retraer* and its rhetoric of irony, by the *juego*, can encompass, could present particularly important political consequences. The first one is that the listener could consider himself defamed. Injury may above all consist of words:

como si un ome denostasse a otro e le diesse bozez ante muchos faziendo escarnio del, o poniendo le algun nome malo, o diziendo empos del muchas palabras atales, onde se tuuiese el otro por denostado. [Partidas 7.9.1]

[as where one man insults another, abuses him in the presence of many persons, mocking him or calling him bad names, or speaking ill behind his back words of such a character that the other party may consider himself dishonored by them.]

And it is not only the spoken word that can provoke dishonor:

Infaman e deshonrran unos a otros non tan solamente por palabras, mas aun por escrituras, faziendo cantigas, o rimos, o devtados malos de los que han sabor de infamar. Esto fazen a las vegadas paladinamente, e a las vegadas en-

cubiertamente, echando aquellos escritos malos en las casas de los grandes señores o en las iglesias, o en las plaçass comunales de las ciudades e de las villa, porque cada uno lo pueda leer. [Partidas 7.9.2]

[Some men render others infamous and dishonor them not only in speech but also in writing, by making songs or rhymes, or evil statements of those who they desire to defame. They do this sometimes openly, and sometimes secretly, distributing these wicked writings in the houses of great lords, and in churches and in the public squares of cities and towns, in order that everyone may read them.]

Related to dishonor and infamy among nobles is that they can solve their juridical problems by means of the *defiance* or renunciation (“desafío”), that is, the rupture of friendship between nobles: “Deshonrra, o tuerto, o daño faziendo un fidalgo a otro, puédelo desafiar por ello” (When a nobleman causes dishonor, wrong, or injury to another, he can renounce him for this), and not simply for the dishonor that the offended nobleman receives but also “por la deshonrra o tuerto que recibiesse su pariente” (on account of the dishonor, wrong, or injury that a relative received) [Partidas 7.12.2]. This renunciation occurs in the court, the same space of *retraer*, or at least one of them: “Acostumbraron los fijos dalgo entre si desafiarse en corte” (persons of noble birth were accustomed to renounce one another in the court), although it could also be done outside of the court before qualified witnesses [Partidas 7.12.3].

The problem of the rupture of friendship between nobles provoked by mocking and dishonor received by means of the word, is exactly what Law 30 of *Partidas* 2.9 attempts to control. Friendship is the fundamental value upon which political solidarity in the heart of the court is settled, and, in the case of nobles, it has a historical character that goes beyond mere friendships between persons to being the expression of a friendship, or fraternity of a social class, which, in fact, explains the process of political consolidation of the monarch and the nobility: if love is the vertical political relationship that unites the king and his vassals, friendship is the horizontal relationship that permits the construction of the body of the nobility and its identification as a class.¹⁷

The people that participate in *retraer* invariably are knights, *palançianos*, exactly the same group in the laws of the *Séptima partida* to which I just referred. This group therefore includes the political categories pertaining to the essence of the space of certainty, generated by the projections of the words of the law and of the king [Partidas 2.21].

3

History and the Dissolution of Genres

The problem posed by poetic and literary activities in general in the social spaces of the court should be examined in relation to the rhetorical, political and legal problems raised in *Partidas* 2.9.27–30, which extend to the penal section of *Partidas*. I designate with the partially Aristotelian expression “poetic activities” all the verbal creations to which the law refers which typically have a written medium or require a cultural agent and which are distinct from the law. Nearly all the problems relative to poetic activities are centered, in the case of our legal code in *Partidas* 2.21.20, in the well-known law concerning the culture and education of knights. Although the analyses of this law abound, it is still pos-

17. On friendship and its basis in the *Partidas*, see the article of Carlos Heusch.

sible to extract some important questions from this law, which at the same time will help us to explain Alfonso X's complex role in the process of the transmission of traditional poetic activities.

The law, according to Jerry Craddock's new edition, reads as follows:

Ley xx. Commo ante los caualleros deuen leer las estorias de los grandes fechos d'armas quando comieren.

