

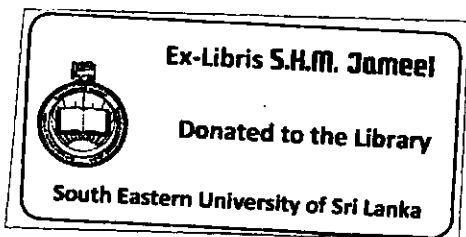
IN THE LAST FIFTY OR SIXTY YEARS, DURING WHICH SRI LANKA MOUNTED A CONSTITUTIONAL STRUGGLE, YOU WILL NOT COME ACCROSS ONE SOLITARY MUSLIM VOICE AGAINST THE ASPIRATIONS OF THE SINHALESE PEOPLE. MUSLIM REPRESENTATIVES DID NOT GO BEFORE INTERNATIONAL COMMUNITY WITH ACCUSATION AND SOUGHT TO BLAKEN THE IMAGE OF THE SINHALESE PEOPLE. IN FACT IF THERE IS ONE COMMUNITY IN SRI LANKA THAT COULD LEGITIMATELY COMPLAIN OF BEING DISCRIMINATED IN THE FIELD OF EDUCATION, EMPLOYMENT, LAND ALIENATION, COLONISATION ETC., WHICH COME UNDER THE PERVIEW OF THE STATE, IT COULD BE THE MUSLIM COMMUNITY.

ALTHOUGH PATRONISING REMARKS AND PROMISES HAVE BEEN MADE FROM TIME TO TIME BY POLITICAL LEADERS, IN THE ACTUAL EXERCISE OF SHARING OF POWER, EVERY EFFORT APPEARS TO HAVE BEEN MADE TO CRIPLE AND DESTROY THE RIGHTS AND PREVILAGES OF THE MUSLIMS IN SRI LANKA.

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PREFACE

Muslims never asked anything more than what is legitimately due to us as citizens of Sri Lanka. Every ethnic community is entitled to its due share. We have not asked for the separation of the country nor have we resorted to terrorism for the settlement of our grievances. But the so called national political parties have let us down very badly and the Muslim community had been taken for granted by every government since independence in 1948.

Successive Governments of the United National Party and the Sri Lanka Freedom Party which ruled Sri Lanka since Independence are responsible for the present plight of the country. From what had happened to the minorities after the independence, we find it difficult to accept the view that the UNP and the SLFP are truly national Parties. When one bears in mind the policies that have been pursued in this country by successive Governments, which were headed by one or the other of these parties, on Citizenship, Language, Education, Employment, Colonisation and Inter-communal Relationship, one finds it difficult, in fact impossible to accept their position as National Parties.

Sri Lanka Freedom Party of Mrs. Srimavo Bandarenaike received a mandate at the election held on May 27, 1970, to repeal the Soulbury Constitution of 1947. On May 22, 1972; having abolished the Senate, declared the country to be a Sovereign and Independent Republic within the British Commonwealth. The Republican constitution did away with some of the very important safeguards provided for the minorities by the Soulbury Constitution at the time of Independence.

The provisions of Section 29 (2) and (3) of the Soulbury Constitution which were designed to give some protection to minorities against the legislation which the majority might be tempted to enact to the disadvantage of the minorities, did not find a place in Mrs. Srimavo Bandarenaike's Republican Constitution.

1972 Constitution did not re-enact the provisions of the Soulbury Constitution, which empowered the Governor-General to appoint members to represent any important interest that is not represented or inadequately represented.

The Senate wherein the minority found a forum to air its views and grievances disappeared with the Constitution that was brought in to being by the United Left Front Government.

II.

The UNP-Jayewardene Constitution of 1978 is same as the SLFP Constitution of 1972 with regard to the abolition of safeguards to the minorities. More damaging are its provisions with regard to the demarcation of Electoral Districts, the Proportional Representation Election System and the Executive Presidency. These laws seem to be directed against the Muslim Community rather than any other community in Sri Lanka.

During the last two decades, emergency powers have been used by the Governments of the UNP and SLFP to remain in power. Elections to Parliament and Local Bodies have been deliberately postponed. Referendum which eroded the rights of the people of electing representatives of their choice have been introduced. Governments failed to conduct free and fair elections. Recognised Political Parties have been proscribed. Laws to strengthen anti-democratic powers have been enacted. Ruling parties continued to patronise their supporters only and subjected other party activities and supporters to acts of victimisation and political revenge.

The former Executive President used his powers in a dictatorial manner and plunged the country into an orgy of violence. Invited the Indian Troops, and introduced the Provincial Councils without a satisfactory solution to the Ethnic problems in the country. Suspended the provisions of the Provincial Council Laws which prohibited the President, the proclamation of the temporary merger of the Eastern Province with the Northern Province before the complete cessation of hostilities and surrendering of the arms and amunitions by the militants. Conducting fraudulent and illegal election to the North-East Provincial Council in collaboration with Indian Troops. Failed to utilise for the purpose of Law enforcement and maintenance of security in the Northern and Eastern provinces the same organisation and mechanism of Sri Lanka Government, as are used in the rest of the country. These are some of the actions of the former Executive President which were directly responsible for the present crisis.

The 13th amendment to the Constitution and the Provincial Council Act contain most of the unresolved and incomplete collection of proposals for the devolution of power. Provincial Council framework provided in these proposals have failed to meet the legitimate and reasonable demands of the Muslims - it failed to recognise political and ethnic aspirations, it failed to promote socio-economic interests, it failed to guarantee security. This total disregard shown to Muslim sentiments and aspirations by the Government brings to surface one important political truth. That is, the UNP Government had little or no concern about the rights of the Muslims.

