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# The Problem of the Fetish in Law, History and Postcolonial Theory

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# The Problem of the Fetish in Law, History and Postcolonial Theory

## **Abstract**

Postcolonial theory's engagement with the questions of psychoanalysis are beginning to reveal colonial paradigms within both the theory of psychoanalysis and the practice of its treatments. It is not surprising that a methodology for reaching some personal understanding of the western condition of alienation and trauma should reveal aspects of western knowledges as dependent upon past practices of colonial dispossession and destruction of non-western peoples and lives. What is surprising is to find the extent to which early modern western anxieties regarding the ethical treatment of non-western peoples should remain fixed within various languages in which present forms of colonialism continue to reap their harvests of life and death for western treasuries.

# The Problem of the Fetish in Law, History and Postcolonial Theory<sup>1</sup>

Judith Grbich

Postcolonial theory's engagement with the questions of psychoanalysis are beginning to reveal colonial paradigms within both the theory of psychoanalysis and the practice of its treatments. It is not surprising that a methodology for reaching some personal understanding of the western condition of alienation and trauma should reveal aspects of western knowledges as dependent upon past practices of colonial dispossession and destruction of non-western peoples and lives. What is surprising is to find the extent to which early modern western anxieties regarding the ethical treatment of non-western peoples should remain fixed within various languages in which present forms of colonialism continue to reap their harvests of life and death for western treasuries.

The conjunction of postcolonial theory's questions of race, discursive power and identity with Freudian and Lacanian methods of theorising the unconscious as if it were a language has intensified how sexuality might function in relation to racial subjectification, and how racial differences appear always as an Imaginary within Western hegemony and its effects. Masculinity and whiteness mask the Godly spark by which western speech users imagine the path home to spiritual understanding has been laid out within the western literary archive. These questions are beyond the scope of this article. My aim is to introduce questions of legal aesthetics and legal history to the conjunction of postcolonial theory and psychoanalytic method which has

appeared in recent revisitings of the problematic of ‘fetishism’. Homi Bhabha has interrogated the Freudian theorisation of the fetish as a sexual phenomenon, and its wider ambit as a process of ambivalence, disavowal and affirmation implied in the practices of colonialism. William Pietz has carried out a genealogy of the term fetish and revealed its early uses in the ambivalences of and contradictions between early modern European Christian and commercial practices in Africa and the similar ambivalences and contradictions of African cultures during these beginnings of European colonisation of African peoples and resources.

My article has a focus upon extending these questions and methods of Bhabha and Pietz into the territory of legal aesthetics and the related field of histories of commercial credit practices. It brings together Protestantism and the poetics of usury in order to focus upon the aesthetics and poetics of imagining entitlements to the use of land as a proprietary thing. It suggests that the African fetishers who disturbed the European traders with their investiture of religious qualities to objects of spiritual homage reveal, in the discourses of European traders, a European cultural unconscious in which paper money conceals a *specie* fetishism. This is a compulsion to classify or order things into their proper kind or *specie*, as either the kind of mother or matter, or the kind of father or spirit. This is a fetishism of invisible commodities which has used the suffering of black skinned peoples to support the juridical logic of writing money as a practice worth the risking of life.

## **Legal aesthetics of property right and debt**

### ‘Redemption’

Having been tenant long to a rich Lord,  
Not thriving, I resolved to be bold,  
And make a suit unto him, to afford  
A new small-rented lease, and cancel th’ old.  
In heaven at his manour I him sought:  
They told me there, that he was lately gone  
About some land, which he had dearly bought  
Long since on earth, to take possession.

I straight return'd, and knowing his great birth,  
Sought him accordingly in great resorts;  
In cities, theatres, gardens, parks, and courts:  
At length I heard a ragged noise and mirth  
Of theeves and murderers: there I him espied,  
Who straight, *Your suit is granted*, said, and died (Herbert 1974: 60).

George Herbert's early 17<sup>th</sup> century English poem 'Redemption' provides a vivid rendering of a protestant aesthetic in which Christ's death is both 'the focal point of reconciliation' (Hegel 1988: 467) of the property right of God and the debts of man, and the discursive ground of a new civil strategy of claiming freedom from feudal servitudes. Herbert's poem is one among many renderings in the 16<sup>th</sup> and 17<sup>th</sup> centuries of a protestant structuring of the signs of suffering doubly placed within a scenery of a temporal Lordship and a spiritual Lordship. Nor of course has this poetic form remained confined to early modern ways of picturing civil entitlements. Nevertheless it provides me here with an introduction to part 3 of this article where I wish to question the anxieties of a Dutch West India Company official whose writing on African fetishers seems to reveal both an unease with company treatment of the Africans and also his own unease with his homeland Christian practices of the investiture of religious qualities in the monetary objects of commercial credit relations.

In 'Redemption' the thriving of one life is under threat due to the obligations of payments for a rented lease of land. The tenant seeks to renegotiate the term of his lease with his Godly landlord. The tenant turns from his search in heaven for his landlord and finds him on Calvary amid the crucified thieves and murderers. With his death Christ grants the tenant's plea for a 'new small-rented lease'. Christ is 'spied' by the tenant as he dies upon the Cross. Christ speaks directly to the tenant, 'Your suit is granted'. The tenant's lease payments for holding the land, and his life, have been part paid by the death of Christ. In Herbert's rendering of the Christian doctrine of Christ's atonement for the sins of mankind, Christ's blood is spent, as if it were the money due on the lease. Within Protestant beliefs of good works during life as the key to

grace, the new short term lease could be read as a lessening of these pains of human hardship. God relieves the tenant of the full payment of a hard life of toil, by accepting in lieu the early payment made by Christ on the tenant's behalf. Herbert's poem gives a vivid account of early 17<sup>th</sup> century European experiences of the emotional commitments of the Protestant reader to humility and denial, and to the figure of the sacrificial Christ which underwrote justifications of the taking of the excesses of life, that is, a life not wholly condemned to pain and toil.