Apuestamiente touieron por bien los antigos que fiziessen los caualleros estas cosas que dichas auemos en la ley ante desta. E por ende ordenaron que assi commo en tiempo de guerra aprendien fecho de armas por vista e por prueua que otrossi en tiempo de paz lo aprisiessen por oyda e por entendimjento. E por esso acostumbrauan los caualleros quando comien que les leyessen las estorias de los grandes fechos d'armas que los otros fizieran e los sesos e los esfuerços que ouieron para saber vencer e acabar lo que querien. E alli o non auien tales escripturas, fazienselo retraer a los caualleros buenos e ancianos que se en ello acertaran. E aun sin todo esto fazien mas, que non consentien que los joglares dixiessen ante ellos otras cantigas si non de gesta o que fablassen de fecho d'armas. Esso mismo fazien quando non podien dormir, cada uno en su posada se fазie leer o retraer estas cosas sobredichas. E esto era porque oyendolas crescienles los coraçones e esforçauanse faziendo bien, queriendo llegar a lo que los otros fizieran o passar por ellos.

[Law xx. Accounts of Great Deeds of Arms Should be Read to Knights While They Eat.

The ancients deemed it was proper that knights should do the things which we have mentioned in the preceding law in a suitable manner; and therefore, they ordained that as in time of war they ought to learn the science of arms by sight and by experience, so in time of peace, they ought to acquire it by means of their hearing and understanding. For this reason they established as a custom that narratives of great deeds of arms performed by others should be read to knights while they ate, as well as accounts of their wisdom and power by means of which they would be able to conquer, and accomplish what they wished; and where no stories of this kind were to be found, they caused them to have recourse to good and venerable knights who were familiar with such matters. They even did more than this, for they would not permit the jongleurs to sing any other songs in their presence but those of war of which related the deeds of arms. They also did this when there were unable to sleep, for each one caused himself to be read to, or had the matters aforesaid related to him in his own lodgings. This was done in order that, hearing them, their minds and hearts might be enlarged and strengthened by the performance of good actions, and to awaken a desire to attain to what others had accomplished, or to surpass their efforts.]

It is important to remember that the laws on knighthood in *Partidas* 2.21 actually are a thesis about nobility in the monarchical realm. The thesis consists of transforming the social outlook of the old Castilian nobility and that of the rich in an attempt to put them on equal footing by means of the articulation of a knightly code and a knightly ritual.¹⁸

18. See Jesús Rodríguez-Velasco, "De oficio a estado" and "Invención y consecuencias de la caballería."

The integrity of *Partidas* 2.21 is related to this social mission and the political character of knighthood, but not to its function regarding war. Law 20 is no exception and in effect is about the education of knights in times of peace and their association at the heart of the court. Ceremony places knights in a concrete position that parallels that of monks in a refectory, or that of the mythological knights of Arthurian romances, seated at the Round Table in the anthropologically significant act of sharing a meal. The legislator describes the hierarchy of its pedagogical or cultural products. First come the written histories, which happen to be the same ones produced in the Alfonsine workshop, such as the *Estoria de Espanna* or the *General estoria*; perhaps the legislator was thinking about a relating of historical text such that it would continue to be redacted, repeatedly, as occurred in some secular spaces, or with the production of clerical historians for their congregations, like Ordericus Vitalis.¹⁹ History becomes, in a metaphoric sense, the sacred writings of the knights, in its intellectual and hermeneutic point of reference: to read is not simply to relate aloud, to have an awareness of the text by “oyda” (hearing), but rather it is also *lectio*, the interpretation of meaning of the “sesos” (wisdom) y los “esfuercos” (forces) contained in historical narratives, which justifies the legislator’s inclusion of the word “entendimiento” (understanding), in addition to “oyda.”²⁰

The second educational possibility is the oral transmission of living history, the *retraer* of the knights, including the elderly who populate the court. Earlier I referred to the meanings of *retraer*, as well as its rhetorical and political conditions. I want now to insist on the meaning of oral narratives that are related to the actions and sayings of their own protagonists, that is, a form of oral historical source.

The legislator’s establishing the “cantigas de gesta” as the only poetic form possible in the court and the only permissible genre for the *juglares* (jongleurs) who convened there must have been related to the general concept of a historical education. The epic is closely related to history, not only from a theoretical or Aristotelian perspective but also from the perspective of its creators and compilers.²¹ On the other hand, the Alfonsine compilers of the *Estoria de Espanna* incorporated the entire wave of epic literature as a constituent part of this redaction, but, at the same time, the original songs apparently disappeared once they became part of the historical narrative. In a sense, history thus closes the circle of the twentieth law, upon incorporating written histories, oral memories, and the *cantares de gesta*. Clearly, this does not solve the problem, however, but rather intensifies it.

