

In the Supreme Court of Sri Lanka Ven. Ellawala Medhananda Thero and 06 others have filed a petition under Article 17 and 126 of the constitution. SC/FR Application 178/2008 dated 02 April 2008 relates to the action taken by the respondents to allocate the houses built for the resettlement of Muslim Tsunami victims displaced in Akkaraipattu Divisional Secretary's Division, Ampara District. Respondents are the Ampara District Secretary Mr. Sunil Kannangara and 11 others.

The Supreme Court issued a stay order on Tuesday 27 May 2008 restraining the respondents from granting permits or leasing any land or housing units from the project.

Bench comprising Justices Shirani A. Bandaranayake, N.G. Amaratunga and K. Sripavan granted interim relief until 11 June 2008. The extension of this stay order was supported on June 10.

Court granted leave to proceed with the petition that cites alleged infringement of the fundamental rights to freedom of thought, conscience and religion as well as the rights to equality and equal protection under the law and against discrimination on the grounds of race, religion, language etc.

The petition stated that the interior areas of Addalachchenai have a mixed population consisting of Sinhalese, Muslims and Tamils, excepting the grama niladhari divisions of Deeghavapiya 1 and 2 on the western side of Addalachchenai D.S. Division, and that the interior of the Oluvil 1 Grama Niladhari division was not inhabited by Muslims until the former Minister M.H.M. Ashraff forcibly created a Muslim colony called "Ashraff Nagar" to the east of the Deeghavapiya Raja Maha Vihara.

They said that at present there were about 300 families settled under government patronage in an area now referred to and identified as "Ashraff Nagar" and that, in 1996, Mr. Ashraff had publicly stated that Deeghavapiya Vihara should be encircled with barbed wire.

Petitioners contend that Mr. Ashraff's intention was to limit the Deeghavapiya to a mere 585 acres with the balance acreage to be distributed among Muslims.

They said that after Mr. Ashraff's death, his wife the 7th respondent proceeded with the programme of Muslim settlement aggressively pursued by her husband.

The petitioners state that, in 2006, some 500 houses were constructed by the government or the NHDA in Deeghavapiya area for distribution amongst Muslims and excluding Sinhalese and Tamils.

The petitioners maintain that the existence of the Deeghavapiya Raja Maha Viharaya depends on Buddhists in Deeghavapiya village and that steps taken to colonise the area with non-Buddhists would result in a violation of their fundamental rights.

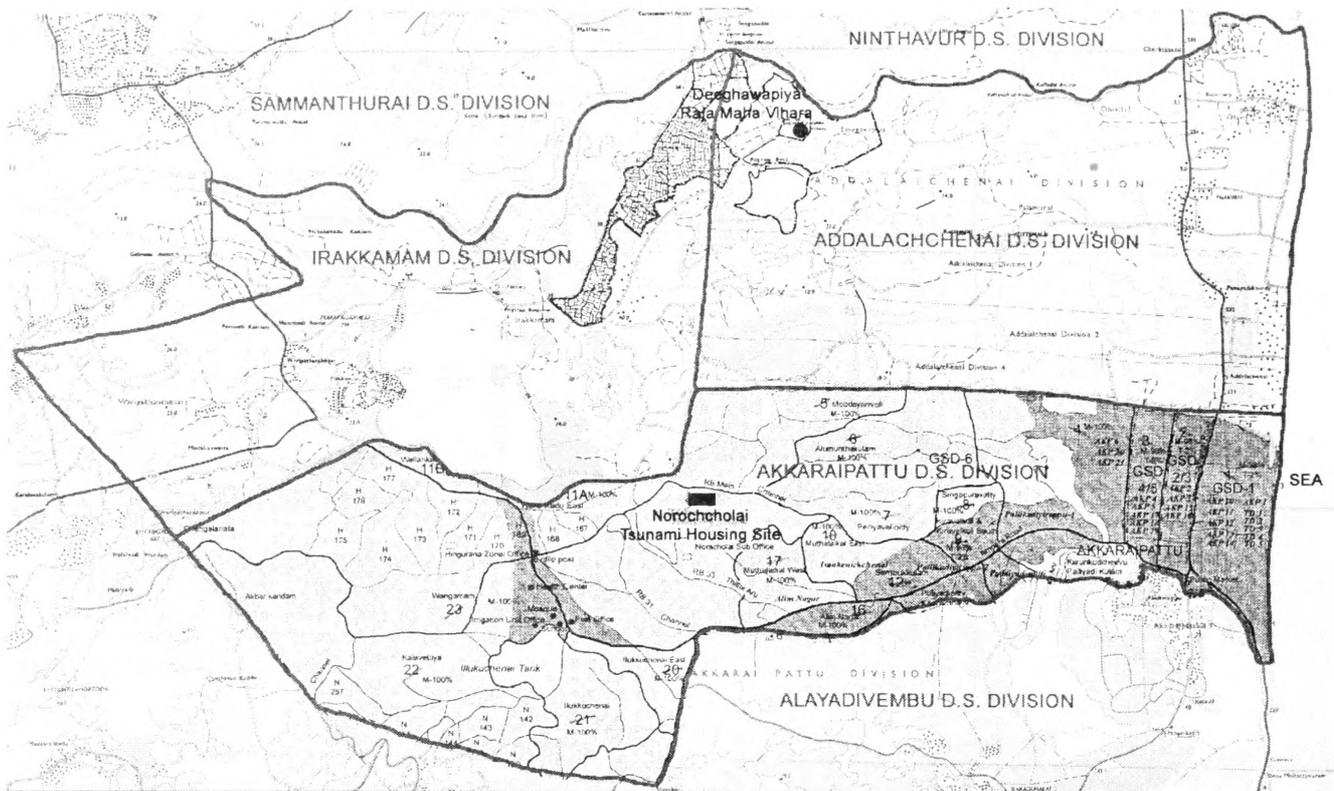
President's Counsel Manohara de Silva with Arinda Wijesundara and Bandara Thalagune appeared for the petitioners.