III.

Although the former Executive Presidents and their Governments are no more in office, the constitution created by them still remains and is seriously affecting the safety and security of the country and its people. The constitution must reflect fundamental values, aspirations and beliefs of a nation. The present constitution has many weaknesses and it is not feasible to use it by modification. Therefore, the Constitution of 1978 should be repealed and replaced by a New Constitution.

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30th April, 1997.

CHAPTER - I

MUSLIMS AND CONSTITUTIONAL REFORMS IN SRI LANKA

Muslims have always been loyal to the country and were in the forefront of the struggle-resisting the foreign invaders, winning back the lost freedom and consolidating the freedom won. Muslims have fought in the armies of Mayadunna when Portugese invaded Sri Lanka. Every resistant movement of Sinhalese, whether it was in Kotte or Kandy, had Muslims in their ranks. So much so that the Muslims became the target of persecution under all the colonial powers.

For a period of roughly three centuries, between the arrival of Portugese in 1505 to the departure of the Dutch in 1795, the Muslims in the maritime provinces underwent untold hardships at the hands of the invaders.

The British removed the irksome civil and economic restrictions imposed on the Muslims by the Portugese and Dutch. But in the Legislative Council the Muslims were represented by Mr. Ponnambalam Ramanathan who was then considered the leader of all the Tamil Speaking People. Muslims did not approve their interests being represented by a Tamil and launched an agitation for its own representation in the legislature of the country. This agitation bore fruit in 1898 and Mr.W.M. Abdul Rahman was appointed to represent the Muslim interest.

The racial harmony and peace which existed during the British rule in Ceylon, was shattered as a result of the Sinhala-Muslim riots in 1915. The principal effect of the riots of 1915 was a sense and feeling of helplessness among the Muslims in Ceylon. The bitter memories and the impact of the 1915 riot, polarised the forces among the Muslims and encouraged them to form various organisations in order to defend and protect the ethnic rights of the Muslims in Ceylon. The All Ceylon Moors association and the All Ceylon Muslim League were formed in 1922 and 1924 respectively.

In 1924, Manning Reforms increased the unofficials in the Legislative Council to 37 of which 6 were to be elected on communal basis. 3 Muslims were elected by the entire Muslim Community of the Island. It was after 1924, when the communally elected members represented the Muslims interests in the legislature, Muslim education was given some thought, Muslim peasants were given lands for cultivation. Muslim Law Committee was set up under the chairmanship of Justice M.T. Akbar, which produced the Muslim Marriage and Divorce Ordinance and the Muslim Intestate Succession and Wakfs Ordinances.

Donoughmore Commission abolished communal representations, extended the franchise to all adults above 21 years, recommended the creation of electoral districts and substituted State Council for the Legislative Council. Only one Muslim member was elected from Batticaloa South in the election held in May-June 1931 for the State Council.

Muslim community was not satisfied with the position to which it had been relegated by the Donoughmore Commission. When the election was held in 1936 for the State Council, none of the Muslim members won. However, A.R.A. Razik and T.B.Jayah were nominated as Muslim representatives. The Governor made the nomination on the advice of the Board of Ministers which was dominated by Sinhala Buddhists. In other words Muslim representatives were selected by the leaders of the Sinhala Community. The obligation of these Muslim representatives were more towards their patrons than towards the community they are supposed to represent. This system gave rise to the emergence of Muslim representatives not quite familiar with the aspirations of the Muslim Community. So the agitation for directly elected Muslim representation commenced with the removal of the communal representation by the Donoughmore Commission.

The Soulbury Constitution - (1947 - 1972)

The All Ceylon Muslim Political Conference which united all the political divisions among the Muslims went before the Soulbury Commission on 5th February 1945. They demanded that the communal representation to be replaced to safeguard the ethnic rights of the Muslims in Ceylon.

The Soulbury Commissioners were greatly concerned about the position of the minorities under the new constitution and expressed the hope that in the demarcation of electorates, such electoral divisions as multiple members constituencies, reduced electoral strength for minorities areas etc. would be utilised in order to give adequate representation to the minority communities, specially the Muslims as they are more or less scattered throughout the country. It also provided protection to minorities against legislations which the majority might be tempted to enact to the disadvantages of the minorities.

SLFP - Mrs. Sirimavo Bandaranaike Constitution - (1972 - 1978)

The Sri Lanka Freedom Party received a mandate at the general election held on 27th May 1970 to repeal the Soulbury Constitution and drafted a new constitution. SLFP declared the Parliament to be the National State Assembly and removed some of the important safeguards provided for the minorities by the Soulbury Constitution.

The provisions of Section 29 (2) and (3) of the Soulbury Constitution which were designed to give some protection to minorities did not find a place in the SLFP Republican Constitution. It did not re-enact the provisions for the appointment of members to represent interest that is not represented or adequately represented. The Senate where in the minorities found a forum to air its views and grievances was also disappeared in the new constitution.

UNP - J.R.Jayawardena Constitution - 1978

The United National Party headed by Mr.J.R.Jayawardena, won the election on 21st July, 1977 and drafted a new constitution on 7th September, 1978. The UNP constitution is the same with SLFP constitution of 1972 with regard to the abolition of safeguards to minorities. Both constitutions refrained from re-enacting the provisions of Section 29 of the Soulbury Constitution, reinstating the principals of appointment and resurrecting the Senate. More damaging are the provisions for the Executive Presidency, the demarcation of electoral districts and the Proportional Representation election system introduced in the UNP - Jayawardena Constitution which have seriously affected the rights the Muslim Community enjoyed for more than half a century in this country.