Herbert's poem gives access to a protestant aesthetics of a suffering Christ imbricated within both a theological doctrine of Christ's atonement for the sins of mankind, and a newly emerging practice of picturing entitlements to the use of land as proprietary in its modern sense of alienable, rather than simply feudal. The use of land was being thought of as a thing separate from the land itself in all the different ways in which the taking of interest from the loan of money could be defended and justified within theological communities long committed to the biblical injunctions about usury. In Deuteronomy of the Old Testament, the words of God given to Moses stated, 'Thou shalt not lend upon usury to thy brother; usury of money, usury of victuals, usury of any thing that is lent upon usury' (Deuteronomy 23: 19).

If the use of land could be thought of as separate from the freehold tenant's right to hold the freehold, a leasehold could be carved out of this unlimited time of the freehold estate. The new fixed time and term of a leasehold right could be transferred to another as security for the loan of another's money. The lender could be recompensed for his money by his rights as leaseholder to take the monetary benefits which the land and its labourers generated in the form of crops or animal husbandry. The benefits enjoyed by the lender seemed to be the fruits of the land rather than a usurious receipt. At the end of the fixed time of the lease a mortgage document might give the borrower the right to the return of his land where he repaid the money borrowed.

But where the lender holding the leasehold and the mortgage document used this writing as if it were the sum of money owing at the end of the period of the loan, and lent the sum to another, the writing was

said to have a face value of the sum written on the paper. Might not the money paid be a usurious payment? By what moral principle could a Lord or even a King be asked to pay interest on monies lent to him when it was prohibited by the biblical rule in Deuteronomy? One answer, developed over the 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> centuries was that the lender was entitled to be compensated for his loss of *interesse* — his loss of the uses to which he might have put the land. Any additional sums asked for and given over and above the sum borrowed could be thought of as not a usurious taking, but a compensation for the lender's loss of his use of the land.

In Herbert's poem the tenant's payment for the use of the land, and allegorically, the use of his life, has been made by borrowing from Christ. He is firstly indebted to God as a being with a life, and secondly is indebted to Christ for any excess of life able to be enjoyed beyond his original allocation from God. In these imagined uses of the Christian logos or Word, western spirituality dwelt in a long used performance of emotional lives destined to wander during mortal life until called home at death or judgment day. The monetary and juridical figures upon which the soul made this journey became irretrievably mingled with civil practices of currencies and debts during the early stages of imaginary monies. Psychoanalysis and postcolonial methods suggest ways of tracing these mingled histories of 'being at home' in property right and the debts of its uses.

### Genealogies of fetishism

In his writing on speech as the beginnings of the child's entry into the symbolic of the Judeo-Christian tradition Lacan emphasises how 'the signifier *being a father* is what creates the highway in sexual relations with a woman' (1993: 293). These themes of 'being a father' and 'the highway' refer back, it would seem, to the Hegelian patterning of the western dialectic of knowledge and human action, and to Hegel's attempts to outline how the pathway of the human spirit followed by the soul repeats the processes of God's gift of language and the Word and its culmination at the day of judgment with a reconciliation of man's

sorrows and Christ's death (Hegel 1988). It is the soul which travels this highway in the mind of the human animal for whom sounds can be placed in a chain of signification from which meaning can be made. The labour of thought is a making by which meaning means that one has been a father. 'Being a father' is a symbol of communication within the Judaeo-Christian tradition built with the Biblical sources of Godly pronouncements upon the grammar of God's speech, and Godly injunctions for the faithful to repeat these approaches to the letter and responses to the letter.

These are complex issues of Judeo-Christian belief and language use which have provided the focus of both Hegelian and Kantian attempts to position their philosophical and theological enquiries into the perfections of European forms of life as universal knowledges and predictable outcomes of a world system. It beggars belief of course that all peoples had access to this 'world system' given that it was contingent upon the Judaeo-Christian belief system and possibly reliance upon romance languages of the European. But the conviction that the Judaeo-Christians were the 'chosen people' and an elite to whom writing had been demonstrated by the finger of God himself by his writing of the law on the tablets of Moses, supposedly removed for some the logical flaw of basing a world system of the coming to perfection upon only one branch of theological faith. Psychoanalytic theory and practice has attempted to find how the western subject has been formed within the complex symbolics of language and speech with which Judaeo-Christian religious thought inculcates the child into the means of creating a sense of self in the eyes of God.

### ***Bhabha and the use of the Freudian fetish***

Homi Bhabha has developed a postcolonial theory of the Hegelian problematic of the perfection of European knowledges by following questions of the racial qualities of the European aesthetic. Both Lacanian and Freudian methods have been used to uncover how racial differences have served to veil Western hegemonies and their effects. He has linked the Freudian theory of the fetish (Freud 1984b, 1991) with colonialism's power within the ambivalences of racial stereotypes.



Bhabha has used psychoanalytic methods to find how 'being a father' in the sense of the child's attempts to enter the European symbolic of language use has fixed the 'ideal-ego' which the child imagines as his first sense of self to whiteness.

Bhabha has theorised a colonial or racial stereotype as a key concept for investigating the relationship between discourse and politics, between language use and European imperialism in the name of God, which he names as the 'colonial question' (1986). The racial stereotype is 'an ambivalent mode of knowledge and power'. He argues that:

It is the force of ambivalence that gives the colonial stereotype its currency: ensures its repeatability in changing historical and discursive conjunctures; informs its strategies of individuation and marginalization; produces that effect of probabilistic truth and predictability which, for the stereotype, must always be in excess of what can be empirically proved or logically construed (1986: 149).