Supreme Court on Tuesday 10 June 2008 extended till 20 June 2008 the stay order.

Bench comprising Justice Ms. Shirani A. Bandaranayake, Saleem Marsoof and K. Sripavan also allowed intervenient petitions filed by eight tsunami victims asking the court

to declare null and void the decision to allocate or alienate or grant any permit or lease or placing possession of State land or housing unit in Norochcholai Tsunami Housing Resettlement project. The matter is listed to be mentioned on June 19.

Presidents's Counsels Romesh de Silva, Faisz Musthapha, Shibly Aziz and Ikram Mohamed and Counsel M.A. Sumanthiran appeared for the intervenient petitioners. Deputy Solicitor General Ms. Bimba Tilakaratne appeared for the first to the fourth respondents.



Housing project in Norochcholai

1. Houses to resettle the displaced Tsunami victims are built on lands identified and approved by the Government Task Force to Rebuild the Nation – TAFREN. Accordingly 40 acres of highland, in block 223 in Norochcholai owned by Hingurana Sugar Industries Ltd., which was unsuitable for sugar cultivation and abandoned for more than 30 years, was allocated to Sri Lanka Red Cross society by TAFREN to construct 500 houses for the resettlement of Muslim families displaced by the Tsunami in Akkaraipattu D.S. Division, Ampara District.
2. Funds for the construction of this 500 houses and the necessary infra-structure was donated by Saudi Arabia.
3. The housing site at Norachcholai in Akkaraipattu D.S. Division is about 5 km down south of Deegawapi Maha Chaitiya in Addalachchenai D.S. Division.
4. According to the Department of Census and Statistics, there is no Sinhalese or Tamil Tsunami victims in Akkaraipattu D.S. Division.
5. Population, displaced families, housing units damaged and the housing units handed over to the displaced Tsunami victims in Ampara District.

D.S. Division	Population				Displaced Families	Houses Damaged	Houses Handed Over
	Total	Sinhalese	Tamils	Muslims			
Kalmunai (Tamils)	29,025 100%	248 0.9%	26,242 90.4%	1,957 6.7%	3,061	3,259	384
Kalmunai (Muslims)	42,852 100%	48 0.1%	6,841 12.3%	42,689 99%	2,647	3,766	270
Sainthamaruthu	25,147 100%	3 0%	- -	25,144 100%	1,448	2,381	0
Karathivu	16,656 100%	23 0%	10,034 60.2%	6,534 39.2%	1,209	1,756	141
Nintavur	25,652 100%	9 0%	1,129 44%	24,506 95.5%	771	1,510	100
Addalaichenai	39,721 100%	1,967 50%	404 1.0%	37,349 94.0%	632	568	92
Akkaraipattu	37,070 100%	119 0.3%	80 0.2%	36,864 99.4%	444	875	0
Alayadiwembu	22,289 100%	142 0.6%	22,008 98.7%	42 0.2%	1,097	290	312
Thirukkovil	24,972 100%	27 0.1%	24,944 99.3%	- -	3,724	2,431	458
Pottuvil	33,625 100%	667 0.2%	6,448 19.2%	26,493 78.8%	1,902	1,796	653
Lahugala	8,259 100%	7,500 90.8%	758 9.2%	- -	110	51	91
Total	305,268 100%	10,753 3.52%	98,888 32.39%	201,578 66.03%	17,045	18,683	2,517

Source: Department of Census and Statistics –Special Enumeration – 2007 and Additional G.A. Ampara

6. Up to June 2008, 91 houses have already been handed over to the Sinhalese in Lahugala D.S. Division, because there were no Tamils or Muslim Tsunami victims. 1,295 houses have been handed over to the Tamil Tsunami victims in Kalmunai, Karathivu, Alayadivembu and Thirukkovil D.S. Divisions because there were no Muslims or Sinhalese Tsunami victims. Similarly 1,115 houses have been handed over to the Muslims in Kalmunai, Nintavur, Addalaichenai and Pottuvil D.S. Divisions because there were no Tamils or Sinhalese victims. There is no discrimination against Sinhala, Tamil or Muslim residents of the area in the allocation of houses for the resettlement of displaced Tsunami victims.

Discrimination in the allocation of Land Areas to Muslim Local Government and Administrative Units

According to 1971 censuses, the population of Ampara District - 47% Muslims, 30% Sinhalese, and 23% Tamils. The Ampara Electorate created for the newly settled Sinhalese under the Gal Oya state aided colonisation is 880 sq. miles. With the 370 sq. miles allocated for the Lahugala and Damana AGA Division the 30% Sinhalese were given 1,250 sq. miles - 70% Land area, where as the 70% Tamils and Muslims are left with only 30% of Land area - 525 sq. miles.

Former Muslim Majority Panamapattu DRO Division, 472 sq. miles, population 26,916. When redemarcating the new Administrative Divisions 19,831 - 74% Muslim Majority Pottuvil AGA Division was given only 22% - 103.9 sq. miles and the balance 78% - 368.2 sq. miles land area was allocated for the 7,085 - 26% Sinhala Majority Lahugala AGA Division.

In the Sammanthurai Muslim Majority DRO Division, nearly 50 sq. miles of land area covering the Hendy Institute, Ampara Tank and the Town area was separated and added with the Wewagampattu South – Uhana AGA Division.