CHAPTER - IITHE PLIGHT OF MUSLIMS IN INDEPENDENT SRI LANKA

The British government insisted 75% support for the Dominion Status Bill to consider Independence to Sri Lanka. An impossible task unless the minorities give their support. Unlike the other minorities, the Muslim preferred the independence to Sri Lanka more than any safeguards and firmly stood with the Sinhalese without putting a spoke in the wheel at a crucial time.

Political powers by virtue of numbers have always been in the hands of the majority community - Sinhalese. This had led to serious discrimination of the minorities, Tamils and Muslims, by successive governments since independence. It is the failure of the Sinhalese majority to recognise and respond to the needs and aspirations of the minorities have led to the dissatisfaction and demand for separation.

CITIZENSHIP ACT.

At the time of independence it was made out that under the Soulbury Constitution, out of the 95 elected members 42 members would be returned from the minorities. Within four years of independence, the whole scheme of representation which involved weightage to the minorities, was totally distorted. Passing of the Citizenship Laws which de-citizenised and dis-franchised about a million Muslims and Tamils and deprived them of the representation they had in Parliament was the first blow directed against the minorities in this country. It also resulted in the majority community-Sinhalese who were only 68% of the population at that time captured 80% of the representation in Parliament. The Citizenship Laws made the totality of the Muslims and Tamils in the country as doubtful citizen and we are undergoing several hardships in registering of names in Voters List, obtaining National Identity Cards and many other matters to which the Sinhalese are not subjected to. It is one of the most discriminatory piece of legislation. Not only it was passed and circulars sent to Departments not to employ doubtful citizens, but also the issue of Ration Books to the Muslims and Tamils depends on the proof of citizenship. As the Laws stands today, Muslims and Tamils who would be born in the future, will, with the passing of time, have to prove the birth in Sri Lanka of themselves and a series of ancestors, if they want to establish their citizenship.

OFFICIAL LANGUAGE BILL

With the passing of the Official Language Bill in 1956 and the introduction of Sinhala and Tamil as the medium of instructions in schools, the Muslims accepted the change and opted to learn Sinhala. Several, particularly those who live in the Urban Towns in the Sinhala speaking areas, educated their children in the Sinhala medium. As a result a new generation of Muslim Youths have emerged in the Sinhala speaking areas who speak very little Tamil if not none at all, and who now demand even the religious sermons in the mosques to be delivered in Sinhala, the only language they understand. This transformation has awakened the Muslims to the most complicated problem of finding instantly, sufficient Islamic religious books and literatures in Sinhala and also to find the ways and means of preventing a potential split in the community between the Sinhala Speaking and Tamil Speaking.

Almost all the Muslim schools in the Sinhala Speaking area or Tamil Speaking area, are Tamil medium schools. More than two-third of the Muslims living in the Sinhala speaking area where the language of administration is only Sinhala, have to educate their children in Sinhala. Unfortunately the Muslims do not have a single Sinhala medium Muslim school in any part of the country where the Muslim children could get their education in Sinhala medium up to the university entrance. As it is, the Official Language Bill has done more damages and have placed the Muslim community in a disadvantageous position than any other community in Sri Lanka.

LAND DEVELOPMENT ORDINANCE.

In our economic development land and water are the most versatile National Resources. With the attainment of independence, they were being developed in a spirit of sharing these resources equally among all Sri Lankans. Unfortunately the land policies pursued hitherto by successive Governments after the independence have had their far reaching adverse effects.

The minorities have been denied their legitimate share of developed state land. Deprivation of land to the landless people in the districts of land alienation. Substantial alteration in the ethnic composition of the Districts in which the state land have been alienated. This had contributed to growth of tension and hostilities amongst different communities resulting in ethnic violence. The victims of such violence have always been the minorities.

Land Policies covering subjects such as Land development and Land settlement are of utmost importance. Colonisation has been accepted as one of the main grievances affecting the minorities - Muslims and Tamils. The United national Party in its election manifesto of 1977, identified colonisation as being one of the main grievances that had led to the present communal unrest in the country.

When the major irrigation schemes were inaugurated in the East, immediately after the independence, the late Mr.D.S.Senanayake said that the lands that were to come arable would be alienated among the local farmers and the Sinhala colonists from outside the province, on a 50/50 basis. The successive governments, whether UNP or SLFP, not only failed to implement the promise but also adopted various methods to ensure the economic and political weakening of the Muslims and Tamils in the Eastern province. Informations available in District Land Offices have proved that the Muslims have not received even one-fourth of their legitimate share. But the majority community Sinhalese, who are 74% of the population, have been given more than 85% of the state developed land in all the settlement schemes in the country.

Gal Oya Scheme in Ampara District, Allai, Kanthalai, Morawewa and Padavia Schemes in Trincomalee District are example of planned Sinhalese Colonisations in the Eastern province. According to 1921 census, the Sinhalese were 3% of the population in the Trincomalee District and 4.5% in the combined Batticaloa and Ampara District. There were less than 4% Sinhalese in the whole of Eastern Province. But according to 1981 census the Sinhales population in the Eastern Province is 25%. The Muslims who were the first majority in Ampara District, were made minorities by State Aided Sinhalese Colonisation.

Opening of the Gal Oya Scheme was a great boon to the people of Sri Lanka. But this had been used as a device to deprive the Muslims to live and own lands in Ampara District. This could be proved from the settlement policies adopted since the independence.

The River Valleys Development Board, the successor to the Gal Oya Development Board, the Sri Lanka Sugar Corporation at Ingurana and Kanthalai, the Tile Factory under the Ministry of Industries at Irakkamam, took over the fertile paddy fields developed and cultivated by the Muslims on LDO permits and threw them on the road without compensation or alternate land. Total land from which the Muslims have been chased away with their LDO permits amounts to more than 20,000 acres in the Eastern Province.