The colonial stereotype of the 'subject-races' as 'racially degenerate or primitive' has been theorised by Bhabha, after Foucault, as a form of disciplinary power. Bhabha uses Fanon's account of encountering the fear and loathing of a white child for the Negro as 'an animal', as 'bad', as 'quivering with rage',<sup>2</sup> to theorise racist stereotypical discourse as a 'process of subjectivization' which is lived and enacted by both the coloniser and the colonised. He adopts Fanon's psychoanalytic method to develop an understanding of how colonial discourses of racial stereotypes provide an ambivalent and conflictual apparatus which constitutes the 'colonial subject'.

Bhabha uses a Lacanian schema of the Imaginary to theorise the psychological processes involving visual and auditory accessing of a western cultural writing tradition — to develop the idea of how the process of subjectivisation involves an identification of 'an ideal-ego that is white and whole'. Bhabha's use of the Lacanian Imaginary is approached by a focus upon the Freudian theorisation of the sexual fetish. In Lacan's 1949 essay the process of subjectivisation or development of the subject is theorised as a 'mirror stage' (1977a). The child is said to recognise itself through identification first as at one with

the mother, and then as separate from her by recognising itself as the self-image in a mirror or reflection. The visual experience of recognition of self in the image begins what has been referred to as ‘the setting up of the first roughcast of the ego’ (LaPlanche & Pontalis 1973: 251). It is this process which remains transitory until the child’s entry into the Symbolic with the acquisition of speech. Lacan’s later theory of the Imaginary (1979a: 144) uses the dynamic of ‘seeing and unseeing’, the visual experience of being looked at and seeing that one is being seen, to introduce the notion of an Other’s gaze to replace his notion of repetition in the earlier theory of the mirror stage. In this later theorisation of the Imaginary, the child receives the gaze of the Other, primarily a process of the relation of the subject with the domain of vision. In Lacan’s words, ‘we are beings who are looked at, in the spectacle of the world’ (1979b: 75).

Freud’s 1927 essay ‘Fetishism’ (1991) introduced within Freud’s project the concept of disavowal and the idea of the split in the subject’s ego. Freud argued that the shock of the male child’s observing his mother without a penis is the threat that he too may be castrated like her. His unconscious process of thought is one of retaining a prior belief that his mother has a phallus and the holding of a belief that,

... this penis is no longer the same as it was before. Something else has taken its place, has been appointed as its substitute, as it were, and now inherits the interest which was formerly directed to its predecessor. But this interest suffers an extraordinary increase as well, because the horror of castration has set up a memorial to itself in the creation of this substitute. Furthermore, an aversion, which is never absent in any fetishist, to the real female genitals remains a *stigma indelebile* of the repression that has taken place (353).

Bhabha uses Freud’s notion of a child’s view of its mother’s naked body as the shock of castration anxiety to develop his theory of colonial discourse. Bhabha argues that ‘the myth of historical origination — racial purity, cultural priority’ is like the male child’s belief that all parents have a penis. The colonial racial stereotype introduces as it were the shock of difference, a skin colour or racial difference, by which

racial purity and cultural priority is disavowed. But the myth of historical origination as racial purity and cultural priority is also reinstalled by the substitution of something else for the quality of purity and priority thought to be different. Bhabha argues that: ‘... the scene of fetishism functions similarly as at once, a reactivation of the material of original fantasy — the anxiety of castration and sexual difference — as well as a normalization of that difference and disturbance in terms of the fetish object as the substitute for the mother’s penis’ (1986: 161). Bhabha sees the link between the fixation of the fetish in the object (of difference) and the stereotype as functional. ‘For fetishism is always a “play” or vacillation between the archaic affirmation of wholeness/similarity — in Freud’s terms: “All men have penises”; in ours “All men have the same skin/race/culture; and the anxiety associated with lack of difference” — again, for Freud: “some do not have penises”; for us: “Some do not have the same skin/race/culture”’ (161).

Bhabha develops this use of the Freudian sexual fetish:

The fetish or stereotype gives access to an ‘identity’ which is predicated as much on mastery and pleasure as it is on anxiety and defence, for it is a form of multiple and contradictory belief in its recognition of difference and disavowal of it. This conflict of pleasure/unpleasure, mastery/defence, knowledge/disavowal, absence/presence, has a fundamental significance for colonial discourse. For the scene of fetishism is also the scene of the reactivation and repetition of primal fantasy — the subject’s desire for a pure origin that is always threatened by its division, for the subject must be gendered to be engendered, to be spoken (162).

Bhabha’s treatment of the Hegelian myth of historical origination of European nations as one of racial purity and cultural priority rather nicely fixes how the Hegelian parameter of history has both a Judaeo-Christian boundary and a status in western thought somewhat less than its idealist proponents might wish for it. In likening the Hegelian theory of history to that position in Freud’s theory of fetishism of the male child’s belief that all parents have a penis, he both captures the sense of ‘being a father’ as a symbol of communication in the Judaeo-Christian structure of language use and its precarious subject position for any speech user of colonialism to imagine inhabiting.

***Pietz and the historiography of Guinea Coast fetichers***

William Pietz's research on the genealogy of fetishism has traced the origins of the term to 16<sup>th</sup> century Portuguese and Spanish characterisations of the Guinea people's religious practices (1985, 1987, 1988), and has developed a major research program which must be acknowledged as a significant breakthrough on the progress of European Enlightenment by documenting the role of the fetish concept in the works of English, French and German Enlightenment thinkers (1996).<sup>3</sup> Pietz's research on Bosman's 1702 *Description of the Coast of Guinea* (1988) has reintroduced the theme of fetishism to critical research on modernity. Pietz's research on the European travel genres in which Bosman's account of the Guinea societies was taken up and repeated throughout the 18<sup>th</sup> century almost verbatim, and his theorisation of the fetish practices as enabling the development of Enlightenment theories of systematic social functioning is a major contribution to a critical anthropology and to social and cultural theory. His recent writings have extended his critique to themes within art history and within legal theory (1997, 1999, 2002).