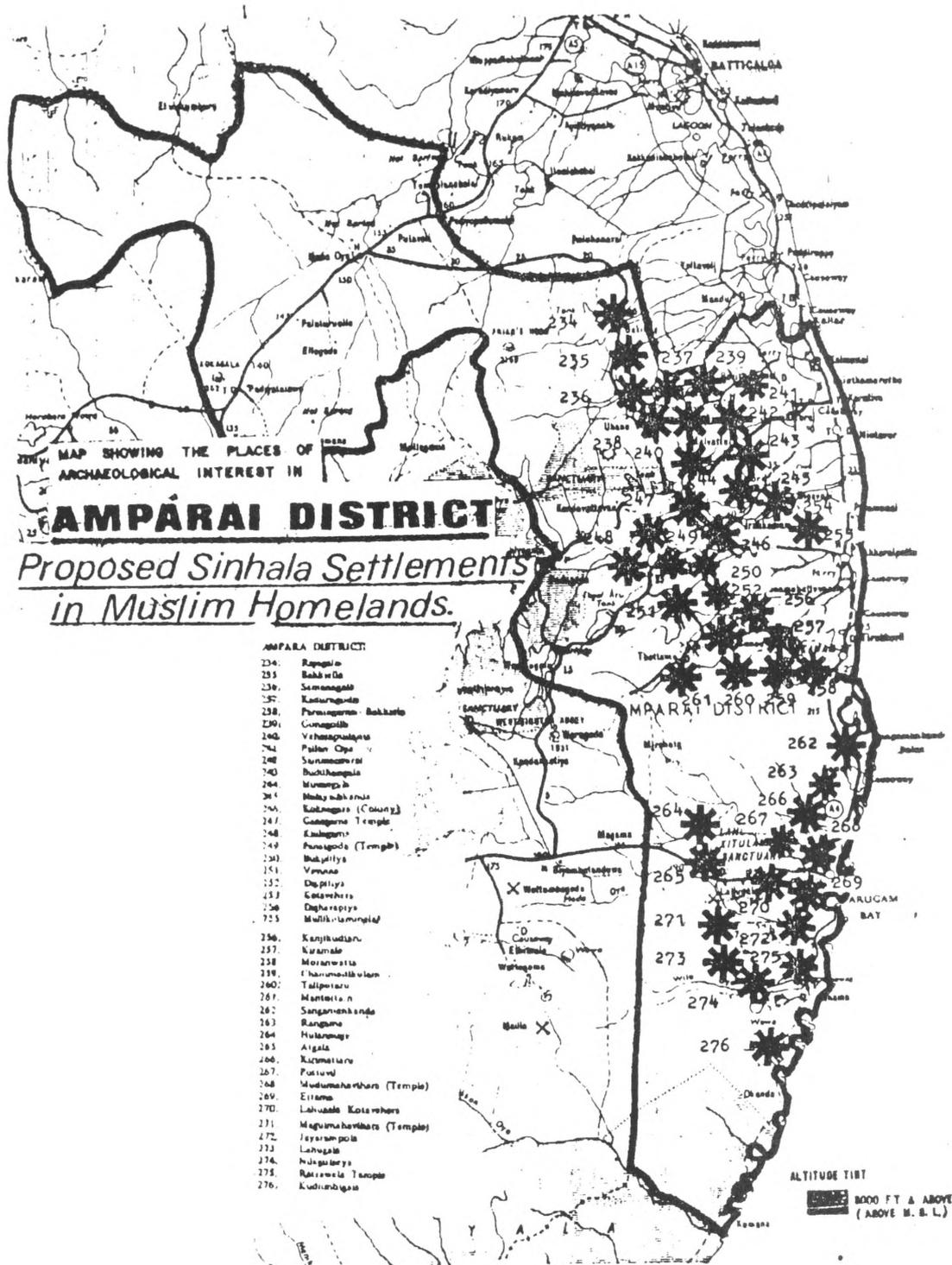
When compared the land area of Sinhala Majority Lahugala AGA Division with the Muslim Majority Kalmunai AGA Division, the Sinhalese are having 208 times more than the land area of the Muslims. When compared the land areas for the Sinhalese with the land area for the Muslims in the Muslim Majority Ampara District, the Sinhalese land area is 13 times more than the Muslim land area.

Ampara District is 1,775 square miles in extent. According to the census of 1981, the Sinhalese who are 37.2% are eligible for 660 square miles. But they have 76% or 1,340 square miles in the predominant Sinhalese areas. Muslims are 41.6% and eligible for 728 square miles. But the Muslims in their area have only 263 square miles which is less than 15% of the land in Ampara District.

However, the political authority of the previous government and the District Minister were very keen to grab the developed and ready made paddy fields of the Muslims and settle Sinhalese relatives brought from other districts. These are the illegal politically aided settlements of Sinhalese in Muslim areas which is over and above the 38 settlements of Sinhalese under the Gal Oya scheme 1960-63. This maneuver has very seriously affected the economy and the political strength of the Indigenous Muslim population of Ampara District.

Muslim Lands Forcibly taken over in the Name of Buddhist Religion and Culture

Adding insult to injury action are still continued to deprive the Muslims from even the 15% of the land holdings in Ampara District. It is sad to observe that these actions are being contemplated in the name of religion and culture. Certain areas where Muslims have been living traditionally have been already earmarked as places of Archeological Interest. The Commissioner of Archeology has stated in the "Silumina" on the 1st January, 1984 that 273 sites in the North and East have been excavated and Buddhist Priests and Buddhist Sinhalese are to be settled in these places. According to Hansard Volume 25 No. 10 of Friday 7th October, 1983, there are 43 places of Archeological Interest in the predominantly Muslim areas of Ampara District.

