
LONG REIGNETH THE OTTERLY TEST: GENEALOGY AND SRI LANKAN BURGHERS IN A 'POSTCOLONIAL' WORLD

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... (T)he landscape functions as a scribe recording the passage of history of the nation and its people. The emotion attached to the landscape relates to its ability to release memory, allowing the past to exist simultaneously with the present. Thus a metonymic link between bodies, landscape and nation, in that they are all contiguous... function to temporarily replace one another... The landscape which initially unites bodies and creates an identity through place becomes repressed in the formation of the nation. ...The thews and sinews of the body shaped by our relationship to our specific environment are covered over by the forging of a national identity.¹

1. BURGHERS WITHIN 'SPACE' BUT STILL LOOKING FOR A 'PLACE'?

The insights of legal geography have pointed to the intersection of law, space and power, whereby the spatial order of things (political, economic and cultural) are lived before they are recited and theorised. 'Historical' landscapes float in anamnestic temporal spaces of bygone passages that are enfolded in the memory of those whose thews and sinews are meshed as sons and daughters of the soil. Indeed during in the nineteenth and twentieth century worlds of 'post-colonial'² shiftings and contestations, there were frequent explosions and implosions of space mediated through legal discourse. As Henri Lefebvre, remarks '... at the level of the immediate and the lived, space is exploding on all sides...Everywhere people are realising that spatial relations are social relations'.³ This essay is about the explosion of (raced) identity. The powder

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¹ Mohanram Radhika *Black Body: Women Colonialism and Space* Allen & Unwin Australia 1999 p 5-6

² By using the concept 'post-colonial' I acknowledge its double meaning- 'after colonialism' and the simultaneous continuation of colonial reproduction through social spatiality and cultural formations.

³ Lefebvre Henri 'Space: Social Product and Use Value' in Joel Freiberg (ed) *Critical Sociology: European Perspectives* Irvington Publishers New York 1979 p 290.

keg is the unravelling of Burgher identity, a signifier which, although at times contested, through law's engagement in 'race fixing' seemed to be certain and fixed.

The insights of legal geographers, the 'space invaders'⁴, who contest the notion of neutral or empty space, point to the centrality of law as enacting spatial hierarchies.⁵ Such cartographical dividing and partitioning, John Comaroff asserts exposes law as "the cutting edge of colonialism, an instrument of the power of an alien state and part of the process of coercion ... [which became a] tool for pacifying and governing colonized peoples".⁶ This article discusses a rather arcane definition of a racial group — the Sri Lankan (Dutch) Burgher, derived from administrative law during the colonial days of Ceylon and will show how even 'old' regulatory definitions of race recollect with the present and provoke contestations over the recording of histories and the consequences of colonial legacies even in 'subsumed' space. The spatial ordering of Ceylonese nation⁷ under the colonial British regime created legal regimes and rules which spaced social and human space as well as *anomalous zones* amongst the island's inhabitants enabling the incorporation of the hybrid — who in terms of the race politics of the time, should really have been 'put out'. According to Razack these anomalous zones are spaces that tolerate of departures from norms and therefore are places where there is the possibility of norm subversion.⁸ Legal consciousness, combined with a matrix of scientific racism and Christian triumphalism induced a fabricated sense 'natural' (albeit colonised) space where the juridical tentacles of the law were difficult to trace, let alone to assess in terms of what those fabricated 'spaces' enabled. It is the claim of this paper that spatial realities within Sri Lanka and later in the diaspora of those burghers in 'exile', due to the inherent ontology of spatiality produced the contours of racialised subjectivity of burghers. Without the specifically marked space of the *Otterly Test* where humans are partitioned from each other, it would not have been possible to *see* the person who is 'Burgher', to make visible the Burgher gaze.

The advent of various investures of colonialism, although initially resulting in the societal disorientation of Sri Lankans through the reconstituting and defamiliarisation of space, over time was transformed as indigenous subjects were recruited as "...new colonial social and spatial structures".⁹ Recently the containment of Burgher identities has begun to unravel, firstly with the establishment of a rival organisation to the Dutch Burgher Union (DBU), the Burgher Association of Sri Lanka (BASL) and FACE, a writer's group of coloured professionals of

⁴ Aoki Keith 'Space Invaders: Critical Geography, the "Third World" in International Law and Critical Race Theory' (2000) 45 *Villanova Law Review* 913

⁵ Nicholas Blomley, David Delaney & Richard Ford (eds) *The Legal Geographies Reader: Law, Power and Space* Blackwell Publishing Oxford 2001.

⁶ Comaroff John 'Symposium Introduction: Colonialism, Culture and the Law: A Forward' (2001) 26 *Law & Social Inquiry* 305 at 306. Frantz Fanon similarly points to global partitioning where space is closed off through divisions and prohibitions. See Frantz Fanon *The Wretched of the Earth* Grove Press New York 1963 especially pp 37–40.

⁷ Ceylon was renamed Sri Lanka in 1972.

⁸ Razack Sherene 'Race, Space and Prostitution: the Making of the Bourgeois Subject' (1998) 10 *Canadian Journal of Women and The Law* 338 at 357.

⁹ Nihal Perera *Society and Space: Colonialism, Nationalism and Postcolonial Identity in Sri Lanka* Westview Press Boulder 1998 p 186.

European descent.¹⁰ As a result, there have been vigorous press debates about burgherism and identity. Another factor that has contributed towards destabilisation occurred when many diaspora families updated their family histories, incorporating a number of 'non-burgher' individuals (mainly people of colour) and they encountered refusal from the DBU to re-register their 'corrected' genealogies by invoking the *Otterly Test*. Within a broader context, Sri Lanka has had to undergo a re-examination of its colonial past and engage in a process of reflection and dialogue about the impact of colonisation on the national imaginary. Some of these debates were kick-started by the witnessing of 400 years of Dutch-Sri Lankan relations in 2002 and related debates about the notion of 'celebration' and 'what was being celebrated'. More recently the Sri Lankan government established a special committee to examine the legacy of the Portuguese colonialism as part of discussions as to how Portuguese colonisation 500 years ago would be publicly acknowledged.¹¹ This article is concerned with the (slippery) category of 'burgher' and will explore some of these developments genealogically with reference to the repetition of colonial tropes of 'burgherness' as exemplified in the *Otterly Test*, a race test regulated by legal norms.