Pietz documents the Portuguese writings of the 16<sup>th</sup> century in which Portuguese traders to the Upper Guinea coast mention that the 'Boulooes' of Sierra Leone were 'all idolaters and sorcerers and are ruled by witchcraft, placing their faith in oracles and demons' (1987: 37). Later traders were prepared to treat the *feiticio* or witchcraft objects, revered by the black societies, as 'the heathen equivalents of the little sacramental objects common among pious Christians'. Pietz argues that in the understanding of the Europeans familiar with West Africa, *fetissoes* 'were not false gods in the traditional sense, but rather were quasi-personal divine powers associated more closely with the materiality of the sacramental object than would an independent immaterial demonic spirit' (1987: 38).

The Calvinist Dutch had ousted the Portuguese from the Gold and Slave Coasts of Guinea by 1642. In early 17<sup>th</sup> century Dutch texts, and later English, Dutch and French texts, Pietz finds an 'explicit assertion of identity between African fetiches and Catholic sacramental objects'.

Pietz argues that these later 17<sup>th</sup> and 18<sup>th</sup> century texts of the Dutch, English and French emphasise the capricious feature of the native use of the *fetisso*, rather than the earlier discourse of their similarity to Catholic sacramental objects. The *fetissoes* were used for their personal religious value to the negro but as a traded object seemed to form no part of any consistent community value system. It was perceived as exhibiting a type of primitive reasoning in which objects would be personified and attributed a supernatural agency, theorised by 18<sup>th</sup> century European writers as a superstitious misunderstanding of causality (1987: 42). As merchants and intellectuals of the 18<sup>th</sup> century drew upon the traders' stories of the Guinea peoples, *fetissio* practices and their practitioners became examples of 'infant Reason'.<sup>4</sup> Reason for the European came to be 'the capacity to apprehend the material world of nature as determined by impersonal operations (determined by mechanistic laws of causality)' (1987: 42).

Pietz has argued that his study of the fetish as a historical problem has a focus upon 'the usage of the word itself'. He says the field is defined by the usage of the word itself, on the grounds that,

... this is the only approach that preserves the specificity of the problem, since it does not reduce the notion of the fetish to one or another (particular or universalist) metacode (1985: 15).

The specificity of the problem which Pietz wishes to preserve by this methodological focus upon usage of the term fetish he describes as the European problematic as it developed within the naming by the Portuguese, Dutch, English and French of the 'irreducible materiality' of the fetish object; 'a fixed power to repeat an original event of singular synthesis or ordering'; 'the institutional construction of consciousness of the social value of things'; and the relation of subjection or intensity of the object as a power of the 'desires, actions, health and self-identity of individuals' (1985: 7–10). Nevertheless, if one takes to heart the Foucauldian notion of discourse as the truth of power (Foucault 1980), this discursive method in which only the European naming of the relation of the object to the subjectivity of the speaker has been admitted to the field, might reveal a disciplinary boundary within which the

phenomenon of fetishistic behaviour has a cultural coding, in addition to its shaping within a 'cross-cultural situation' (Pietz 1985: 11).

### **Reading Bosman's *Description* as a morality tale**

It is possible to read Bosman's 1702 *Description of the Coast of Guinea* as not only an ethnography of the people of the Guinea Coast but also as taking part in a well established Dutch travel genre of the 17<sup>th</sup> century, in which Old Testament analogies or parallel stories formed moments of moral reflection upon diverse civil, political and commercial practices. Bosman's letters home<sup>5</sup> exhibit what might be read now as a moral anxiety about the Dutch treatment of the Guinea peoples. They are perceived by Bosman as similar in many ways to the people of the Old Testament, the Hebrews, and therefore worthy of being treated justly by the Dutch traders. But the Dutch traders were involved in the profits of buying and selling slaves, which seems to engender a conflict for Bosman. He writes as if the Guinea peoples had sold themselves, or at least each other, and as if there were no moral implications for the Dutch suppliers of slaves to the Caribbean. He even goes so far as to retell a Guinea people's 'sacred origin' story, in which the Negroes have chosen avarice, and slavery is their just punishment by God. The Gold Coast Negroes:

... attribute the Creation of Man to God, which they assert to have happened in the following manner: they tell us, that in the beginning God created Black as well as White Men; thereby not only hinting but endeavouring to prove that their race was as soon in the World as ours; and to bestow a yet greater Honour on themselves, they tell us that God having created these two sorts of Men, offered two sorts of Gifts, viz. Gold, and the Knowledge of Arts of Reading and Writing, giving the Blacks the first Election, who chose Gold, and left the Knowledge of Letters to the Whites. God granted their Request, but being incensed at their Avarice, resolved that the Whites should for ever be their Masters, and they obliged to wait on them as their Slaves (146).

Simon Schama has written of the 17<sup>th</sup> century Dutch travel genre and the literary market for disaster stories (1988: 30). There was a popular appetite for consuming the details of shipwreck fables as allegories of 17<sup>th</sup> century metropolitan struggles between a humanist patrician republic vying for more power against various theological ministries imploring stricter standards of godliness. In the Puritan and Calvinist tradition personal trauma, pain and natural and military disasters were to be interpreted as part of the godly Providential plan, and survival was a sign that a passable life had been led and recognised by God as worthy of saving. Schama argues that,

... the medieval commonplace of the ship as mother church, the allegorical parable of the *Narrenshiff*, the Ship of Fools, and the humanist image of the Ship of State were all garbled together to make a composite metaphor for the Dutch community, set adrift on the 'great historical ocean' (31).