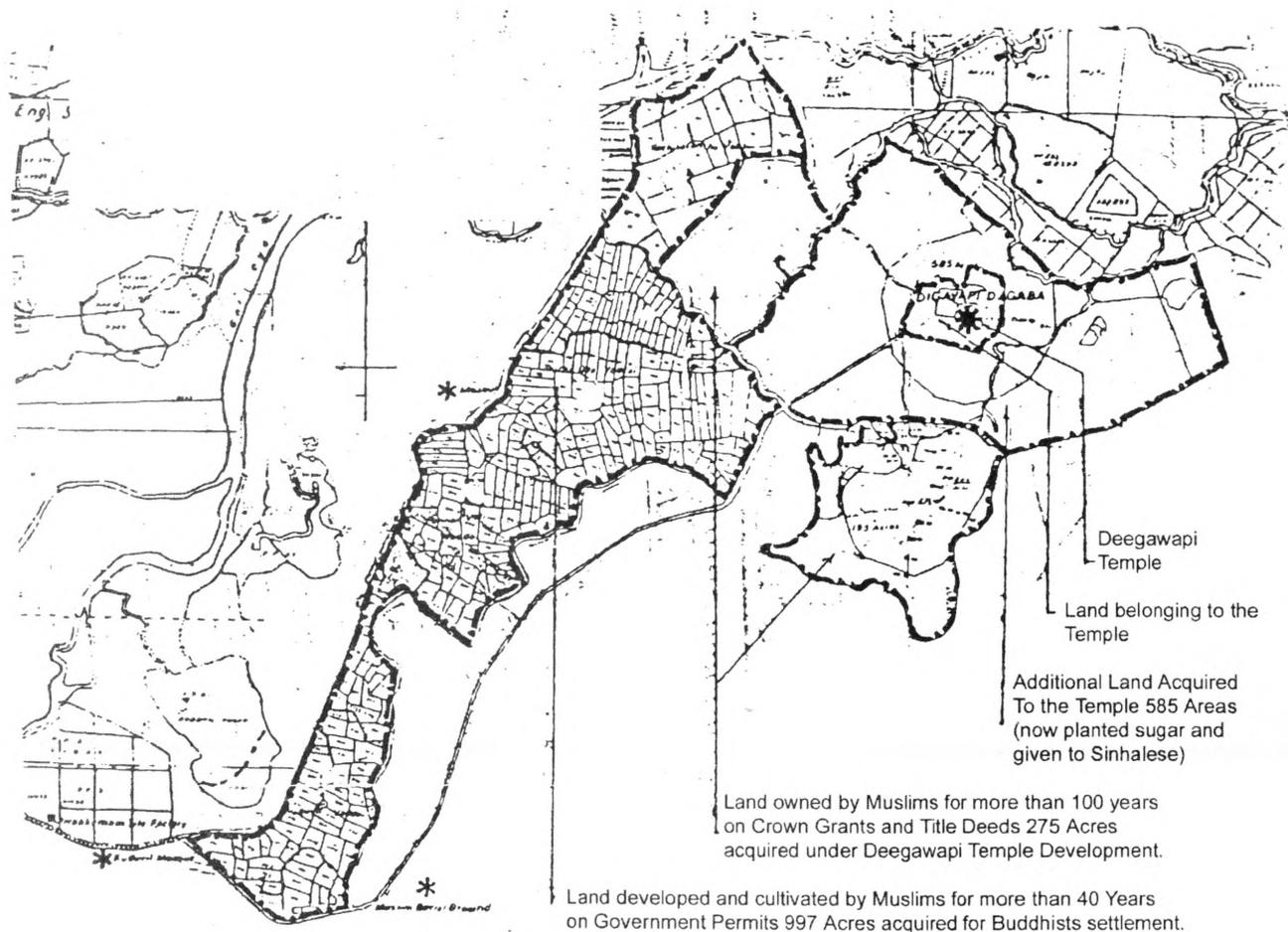


In the Indo-Sri Lanka Agreement of July 29, 1987, the Northern and Eastern province have been recognized as the area of historical habitation of Sri Lanka Tamil speaking peoples. However, some of the Buddhist Priests and Sinhalese have tried to make out that even the Northern & Eastern Provinces were peopled by Sinhalese several centuries ago. They referred to the presence of Buddhist ruins as proof of this fact. They should remember the fact that the whole of South India and the majority of the Tamils in the North East were Buddhists in the 3rd and 4th centuries AD. The well known Tamil Literary epic Manimekalai and several other Tamil literary works of this period bear ample testimony to this. These ruins in the North and East were places worshiped by Tamil speaking Buddhists.

The claims that are being made to the Northern and Eastern Provinces now as Sinhalese territory are on par with the claims of the Jews in Palestine.

Successive governments have pursued the same policies as the Jews are pursuing in Palestine in dispossessing the Arabs of their land and driving them away from their homes. Today we find a frantic search for Buddhist shrines, not for the love of Buddhism but to chase away the Muslims from their lands.

Land acquisition and ejection of Muslims in Digawapi area in Ampara District is a very good example. It was around 1940 that a Buddhist priest came to reside at the site of the Chaitiya. There were no Buddhist to give Dana. The Muslims in this area helped the priest. The land around the Chaitiya was planted with coconut by the Muslims of the area for the priest. Suddenly in 1960 some Buddhist wanted all the land around the Chaitiya to be taken over by the government for Buddhist purpose.



The Government, in 1968 appointed a committee headed by Mr. Ratnethunge, the former Surveyor General, to investigate and submit a report. Number of Buddhist Organisations made representations and finally the Committee recommended to take over 500 acres around the Chaitiya. It was agreed with the Muslims that no more land would be taken. Quite contrary to this agreement and promise by the Sinhala Buddhists, there was a sudden move to acquire another 1,000 acres of paddy land belonging to the Muslims. The Government, without any regard for Law and Order send the bulldozers destroying 185 acres of paddy cultivation in the Periyavisaraikandam owned by the Muslims on Crown Grant Title Deeds. What is happening in the Ampara District is deliberate discrimination against the Muslims.