Before the introduction of the Kantalai Colonisation Scheme, Kantalai was predominantly a Muslim village with a small Tamil population. During this time the Muslims cultivated about 4,000 acres of paddy land at a place called Pottanai in Thampalagamam pattu. When the Kantalai scheme started in 1952, the promise and the policy of the Government was 50% for the local and 50% for others. Quite contrary to this, the Muslim farmers who had been in the land for more than 30 years with LDO permits, were chased away with out any compensation and these lands were later given to the Sinhalese.

The Battukachchi area which is presently called Akbarpuram was earlier the pasture land of the area. Here also the Muslims were chased out and the Sinhalese were colonised. Even now there is a Mosque and a Muslim School here. When Kantalai Sugar Corporation was established in 1958, more and more Sinhalese came in and occupied the land along Alakanthalai Road, depriving the legitimate share of the land for the Muslims. Kantalai, Pottanaikadu, Peraru were the purana Muslim Villages. Prior to 1965 the Village Council Chairman of this area was a Muslim.

Kinniya which is the largest Muslim Village in Trincomalee District had a population of over 40,000. The poor landless farmers who lost their purana lands to the Sinhalese under Kantalai Colonisation Scheme, cleared the immediate neighbouring jungle at a place called Vanaru. About 10,000 acres of land had been cultivated by nerally 3,000 Muslim farmers from Vanaru, Sundiaru, Maniarasankulam, Savaru, Kalaruppu, Vannathi Palam, Katukuli, Naduluthu etc. In 1967, the Government introduced a Scheme called Kusumangada Vanela Scheme and chased the Muslims. A Police Station was opened in the heart of the jungle called Vanela Police Station to chase the Muslims and help the Sinhalese to take possession of the land developed by the Muslims on LDO permit.

The land between Kinniya/Thampalakamam Road and Alakantalai Road was originally reserved for the village expansion of Kinniya, Kurunjankerni, Alankerni and Thampalakamam. When the Tobacco Corporation came in at Chondankadu near Mudalaimadu, the employees of the Corporation started encroaching into these lands and forcibly occupied. In Trincomalee kachcheri, LDO permit of the Muslims were not renewed for their lands but new permits were given to the Sinhalese illegal encroachers.

Successive governments since independence have persued the same policies persued by the Jews in Palestine in dispossing the Arabs of their land and driving them from their homes

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 was not a single Buddhist in the area. Suddenly in 1960 some Buddhists wanted all the land around the Chaitiya to be taken over by the Government for Buddhist purposes.

In 1964, the Government appointed a committee headed by Mr. Ratnathunge, a former Surveyor General, to investigate and submit a report. Number of Buddhist Organisations made representation 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, sent the bulldozers destroying the paddy cultivation in the Periya-visaraikandam owned by the Muslims on Crown Grant and Title Deeds.

National Agricultural and Diversification Authority-NADSA was inaugurated on 22 November 1978. This is a World Bank project. It involved 24,649 acres of unproductive estate lands, where minor export crops were to be established and poor landless peasants settled. This scheme covered Hewaheta, Nawalapitiya, Aranayake and Yatiyantota electorates.

According to figures as at 8 July, 1980; 767 Sinhalese, 17 Tamils and only 3 Muslims were settled. But the labour force taken over from these unproductive estates are 7,015 Sinhalese, 6400 Tamils and 132 Muslims.

All the Muslim villagers living in these estate boundaries were the casual workers in these estates and an undertaking was given that when landless villagers are settled, Muslims will also be given their due share. It is regretted that in Gampola, Hewaheta, Nawalapitiya and Yatiyantota, no Muslim settlements have taken place under the NADSA settlement Scheme.

SECURITY.

The violence that were unleashed in the past against the Muslims in Kirinda, Ratnapura, Galle, Kalutara, Panadura, Kelaniya, Dehiwala etc. have proved that the Muslims living scattered all over Sri Lanka, have no security for their lives and properties. One has to keep in mind the deep feeling of insecurity and alienation that was felt by the Muslims after the spate of violence in July, 1983; specially when the Muslims came to know about the Second Plan to attack the Muslims.

During the 1983 violence, the total number of Muslim cases affected in various parts of the country was 298 and the damages estimated approximately Rs.258 Million. During this violence, the Sinhalese have threatened to attack Mosques if the calling of prayers "Azan" in loudspeakers are not slowed down or completely stopped.

In 1975, five Muslims have been shot in a Mosque by armed Sinhalese Police Officers in Puttalam. A mosque with a Ziyaram was destroyed in Mawilmada, Kandy during January 1984. On 17 May, 1986, few Muslims have been attacked by Army Officers, in Slave Island, Colombo, when they were returning after Tharaweeh prayer during Ramazan. Few years ago in the same Mosque, number of Muslims were shot by Police, when they objected for the use of Mosque Loudspeakers for un-Islamic activities.

Thousands of Muslims - men, women and children have been killed and injured in the Eastern and Northern Provinces of Sri Lanka which area had been identified as the area of historical habitation of the Tamil Speaking Peoples - Tamils and Muslims, in the Indo-Sri Lanka Accord of 1987. The number of Muslims who have become refugees since the Indian came to keep the peace have exceeded 200,000. Billions of Rupees worth of properties belonging to the Muslims have been destroyed or robbed by the Tamil militants who are supposed to be fighting for their ethnic rights.