2. WILL THE REAL BURGHER STAND UP!

Everyone was vaguely related and had Sinhalese, Tamil, Dutch, British and Burgher blood in them going back many generations.¹²

... metaphors of intermixing only make sense if you hold a notion of purity constant for at least one of the generations prior to that being designated as 'mixed'.¹³

The Burghers are a 'hybrid' population who are descendant from European (Dutch), Sinhalese, Tamil and Moor populations. We predominantly speak English and held privileged social and occupational positions under British colonial rule.¹⁴ With the introduction of Sinhala as the official language of Sri Lanka under the *Official Languages Act* 1956, many Sri Lankan burghers immigrated to Australia in the late 1950's and 1960's.¹⁵ The colonisation of Sri Lanka by the Portuguese, the Dutch and finally the British has produced a number of changing racial categories and ethnic identities. The Burgher 'ethnic' minority group are a particular product of Sri Lanka's

¹⁰ See Leonard E 'The New FACE in town: A Global Fraternity for people of European descent' *Sunday Observer* (Sri Lanka) [Online], 15th August 2004 Online at <http://www.sundayobserver.lk/2004/08/15/feal7.html>

¹¹ Asian Tribune 'Sri Lanka's Colonial Past: A Committee appointed to look into the Portuguese Era' *Asian Tribune* (Online) 22nd July 2004 Online at http://www.asiantribune.com1/show_nevvs.php?id=10491. Retrieved 30/11/2004.

¹² Ondaatje Michael *Running in the Family* Picador London 1983 p 41.

¹³ Parker David & Miri Song (eds) *Rethinking 'Mixed Race'* Pluto Press London 2001 p 9

¹⁴ Tissa Fernando 'The Burghers of Ceylon' in Gist Noel & Dworkin Anthony (eds) *The Blending of Races: Marginality and Identity in world perspective* Wiley Interscience New York 1972 pp 61-78.

¹⁵ Oswald Donald 'Sri Lankan Families' in Storer Des (ed) *Ethnic Family Values* Prentice Hall/Institute of Family Studies Sydney 1985 pp 227-261.

encounter with the occupying colonial forces prior to its legal independence in 1948. Anthropologist Michael Roberts describes burghers as a people ‘in between’, which begs the question of ‘in between’ what?¹⁶ Where is ‘Burgher’ as a constituting category placed along the continuum of racial classification? Which group(s) form the burgher’s constitutive inside? The policing and marking of the bodies as ‘Burgher’ highlights competing discourses of racial and genetic purity, the historical contingency of raced categories as well as notions of hybridity. *Contra* the analytical concept of ‘ethnicity’, the neologism ‘race’ acts as a signifier of relational identity politics that enacts a technology of self and governs the ‘conduct of conduct’ in terms of affiliative identification and self-understanding. As Homi Bhabha aptly observes, ‘race’ reminds us that the “[t]erms of cultural engagement, whether antagonistic or affliative, are produced performatively”.¹⁷ The family genealogy acts as a device for that performance. Burghers in their desire to be seen as a racially distinct group, have produced specific ethno-racial identification in the form of a legal regulatory test. As Sarvan puts “It was a state of mind and feeling: they were Burghers because they thought of themselves as being Burghers, and they perpetuated this identity by contracting marriages within the group”.¹⁸ Through the continued recitation of burgher subjectivity, the borders of burgher delimitation were deployed and rehearsed.

Within the Sri Lankan context, the enactment of racial discourses and categories can only be understood in a relational sense to other forms of racial contingency e.g. ‘white’, ‘European’, ‘Sinhalese’ and ‘Tamil’. Racial markers produce forms of governmentality that “... structures and shapes, everyday motivation and commonsense, social practices and perceptions”.¹⁹ Racial space was (re)arranged to a (new) and distinct group, instead of a hybrid off-shoot of local Sinhalese or Tamil populations. The ‘burgher race text referred to as the *Otterly Test* is one instance of juridical performativity. It is beyond the scope of this article to explore the notion of hybridity²⁰ as it applies to burghers, suffice to say that although the hybridity of burghers was exploited by Sinhala nationalists in pre-independence campaigning, captured in the statement by activist Anagarika Dharmapala as “... the hybrids and bastards of Singhalese, who have become traitors to the country honoured with Christian names, given ranks and made leaders of society”,²¹ *official burgher* discourse emanating from the leadership of the DBU sidestepped the hybridity conundrum, allowing it to disappear, by emphasizing their pure European racial origin.²² The turn to the

¹⁶ Roberts Michael, Ismeth Raheem & Colin-Thome Percy *People in Between: The Burghers and the Middle Class in the transformations within Sri Lanka 1790s–1980s* Volume 1 Ratmalana Sarvodaya Book Publishing Services Sri Lanka 1989.

¹⁷ Bhabha Hommi. ‘Frontlines/borderposts’ in Bammer Angelika (ed) *Displacements: Cultural Identities in Question* Indiana University Press Bloomington 1994.

¹⁸ Sarvan Charles ‘Carl Muller’s Trilogy and the Burghers of Sri Lanka’ (1997) 71:3 *World Literature Today* 537.

¹⁹ Luke Carmel & Luke Andrew ‘Interracial families: differences within Difference’ (1998) 21(4 July) *Ethnic and Racial Studies* 728.

²⁰ A good introduction to hybridity issues in the Sri Lankan context can found in the collection by Silva Neluka (ed) *The Hybrid Island: Culture crossings and the Invention of Identity in Sri Lanka* Zed Books London 2002.

²¹ Cited in Neluka Silva ‘Hybridity and Nationalism: the Image of the Burgher in Contemporary Sri Lankan Writing’ 1996 1 (Oct- Dec) *Netbra* 7.

²² Subjugated knowledges have always existed nonetheless with many families oral histories acknowledge the variety of mixtures of ancestry. Fictional literature has also been an important source of counter representations. See Goonetillake, D (ed) *Sri Lankan Literature in English 1948–1998* Department of Cultural Affairs, Sri Lanka 1998.