Lands Developed by Muslims on LDO permits forcibly taken over for Sinhalese Colonization

When the country began the Grow More Food Campaign before the Independence, the Muslims of Kalmunai, Ninthavur, Akkaraipattu, Sammanthurai and Pottuvil DRO's Division in the former Batticaloa District, were forced to open up jungles to cultivate paddy. The policy of the Government at that time was to clear as much land as possible to grow more food. They were given LDO Permits to do so. The landless Muslims of the Eastern Province, cleared thick jungle at great expense in order to cultivate paddy by themselves and their dependents. Some of the areas opened out on permits under LDO.

Noraicholai Kandam	1,400 acres
Valemarathuveli Kandam	200 acres
Ambalatharu – Senaikandam	300 acres
Periyavisarai Kandam – Digawapi - I	585 acres
Digawapi – II	275 acres
Digawapi – III	997 acres
Vikkalmadu	400 acres
Siyathrewaddai	200 acres
Vellakalthottam	320 acres
Kondavettuwan	400 acres
Mahakandiya & Kandian Kattu	1,400 acres
Arugambai – Ullai	<u>520 acres</u>
Total	<u>6,997 acres</u>

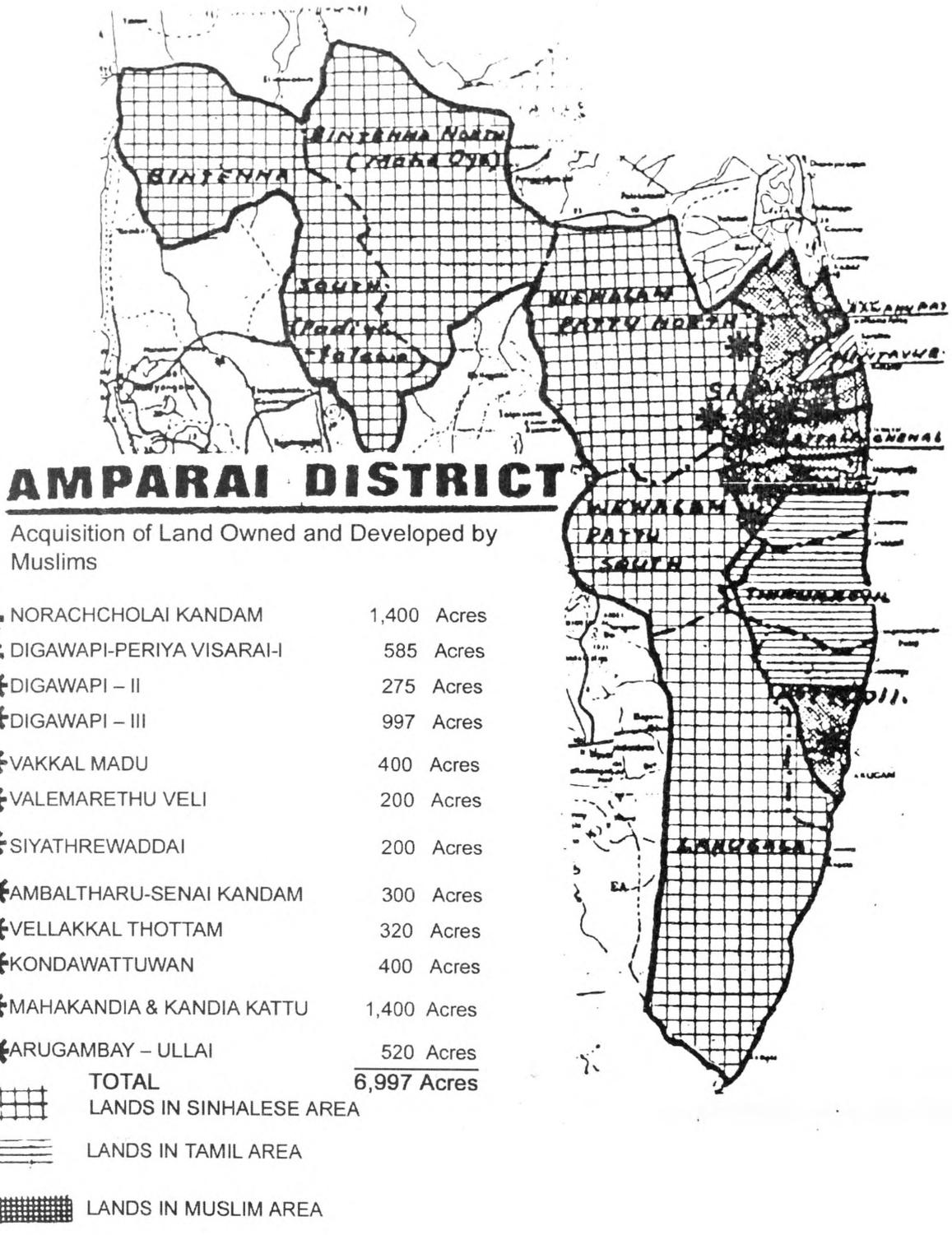
When Gal Oya Development Scheme was inaugurated, the late Hon. D.S. Senanayake promised that the new lands that were to become cultivatable under the Gal Oya development scheme would be distributed on a 50-50 basis between the local citizens of the Batticaloa district and the would be colonists from outside.

Trusting this promise and the policy of the Government at that time, the local Muslims who were noted for their fearlessness and ability for opening thick jungles, risked their lives and came forward to work under the Gal Oya Scheme. The successive Governments, whether they are UNP or SLFP, not only failed to implement the so called policy and the promise of 50-50 distribution of land but also adopted various methods to ensure the economic and political weakening of the Muslims in the Gal Oya valley.

