

## Counterfeit Consciousness and the Joy of Abandonment

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*We will never defeat the system on the plane of the real... We must therefore displace everything onto the sphere of the symbolic where challenge, reversal, and overbidding are the law.*

Jean Baudrillard

Newspaper reports in India recently declared that counterfeit Indian currency, supposedly produced in a government press in the Pakistani city of Quetta, is being funnelled into India in large quantities, both to fund terrorist activities and to destabilise the economy. We, as Indian citizens, are informed that banks have passed on the counterfeit notes to customers, as withdrawing the currency from circulation would involve significant losses for the banks. Unwitting customers sometimes even get counterfeit notes from bank ATM machines. A few months ago, I walked into a branch of the SBI bank in Chennai, one of the few branches to have installed counterfeit-currency detection machines, with a wad of Rs 500 notes to be deposited. The clerk at the counter passed each note through the counterfeit detector, a procedure that took nearly five minutes. Many anxious thoughts raced through my mind during those moments when I was under the scanner of government

suspicion as a potentially subversive citizen. What if there was one note in the pack that was counterfeit, and I was hauled up and asked to give explanations? As if to clear myself of non-existent guilt prior to the hypothetical indictment, I quickly volunteered the information that all the notes had been given to me by my bank in Allahabad, and that I had heard that counterfeit currency circulated there a good deal. The clerk gave an understanding smile and said this was a common phenomenon everywhere. A sense of relief came over me when it turned out that there was no counterfeit note in my pack.

At times I panic when a shopkeeper refuses to accept a 500-rupee note from me when I do not have notes of other denominations. The suspicion cast on me in such cases is permanent. From the rudimentary understanding of Gresham's law, that bad money drives out good money, it seems that economists' models are these days including counterfeit money; and soon economists will flag off, if they have not already done so, an open economy macroeconomic model that includes counterfeit money from enemies; money intended to destabilise the macroeconomy even as the model grapples with macroeconomic stabilisation. Disorder is now being factored into analysis of systemic risks, and acknowledged not as an aberration but as a *norm* of everyday life in most postcolonial contexts. In fact, our current practice of electing representatives with criminal records and a history of criminal charges against them is a way of normalising disorder in India through democratic processes. The 'criminal representative' with simultaneous presence and absence in law has come to represent the figure of the postcolonial subject/citizen who has realised that it is like going through a revolving door to cross the thresholds of inclusion and exclusion from law. A little effort or push by him/her can ensure entry into either zone.



### Postcolonial Disorder

The standard juxtaposition of 'law' and 'order' is a matter of liberal faith which insists that where there is law there is order, and vice versa. However, in the postcolonial disorder of the Empire, disorder does not signify the absence of law (Comaroff and Comaroff, 2006). Rather, as Agamben (2005) observes, it is a situation of law "being in force without significance". Some theorists have argued that law being in force without significance is perhaps on account of the illegibility of state writing, or on account of an insufficient

socialisation within the parameters of law, especially of those (non)citizens at the margins of the state (Das and Poole, 2004). That the signified, the concept that law expressed in the language of rules, rights and regulations *fails* to signify is not on account of an interpretative deficiency of the hermeneutic community from which law as the signifier emerges, and towards whom signification is directed. The originary condition of modern law within colonial disciplinary power itself created its counterfeit consciousness, as the serial significations of law spin the myth of modernity: a myth that refers to the possibility of realising the community of rights-bearing and reason-endowed self-governing individuals who believe in the telos of progress and material well-being.

Through colonial and postcolonial state power and force, modern law continually seeks to transform its counterfeit status, even as the myth of modernity renders it as forever counterfeit. The citizen-subjects of the postcolonial nation state are forever reconciling the troubled trace of memories of historical injustice buried deep in their collective consciousness, memories that convince them of the counterfeit status of the law that governs their conduct as citizens, even as they are constantly beckoned and ordered to its obedience in their making as citizens. Herein lies the conundrum of the constantly fluctuating borders between 'legality' and 'illegality' based on oppositional perspectives of the state and of those governed; and simultaneously, the powerful and equivocal longing to cross the borders, to claim the zone of illegality, to dwell outside the reach of sovereignty.