The 1646 Journal of Bontekoe of the East India Voyage of 1618–25 provides a spectacular story of calamity at sea in which the reader is given explicit Hebraic imagery with which to ponder the morality of the Dutch metropolitan leadership — and the imperatives for citizens to adopt more recondite and humble lives. The crew contemplate the necessity for cannibalising the young boys amidst the 72 survivors drifting in small boats. Greed, sin and disaster are called to mind, says Schama, as Bontekoe writes of the ship sinking and exclaims 'Oh God, how is this fine ship undone, Yea, even as Sodom and Gomorrah' (Schama 1988: 32). The East India Company merchant on board, when pitted against these tribulations, obeys the godly captain of the ship. Schama argues that the captain takes on,

... an almost Mosaic quality, imploring the Almighty for guidance in leading his flock to safety. ("Yea, with deep sighs I prayed, 'O Lord shew us the way and guide me; yet if Thy wisdom deem it best not to bring me safely to our Nation, suffer then [if it be Thy will] some of our company to be saved") (32).

Within this Protestant travel genre as morality tale, Bosman's letters exhibit a concern to distinguish his Calvinist beliefs about religious matters from those of the Roman Catholic faith, whether the Portuguese

who had previously held the occupation of the Guinea Coast before its loss to the Dutch, or the Spanish known in recent metropolitan experience of the United Provinces of the Netherlands as ruthless and barbaric conquerors. Nevertheless, Bosman draws sufficient parallels between the Guinea Fida people's religious practices of the fetish and Roman Catholic rituals and beliefs held in the Netherlands to suggest his concerns with the fetishers of the Gold Coast are symptomatic of something more than religious difference. The Roman Catholic prohibitions against merchant usury and church involvement in enforcement of use or rental dues upon tenants of church lands seem to make him reflect rather uneasily upon the difficulties of separating the Fida religious beliefs from the Fida commercial dealings with Bosman's Dutch West India Company. It is possible to read Bosman's account of the Guinea fetish practices as a Dutch West India Company tirade against any metropolitan Catholic or Calvinist censure of commercial practices of money and interest taking, practices which underwrite the possibility of the Company and its contribution to national prosperity. His letters have the effect of picturing Christian anti-usury clergy or preachers as similar in primitiveness to the Guinea negro fetishers.

The focus of my research here is to place within theory Bosman's anxiety about the similarities of the credit and debt arrangements of metropolitan Netherlands and those of the Guinea peoples. At one level his account is factual, descriptive and informative, as far as one can tell. But at other levels, the travel voyage genre as a moral fable was well established and here Bosman's comparisons of the parallels of credit arrangements seem to allegorise the credit practices of the Dutch in a way which puts each reader into the familiar position of scriptural interpreter, the pilgrim of a personalised voyage to the land of Christian conscience.

Bosman's account of the Fida people's attribution of sacred status to snakes and their practices of entrusting offerings of money and valuables to the priests to manage the effects of snakes upon the people begins with the rhetorical question, 'How would our countryman Becker, author of *The World Bewitched*, divert himself with the



contrary opinions of the Sons of Adam'? For as we take the Serpent for the Fatal Destroyer of the Human Race: so these of Fida on the contrary esteem him their Supreme Bliss and greatest Good' (368a). The Fida priests make a good living out of enforcing beliefs that the snakes at night seize beautiful women and make them distracted. The parents are then obliged to bring the girls to a particular house, where they are obliged to stay several months to be cured. 'During this time the relations are obliged to furnish them with all manner of necessaries, and that so plentifully, that the Priests can also handsomely subsist on it'. Bosman remarks that 'throughout the world it is very dangerous to disoblige the Ecclesiastics'.

Bosman likens a Fidean king to a Friesland King in a story of an Augustan monk who tried to convert the blacks to Christianity, but in vain. 'The Priest invited the King to be present at mass which he also did. And when he saw him next, asking him how he liked it, he said very well, and that it was very fine; but that he chose rather to keep to his fetiche' (385). On the priest threatening damnation and burning in Hell if the King did not change his course in life, the Fidean reply was basically what was good enough for his ancestors was good for him, 'if they must burn therefore Patience, we are not better than our Ancestors, and shall comfort ourselves with them'. Bosman concludes that 'If the Negroes could read and understand the Bible, I should believe, that his Captain had read the Friesland Chronicle, where a parallel adventure betwixt a Bishop and a Friesland King is related'. What practice of the Friesland King had failed to conform to the censures of the Netherland Bishop Bosman does not disclose. It does nevertheless suggest his readers would be able to follow the irony of his parallel story of the likeness of the Fidean fetiche to the Friesland King's problem of 'overvaluation'.

In the telling of the number of Fidean deities as not 30 thousand, but 'four times that number', including the snakes and the enforcement of offerings, Bosman remarks that 'what followeth will convince you that their Religion seems only founded on the same principle, Interest' (367a). This is the 'same principle' as that of crimes at Fida being 'generally

compensated by Money'. The reader might reflect upon the sale of indulgences for sins in metropolitan Europe and the Lutheran and Calvinist polemics against the principle of buying from the church a dispensation for one's sins.

Bosman makes numerous references to the similarities of the Guinea peoples' religious beliefs of idolatry and the use of fetish objects, to the religious ceremonies and beliefs of the 'Romanists'. Bosman describes how they have food rituals in common, together with similar rules of abstention and prohibition in regard to foods. He concludes that

... if it was possible to convert the Negroes to the Christian religion, the Roman-Catholicks would succeed better than we should, because they already agree in several particulars, especially in their ridiculous ceremonies ... the Romanists have their allotted times for eating, particular sorts of food, or perhaps abstaining from it, in which the Negroes out-do them (154).

Some rich negro ladies of the Gold Coast of Guinea perform the charitable tasks on their deathbeds of using their money to buy and thereby release from servitude some 'foreign female slaves'. Bosman comments it is like

some people in Europe do the buying masses for the Souls in purgatory: which is most effectual I will not pretend to determine; but leaving the latter to take care of themselves, I shall only inform you that these ladies firmly believe, without the least doubt, they shall receive their reward for this in the other life (215).