Opening of the Gal Oya Scheme was a great boon to the Sinhala people, but this has been used as a device to deprive the Muslims to live and own lands under this scheme.

The River Valley Development Board the successor to the Gal Oya Board, without any Land Kachcheri or compensation to those Muslim cultivators on LDO Permits, handed over the whole area to the Sugar Corporation. They sent Bull-dozers to destroy the fertile paddy fields developed by the Muslims and took over the land for sugar cultivation. Hundreds of Muslims were thrown out on the road denying their livelihood.

The land taken over chasing the Muslims proved a dismal failure for sugar cultivation. 1400 acres of fertile paddy fields in Norachcholai Kandam were reduced to shrub jungle. Subsequently the Government has settled the Sinhalese without any land kachcheri brought from outside instead of giving the land back to the Muslims who developed these lands on LDO Permits or to their dependants.



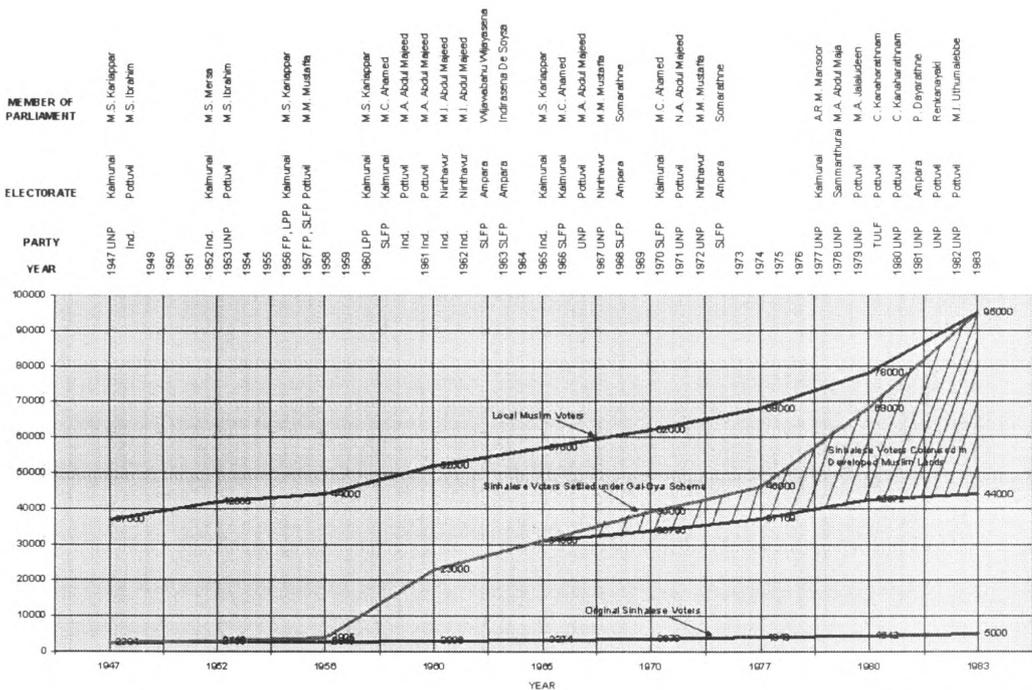
Similarly Muslims who developed nearly 7000 acres of State land with LDO Permits have been chased out from Velamarethuveli Kandam – Plan 819 Village 9A; Ambaltharu Colony and Ambalam Oya Kandam – Lot 124 & 125 in Plan 293; Chenai Kandam Lot 122 & 123 in Plan 293, and these developed lands were given to Sinhalese brought from outside without any Land Kachcheri.

The Sri Lanka Sugar Corporation at Ingurana, Gal Oya, Tile Factory under Ministry of Industries at Irrakkamam, the River Valley Development Board – the successor to the Gal Oya Development Board, forcibly took over the developed paddy fields of the Muslims without any regards to the provisions of the law relating to Land Acquisition and Development.

It is a different story altogether in the Sevanagala Sugar Development Project in the Uda Walawa Scheme in Sinhalese area - Embilipitiya. Thousands of unauthorized squatters who did not have even the LDO Permits were given first the compensation and a subsistence of Rs. 550/- per month, till the land illegally occupied by them is fully developed for sugar cultivation and given back to them at the rate of three to five acres. They are also given a developed plot of one acre high land and a free house. No one is displaced on account of Sugar cultivation project as happened in Gal Oya and not a single Muslim or Tamil is brought from outside the area. What happened in Gal Oya Development Scheme is a deliberate discrimination against the Muslims.