Other communities - Sinhalese and Tamils, have also suffered. But the case of the Muslims is quite different. The Government and its armed forces are giving all possible protection and relief to the Sinhalese. Armed Tamil Militants, the Indian Government and the International Tamil Community are fully backing the Tamils. But the unarmed Muslims are helpless and caught napping in the ethnic conflict. Although the Muslims are the worst affected lot, the world outside, and the International Muslim Community in particular, are of the opinion that the Muslims in Sri Lanka are quite happy and have no grievances because few Muslims are members of Parliament and Ministers in Sri Lanka Government.

The Tamil militants brutally murdered Mr.Habeeb Mohamed, the Assistant Government Agent of Muthur in September 1987. Mr.A.L.Abdul Majeed, former M.P., and Deputy Minister, was killed in November 1987. 26 Muslims were killed and another 200 were injured when the IPKF shelled in Ottamawadi, a predominant Muslim Village in Batticaloa District, in December 1987. About 14,000 Muslims became refugees and fled to Polonnaruwa in the North Central Province.

Kattankudi, the home of nearly 30,000 Muslims - 4 miles down South of Batticaloa was attacked by the armed Tamil Militants in December, 1987. In the fierce attack nearly 60 Muslims were murdered and about 200 were injured. Rupees 200 Million worth of properties belonging to Muslims were burned and destroyed by the Tamils. All these happened in the presence of the Indian Peace Keeping Force - IPKF.

Al-Haj Ahamed Ibbet, the former Chairman of Kattankudi Urban Council, was assassinated on 6 March 1988. 106 Muslims were shot dead while they were praying in a mosque in Kattankudi by the LTTE in 1990. In the same week 86 Muslims including those returned from Hadj Pilgrimage were kidnapped and killed by the Tamils at Kaluwanchikudi.

About 2 weeks later, Saddam Hussain Village in Eravur was attacked by the Tamils and more than 100 men, women and children were killed.

In November 1989, the Tamil National Army - TNA, surrounded the Karaithievu Police Post with heavy mortar and equipments supplied by the IPKF, ordered the Tamils to leave and the 41 Muslim Police Reservists were separated and taken captive and murdered in cold blood.

More than 100 Muslims have been kidnapped and killed by the Tamil Terrorists in Mannar. In October 1990, the LTTE chased all the Muslims from more than 100 Muslim villages in the Northern Province. Nearly 50,000 innocent Muslims who have lived for generations in the Northern Province are now suffering in the refugee camps in Puttalam, Kurunagala and Anuradhapura Districts.

In October, 1992; the LTTE brutally murdered nearly 200 Muslims in Akbarpuram, Ahamedpuram, Palliyagodalla and Pangurana in the Polonnaruwa District.

LOCAL GOVERNMENT.

Pradeshiya Sabhas, Urban Councils and Municipal Councils constituted under the provisions of the newly enacted Pradeshiya Sabhas Act and Local Authorities Election (Amendment) Act will give no opportunities for the Muslims to participate in decision making process relating to Administration and Development activities at the local level.

In the UNP proposal dated 20 February, 1984, to the All Party Conference, it was stated that there would be 200 - 250 Pradeshya Sabhas. They would be vested with necessary powers and functions. The economic viability and stability will be ensured by careful demarcation of the area of authority, taking into consideration of population, size, resources etc.

His Excellency the President in his statement dated 25 June, 1986; said that in order to allay the apprehension of any community the Government was prepared to consider the establishment of units to give the ethnic groups a large measure of local self - government under the control of Provincial Government such as community oriented AGA Division, Pradesiya Sabhas in the AGA divisions and other unit of local self - government.

There were 549 Village Councils with 7,316 members, and 83 Town Councils with 528 members prior to the setting up of the Development Councils in 1981. We had 138 DRO's Divisions before the establishment of the 241 AGA Divisions for local administration directly under the Ministry of Home Affairs. The Government without appointing a delimitation commission and inviting the members of the public to make representations they desired regarding the delimitation of the area of administration of the local bodies, have established 257 Pradeshiya Sabhas to elect 3,695 members, 39 Urban Councils to elect 416 members and 12 Municipal Councils to elect 255 members in the 25 districts of the country. This important operation was carried out unilaterally by the Government without consulting the people specially when these sub-national units are meant to give an opportunity to the minorities to share power at the local level.

In the list of local bodies, we find that the interests of the Muslim Community have been deliberately ignored when carving out the local bodies. Muslims do not have Pradeshiya Sabhas, Urban Councils and Municipal Councils according to our national ethnic ratio. Muslims being 8%, it is our legitimate right to elect 281 members in 21 Pradeshiya sabhas, 32 members in 3 Urban Councils and 19 members in 01 Municipal Council in order to participate effectively like the Sinhalese and Tamils in decision making process relating to administration and development activities at the local level.

1981 census recorded 42% Tamils, 33% Muslims and 25% Sinhalese in the Eastern Province. But in the list of local bodies now created in the Eastern Province we notice that the 25% Sinhalese are given 12 Pradeshiya Sabhas and 1 Urban Council. On this basis the 33% Muslims are eligible to 16 Pradeshiya Sabhas and

01 Urban Council. When the 34% Sinhalese are given 5 Pradeshiya Sabhas in Trincomalee District, the 29% Muslims should have at least 4 Pradeshiya Sabhas. But the Muslims are given only 2 Pradeshiya Sabhas.

Muslim majority local bodies could be easily created in the AGA Divisions of Colombo, Beruwela, Harispattu, Puttalam, Pottuvil, Akkaraipattu, Attalaichenai, Nanthavur, Sammanthurai, Kalmunai, Irrakkamam, Kattankudi, Eravur, Ottamawadi/Valaichenai, Muthur, Kinnya, Kuchaveli, Musali, Erikalampiti, Kalpiti, Kuliypitiya, Thampalakamam, Thambankaduwa, Lankapura, Welimada, Mawanella, Uduwera, and Medadumbara.