This brief analysis helps us to determine up to what point the legislator’s need to safeguard the space of certainty intensified upon situating the hierarchy of cultural production in the domains of the discourse of history, that is, by means of a definition of discourse based in truth. For Alfonso, there was a crucial difference between historians and poets. The former are those who write “estorias e gestas” (stories and *gestas*, i.e. events), that speak of the “tiempo pasado” (past) “porque el saber del tiempo que fue es cierto” (because knowledge of the past is certain), and for this reason, “trabajaronse los sabios omnes de meter en escripto los fechos que son passados” (wise men worked to put past events in writing) and thus, “dixieron la uerdad de todas las cosas e non quisieron nada encobrir, tan bien delos que fueron buenos como delos que fueron malos” (they tell the truth about things, desiring to hide nothing, telling of the good as well as the bad).²² The poets

19. Cf. Bernard Guenée, *Histoire et culture historique dans l’Occident médiéval*.

20. *On the role of lectio in the critical processes of the Alfonsine workshop*, see Francisco Rico, Alfonso el Sabio.

21. *The bibliography on the relation between epic and history is unwieldy. An annotated portion can be found in Jesús Rodríguez-Velasco, Guía para el estudio 1: 51–132.*

22. Alfonso X, *General Estoria*, ed. Antonio G. Solalinde [pt. 1, prologue, 3a–b]. *The translations from this edition are mine.*

do not even merit representation or consideration in the course of history, especially, of course, the pagan poets. Read what is said regarding this idea in the *General estoria* when the various types of plagues are discussed and an attempt is made to make a connection between Exodus and the books of the Gentiles:

Del fecho deste diluuió [de Deucalión] e desta quema uos contaramos otras razones, que ay muchas dellas, mas dexamos las por esta razon, e contar uos yemos ende mas razones que ay en el fecho deste diluuió e desta quema, mas dexamos las por esta razon: los actores delos gentiles, que fueron poetas, dixieron muchas razones en que desuiaron de estorias; e poetas dizen en el latin por aquello que dezimos nos en castellano enfennidores e assacadores de nueuas razones, e fueron trovadores que trobaron en el latin, e fizieron ende sus libros en que pusieron razones estrannas e marauillosas e de solaz, mas non que acuerden con estoria menos de allegorias e de otros esponimientos.²³

[About Deucalion's flood and this fire there are many events that we could tell, but we will leave them untold for this reason, and we could tell things that happened in the event of the flood and the fire, but we will leave them out for this reason: the authors of the Gentiles, who were poets, said many things that deviated from history; and "poets" in Latin means in Castilian "fakers" and "inventors of new things," and they were troubadours who performed in Latin, and they put in books many strange and marvelous and pleasurable things, but things that do not agree with history but rather with allegories and other presentations.]

And he continues, giving an example and insisting on the crucial difference between poetry and history:

E assi fizó Ouidio, que fue poeta, en lass razones daquel diluuió e daquela quema de que dize el mas que otro sabio, e ennadio y unos mudamientos dunas cosas en otras que non son estoria por ninguna guisa, e dexamos las aqui por ende; e esto que aqui auemos ende dicho cumpla, porque aquesto es estoria, e sobresto, que fallamos que Eusebio, e Jheronimo e Orosio non dizen ende mas desto nin aun tanto.

[And thus Ovid, who was a poet, in the events of that flood and that fire, of which he said more than any other wise man, and adding and changing some things into others that are not history in any way, and so we leave them out; and in what we have said we comply, because this is history, and above all we have found that Eusebius, Jerome, and Horace do not even speak of it at all.]

Alfonso's words point out the radical difference between poetry and history and, in addition, give poetic activities an exegetic dimension. Poetic activities in themselves do not possess a historic value for two reasons: one, because they do not represent *gestas* (which, by the way, is the concept Guillermo de Moerbeke uses to translate the Aristotelian expression "what was," that is, the substance of history),²⁴ and, two, because they cannot be fitted to a mere historical, literal interpretation, like Hugh of Saint Victor's announcement in his *Eruditionis didascalicae* [799b ff.]. For Hugo of Saint Victor, reading history is essential, and only reading can permit the revelation of spiritual meanings, like honey from a honeycomb. Hugo's interlocutor, his ideal disciple, would like to pass quickly to

23. *General Estoria*, pt. 1, ed. Antonio G. Solalinde, *Éxodo* 13.15 [368b].

24. See Ernesto Valgimigli's edition [12].

allegory, but Hugo contains him, to explain the autonomous and primordial character of history, exactly as Alfonso does. Poetry thus lacks this double historical value, maintaining only an exegetic value, in its other meaning (*allegoria*), that would entail an infinite number of explanations going beyond history (*esponimientos*), in accordance with the both pagan and christian models of the conception of poetry.