This may be read as the transposition of Michel Foucault's analytic of finitude and the doubling of man in the colonial/postcolonial context that Homi Bhabha has brilliantly elucidated in his essay on colonial "mimicry". Foucault shows how modern thought as the analytic of finitude produces the figure of man as an "empirical-transcendental doublet" – an entity capable both of achieving objective self-knowledge in the causal and anthropologically-determined way, and of surpassing the bounds of such understanding to justify claims to autonomous selfhood and free-willed ethical or speculative thought. Foucault (1973) also asserted that the unveiling of the "Same" produces the "Double" as "other". Following this insight, Bhabha (1994) noted the critical potential of the space opened up in the recursive mirroring of the "Same" and the "Double". Observing that "colonial mimicry is the desire for a reformed, recognisable Other, as a subject of difference that is almost the same, *but not quite*" (p. 86), Bhabha noted that this ambivalence produces both "mimicry" and "mockery", "resemblance" and "menace", and fixes the subject as a "partial" presence. Mimicry, mockery and menace are similarly produced in the domain of modern law and the constitution of the legal "subject". The "subject" figures as a partial presence in law, and makes a mockery of the rule of law via its partial presence outside of law. The Hobbesian 'state of nature' as a pre-state condition prevails at the margins of the state – except that it is not 'nature', but very much a part of 'culture'.

Counterfeit consciousness is thus the *mode of being* of the postcolonial modern, who is constantly aware of both the counterfeit status of law and of his counterfeit status as partial presence. Bending a rule or finding a loophole in law is thus ingrained in the habitus of the postcolonial subject, for whom law or rule, 'legality' and 'illegality', are factors that

one could skilfully negotiate to one's advantage. For the postcolonial modern, the law-abiding position is equivalent to the vantage point of the loser. Socialisation in law is therefore always incomplete, and its processes always include 'how not to' and 'why not to' abide by the law. Therefore, even if state writing were fully legible, it would not only be read in different 'languages', but its performativity would also become context-dependent, and contingent upon subject positioning.

Postcolonial disorder is thus the congenital condition of our coming into being as the postcolonial citizen-subject, and embodying a difference as well as a *différance* relative to Western modernity; as Derrida claims, "*Différance*, the disappearance of any originary presence, is at once the condition of possibility and the condition of impossibility of truth. What is, is not what it is, identical and identical to itself, unique, unless it adds to itself the possibility of being repeated as such. And its identity is hollowed out by that addition, withdraws itself in the supplement that presents it... And there is no repetition possible without the graphics of supplementarity" (*Dissemination*, p. 168). Indeed, we increasingly acknowledge becoming a nation-state with a counterfeit imagination of the nation and an equally counterfeit imagination of Western modernity, as historian Dipesh Chakrabarty (2000) has recently asserted. In the postcolonial disorder of the Empire, the pragmatic, resilient counterfeit has finally, fully, arrived.

### Counterfeit Consciousness

If modernity, the imagined nation and modern law are marked as counterfeit, the contemporary is marked by a counterfeit consciousness. The condition of living in the realm of the counterfeit, and the joy of abandonment found therein, gives a new meaning to the idea of the 'sovereign consumer/citizen' of postcolonial disorder. Here we explore the varieties of counterfeit consciousness in the contemporary by drawing from an array of examples such as imitation jewellery, Chinese Rolex watches, fake labels of Levi's Jeans and Nike shoes etc., fake drugs, pirated software and DVDs, counterfeit legal tender, forged documents and passports, replicas of antiquities and art, counterfeit selves, and so on. What differentiates those living in abandonment from those within the embrace of law is explored in terms of the varieties of counterfeit consciousness and states of being that hover at the thresholds of duplicity and offer compelling possibilities of habitation.

Counterfeit consciousness marks the threshold between 'original' and 'fake'. The 'original' is marked as 'authentic' and the 'fake' is the counterfeit, the inauthentic. While the 'original' allegedly has the sanction of the legal and licit, 'fake' is consigned to being outside the legal, and inhabiting the domain of the illegal, the illicit and the exception. Counterfeit then becomes a way of mocking the rule of law. Authenticity is no doubt a concern of European-style modernity. Its association with individuality is linked with the historical processes of self-fashioning as a 'modern' individual, observed since the time of the European Renaissance. Bhabha has usefully highlighted the crucial difference in the constitution of man as 'doublet' in the European and colonial/postcolonial contexts. In the

former, the splitting of subjectivity into the empirical-transcendental doublet was to enable the modern European man to find ways to reconcile with his essence, his 'authentic' being. In the latter context, the splitting of colonial discourse articulated an interdictory 'otherness' that, along with processes of mimicry and performance of the 'other', foregrounds 'counterfeit-ness', thus rendering the search for authenticity an inherently dubious exercise.