Great injustice has been done to the Muslims in the allocation of economic resources even to the 12 Muslim Pradeshiya Sabhas in the Eastern Province and hence most of them are not economically viable. When community oriented Pradeshiya Sabhas were created in Akkaraipattu AGA Division, most of the natural resources legitimately belonging to the Muslims and all the Government Institutions were separated and included in the new Tamil Pradeshiya Sabha called Alayadivembu. The Alayadivembu Pradeshiya Sabha with 13,000 Tamils, was given 37 Sq. Miles of land area, whereas the balance area of Akkaraipattu AGA Division is now called Karunkoditievu, with 23,000 Muslims was given only 20 Sq. Miles of land area. Of the 37 Sq. Miles in the Tamil Pradeshiya Sabha area of authority, more than 20 Sq. Miles are the paddy lands belonging to the Muslims who are now in the Muslim Pradeshiya Sabha. Even the name of the predominant Muslim AGA Division Akkaraipattu had been omitted against the consent of the Muslims for their Pradeshiya Sabha.

The two UNP Muslim members of Parliament represented the Akkaraipattu were unable to rectify this injustice because the Hon. Minister of Local Government who was the Executive President of Sri Lanka, was not prepared to change his decision when representations were made to him directly before the list of local bodies were gazetted. However, the single Tamil UNP M.P. was more powerful and she was able to get all things done the way she wanted with the blessings of the UNP hierarchy in carving out the new Alayadivembu Pradeshiya Sabha for the Tamils in Akkaraipattu AGA Division.

On Population basis the land area allocated to the Sinhala Pradeshiya Sabhas are 13 times more than the land areas allocated to the Muslim Pradeshiya Sabhas in the Ampara District. Worst discriminations have taken place in Kattankudi, Eravur, Ottamawadi/Valaichenai in Batticaloa District and Muthur, Kinnya, Thampalakamam, and Kuchaveli in the Trincomalee District.

PROVINCIAL COUNCILS.

Ethnic grievances are not confined to one community nor to the followers of one religion. The Sinhalese, Tamils and Muslims have grievances in Sri Lanka. Various political solutions have been proposed for the settlement of ethnic grievances. The common feature in all these proposals are the unit of devolution and the devolution of power.

The provisions of the 13th Amendment to the Constitution and the Provincial Council Act contain most of the unresolved and incomplete collection of proposals for the settlement of ethnic grievances in Sri Lanka. Provincial Council framework provided in these provisions, is not specifically addressed to the grievances of both - the Tamils and Muslims separately in the Eastern and Northern Provinces. The Provincial Council system fails to recognise the legitimate rights of the Muslims of the Eastern and Northern Provinces - it fails to recognise political and ethnic aspirations, it fails to promote socio-economic interests, it fails to guarantee security.

Former Executive President Jayawardena's regime had destroyed the fundamental rights of the Muslims of the Eastern Province. Section 37 1 (b) of the Provincial Council Act No.42 of 1987, prevents the Presidential Proclamation of the temporary merger till the surrendering of arms and cessation of hostilities by the militants. Quite contrary to the Law, the Executive President Jayawadene, used his powers to proclaim the temporary merger under the Public Security Ordinance during emergency and made the Muslims of the Eastern and Northern Provinces, a community of Political and Social slaves under the Tamils.

Tamils constitute more than 90% of the population in the Northern Province. The object of the amalgamation of the North with the East is not only to make the Tamils an absolute majority but also to make the 33% Muslims in the Eastern Province an insignificant minority - 18% in the 70% Tamil dominant combined unit.

The transfer of political power to the 70% Tamil majority North-East Provincial Council has not been accompanied by adequate safeguards for the independent Muslim community who has equal rights like the Tamils in the same area. Since no separate power sharing political and administrative units are created, Muslims are in a disadvantage, specially when extensive powers are devolved to the Provincial Councils with regard to Law and Order and Land settlement. The combined North

-East Provincial Council will have a Police Force consisting mainly, if not solely of Tamil Militants. Muslims do not wish to be continuously terrorised by the Tamils in our areas of historical habitations. Further, all settlements in the merged province on state land other than those in the major irrigation schemes, will be under the control of the 70% Tamil dominated Provincial Council. Lands in the areas of historical habitation of the Muslims in the merged territory should be identified and protected from further colonisation by the Tamils.

Muslims never asked anything more than what is legitimately due to us as citizens of Sri Lanka. Every ethnic community is entitled to its due share. We have neither asked for a separate state nor have we resorted to terrorism for the settlement of our grievances. It is for the first time in Sri Lanka, that steps are being taken to share power with the minorities. Therefore, we, the Muslims do not wish to be ignored and our legitimate rights to be denied. If the unit of devolution of power for the settlement of ethnic grievances is province, a fair and just arrangement would be to establish 7 Councils for the 74% Sinhalese, 2 Councils for the 18% Tamils and 1 Council for the 8% Muslims. Being one of the major ethnic community in Sri Lanka, it is our legitimate right to have a Muslim Majority Provincial Council, where the Muslims could also have the opportunity like the Sinhalese and Tamils, to elect our own Chief Minister and Board of Ministers.

What we have today in Sri Lanka is ethnic problems and not Tamil problems. Sinhalese, Tamils and Muslims have ethnic grievances. Therefore, the type and unit of devolution should be appropriate to the situation and satisfy the aspirations of all. As a compromise between a highly centralised Unitary System and a Separate State, powers should be shared by all. Patchwork and halfway measures will only make settlement difficult. The powers transferred should enable the ethnic minorities - the Tamils and the Muslims, assume responsibilities and participate fully in decision making process in those areas where they are in a majority.