European, should come as no surprise, as the Burgher group constituted by racial spatiality were caught up in the vortex of internalised racism. Joel Kovel in examining racism presents a bleak but pertinent testimony of the impact of internalised racism. The "... accumulation of negative images ...presents [racial minorities] with one massive and destructive choice: either to hate one's self, as culture so systematically demands, or to have no self at all, to be nothing"²³ (Kovel, 1970: 195). Instead, the burgher emulated another 'subjectivity' — Dutchness.

Registration of family genealogies *was* and *is* tightly regulated by the DBU in Colombo. Here it needs to be emphasised that registration is not of mere 'family histories' akin to those kept by the Church of Jesus Christ of Latter-day Saints, but rather the DBU registered genealogies constituted legal and thus 'authorised' documents used for immigration and racial classification purposes both at home and abroad. Only those families that could satisfy the requirements of the *Otterly Test* devised in 1830 by the Chief Justice of Ceylon, Sir Richard Otterly could have their registration processed by the DBU.

Despite the seemingly obvious fluidity and hybridity of burgher identities, during the 1800's there was a move to engage in a kind of "ethnic caging"²⁴ through classifications founded upon essentialism and exclusion. According to Nira Wickramasinghe the 'origin' question of different communities in Ceylon did not feature strongly until British scholars made the 'origin conundrum' an object of inquiry and as a consequence developed hierarchical classifications of different populations based on migration histories.²⁵ It is pertinent to note that legal argument about the cultural practice of racialising 'origin', significantly featured in the reconfiguration of geographies of power and assignment within 'natural' law in and between the Sri Lankan populations. The effects of imposed classifications by the colonial regime have effected the ongoing constitution and reconstitution of burgher identities.

During the 1840 the British coloniser's classified burghers as 'natives' yet the burgher community, itself was in the process of "indigenising themselves as Ceylonese".²⁶ It was during this period of enumerative instability, resistance and renegotiation of racial identity, that the Chief Justice of Ceylon, Sir Richard Otterly at the *Commission of Inquiry* devised in 1830 a test for the determination of burgher as a distinct "real, abiding and permanent" category.²⁷ The *Otterly Test* as it became known, has taken on canonical proportions and has been used by burgher fundamentalists to ascertain and police the demarcation between insiders and outsiders:

²³ Kovel Joel *White Racism, a Psychobiography* Columbia University New York 1970 p 195.

²⁴ Hage Ghassan *White nation: Fantasies of White Supremacy in a Multicultural Society* Annandale NSW Pluto Press 1998 pp 105–116.

²⁵ Wickramasinghe Nira 'Migration, Migrant Communities and Otherness in Twentieth Century Sinhala Nationalism in Sri Lanka' in Bates Crispin (ed) *Community Empire and Migration South Asians in Diaspora* New York Palgrave 2001. See also Rajasingham-Senanayake Darini 'Identity on the Borderline: Modernity, New Ethnicities and the Unmaking of Multiculturalism in Sri Lanka' in Neluka Silva (ed) *The Hybrid Island: Culture crossings and the Invention of Identity in Sri Lanka* Zed Books London 2002 pp 41–70.

²⁶ Roberts Michael 'The Cultured Gentleman: the Appropriation of Manners by the Middle Class in British Ceylon' (1994) 7(1) *Anthropological Forum* at 58

²⁷ Silva above note 21 at 5

The name Burgher belongs to the descendents of the Dutch and Portuguese and other Europeans born in Ceylon; the right to this distinction must be decided by the country from which the father or paternal ancestors came. To whatever the number of generations through which the family has passed in this Island, if the male ancestor were Dutch, Portuguese, or other European, whoever may have been the female parents, if the parents were married, the offspring would be Burghers. If the parents were not married, the country of the mother would decide the question. If the right to be denominated Burgher be lost by the legitimate father being a Cingalese [sic] or Indian [sic], it cannot be recovered.²⁸

Such stories of racial differentiation, through the medium of legal translation, were as Delaney puts it, "...used to interpret lived in landscapes in order to render them (legally) meaningful".²⁹ The problem was however that these landscapes became leaky and in the end they prompted a 'landslide'. Laws attempt at racial order became an exercise in disorder. For in spite of the Otterly declaration, a Director of Census at the time reported that large amount of self-identifying burghers would have difficulty meeting the test, to say nothing of the difficulties of adopting such a test at the level of population demography.³⁰ In response to the continued use in official records of the racial marker 'Eurasian' to cover those populations of 'mixed descent', a number of burghers formed the *De Hollandsche Vereeniging* (DHV) in 1899.³¹ In what can be understood as a recuperative manoeuvre, the DHV made 'dutchness' the key signifier and delimiter of burgherism under Article III of its constitution. The rationale behind this move is captured in the sentiment expressed by Richard Gerald Anthonisz: "... the Dutch descendents of Ceylon [must be] recognised as a distinct racial unit, with an origin, history, and character of its own".³² Thus, the DHV and later the DBU (formed in 1908) were able to demarcate between

... the 'front door burghers' and the back door Burghers'. More vigorously, the superior Burghers saw themselves as 'Dutch Burghers' and thus as 'true Burghers,' and denied the rights of those known as 'Portuguese Burghers' and "Eurasians" to call themselves Burghers.³³

This irony is not lost on Egeter-van Kuyk who points out that Portugal is indeed part of Europe.³⁴ Instead of definitional stabilisation, the post *Ottley* era was characterised by attempts at further 'scaling of bodies' by asserting nationalistic divisions. The creation of legally supported cartographical fictions that put Portugal *out of place* did not present any real difficulties in lack of

²⁸ Toussaint J 'The Dutch Burghers of Ceylon' (1939) xxix 1(July) *The Journal of the Dutch Burgher Union* 6 at 9.

²⁹ Delaney David 'Running with the land: Legal — historical Imagination and the spaces of modernity' (2000) 27:4 *Journal of Historical Geography* 494.

³⁰ Weerasooria W *Links between Sri Lanka and Australia* Government Press Colombo 1988 p 230.

³¹ Paranavitana K.D 'Dutch-Burgher Union Celebrates 90th Anniversary: "Who are the Burghers?"' *Daily News* (Sri Lanka), 5th September 1998; Peacock Olive *Minority Politics in Sri Lanka: A study of the Burghers* Arihant Jaipur India 1989.