Postcolonial counterfeit consciousness articulates the contemporary disorder of the repercussions of Empire through the subversion of globalisation, law and surveillance, articulated via subtle as well as overt strategies of counterfeiting. The fetish of the commodity induces in the postcolonial subject both *desire* and *shock*: the desire to possess the things the way he imagines the Western subject does, and the shock that is experienced upon realising that despite all attempts to



mimic the Western subject, the postcolonial subject is never able to achieve fulfilment through sufficient mastery; in other words, the shock of existing in a mode of *lack*. In his essay on Baudelaire, Walter Benjamin (1969b) discusses these two sensations, desire and shock, as intrinsic dimensions of the European experience of modernity. Drawing upon Freud, Benjamin suggests that in the effort to cope with these sensations, modern man seeks to protect himself from his intense fear and lack by creating an epistemic shield. This is the function of counterfeit consciousness for the postcolonial subject; it is also a defence against the power of state monopoly, of coercion. Baudrillard (1990) observes that when a 'savage' pounces on a watch or fountain pen, as a Western object, he "voraciously appropriates it in an infantile relation and as a phantasm of power" (p. 41). But it is not so with the postcolonial subject,

whose relation to things and the law becomes the ground for an elaborate and intricate staging of counterfeit consciousness in which desire, fear and duplicity constitute his complex ongoing experience of modernity.

### **Aura Destruction as Subversion**

Some time ago, 'rolled gold' or 'covering jewellery', when worn at a social event such as a middle-class Tamil Brahmin wedding, would be noticed, but accepted as the requisitely decent form of entry into a gathering that had certain expectations of participants wearing gold jewellery; this was contingent upon the ornamentation being within limits, and the economic standing of the wearer being already known to the other participants. Duplicity

here is minimal, restrained and permissible. Over-ornamentation with 'covering jewellery' indicated one had cheap tastes and was limited to the expression of counterfeit desires. But at lower-caste and working-class weddings, where everyone wears 'covering jewellery'; there is no attempt to camouflage this fact, or or pretend to the rest of the group that it is real gold; there is no duplicity at all, even if the product is imitation gold. Unlike modern cultural goods produced and consumed in the West, these traditional cultural goods are not experienced "auratically". If an "aura", as Benjamin noted, consists of the associations that tend to cluster around the object of perception, then the aura of Western goods for the postcolonial Indian is that it signifies Western modernity, even if it is only a counterfeit modernity that is part of the postcolonial's *memoire involontaire*. The recent entry in India of high-end fashion brands in men's clothing such as Zegna, Dunhill and Canali, and women's accessories such as Louis Vuitton, Chanel and Gucci, is on account of the captivating power of 'brand' aura, and the thrill of becoming the 'global modern'. Protecting the aura is thus necessary for the successful signification of modernity, status and social distinction.

Equally, the destruction of the aura then becomes a strategy of subversion. Social distinction becomes a class-contested terrain with 'aura backers' and 'aura busters'. Levi's jeans for the youth of the urban upper class, the highly performative 'mimic' class, was till recently the ultimate symbol of being modern and Western. Aunts, uncles and siblings living in Western countries were routinely asked to bring one pair along so that its wearer could show off among their his/her college mates. Soon, even pavement stalls in big cities started selling jeans affixed with the Levi's label. Ironically, many youths who bought these had no attraction to the designer label, nor were they deceived into believing that the product was original; some were unaware of the Levi's aura altogether. In and of themselves, the jeans to these young consumers were a powerful and dominant symbol of being modern. The production of fake designer jeans is an example of the 'massification' or vulgarisation of 'haute' couture.

Many more examples from everyday utilitarian objects can be cited, such as cheap travel bags and suitcases labelled 'Samsonite' or 'American Tourister', with the manufacturer's address in some Indian small town. Most users of these products would not even know that an original with such a name exists in the US. Such vulgarisation is seen, in the West, as a way by which new forms/goods enter a culture, but one in which the value of the original would eventually be redeemed unscathed. Such is not the case in postcolonial societies in which counterfeit culture produces a fake modernity and a fake trajectory of globalisation that exists as a subversion of the imitation modernity of the contemporary mimic man, the global modern (Chang, 2004). Subversion here is the joyous possession of the fake and the production of the counterfeit.