Bosman recounts the various crimes which are punished by the Gold Coast peoples by the payment of fines or a life of someone in lieu of payment. He is disturbed by the absence of a just proportion between the debt owing and the method of exacting the payment due. Each comparison between the Guinea peoples and his own Dutch practices entails a complaint about the lack of a standardised settlement in the Guinea practices. He seems to be longing for a more recognisable substitute of life for money, or money for life. Bosman reports that,

## The Problem of the Fetish in Law

... a rascally creditor in those places, instead of asking his money of his Debtor, and summoning him before the Judge in case of refusal, seizes the first thing he can meet with, though of six times the value of his Debt, without any regard who is the Proprietor, who when he come to ask for it, is told that he must go to such a person, who is his Debtor, and must pay him for it; ... This is very extravagant Justice, the first credit has six times the value of his debt ... the creditor is obliged to give him full satisfaction, in imitation of an old Roman law ... (176, 178).

Bosman does find a standard of sort in the practices of the indigent. He reports that 'what is most commendable amongst the Negroes is, that we find no poor amongst them who beg; for though they are never so wretchedly poor they never beg'. Bosman records that,

... the Reason of which is, he binds himself for a certain Summ of money, or his Friends do it for him; and the Master to whom he hath obliged himself keeps him in all Necessaries, setting him a sort of task, which is not in the least slavish, being chiefly to defend his Master on occasion, and in sowing time to work as much as he himself pleases (140).

Elsewhere in the letters home he reports that the Negroes of the Gold Coast are 'all without exception crafty, villainous, and fraudulent, and very seldom to be trusted'. However, his particulars of various monetary and commercial practices seem to reveal more about Bosman's desires than the 'natural temper of the Natives'. The Negroes 'live rather too soberly, two pence a day being sufficient to diet one of them ...' 'I have been sometimes of opinion that they thought all dear things unwholesome' (124).

On the other hand, Bosman is disturbed that the Negroes of Great Benin idolise 'worthless Nothings': 'they take everything which seems extraordinary in nature for a God, and make offerings to him' (454).

... they have such multitudes of Images of their Idol-God, which they take to be subordinate Deities to the supreme God, without considering what sort of Trifles they are ... (454).

... their daily offerings are not of great Value, consisting only of a few boiled Jammes, mixed with Oil, which they lay before the Images of their Gods (454).

A metropolitan Dutch reader of this morality tale might wonder what is the just sum to be paid in recompense for a debt, if six times is too high for the people of Guinea what lesser rate of greed is appropriate for a godly merchant? If God has punished the Gold Coast people for choosing Gold, my avarice awaits a similar fate. If a Guinea native can negotiate an amicable and neighbourly settlement of his poverty what manner of evil would compel a European to imprison or enslave his own poor for the debts of human subsistence? The Dutch reader living in high prosperity and abundance might ponder what kind of villainous and fraudulent being among themselves might rival the Negroes in villainy in living less soberly and finding only dear things desirable.

My argument is that it is these questions of metropolitan life, of the letters as a moral fable, which enframe Bosman's account of the fetishers amongst the Guinea people. These are metropolitan moral questions of the writing of credit money, the anxiety of a monetary medium of account, and the picturing of the practices of redemption. When writing credit fails, whose life saves, or restores faith, to the practices of commerce and national prosperity?<sup>6</sup>

## **Specie fetishism**

My article here brings together postcolonial theory, psychoanalytic questions, protestantism and the poetics of usury, to focus upon the aesthetics and poetics of imagining entitlements to the use of land as a proprietary thing.<sup>7</sup> At the heart of this focus upon some 17<sup>th</sup> century commercial practices of justifying the taking of interest from a monetary loan, is the juridical logic of writing as a substitute or displacement of a loss or lack which has persisted in diverse phenomenal and cultural forms since at least the 17<sup>th</sup> century uses of a Protestant aesthetics of suffering to contest divine rights of Kings. This can be termed a *specie* fetishism. In one sense *specie* is coined money, precious metals made in a proper or authorised way. As a fetish it may be thought of more generally as an overvaluation of a kind or category, a concern with qualities of kind which have a magical or profound impression for the fetishist, and which invoke a concern for repayment in kind.

I have written elsewhere of how the feudal characters of the freeman and his estate formed a cultural code in which the holding of the rights to dispose of the estate, the rights of seignorage/seignor, were indicative in a negative logic of who held the identity of freeman (Grbich 2002). In legal historiographies of feudal relations the absence of rights to dispose of or sell the products of an estate indicated a person was not a freeholder, but instead held in villeinage, in bondage. In each of the ways in which entitlements to the use of land are imagined, land is gendered female and the use of that land often has a sexual connotation, as in Petty's image of the land as the mother or womb of wealth (Petty 1964). In Petty's schema human labour is gendered male or fatherly, as progenitor. Any benefits of the use of land or its substitutes in the loan of monies have, in a poetic causality of human generation, an association with sexual activity.

Where this imagery is imbricated in the credit arrangements of a mortgage loan secured by land, and other arrangements involving interest payments, one could say that the interest taker who holds the right to the use of the land is recognised in the theological archive and the political economy archive as a prototype Freudian subject. He can see the writing of the paper as a fatherly thing, and can also see the imaginary use of the land as a motherly thing. It is this written negotiable monetary object which can be recognised as 'mother'. While mother appears to possess the instrument of generation she does not have fatherly powers, these are passed to any child who can imagine using her like father. Where the paper money is used generatively in the expectation that it will produce more than the holder possesses, the child speculator becomes like 'father'. Each substitute for the sum written on the paper is valued for its quality of being of the proper kind as mother, something which can potentially repay or replace the value of the land. As the child in Freud's *fort-da* game (1984a: 285) repeats his achievement of renouncing the satisfactions of being with mother, of allowing mother to go away without protest, so the poetic patterns of property right and debt lodged in the Imaginary and affective life of the European give to the citizen of modernity an aesthetics of suffering tied to writing.