The definition of poetry “poetría” or “poeta” (poet) mentioned before occurs systematically throughout the *General estoria*. It takes place in several parts of the Alfonsine body of work, as though it formed part of a body of definitions, or glosses established beforehand, an essential initial vocabulary upon which will be based the composition of history, and, in a more general sense, the entire body of work of the Alfonsine workshop. We know that the *enarratio auctorum* and other forms of commentary present in the texts that form part of the *General estoria* have very precise sources, among them the Papias’s *Vocabularium* and Béthune’s *Grecismus*, works that had been profusely glossed throughout the Middle Ages until they formed a text piled with layers of commentary.²⁵ It is plausible to think that Alfonso’s definition could descend from one of these vocabularies. What is important, however, is not the definition’s source, but rather its stability. The same definition that comes in the first part of the *General estoria* also appears in the fourth, some several hundred folios later, repeated almost to the letter:

Fol. 199ra

¶Esse XVI anno del regnado desse Arta-xerxes Oco rey de Persia fue connoçudo por grand sabio en el saber de la poetria uno a que dixieron Herina τ es poetria por assacamiento de algun saber que non fue fasta en aquella sazón.

[That 16th year of the reign of Artaxerxes Ochus, king of Persia, men of great wisdom in the skill of poetry one were known, one of whom they called Hernia. Poetry is invention of some subject that was not known until then.]

Fol. 199rb

Estonces fue connoçudo por grand sabio en el saber de la poetria un noble omne a que dixieron Herinna, assi como cuentan Eusebio τ Iheronimo ¶τ es poetria por assacamiento de algun saber de razones que non fueran fasta aquella sazón.²⁶

[It was then that there was a man known for his wisdom in poetry whom they called Herina, they also told of Eusebius and Jerome. It is poetry invention of some subject that was not known until then.]

The term “assacamiento” (invention) is also used to call someone a liar, appearing to mean “inventor,” as in the *Picatrix*: “assacador de nueuas e de muchas palabras e grand mintroso” (inventor of many new words and a big liar). In this case, the “assacamiento” would be *inventio* or perhaps, the definition of *inventio* (invention), *excogitatio* (thinking out, contriving). We can recall the definition *inventio* in Cicero’s *De inventione*: “excogitatio rerum verarum aut veri similium” (thinking out true or likely things), a definition shared with the *Rhetorica ad Herennium* and all of the rhetorical treatises derived from

25. See the work of Anne Grondeux, Le “Graecismus” d’Évrard de Béthune à travers ses gloses.

26. I read the *General estoria IV* in the beautiful Vatican Library ms. 539, and in my transcription, I have spelled out all abbreviations and do not maintain any elements of the manuscript’s punctuation, except the paragraph sign. Eusebius and Jerome’s *Cánones Chronici* [cf. PL 27, col. 469b] reads, with the analytic annalistic precision that characterizes them, “Erina poetria agnoscitur.”

this particular Ciceronian vein. It follows that Alfonso's definition of poetry (*poesía* or *poetría*) is of a rhetorical character, which situates it in the tradition of the twelfth- and thirteenth-century poetical-rhetorical treatises. For Alfonso there existed a particular category of poet, the "poeta sabio."

Andados ueynte nueue annos del regnado deste rey Dario fueron tenidos por nobles poetas dos sabios de que llamaron al uno Pindaro τ al otro Simonides, τ es poeta sabio que sabe assacar τ enfennir razon de nueuo τ conponer la apuesta mientras τ fazer ende libro τ dexa la en escripto. [General estoria 4, fol. 155v a–b]

[Twenty-nine years after the reign of King Darius were two wise men who were considered noble poets, named Pindaro and Simonides. And a wise poet is he who knows how to invent and to contrive things anew for the first time and to compose the poem eloquently and to then make a book, leaving it in writing.]

The glosses and vocabularies used in the workshop also sustained a legal and moral judgment upon everything that had the potential to form part of history, or that had to be excluded from it. The point of reference formed by this vocabulary (whatever its sources may be) implies an explicit communication inside the workshop that affects all scientific works, whether historical (the *General estoria*, for example), natural (the *Picatrix* just cited), or legal (the *Partidas*). The vocabulary ensures an exactness, a scientific quality, and a contribution to the construction of the space of certainty.

This need to consolidate the space of certainty by means of a vocabulary also explains other attitudes concerning the Alfonsine construction of communication within the workshop. Inés Fernández-Ordóñez has shown that various laws of the *Partidas* are found also in Alfonso's historical works. This congruence implies a close communication within the workshop, and seems to confirm the connectedness and soundness of the space of certainty.²⁷ The law and history working on a single project perhaps can help to explain one of the most complex enigmas of Spanish literary history: the "disappearance" of pre-Alfonsine texts and literary genres.