### Counterfeit Profits

Maintaining product and brand authenticity is, however, not just a struggle over aura and related social distinction. It is also a competition over market shares and profit. The 'logic of

capital', the 'logic of culture', and the 'logic of counterfeit' conjointly determine the fluid articulations of the regimes of value in the circuits of production and consumption of the real and the counterfeit (Jamieson, 1999). In "China, Biggest Source of Counterfeit Products" (*Hindu Businessline*, 15 November 2005), Ambrish Jha observes that 30% of the counterfeit products worldwide are being produced in China. Chinese Rolex watches are now as famous as the Swiss ones. India, though lagging behind China, has its hubs of counterfeit production. About 70% of Indian counterfeits are produced in Delhi, and FICCI (Federation of Indian Chamber of Commerce) estimates a sizeable revenue loss to the exchequer of approximately Rs 10,000 million each year. The International Anti-Counterfeiting Coalition estimates that in the US alone, trademark counterfeiting robs the country of \$200 billion a year. The loss to the EU from counterfeiting and piracy is reportedly £250 billion. Not so long ago, it was a pan-Indian joke to point to the *Made in USA* inscription on a fountain pen or similar object, and to be told that *USA* stands for *Ulhasnagar Sardar Association*. Today the counterfeiters are not only the *sardars* of Ulhasnagar, but also the innumerable small and big manufacturers spread in metropolitan cities and elsewhere.

According to Preeti Mehra in "Crusade against Counterfeit" (*Hindu Businessline*, 2 July 2001), counterfeits in India are reportedly rampant in the FMCG (fast-moving consumer goods) sector, software, automobile, book publishing, music industry, movies, packaged water and garment sectors, as these report the highest number of IPR (Intellectual Property Rights) violations. In many village markets in India there is a complete absence of branded FMCG products such as soaps and detergents, and duplicates that are look-alikes or spell-alikes abound. Popular products used in almost every household, such as Lifebuoy soap and Vicks Vaporub, are equally familiar to illiterate and semi-literate rural folk by way of their appearance and function. This counterfeiting is not subversion via "aura" destruction as much as it is an appropriation of the value of a product that has become familiar and acceptable through usage. These are then used by their producers to grab a share of the market, whereas most rural consumers would not even know that they are being duped.

Some years ago, a Brand Protection Committee of MNC players in the FMCG sector, such as Proctor & Gamble, Hindustan Lever, Colgate, Marico, GlaxoSmithKline, Coca-Cola, Pepsico, Gillette, Britannia, etc., was apparently set up to deal with the problem of counterfeits. The companies preferred the legal option to curb the menace, but found themselves in a position of double jeopardy. First, it created negative publicity and consumers began to shun the products, thinking they might be spurious. Second, counterfeit producers were intractable, and when arrested could easily be released on bail as 'faking' is a non-cognisable offence, and resume their production after a temporary halt. Fake drugs are as common as *jhola-chaap* (quack) doctors, even as the 'real', near-identical versions of most drugs made by foreign drug companies are manufactured and sold by leading Indian pharmaceutical companies at much lower prices. Waiting for the patent-time to elapse for those patents held by foreign companies is to accept the trade-off between imperialist profits and third world deaths. In this instance, subversion through counterfeiting has a crucial ethical component that forces the law into retreat.

### Authenticity and Ambiguity

'Counterfeit' and 'original' are not binary opposites, but involve a mode of continuity and heterogeneity wherein techniques and motives of camouflage are both within and outside of the law, and correspondingly, duplicity is both social and/or legal. Counterfeits could be outright fakes, non-functional look-alikes, functional but inferior items, and fully functional items illegally manufactured without paying copyright fees. Known variously as counterfeits, knock-offs, fakes, replicas, imitation, bootleg, etc., in appropriating the real, the culture of copying occasionally achieves the zenith of simulation, makes the fake *itself* into the real, "perfectly indistinguishable and doubly authentic", an original that is made to appear as a counterfeit, as in the case of Chinese Harry Potter fakes analysed by Henningsen (2006). It is increasingly being realised that while authenticity may be adequate and valid as a concern of cultural integrity in the West, it has only limited validity elsewhere (Vann, 2006). Near the city of Cologne in Germany is the Museum Plagiarius, dedicated to "innovation contra imitation", with the purpose of shaming those invested in counterfeit culture for profit, aesthetics or economic survival. Ironically, even as museum replicas, the 'exact replicas', become a collectors' fad and a money spinner in the West; 'counterfeit replicas' are sold by underprivileged ethnic minorities and immigrants on Manhattan's sidewalks; elsewhere, in the 'developing' world, the proliferating 'fake' entity becomes ubiquitous, and subversion both a fact of life and a celebration.