### ***Legal uses of Mother as the womb of wealth***

As the Dutch and English financiers of the 17<sup>th</sup> century developed their systems of private credit and private banking using the legal doctrines of estates in land and instruments of transfer, security and redemption the landed aristocracies and their desires for the things of trade and empire generated both the need to find these novel forms of finance, and ideologies to contest the sinfulness of usury payments. To the extent the lawyers, merchants and financiers provided these ideologies, their wealth and standing came to contest even the holdings of forms of aristocracy itself.

The loan secured by land seems to have formed the earliest justification for the taking of *interesse* acceptable to the Roman Catholic church. It had gained Papal approval in 1425. Nelson has found that ‘in 1425 and 1455 respectively, Popes Martin V and Calixtus III handed down qualified authorizations of redeemable real and personal rent contracts (*census utrimque redimibilis*)’ (Nelson 1949: 24). While generally opposed to the taking of usurious interest, Luther in 1540 was willing ‘to allow 8 per cent, so long as the contract was based on redeemable security in land’ (Nelson 1949: 47).

Not all of the new forms of credit, or what might be thought of as imaginary money, were secured by the holding or transfer of land. Land remained however as the moral and conceptual model upon which these newer forms of imaginary money could be imagined, and diverse practices of disguising the interest or usury payment produced a cultural and personal anxiety about whether any proposed forbearance of one’s use of the security object was justly compensated by the additional usurious sum, or whether it was an ungodly taking from one’s neighbour.

The Italian merchants had perfected the bill of exchange as a method of payment for traded commodities since early in the 13<sup>th</sup> century. A buyer of commodities deposited gold or silver with a money merchant before travelling to his place of purchase. He offered in paper a promise to pay the agreed sum for the goods in money at a specified future date. The seller of the goods, the creditor, was prepared to wait three months

or six months for the receipt of the money by including in the sum a portion of *interesse*, representing his compensation for his loss of the use of the money during the agreed payment period (De Vries 1976: 227). While the seller waited for the date of maturity of the bill, and his money, he might be without sufficient cash for his own needs. In 1651 the Dutch Republic allowed the seller, as creditor, to use the promise of the other as if it were money, that is, it became acceptable and legal for the seller of the original goods to use the buyer's promise and signed agreement to purchase other goods. The new seller would be paid by the old buyer, as it were. Bills of exchange became negotiable instruments. The Bank of Amsterdam in the 17<sup>th</sup> century facilitated these practices by obviating the need to find a new seller. The creditor could sell the bill to the bank before the due date for payment, who paid somewhat less than the face or monetary value and thereby received its interest payment, or the difference when the promisor paid upon his bill at the due date. The ignoble moral position of the Bank as usurious and of financiers as ungodly did not go unnoticed by republican religious clergy.

In 1682 gold and silver merchants were permitted by the Bank of Amsterdam to take part in the Bank credit services. Rather than wait for a buyer for the gold or precious metals, the seller — such as the Dutch West India Company, could deposit at the bank *specie* waiting for sale. The Bank had already set up minting of bullion into 'standard, full valued' coins. A precious metals trader, such as the Dutch West Indies Co, would be issued the equivalent value of the bullion deposit in bank money, credited to the merchant's account. The Bank issued the merchant with a receipt of deposit which became fully negotiable. The Bank paid the merchant an *interesse* payment while his bullion was deposited at the Bank (De Vries 1976: 229, 230). Differences in value given for metals, standard bank money and negotiable receipts meant reliance upon the standard or convention of bank money value in negotiating commercial transactions gave rise to anxieties not limited to the moral approbation which might ensue from the taking of 'interest' from the Bank.

A detailed study of how the Christian doctrine of atonement by Christ for the sins of mankind formed one of the justifications for the taking of interest by creditors might form the focus on another essay. My emphasis here is that it was a discourse of sacrifice, life, death and the substitution of life or blood for money, themes which recur in Bosman's descriptions of the Guinea peoples and which foretell of his anxieties about Dutch practices of negotiating bank receipts as money. At times Bosman's accounts of the bloody deaths and barbarous takings of lives by the Guinea peoples have an uncanny resemblance to justifications by Dutch financiers for the stability of Dutch financial practices.

Martin Luther had transformed the face of Christianity in the 16<sup>th</sup> century by his teaching of the place of faith in the Christian doctrine of atonement (Luther 1979). Throughout the 16<sup>th</sup> and 17<sup>th</sup> centuries Europeans had fiercely struggled amongst themselves regarding whether Christ's death was a sign of a fulfilment by God of an earlier promise to mankind of a Messiah, or a part satisfaction of man's debt to God, a debt to be completed during each person's lifetime by his own works, his sweat and blood of personal suffering. If faith in Christ as Saviour was a complete satisfaction, or substitution for each person's sins, as Luther maintained, then any church hierarchy involved in the selling of indulgences for past sins was at risk of losing a valuable source of recurrent funds, that is, if its flock decided to follow Lutheran beliefs.

But the Reformation doctrines of atonement of Luther and Calvin did more than dismantle the political and economic hold of the Roman Catholic Pope in Europe and the political allegiances of previously romanised kingdoms. The discourse of atonement became a disposition or apparatus within which various new writing traditions could vie with each other within the post Reformation attachment to natural law as a practice of a Godly being inherent in all human creatures and forming the basis of 'rationality' as a new attribute of mankind.