The only feasible solution in the present situation is to demarcate the land area of the Eastern Province according to ethnic ratio of population of 1981. Total area of Eastern province is 3,839 Sq. Miles. Sinhalese 24% - 960 Sq. Miles, Tamils 42% - 1,762 Sq. Miles, and Muslims 33% - 1,267 Sq. Miles. Bintanna Pattu and Wewagampattu North in the Ampara District and the predominant Sinhalese areas of Trincomalee District can be the Sinhalese Unit. The three predominant Muslim electorate of Pottuvil, Kalmunai and Sammanthurai in Ampara District and the areas of the Pradeshiya Sabhas of Kattankudi, Eravur, Ottamawadi/Valaichenai, Muthur, Kiniya and Thampalakamam in Battcaloa and Trincomalee Districts will be the Muslim Unit. The balance areas of the Eastern Province will be the Tamil Unit.

PARLIAMENT.Demarcation of Electoral Districts.

The UNP - Jayawardene Constitution of 1978 is at one with its predecessor in regard to the abolition of safeguards to minorities: it too refrained from re-enacting the provisions of Section 29 of the Soulbury Constitution, reinstating the principals of appointment, and resurrecting the Senate. More damaging are its provisions with regard to demarcation of Electoral Districts.

Article 96

- (1) The delimitation Commission shall divide Sri Lanka into not less than twenty and not more than twenty four electoral districts, and shall assign names thereto.
- (2) Each Province of Sri Lanka may itself constitute an electoral district or may be divided into two or more electoral districts.
- (3) Where a province is divided into a number of electoral districts the Delimitation Commission shall have regard to the existing administrative districts so as to ensure as far as is practicable that each electoral district shall be an administrative district or a combination of two or more administrative districts or two or more electoral districts together constitute an administrative district.
- (4) The electoral district of each Province shall together be entitled to return four members, (independently of the number of members which they are entitled to return by reference to the number of electors whose names appear in the registers of electors of such electoral districts), and the Delimitation shall apportion such entitlement equitably among such electoral districts.

The Jayawardene Constitution of 1978 does not contemplate the establishment of any other future Delimitation Commission than the one which was established within three months of its coming into operation. Therefore, the demarcation of electoral districts that it has carried out is final for all times, and equally final is its distribution of the 36 members among the electoral districts of each of the nine provinces on the basis of Article 96(4) and the 160 members in terms of Article 98. These could be altered only by amending the Constitution by a two third majority, which is not practical politics under the proportional representation system which has been introduced into the machinery of elections. This is one of the most reactionary features of the Jayawardene Constitution of 1978.

We notice that the provisions cited above do not contain any instructions to the Delimitation Commission to some attention to the existence of minorities in the country while demarcating electoral districts. In other words, the provisions of

the Soulbury Constitution with regard to minority representation have been deliberately omitted in the Jayawardene Constitution of 1978.

When a Delimitation Commission was appointed under the Soulbury Constitution there was a specific direction in Section 41 that the Commission shall have regard to the transport facilities of the Province, its physical features and the community or diversity of interest of its inhabitants. There was a further specific direction that in so doing, that is to say, in dividing the Province into Electoral Districts, where it appears to the Commission that there was in any area of a Province a substantial concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Commission may make such division of the Province into electoral districts as may be necessary to render possible the representation of that interest.

The essence of this provision is that the Commission, in demarcating an electoral district, was required to take into account the question of minority groups, whether they be found on race, religion or other common interest, in order to render possible the representation of such group in the Legislature. A Delimitation Commission appointed under that Constitution would therefore have acted contrary to the terms of that provision if, in dividing a Province into electoral districts, it has disregarded this requirement regarding a minority with a common interest.

It was made quite clear in the direction contained in Section 41 (3) that the general rule of each electoral district having as nearly as possible an equal number of persons was subject to this exception, regarding the representation of minority interests. The creation of an electoral district to enable the representation of a minority group with a common interest was to override the requirement of each electoral district having an equal number of persons. It was in addition to this requirement that the Delimitation Commission under the Soulbury Constitution was empowered to create in any Province one or more electoral districts returning two or more members

In the 1972 Constitution of Mrs. Bandarenaike, the Delimitation Commission was required as a general rule to carve out an electoral district for every 75,000 persons and further to create an electoral district for every 1,000 Sq. Miles calculated according to the provisions laid down, the provision regarding minority interests was given a special place. In contrast to these directions, in the present Constitution there is a total absence of these provisions in the matter of division of Provinces into electoral districts. This Law seems to be directed at the Muslim Community rather than at any other in Sri Lanka.

Election - Proportional Representation.

When we consider the political fate of the Muslim Community under the system of Proportional Representation introduced by the Jayawardene Constitution of 1978 we have to look closely at the community's dispersion in the country vis-a-vis the provision of paragraph (6) of Article 99 of the Constitution:

"Every recognised political party and independent group polling less than onetwenty-eth of the total votes polled at any election in any electoral district shall be disqualified from having any candidates of such party or group being elected for that electoral district"

In otherwords, in order to qualify to have its candidates elected, the party or independent group should have polled not less than 5% of the total votes polled at the election. The proportion of Muslim voters to other communities is much less than 5% in 11 out of 22 electoral districts. In these districts even if the Muslim community forges a complete solidarity and vote enblock for a party or a group of Muslim candidates, it cannot poll the required minimum and therefore will be disqualified from having any of its candidates elected to represent it