The counterfeit has now defiantly entered the zone of ambiguity, its negative associations subsumed within the global phenomenon of outsourcing. But interestingly, Chinese tourists are now wary of picking up outsourced souvenirs, even as Chinese producers continue to engage in rampant counterfeiting (Notar, 2006). A cartoon that evoked much interest last Christmas in the US was the figure of the 'outsourced' Santa in place of the 'real' one in traditional red garments, who, seated in his office in Bangalore, was taking orders from American children to dispatch to them stockings filled with Chinese toys. The place-affect of an object that marks its authenticity has once again been divested, much as mechanical reproduction detached art from its embeddedness in tradition and redesigned it for reproducibility (Benjamin 1969a). "Even the most perfect reproduction of art is lacking in one element: its presence in time and space, its unique existence at the place where it happens to be" (*ibid.*, p. 220). Through reproducibility, art prints and photographic prints became possible even without the original. Now, with image software such as Adobe Photoshop, a click of the mouse can effortlessly alter photographs to produce unblemished counterfeit images. Technology has also made possible the 'counterfeit person' or 'counterfeit self'. The art of impersonating a person is not anymore the exclusive privilege of a confidence trickster or an actor, but the mandatory self-refashioning of agents in call centres, now indispensable in global business, when every 12 hours a 'Sita' becomes a 'Cherrie' or a 'Claire'. Cosmetic and plastic surgery can redo a person's face, just as a photo image can be altered or touched up with the help of the computer.

It is in the realm of human cloning, though, that the ambiguous politics of counterfeiting meets its real challenge. The "empirical-transcendental doublet" now has to be rethought along two altogether different axes: gene politics, and the ethical limits of man's meddling capacities.

### Living in the Joy of Law's Abandonment

As counterfeits and their possibilities multiply and reproduce in all domains of everyday life, some lawful and others unlawful, the postcolonial citizen-subject as consumer and producer develops a new mode of perceiving the world – through tactile appropriation, through a habit of knowing and willing, through understanding when to make his presence and absence within the terrain of law, when and how to live in the joy of law's abandonment, and when to be repressed in law's unyielding embrace. A person who would not buy fake drugs or would not use them if he knew them to be so would not hesitate to buy a counterfeit printer cartridge if it were a few hundred rupees cheaper than the original, and would look the other way when his co-passenger in a train bought fake bottled water. A counterfeit consciousness enables him to move back and forth between inclusion and exclusion by agents of state security; to manifest or to recede in the domain of law, or to rest content in the zone of indifference.

Through the same mode of tactile appropriation, the postcolonial citizen-subject knows the duplicitous face of the state as its double; understands how state sovereignty itself wields counterfeit power by producing the "*homo sacer*" (Agamben, 1998); by rendering bodies 'killable' even within the presence of law, as in the case of fake encounter killings of militants and Naxalites; or or deciding, in the case of certain bodies, to 'let die' through apathy. His counterfeit consciousness enables him to apprehend what Agamben (2005) notes as the "secret solidarity between anomie and law". It is this solidarity, so well understood by Indian citizens and their sovereign representatives, that quite recently made it possible for a series of wives/fiancées to join their 'illegal immigrant' husbands/fiancés and experience the comforts of marital joy in distant lands by travelling there on forged documents and visas, faking themselves to be the family members of parliamentarians who enjoyed some diplomatic immunity from the law.



Counterfeit consciousness enables those at the margins of the state to move towards it, or equally, to move away from the centre. Moreover, these centrifugal and centripetal movements rendered possible by counterfeit consciousness could, in fact, also push the state *itself* to a margin. This raises the perennial hope and possibility of "a state of the world in which the world appears as a good that absolutely cannot be appropriated or made

juridical" (Benjamin, 1992, cited in Agamben, 2005). Agamben too observes, "One day humanity will play with law just as children play with disused objects, not in order to restore them to their canonical use but to free them from it for good" (*ibid.*, p. 64). As 'Midnight's Children', we have learnt to play this game with counterfeit consciousness. The postcolonial disorder of the Empire is not as hopeless as it seems.

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