Naturally, an attentive reading of the projects of the Alfonsine workshop shows that neither the texts nor the genres have disappeared, but rather that they have been dissolved, touched by the need to be reinterpreted in the heart of the space of certainty organized by the laws, historiography, and science. Reading the *General estoria*, the *Estoria de Espanna*, the *Partidas*, and so forth shows us is the way in which these very texts have absorbed and canonized all of these previous literary traditions, transforming them in history, law, or natural science. Here is a transformation that not only concerns the actual texts but also their integrity: their materiality falls to pieces upon being integrated into the systems of commentary of history, the laws, and science, in submitting to the critical process of the workshop as well as its working conditions. In addition, Alfonso is not content with simply targeting generic changes and those derived from commentary; he also wishes to make the majority of their sources disappear, since he is clearly creating a new model that should substitute for all of the previous sources, as well as the modifications they have made to both language and content. It is true that both the *General estoria* and *Estoria de Espanna* are generous in mentioning sources, but in other cases we are almost desperate for any source knowledge.²⁸ However, because of what the *Partidas* respects, for example, the legislator makes an enormous effort to make all modern sources and part of the old sources disappear: very few names—almost all from the Bible—and millions

27. See her article, "Evolución del pensamiento alfonsí."

28. Cf. Daniel Eisenberg, "The 'General Estoria.'"

of references to some imprecise “sabios antiguos” (ancient wise men) come to constitute the greater number of sources that Alfonso affirms.

A good synonym for the expression “space of certainty” is simply: Alfonso.

Conclusion

Frequently and justifiably Alfonso X has been considered the originator of a cultural universe of extraordinary proportions. Each one of the steps he has undertaken to establish the dignity of the Spanish language, along with a respect for the texts that he promoted from the vantage point of his workshop, has been valorized down to the smallest detail, and with the most fervent praise. His name has become an abbreviation for the workshop itself, and its authors have dissolved into the name Alfonso, which in turn gives rise to an Alfonsine *mens* that survives both time and space.²⁹

This is not the only possible perception of Alfonso’s historical persona, however. In fact, we have tried to see how *mens* and workshop form a very different perspective: the king creates a space of certainty which is like Nietzsche’s concept of the “peace treaty,” a semantic, hermeneutic, and rhetorical convention with which to construct the institutions and kingdom itself. The consequences of this creation have a dual dimension, legal and historical. The legal dimension regulates the space of certainty, while the historic dimension controls any possible disequilibrium caused by uncertainty. The value of the law and of history appear here on the same field with that of natural science, the third project of the Alfonsine workshop (which we have not considered here), in a triptych of control that drives the Alfonsine program to dissolve the past and submit it to a new space, a space from which time springs.

The time that arises from the space of certainty is, of course, the Alfonsine era,³⁰ which turns its focus to us, showing us its powerful device of control that conceives of science in a triple dimension: historical science, legal science, and natural science, including mathematics, physics, astrology, and so forth. At its heart, Alfonsine science constructs the space of certainty with a linguistic rigor. Meanwhile, uncertainty arises from the invention of “razones,” discourses that did not exist until that moment (“razones assacadas de nuevo, saberes que no existían fasta en aquella sazón”) (discourses invented anew, forms of knowledge that did not exist until that time), except those that were subjected to a rhetoric of irony regulated by the law itself, subjected to a complex exegetic program, or directly incorporated into history, law, or natural science, to possess, only through this means, a certificate of existence and to remain written. In the end, it is a problem that Nietzsche also remembered and that, of course, was Foucault’s utmost pre-occupation: what happens to the creative universe that is established outside of the center of both the normalizing power and the certainty of science?³¹

29. *The idea of the Alfonsine mens is inspired by the mens Thomae studied by Alain Boureau in “Peut-on parler d’auteurs scolastiques?”*

30. *The new computus of the “Alfonsine era” comes from Daniel Eisenberg, “The ‘General Estoria’” and from the Alfonsine books on astronomy [see Martínez, Alfonso X].*

31. *I thank the following people for their always attentive and illuminating readings and comments: Pedro Cátedra, Enrique Gavilán, Michael Gerli, Carlos Heusch, Seth Kimmel, Chema Rabasa, Aurélie Vialette. I especially thank Heather Bamford (who was helped by Stacey Triplett and Israel Sancz) for her superhuman work in rendering this article into proper English. The four anonymous readers of this article are from now on in all my prayers for their helpful, generous, and illuminating work. I claim sole responsibility for any errors or the insistence on certain positions in this article.*

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