One of the new knowledges to deploy the discourse of atonement was that of commercial credit and Bank finance. Written forms of credit could be spoken of in a moral language with a higher standing by



characterising any *interesse* or interest as a premium or discount. The discount was like the release of mankind from a life of toil by the prepayment or early payment of part of that earthly suffering by Christ himself. Within these scenarios for the morality and credibility of credit money Value pivoted around the language of Christ losing a life and man having a life. Within the newly emerging texts of political economy human labour as suffering was limited or calibrated within the limits suggested by the concept of an earthly life. But in various Christian theologies in which Christ was the Word and capable of being exchanged for the portion of each reader's sins or suffering, in the equivalences established by the substitution of the face value of credit money with Christ's life or a portion of a man's life, practices of the overvaluation of European financial property were being established. When European 'reason' began to be conceptualised within a spectrum of an historical or linear staging of the ages of cultures a progression was instituted by which the 'infantile' and 'childish' skills of the African could prove the more valued forms of collective proprietary practices of the Europeans.

European practices for maintaining the 'intrinsic' value of gold or silver or paper money were not sufficiently clear in Bosman's time, nor separate from moral beliefs, for the Dutch to have easily exchanged European 'trifles' for the West African gold. Gold was not regarded as holding an intrinsic value, but had become linked to practices of banks holding stores of *specie* in some proportion to the amount of paper money issued. Where the amount of paper exceeded the holdings of *specie* it held an incredible, or artificial or imaginary quality. It was already fetishised in the sense of being thought of as a substitute for or compensation for a non-use of land, it was a practice of *specie* fetishism in the overvaluation of objects of the 'proper kind' which were thought to 'hold' or potentially repay the value of the land, whether these objects were bullion or tulips. In times of Tulip mania<sup>8</sup> or the South Seas Bubble it would appear that the overvaluation of objects was random or capricious, somewhat similar to Bosman's story of the Guinea peoples charging the first object sighted in the day with veneration and magical qualities.

Credibility for currencies could partly be maintained by agreements between national treasuries that a certain quantity of one currency could be exchanged for an agreed quantity of another currency. Imaginary currencies were credible where they had an extrinsic or extra-national value. Imagine the Dutch traders' horror of finding a culture in which a 'trifle' or trade object worth a Dutch gilder was exchanged for gold worth 1,000 guilders. One had thought that in the Dutch currency a one gilder trifle held a value of one gilder, now it was possible that a Dutch one gilder was worth only one 1,000ths of the currency held by a West African peoples. One could confront this horror by dismissing the West African money of exchange as childish or false or counterfeit, as does Bosman, both affirming the gold and paper of the Dutch treasury as a substitute for an other object, a fictional holding of land, and disavowing this same process of exchange and substitution of the African. An uneasy denial given the already fetishised quality of the Dutch bank money, an unease which could be displaced by the cognition of black skinned peoples as lacking the qualities of toil capable of supporting a belief in any standard of their currency.

Bhabha has theorised how the fetish involves 'a scene of reactivation and repetition of primal fantasy — the subject's desire for a pure origin that is always threatened by its division' (1986: 162). This repetition of fantasy can be traced in diverse European cultural, political and legal texts from the early 17<sup>th</sup> century where 'feudalscapes' or scenarios of feudal life are imagined as the origins of imaginary property, the things of financial capitalism. These feudalscapes form an Imaginary within which the western subject as a colonial subject is formed in the 'roughcast' of an ego. As the colonial subject moves his toy spool from *fort* to *da*, from disappearance to return, (Freud 1984a: 283–7) from the *specie* fetishism of invisible commodities and their specular supports in the suffering of black skinned peoples of other nations, the genealogies of fetishism give some hope that lives could be made to become otherwise.

## Notes

- 1 This essay was originally delivered as a Keynote address at the Symposium on Law, History and Post-Colonial Theory, University of Waikato, New Zealand, 6 December 2002. I would like to thank the Symposium Convenors Professor Nan Seuffert and Dr Catherine Coleborne for their intellectual assistance, advice and hospitality throughout the conference, and the University of Waikato for supporting my visit. Professor Anne Orford and Ian Duncanson have given generously in engaging with my arguments in this research and providing criticism and advice, I owe them both much. Professor William Pietz has warmly provided me with his 1988 unpublished article when all my efforts to trace the second or III(b) part of his Fetish series of articles failed. Hopefully this important article will eventually be published. Griffith University's School of Law and Socio-Legal Research Centre, and the Institute of Postcolonial Studies, University of Melbourne have provided research support during the completion of this research paper. A special thanks to Professor Phillip Darby, Director of the Institute, for providing an exciting scholarly home in October 2002 to a couple of legal theory exiles. Comments and correspondence in regard to my paper are warmly welcomed at, Judith.Grbich@bigpond.com
- 2 Fanon, *Black Skin White Mask*, in Bhabha 'The other question' at 169.
- 3 Pietz William 'Origin and Vicissitudes of the theory of Fetishism from De Brosses to Mauss' [Unpublished at 2003, being the second or III(b) part of his 1988 article on the Fetish, IIIa. I am grateful to William Pietz for providing me with a copy of his unpublished 1988 article].
- 4 Pietz gives the statement of John Atkins 'infant Reason cannot reach above a material God' [Atkins, John *A Voyage to Guinea, Brazil and the West-Indies*, London: 1737 at 84] Pietz 1987 at 42.
- 5 William Pietz records that the letters were written in Holland in 1702 to the board of directors of the Dutch West India Company after Bosman's employment as Chief Merchant had ceased. 'He was second in authority only to the Director-General on the Guinea Coast. When his brutal superior was ousted by the company in 1701, Bosman was swept out with him ...'. See Pietz, *Fetish IIIa*, 1988 at 116.
- 6 On thinking through the work of writing more generally, see Grbich 1999.

- 7 See Schroeder 1998 for an excellent and extensive study of the state of contemporary property theory.
- 8 See Schama 1988 at 350–66, for an account of the great tulip mania of 1636–37.

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