³² Toussaint above note 28 at 10

³³ Roberts Raheem & Colin-Thome Above note 16; see also Jayawardena Kumari. *Nobodies to Somebodies: The Rise of the Colonial Bourgeoisie in Sri Lanka* Zed Books London 2000 pp 231–245.

³⁴ Egeter-van Kuyk Robert 'Dutch Burgherism or elitism?' Letters to the Editor, *The Sunday Times* (Sri Lanka) 13th October 2002 Online <http://www.sundaytimes.lk/021013/plus/let.html> Retrieved 15/07/200

consistency with (real) topography, for law as Wesley Pue readily points out, is already *anti-geographical* deriving its meaning in an abstracted, acontextual way, removed from the spatially materialities in which it is contested.³⁵

The key ingredients of internalised racism are a distilling of negative ontologies of human signification (perverted sexualities, ambiguous bodies and skins) into the processes of subjectification, which act as regulatory norms. In critical race theory the notion of internalised racism indicates a process whereby people of colour take in and internalise aspects of racism.³⁶ The nature of differentially situated realities means that one's standpoint places each of us in a different relationship with internalised racism. As Watts-Jones argues for people of European descent, internalised racism can empower, if not privilege feelings of superiority. "It is an experience of self-aggrandizement on an individual, sociocultural and institutional level", whereas for coloured people internalised racism induces self-mortification and estrangement. Internalised racism compels people of colour to adopt strategies of disavowal as "enjoyment or privileges we accrue are by virtue of abandoning our identity to approximate that of the extolled group. There is no entitlement or sense of entitlement".³⁷ Faced with this choice and supported in part by the British enrolment of burgher's into colonial regimes of governance, the burgher embraced (if not believed) in the racial origin myth as espoused in the *Otterly Test*.

The trope of the burgher being of distinct, pure European descent becomes an enduring theme, not just at the level of social administration, but also has shaped the formation of burgher subjectivity and their relationship with other 'classes' of Sri Lankans. Whilst many burghers would like to see the continued propagation of their community (often referred to as a 'race'), assimilation in the diaspora has brought increasing instances of intermarriage and further dissolution of cultural heritage.³⁸ Allegiance to and promulgation of this constructed belief not only erases historical intermingling with the local Sinhalese and Tamil populations under imperialist rule, but also disregards the findings of contemporary genetic research. As Papiha *et al* remark

... the burgher population (a hybrid group between the Dutch and Portuguese and the local Sinhalese) show European features, but its gene frequencies were either intermediate to its parental populations or more similar to the local Sinhalese.³⁹

Further attempts were made to formalise the *Otterly Test* during the proceedings over the basis of 'ethnic' representation at the Legislative Council Constitution Commission of 1910.⁴⁰ This turf war continues to this day and is influenced by not only racialised discourses but also

³⁵ Pue Wesley 'Wrestling with Law: (Geographical) specificity vs. (Legal) Abstraction' (1990) 11 *Urban Geography* 566.

³⁶ Na'Im Akbar *Breaking the Chains of Psychological Slavery* Mind Productions Tallahassee 1996; Aminifu Harvey 'The Issue of Skin Color in Psychotherapy with African Americans: families in Society' (1995) 76:1 *The Journal of Contemporary Human Services* 3.

³⁷ Watts — Jones Dee 'Healing Internalized racism: The Role of a Within Group Sanctuary Among People of African Descent' (2002) 41:4 *Family Process* 592.

³⁸ Price Colin 'Ethnic Intermixture in Australia'(1996) 2:4 *People and Place* 8.

³⁹ Papiha, S. S. Mastana and Jayasekara R 'Genetic variation in Sri Lanka' (1996) 68(5) *Human Biology* 707.

⁴⁰ Roberts Raheem, 1& Colin-Thome Above note 16 pp 243–248

discourses of class and gender.⁴¹ The issue of exclusion from membership of the DBU based on *inter alia* the Otterly Test, has particularly affected Burghers in the Batticaloa region (having a darker complexion) and still lingers. At a symposium on the 400 year relationship between Sri Lanka and the Netherlands held in 2002 a heated debate took place between Delores Brohier of the DBU who argued that burgher “is not an ethnographic name... has nothing to do with race [but rather the] term was of historic origin and refers to a *political* community which has a *distinctive character* (emphasis added)”.⁴² Portuguese Burghers were not only deemed heredity questionable (e.g. they were darker skinned) they were restricted to artisan occupations (often referred to as the ‘mechanics’). As Vijaya Samaraweera notes “Poorer than the Dutch Burghers and socially stigmatised by the rest of the society, the Portuguese Burghers failed to share the tremendous gains made by the Dutch Burghers under the British”.⁴³ In light of Samaraweera’s comments it is interesting that racialised and classicist rhetoric is still invoked and deployed to support racialist marking. Brohier, when asked about the differences between the Dutch and Portuguese Burghers, replied that the Portuguese were of a lower socio-economic status and were referred to as a

... shoemaker class. They were associated with lively dance forms like the Kafftinga or Baila ... the profile of the Burgher is of men and women who were cultured, dignified, attractive and always well mannered and courteous. It is for these personal attributes as well as for their contributions to culture that they have earned an honoured place in this country. They have merged themselves so wonderfully by their courteous and dignified appearance and their flare for making friends with everyone, that they are some of the most loved members of the country.⁴⁴

The work of novelist Carl Muller points to the strong association that many Dutch Burgher families had with the railways either as clerks, maintenance men or drivers.⁴⁵ Another Muller, — J. B., refutes the rhetoric that displays a “heightened unreality, a surreality”⁴⁶ and argues: “Our ancestors were humble, God — fearing peasants and towns folk. They were not royalty nor were they noble men but plain, ordinary people, the ‘nobodies’ of their time”.⁴⁷

⁴¹ Ratcliffe Greg ‘Archives and Anecdotes: History and Auto/biography in Michael’s Ondaatje’s *Running in the Family* (1993) 26(Winter) *New Literature Review* 19.

⁴² Samath F ‘The Good, the bad and the Dutch’ *The Sunday Times* (Sri Lanka) 18th August 2004 [Online].<http://www.sundaytimes.lk/020818/plus/5.html>. Retrieved 15/07/2003.