Sinhala Settlements in Ampara District

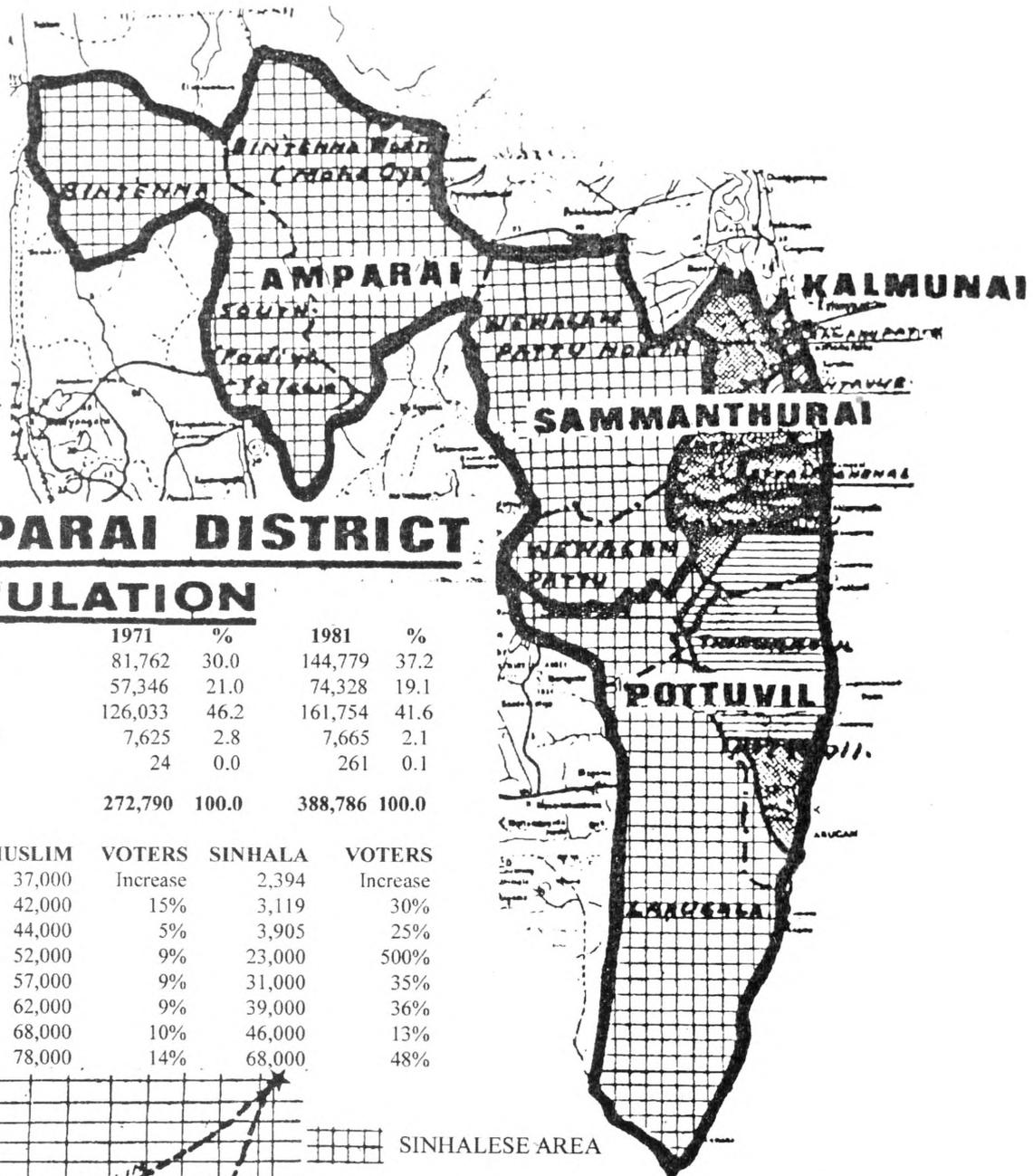
In the census of 1921, the Sinhalese population of the combined Ampara and Batticaloa Districts was less than 5%. After the Gal Oya settlements, the 1971 census recorded that Ampara had 126,033 Muslims out of the total population of 272,605 – that is, the Muslims constituted 46.2% of the population of Ampara District. The same census showed that the Sinhalese population was 82,868 or 30.39% of the total population. By the process of the natural increase at 2% per annum, one would expect the number to rise to 101,015 in 1981. But their number according to the census of 1981 is 146,371. That is to say 45,356 Sinhalese have been brought in to Ampara, after the Gal Oya Settlements without any land kachcheri and this exercise has reduced the Muslim ethnic strength from 46.2% to 41.6% and increased the Sinhalese strength from 30.39% to 37.6%.



Batticaloa District was divided into the present Ampara and Batticaloa Districts in 1961.

Detail of 1981 population in the Eastern Province

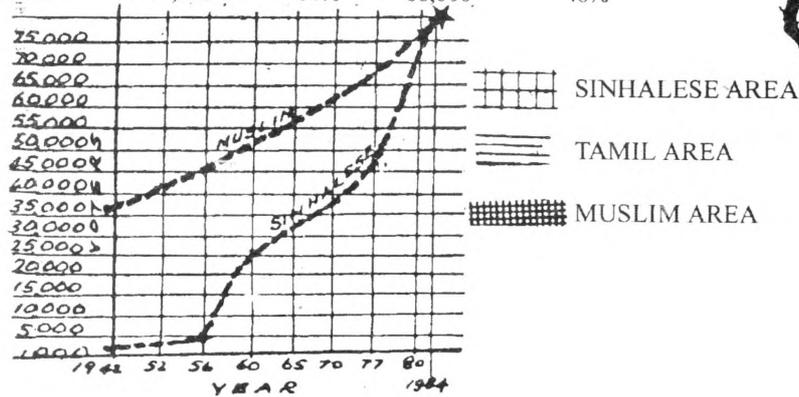
DISTRICTS	All Races Total	Sinhalese Total	%	Ceylon Tamils Total	%	Indian Tamils Total	%	Tamils Total	%	Moors Total	%	Burghers Total	%	Malays Total	%
EAST. PROV.	974,127	242,358	24.88	399,406	41.00	12,045	1.24	411,451	42.24	315,201	32.36	4,154	0.43	963	0.10
BATTICALOA	330,528	10,646	3.22	234,348	70.90	3,868	1.17	238,216	72.07	79,317	24.00	2,300	0.70	49	0.01
AMPARA	388,399	146,371	37.69	78,315	20.16	1,410	0.36	79,725	20.53	161,481	41.58	643	0.17	179	0.05
TRINCOMALEE	255,200	85,341	33.44	86,743	33.99	6,767	2.65	93,510	36.64	74,403	29.15	1,211	0.47	735	0.29



AMPARAI DISTRICT POPULATION

	1971	%	1981	%
BUDDHIST	81,762	30.0	144,779	37.2
HINDU	57,346	21.0	74,328	19.1
MUSLIM	126,033	46.2	161,754	41.6
CHRISTIAN	7,625	2.8	7,665	2.1
OTHER	24	0.0	261	0.1
Total	272,790	100.0	388,786	100.0