⁴³ Samaraweera cited in Paranavitana above note 31

⁴⁴ Brohier, cited in Samath above note 42

⁴⁵ Muller Carl *Yakada Yakka: The Continuing Saga of Sonnaboy von Bloss and the Burgher Railwaymen* Penguin India 1994.

⁴⁶ MacIntyre Eric ‘Outside of time Running in the family’ in Solecki Sam (ed). *Spider Bites: Essays on Michael Ondaatje* Vāehicile Montreal 1985 p 315

⁴⁷ Muller JB *Keynote Address*, Second AGM of the Burgher Association of Sri Lanka, Saturday 13th September 2003 (On file with author)

3. UNSETTLING SETTLED HISTORIES

The purpose of history, guided by genealogy, is not to disclose the roots of our identity, but to commit itself to its dissipation. It does not define our unique threshold of emergence, the homeland to which metaphysicians promise as return; it seeks to make visible all those discontinuities that cross us.⁴⁸

Colonial ethnography and post-colonial nationalist historiography make it fairly impossible to cross ethnic lines, and to speak of multiple and cross-cutting identities ... Such narratives also obscure the provisional nature of the historical enterprise.⁴⁹

The epigram by Darini Rajasingham-Senanayake eludes to the fact that what may seem for some a straightforward task of recovering stories of people, incidences and events in order to write a history of genealogy and the burgher, is in fact a highly complex and contentious task, fraught with dangers, disclaimers and requires continual narratological clarifications. Foucault's insights on the usage of genealogy within the history, and in our instance, the particular genealogical history of a 'family-name', points to the genealogy's *cataphrestic* nature where limit-pointed identities (of race and purity) begin to unravel when subjected to examination. Read against the grain, genealogies are testimony to the dissipation of race and the matrices of diversity. Instead of seeing the burgher community as a self-evident and de-limited entity, it may be more useful to speak of transgressive bodies by virtue of hybridity — those that represent corporeal ambiguity produced within the flotsam and jettison of colonisation. 'History' read from the perspective of problematisation, that is the way 'truth' and 'falsehood' about corporeality is produced, reveals a myriad of discontinuities and overlaps.

The reworking of genealogical spatialities is achieved by the acts of those who inhabit recorded 'texts' as well as through practices where realities are selected in accordance with authorised referents of power.⁵⁰ Like Darini Rajasingham-Senanayake who rejects the flattened, stabilised history of a palimpsest, this exploration is an exploration of a fragile cartographer — with the storyteller who is "the migrant, the traveller, the border-crosser, the cross dresser, the blasphemer, the exile".⁵¹ The colonial history of Ceylon and more specifically story of the burghers contain a number of investments on the part of the burgher in terms of 'who' they are, the site and context of ethno-racial production and the 'contribution' they made to Ceylonese society. The burgher genealogy in the antipodes has become an artefact imbued with racialised and cultural symbolism. As Ratcliffe argues:

⁴⁸ Foucault Michel *Language, Counter-Memory, Practice: Selected Essays and Interviews* Blackwell Oxford 1977 p 162.

⁴⁹ Rajasingham-Senanayake above note 25 at 44–45

⁵⁰ Delaney note 29 at 503.

⁵¹ Rajasingham-Senanayake above note 25 at 45

... [g]enealogy confirms a person's place in the continuum of the family history. It follows then, that the influence of the past — both cultural and familial history — is instrumental in forming the individual's subjectivity.⁵²

The burgher is the consequence of the impact of the occupation of Portuguese and later Dutch imperialist forces on Sri Lankan soil and in particular on the bodies of many indigenous (Singhalese and Tamil) women in the face of a shortage of 'white' women. The intermingling of races, culture, gender and power under Portuguese and Dutch rule has received "...comparatively little attention has been given to the mechanics of the intricate processes of cultural contact, intrusion, fusion and disjunction".⁵³ Within the force field of colonialist contact what is obscured by typical rendering of history and racial genealogies is the diminished position of women, especially indigenous women who are often represented as mere vessels whose bodies ensure a continuation of burgher family lineages — they are erased of their deliberative capacity being — de-raced (by Christianised names) and de-lineaged through the removal of surnames. The displacement of the *Otterly Test* complete with its reified bloodlines can disrupt notions of racial purity and has the capacity to re-open wounds that problematise the nature of imperialist conquest that forever has changed the landscape of culture, nation and special relations.

The investment in exclusivity⁵⁴ on the part of Burgher fundamentalist means that obtaining 'reliable' source documentation can at times be difficult due to lost records, hazy memories and a lack of co-operation from some burgher organizations. Everything hangs on the genealogy — the old DBU certified ones and the new 'revised' family histories. At the risk of stating the obvious — because in such a high politicised atmosphere it needs to be stated — the genealogy is not a record of factual truths rather genealogies have "long been used as a mode of advancing certain types of nationalist, classist, and racist ideologies even as such text — and indeed, because of such texts — attempts to keep questions of colour and race [and gender] silent".⁵⁵ In this way Foucault's argument in the opening epigram points to the task of not seeking to re-identify points of 'origin' for the creation of limit pointed identities, rather a reconfigured genealogy reveals a problematic that is a rich tapestry of waves of continuity/ discontinuity and eclipses of relationality both in the visible and absent figures of ancestry. It is not my intention to reconcile any of the tensions and contradictions within genealogies, only to point to possible openings and discontinuities. In the next section, I examine some of these contestations over the delimitation of the 'burgher' racial marker and the ways that the *Otterly Test* has been subjected to contestation not by legal theorists or activists, but by small groups of 'amateur' family historians.

⁵² Ratcliffe above note 41 at 19

⁵³ Young Robert *Colonial Desire: Hybridity in Theory, Culture and Race* Routledge New York 1995.

⁵⁴ See Jayawardena above note 33 especially at 231–245.

⁵⁵ Gardner Eric 'Black and White: American Genealogy, Race and Popular Response' (2003) 44(23) *The Midwest Quarterly* 149.

4. REMARKING ON RACE — FICTIONAL LINEAGES AND HYBRID REALITIES

To begin, let me set the record straight. Those who are in this beautiful hall ... are not, and let me repeat, not an ethnic minority. The Burghers are an ethno-socio-cultural group of people of European descent, of dual parentage, European and Asian, even perhaps some African, virile hybrids as all hybrids are and exotic and of rootstock definitely from the continent of Europe since 1500.⁵⁶

It is through memory that we frame our sense of individual, group, and national identities, give meaning to our life history, and understand our social past. Our individual memories, however, are constantly supplemented, altered and mediated by the circulation of representations and articulations of the past that constitutes collective memory.⁵⁷

Under White Australia immigration criteria, prospective burgher applicants were required to meet a three-prong race test:⁵⁸ (1) they had to prove at least 75% European descent (between 1947–March 1948, only a 50% European descent was needed)⁵⁹; (2) have a European 'appearance' and (3) demonstrate a 'European outlook' and upbringing.⁶⁰ Applicants for residency into Australia in order to conform to the White Australia policy's immigration regulations were required a certified family genealogy from the DBU. Instead of provoking hostility and resistance on the part of the applicant 'burgher' towards such radicalised criterion; the White Australia policy, I argue, had the effect of *reinforcing* burgher claims to the fiction of a 'pure' and unbroken European (Dutch) genealogical lineage.

Such a fictional lineage continues to shape burgher identities today. Although Australian authorities submitted applicant burghers to a three prong race test with the DBU genealogy playing a key role in 'keeping colour out' — the genealogy itself as emblematic of racial stability in fact pointed to the uncontainability and instability of racial enumerative instability. As a counterpoint, these genealogies attempt to reconstruct a past of both racial (black) and women's absences in order to fabricate a particular reading of the present. As Gardner, in his critique of the use of genealogy in African American culture remarks:

in tracing down (one ancestor/many descendents with the author highlighted) rather than the more contemporary tracing up (one central descendent with many ancestors i.e. a tree with roots). Specifically, the function of the pedigree is to establish the descendant's right to

⁵⁶ Muller JB above note 47

⁵⁷ Darian-Smith Kate 'War Stories: Remembering the Australian Home Front during the Second World War' in Hamilton Paula and Darian-Smith Kate (eds) *Memory and History in Twentieth-Century Australia*. Oxford University Press Melbourne 1994.

⁵⁸ This change to policy was formalised in 1951. Weerasooria W above note 30 at 235.

⁵⁹ Nutt Andrew 'Conditions governing the admission of persons of mixed blood to Australia' Memorandum 10 October 1950 Canberra Australian Archives (ACT) A446 1970/95021

⁶⁰ Weerasooria above note 30 at 231–232

high position ...by highlighting the worthy progenitor ... Genealogy serves to separate people.⁶¹

Taking heed of Gardner's concerns, whilst genealogies may implode due to problems with coherency and unreliability, they are nonetheless important to 'hold onto' as sources of oppositional histories and storytelling in combination with the "historical triangulation of facts that have an impact on present-day discrimination..."⁶² The 1950 'mixed race' immigration rules required applicants to have documented genealogies that demonstrated that they had either three European grandparents or two European and two 'half-caste' grandparents, in addition to the criterion of being predominantly of European appearance and outlook.⁶³

In 1950, Acting Australian High Commissioner in Colombo, A. H. Borthwick commenting on the Australian government's immigration guidelines observed "persons must give an *impression* of being of at least 75% European descent, and these standards would I think exclude 90% of all those who claim membership in the community."⁶⁴ The 'burgher' represented a group that was confusing, racially untidy, as matter out of place. Whilst DNU genealogies were the lynchpin to prove correct bloodlines, some Australian authorities questioned its authenticity to the truth and the difficulty of administering such a scheme where knowledge and verification of the racial ancestry of the applicant is infrequently available.⁶⁵ In commenting on the number of burghers who satisfied the bloodline criteria of 'Europeanness' and yet still appeared 'coloured', Borthwick in 1950 noted that

... [B]urgher genealogies present some difficult since although they are traced for several generations and more than a century through records kept since the Dutch administration of Ceylon, cases are believed to have occurred in which Singhalese persons assume Dutch or Portuguese names upon baptism in their respective Churches. More straightforward circumstances apply to the racial origin of Eurasians of the last generations when to race of four grandparents can be accurately stated. However in cases where these maybe predominantly European, we have not always felt able to approve such applications because of the darker complexion of some applicants.⁶⁶

Concurring with Borthwick's dilemma, Ann — Mari Jordens' commentary on the 1964 'mixed race' migration guidelines argues that the so-called 75% rule was

... subjective and ultimately embarrassing ... [for the government. Further she argues that] ... the rule had been introduced in the 1950's to provide a margin of error for the interviewing officer in deciding whether an applicant for migration was more European than

⁶¹ Gardner above note 55 at 149–150.

⁶² Parker L & Stovall D 'Actions following Words: Critical Race theory connects to critical pedagogy' (2004) 36:2 *Educational Philosophy and Theory* 173.

⁶³ Markus Andrew *Australian Race Relations* Allen & Unwin St Leonards 1994 p 167.

⁶⁴ Borthwick cited in Weeroosoria above note 30 at 236 ~ emphasis added

⁶⁵ Gurry Meg & Tavan Gwenda 'Too soft and long-haired? The Department of External Affairs and the White Australia Policy, 1946–1966' (2004) 58(1) *Australian Journal of International Affairs* 127.

⁶⁶ Borthwick, cited in Weeroosoria above note 30 at 239

otherwise. Documentary evidence has been found to be so misleading as to be unacceptable.⁶⁷

Instead of resisting the fiction of racial stabilization by rejecting the colonisers credentials and engaging in 'truth telling' about subjugated genealogies (non-registrable family histories), the DBU became complicit with Australian authorities in creating racial order out of racial disorder by requiring strict evidentially documentation and differentiating between those of Dutch and Portuguese origin. DBU genealogies represent an attempt (a successful one until recently) to restabilise racial regulatory norms. The DBU genealogies, as documents of racial proof that enabled the empire to govern from a distance; kept the occident separate from the orient and enabled or disbarred entry into Australia.