YEAR	MUSLIM	VOTERS	SINHALA	VOTERS
1947	37,000	Increase	2,394	Increase
1952	42,000	15%	3,119	30%
1956	44,000	5%	3,905	25%
1960	52,000	9%	23,000	500%
1965	57,000	9%	31,000	35%
1970	62,000	9%	39,000	36%
1977	68,000	10%	46,000	13%
1980	78,000	14%	68,000	48%



Tamil population increased between 1949 and 1981 from 136,059 to 411,451 – 302%, Muslim population increased from 109,024 to 315,201 – 289%, Sinhalese population increased from 27,556 to 243,358 – 883%. The National average increase of Sinhalese during this period is only 238%. The sudden increase of Sinhala population is the result of Government planned Sinhala Colonization in Gal-oya, Pannala-oya, and Ambalam-oya in Ampara District, and Kanthalai, Allai, Morawewa, Muthalikkulam, Pathaviya (Part), and Mahadiuluwewa schemes in Trincomalee District without land kachcheri.

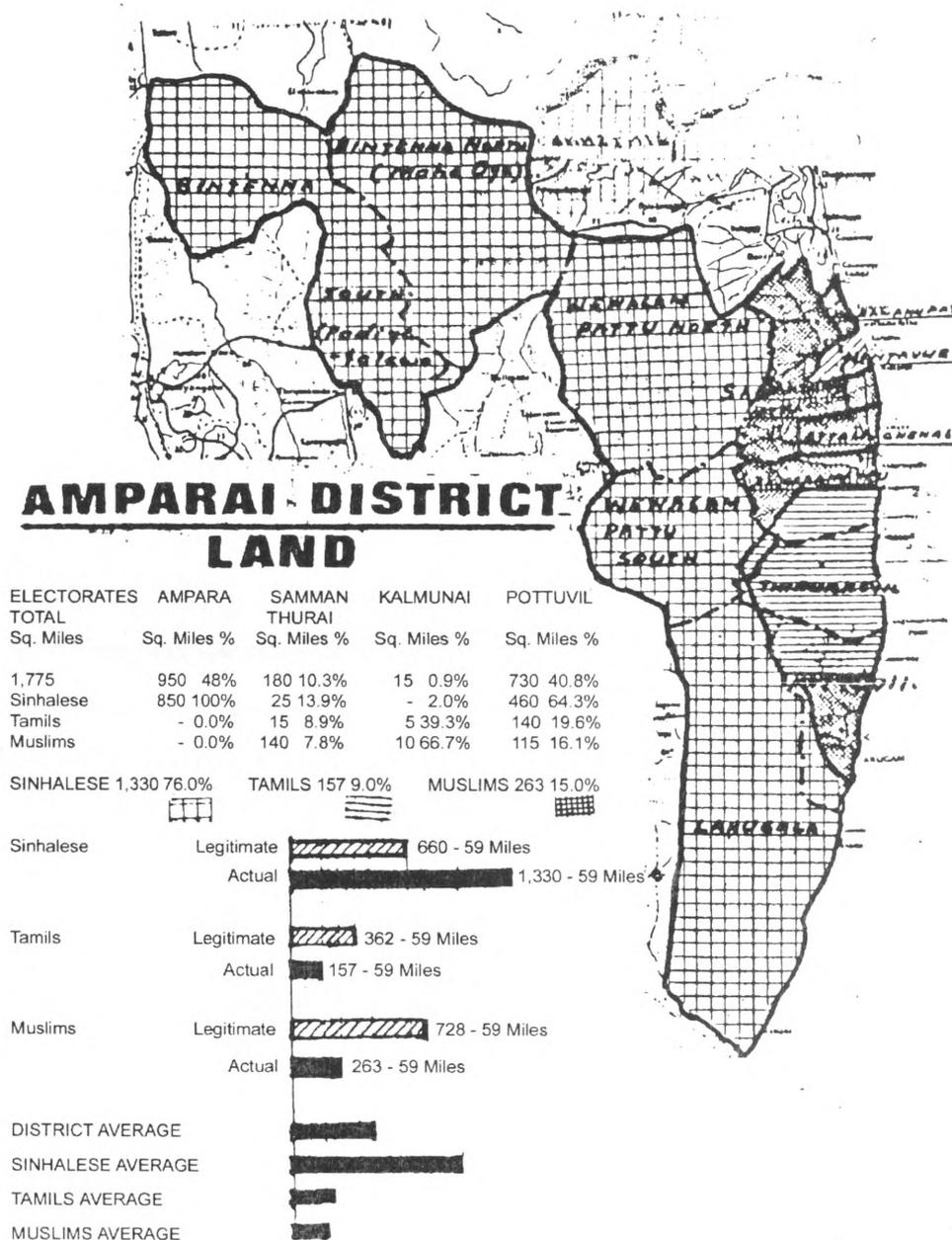
State Aided Sinhala Colonizations

The Land Policies pursued hitherto by successive Governments after the Independence have had their far reaching adverse effects.

1. The Minorities have been denied their legitimate share of Developed State Land.
2. Deprivation of Land, more particularly developed land, to landless people in the Districts of Land alienation.
3. Substantial alteration in the Ethnic composition of the Districts in which State Land have been alienated.

This has contributed to the growth of tension and hostilities among different communities resulting in Ethnic Violence. The victims of such violence have always been the Tamils and Muslims.

State aided colonization have proved catastrophic as far as the Muslims are concerned. The Muslims have become sick of the maneuvers and manipulations of Government Ministers and Public Officials entrusted with land alienation.



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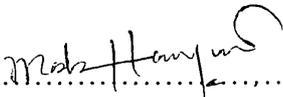
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