Genealogical records today whilst not acting as instruments of entry into the 'white nation', nonetheless are performatively engaged as testimony to one's 'white' lineage in distinction to the person's (real) colouredness. Such a reckoning of whiteness is exemplified in the narrative of Carl Muller in *Once Upon a Tender Time*:

The children who also liked the heavy spectacled Sunny Herft who, although a Burgher, was darker-complexioned than Veegee and raised eyebrows each time he claimed Dutch blood. Ms Bartholomeusz cold — shouldered the poor man and wanted no truck with such an oddity. She would tell Mrs Martenstyn who lived next door ... that Sunny Herft was not to be acknowledged. 'Real shame to even say he is a Burgher. God knows what's been going on in that family,' she would sniff and glance at her own face in the hatstand mirror and consider her pink-powdered cheeks the very essence of Burgherness.⁶⁸

Genealogies in effect due to their transmission of 'official memory' become official history. However as Ondaatje remarks, "truth disappears with history and gossip tells us in the end nothing of personal relationships".⁶⁹ Genealogy, whilst acting as performative discourse, in private inaugurates a highly public constitutional demarcation made permissible within legally embraced racial classifications in the public. A revisiting of DBU genealogies, which were shaped and formed by both political and historical context, involves a journey into textual places where personalities of lineage have not only decayed in the pages of records but "have been intentionally erased".⁷⁰ The practices of correcting historical mistakes as well as genealogical omissions tells another story and reveals a deep suspicion by authorities to attempts to *speak otherwise* about burgher identity.

Nonetheless I have pointed out the emergence of counter voices to the hegemonic rhetoric of the DBU, particularly those voices emanating from the BASL. Muller at the BASL annual general meeting passionately refutes the purity myth:

⁶⁷ Jordens Ann-Mari *Alien to Citizen: Settling Migrants in Australia* Allen & Unwin Sydney 1997 p 215.

⁶⁸ Muller Carl *Once Upon a Tender Time: The concluding Part of the Von Bloss Family Saga* Penguin India 1995 p 20.

⁶⁹ Ondaatje above note 12 at 53.

⁷⁰ Ratcliffe above note 41 at 21

... It would be desirable for us [burghers] to understand and accept the fact that we are the distilled product of many and varied bloodlines and a remote ancestry that gives us a unique versatility. It also puts paid to any notions of so-called quote/unquote “purity of genealogy” that some people fondly like to believe in.⁷¹

The administrative regulation of burgher classification today in Sri Lanka has not really departed from the formulae of the past. The Chairman [sic] of the Genealogical sub committee of the DBU recently clarified the position in email correspondence. Whilst arguing on one hand that “... there are no registration rules”, he then stated “new/hitherto unpublished genealogies of families [need to] meet ... the criteria in Rule 3 of the DBU Constitution... together with duly authenticated/supporting documentation acceptable to The Union”.⁷² Article 3 of the *DBU Constitution* says:

3. MEMBERS — Any Dutch descendant of full age, and of respectable standing in the community, shall be eligible as a member of the Union. The term “Dutch descendant”- shall include the descendants in the male line of all those of European nationality who were in the service or under the rule of the Dutch East India Company in Ceylon, and the children of such descendants in the female line by marriage with Europeans.⁷³

What we have in this rule is a reiteration of the *Otterly Test* without modification to suit today’s circumstances and changing and contested concept of ‘race’. Combined with the coupling of racial boundaries with gender subordination Burgher males may grant their descendants ‘burgher status’, but marriage to a ‘native’ by a burgher woman results in the erasure of the (real) ethno identify of the female spouse from records either by the absence of a surname or the Anglicisation of naming. Genealogical phallocentrism not only provides authority in the name of the Father, it as Ratcliffe remarks is a “construct that denies the voice of the other, in this case the female”.⁷⁴ But the implications of patronymic power go further than this — what is also excluded is the shifting of the name of the Father to native progeny. The purity of phallocentrism is tainted by its fall into the black body — which, once tainted, cannot be reclaimed — the blackened body is marked as ‘damaged goods’.

Even though the *Otterly Test* and subsequent ‘racial’ definitions have been removed from the *Sri Lankan Constitution* (1978), its vestige lingers on. Racialised patronymy was recently put to the test when a group of amateur genealogists linked up through the Internet to revise and update — reincorporating the blackened ‘lost souls’ put out by the empire by attempting to register ‘revised’ genealogies with the DBU. As part of the research process the genealogists discovered a significant mistake made by the chief authenticator in 1938 that erroneously distinguished between two branches of the ‘--- ---’⁷⁵ family tree. This known ‘mistake’ was left uncorrected. As these researchers met they began to realize that many and prolific interracial unions were omitted

⁷¹ JB Muller above note 47

⁷² Ohlmus E. H Email to Dr. Fiona Campbell, 5/10/2004 (b) (On file with author)

⁷³ *DBU Journal* 1908: 53 sourced by Victor Melder of the Sri Lanka Library Broadmeadows Melbourne.

⁷⁴ Ratcliffe above note 41 at 24

⁷⁵ The names of people and families have been omitted where it is necessary to protect their identities.

from the original DBU genealogies including one linkage to the daughter of the last King of Kandy Sri Wickrama Rajasingha, Dorothea Christina Boteju. In a series of emails between one of the researchers and the Mr E. H Ohlmus of the DBU about the existence of other non-Dutch family members, Mr Ohlmus, apart from requesting that the Executive of the DBU “not speak with this woman” replied:

I've all the information I need of my own family lineage, which conforms to authenticated data in the JDBU [Journal of the Dutch Burgher Union] and is adequate for my own purposes. I have no interest in family trees — as their “branches” do often ‘contain’ or ‘link’ with non- Dutch Burgher families ---even my paternal and maternal families i.e.“Ohlmus and “Loos”, have remote ‘branches’ extending to de Silvas, Diazes, Wickremenayakes, Jayasinghes, David’s, Ediriweeras, Lords, Fernandos, Amits, Overlundes, Pieris-es, Rodrigues etc ...that are, of course, not eligible to be recorded in the [Journal of the] DBU, and are of no use to me.⁷⁶

What is interesting about this response is that instead of dealing with the implications of current DBU regulations within a changing global environment, an environment where most burghers live outside of Sri Lanka and are ‘dying’ out genealogically and culturally due to intermarriage, Ohlmus distinguishes between ‘family trees’ and ‘authenticated lineages’. The assumption is that these ‘alternative trees’ are somehow less authentic. The irony is that family historians are using contemporary historical scholarship from a range of verified sources to piece the missing bits of histories together. Ohlmus acknowledges the ‘outlaw’ families’ encroachment into his (and other Burgher histories) but nonetheless casts them out as they are, to use his words, ‘of no use’. The continued recitation of fabricated and essentialised racialised family histories and a resorting to an obscurant legal race category developed for the context of 1830’ s would normally be considered laughable if the implications of the DBU ‘hold out’ were not so tragic. As one of the researchers in response to Ohlmus’ email put it:

The DBU, will not add any marriage of Female Burghers whose Spouses are not of the DBU or White /European Decent [sic]. In Short ... All Female marriages to Non European or Non Dutch burghers who are not listed in the DBU, this marriage, their Spouse and Children will not be eligible to enter into any of the DBU genealogies. Thus left out. Can you imagine how many empty connections there will be in a Genealogy? We are not getting forward, Progress ...in Time, We are going backwards to the 1700,or 1600. But excuse me those were the days when our ancestors married Blacks, or Moors, Topass or Singelese [sic] and Mistizos Tamils, Eurasians. Many [were] born out of wedlock. Female Ladies ... Then it was ok, They (DBU) had to shut their Eyes. But kept their connections out of the genealogy.⁷⁷

⁷⁶ Ohlmus E.H above note 72

⁷⁷ N--- Email to Dr. Fiona Campbell 18/09/2004. (On file with author)

5. CONCLUSION

Many burghers of the ‘older generation’ continue to hold an ambivalent attitude towards their homeland, especially the social, religious, and political geographies of contemporary Sri Lanka. As a community in exile whose ‘political’ space in Sri Lanka has been subsumed, the first generation burgher diaspora may experience cultural longing, but in a temporal-spatial way for a reified bygone, anamnesis culture based on tradition. Resorting to the *Otterly Test* to shore up a fictional raced identity is but one example of the community drawing upon a colonial regulation to reinforce their identity. Writing within a different context, Françoise Lionnet in *Postcolonial Representations* concludes that

...there is an incessant and playful heteroglossia, a bilingual speech or hybrid language that is a site of creative resistance to the dominant conceptual paradigms...The global mongrelization or métissage of cultural forms creates complex identities and interrelated, if not overlapping, spaces. In those spaces, struggles for the control of means of representation and self-identification are mediated by a single and immensely powerful symbolic system: the colonial language and the variations to which it is subjected under the pen of writers who enrich, transform, and creolize it.⁷⁸

Despite difficulties with its administration, I argue that the power of the pen, of judicial regimes such as the *Otterly Test* were critical to the formation of the colonized subject — who marked, as ‘burghers’ continue to remain colonized as long as the spectre of that *Test* is invoked. In a postcolonial era, the genealogy as a legal testament may disappear.

In this article I have engaged with the insights of legal geographers who have pointed to a multiplicity of geographies all with a myriad of social, political and economic spaces.⁷⁹ Law’s agents, as traders in symbols have constituted such *phantom spaces* as ‘Europe’, ‘Asia’ and the raced identity of ‘Burgher’. Global spaces are in a constant process of rearrangement and because of this there is possibility that their effect will be conditional, partial and indeterminate.⁸⁰ Already, worldwide families are resisting the DBU’s narrow racial discourse and are mapping a new text that seeks to reclaim the lost ‘blackened bodies’ of the empire and the marvellous hybridical offspring that has emerged as a result. The Internet, a database without either borders or a locus of control is enabling the logging of counter histories of burghers — in their mixtures — warts and all. It would appear that at least for some Sri Lankan Burghers, that memory blockage have become unfrozen. New generations of burghers are reclaiming and rejoicing in their newly found hybridity. This hybridity becomes a place for cultural engagement beyond the notion of a remnant of a bygone era towards a community of rich tapestry shaped by globalisation and celebration of mixtures as well as a re-positioning of ‘in-betweenness’ and the formation of shared spaces. In the end, the very embeddedness of spatial relations will determine the extent to which

⁷⁸ Lionnet Françoise *Postcolonial Representations: Women Literature Identity* Cornell University Press Ithaca New York 1995 p 6.

⁷⁹ Blomley Nicholas & Bakan Joel ‘Spacing Out: Towards a Critical Geography of Law’ (1992) 30:3 *Osgoode Hall Law Journal* 662.

⁸⁰ Blomley and Bakan above note 79 at 689

counter-stories of those communities deemed burghers will challenge the fabricated spaces of a dying empire.

The task then is to search for the spaces within and beyond the colonial by-lines that still replicate and obfuscate cultural formations. The emergence of 'independent' family histories are destabilizing the authoritative power of the *Otterly Test* and the DBU, rupturing the rarefied notion of 'race' and have foregrounded the notion of the hybrid. DBU genealogies unchained and reconstituted as 'family histories' — enacts a free flow of memories that are not "limited to what is ethically permissible".⁸¹ The development of counter histories of burgher lineage may make it possible and permissible to re-situate burgher identities within a revitalized Sri Lankan imaginary and enable descendants to acknowledge both contributions to Sri Lanka and make amends for the "deeds of their ancestors in their quest to conquer indigenous people".⁸² It has not been the intention of this article to propose a new order of identity, albeit deconstructed; rather the task of dismantling the power of the *Otterly Test/text* involves the "double project of empowering [one's own burgher] identity while simultaneously engaging in the deconstruction of the logic of identity".⁸³

The existence of the *Otterly test* reminds us of the way colonial regulatory norms can be exploited by other national governments (in this instance Australia, up until 1973) to defend its own race policies. Today in Australia whilst the White Australia policy does not (officially) exist the same regulatory norms related to the compulsions of racial origin are used to refuse entry to refugees who 'do not have their papers in order'. The search for 'roots' has been important for many communities, particularly those whose identities have been disenfranchised and shaped by the experience. The vestiges of the *Otterly Test* can hopefully be put to rest. Oppositional family histories can play an important role in the processes of understanding the impact of colonialism on historical records and spatial contestations as well as capture those subjugated histories filled with struggle and resistance. ●

⁸¹ Kalpagam U 'Temporalities, History and Routines of Rule in Colonial India' (1999) 8(1) *Time and Society* 141 .

⁸² Leonard above note 10

⁸³ Mohanram above note 1 at p 196.