The election laws introduced by the present constitution entitle the voters to vote for one of the parties or independent group whose list of candidates appears on the ballot paper. The party or an independent group that polls the highest number of votes in any electoral district shall be entitled to have the candidate nominated by it, who has secured the highest number of preferences, declared elected - Article 99. The disqualified votes polled by the parties and independent groups, if any, shall be deducted from the total votes polled at the election in that electoral district and the number of votes resulting from such deduction the "relevent number of votes" shall be divided by the number of members to be elected for that electoral district reduced by one. Then what happens to the Muslim community in electoral districts like Batticaloa or Trincomalee to which 4 seats have been assigned. In these districts in order to have one member electd, the Muslim list should collect 1/3 of the relevant number of votes. But Muslims are only 24% and 29% in Batticaloa and Trincomalee districts respectively. It is the same position in other electoral districts except in Colombo and Digamadulla. Therefore nearly 75% of the Muslim community is deprived of the opportunity of being represented by members elected independently by their own community, an opportunity which other communities - Sinhalese and Tamils, have in ample measure.

Under the present system of Proportional Representation election a voter can indicate his preference for three candidates of any one party or independent group. But the UNP and SLFP have nominated only one or two Muslim candidates in most of the electoral districts. In some districts none. When the Muslims are denied the opportunity to use all the three preferential votes to secure representation for themselves by their own members, they are forced to cast their votes for non-Muslim candidates. The present election system enables the non-Muslim community to derive an undue advantage for itself of the Muslim preferential votes.

It is said that to change the present constitution there should be two-third majority in parliament and a referendum. In 1977, the UNP had five-sixth majority and the former President Jayewardene introduced the new system of Proportional Representations. Under this system it is almost impossible for any political party to get two-third majority. In other words the 1978 Constitution cannot be lawfully changed at all by the methods spelt out in the constitution. This is one of the obnoxious features of Jayewardene Constitution.

The proportional representation cannot be applied to by-elections. When vacancies occur, they are filled by party loyalists, regardless of the opinion of the voters in the electorates or of the appointees' connection with them.

Glaring examples of disparity can be noticed with regard to the allocation of voters to electoral districts. No two electoral districts are equal. For instance, the number of voters in the Kandy electoral district in 1983 was 602,232 for 12 members or 50,186 voters per member where as the number of voters in the Vanni electoral district was 128,590 for 5 members or 25,718 voters per member. That is to say, one voter in the Vanni electoral district is equal to nearly two voters in the Kandy electoral district.

Muslims in non-Muslim Political Parties

A true Muslim cannot be a loyal member of such political party whose manifesto contains proposals some of which run counter to the interests of his community or religion. When some thing is done in the detriment of Muslim community, Muslim members in non-Muslim political parties dare not open their mouths in defence of their community in the appropriate forum for fear of losing cast in the party hierachy. However, their membership in the party and their holding office under it, are held out to the outside world as pointing to the high esteem in which the Muslims are being held in Sri Lanka and the political generosity of the ruling party.

As for the Muslim M.P.P elected in the non-Muslim electorates, it is commonsense that these persons are elected by their voters not because they are Muslims but because there is complete accord between their political views and those of the non-Muslim voters. In fact the Muslim M.P.P in order to strengthen their rapport with their voters and to establish their bona fides with them, do their utmost to serve them. As for the Muslim community is concerned these M.P.P afford cold comfort to them, as these gentlemen know on which side their bread is buttered.

Even though a member may be from the Muslim community, if he is elected to the legislative body on a non-Muslim party list, there cannot be correspondence between his views and those of his community. His voice certainly cannot be the authentic voice of his community. Party discipline, enjoyment of power under the ruling party and perks of office would see to it that he rather toe the party line than voice the sentiments of his community.

During the previous regimes, the Muslim community was at the receiving ends of more than hundred communal violences at various places culminating in the Police shooting and killing six Muslims inside a mosque. Two Muslim M.P.P, Deputy Speaker of the Parliament, and a Deputy Minister, were despatched to the spot by the high command of the ruling party at that time, to report on the situation. On their return from the affected area, they made a whitewashing report and that was the end of the matter.

The Muslim representatives in the UNP & SLFP were party to the Citizenship Act of 1948, Language Act of 1956, Finance Act of 1963. Also they were party to the removal of Section 29 and the Senate in the Soulbury Constitution and the removal of the Westminster System of Parliament and introducing Proportional Representation and the Executive Presidency which have made the Muslims of Sri Lanka a community of political and social slaves.

In this multi-racial, multi-cast, multi-religious and multi-lingual country, the Muslim community finds itself quite marginalised in that it has no effective representation to make known its needs and aspiration in the decision making body, the Parliament of this country. Like the other communities, the Muslims too want to have their grievances aired in the appropriate forum and have them redressed.

In a parliamentary democracy, a community take part in the government of the country through its freely elected representatives. This is a human right and this human right had been taken away from the overwhelming majority of the Muslim community by the provisions of Jayewardena Constitution of 1978.

EXECUTIVE PRESIDENCY

The Executive President of Sri Lanka, is the head of State, head of Government and Commander in Chief of the Armed Forces. No legal proceedings can be initiated against the Executive President in any court or tribunal in respect of anything done or omitted to be done by him either in his official or private capacity. This means that the head of Government can treat the law with absolute contempt because the law cannot touch him. The Executive Presidency is an all powerful institution and does not enable other institutions to function properly because all those institutions come under the shadow of the Executive Presidency.

When the Executive Presidential system was set up, it was thought that the Presidential candidate will have to have the support of the minorities to win and therefore will be sensitive to minority sentiments and aspirations. But what had happened after the elections?. The minorities had no chance what so ever to influence the Executive President during the six year of his tenure. This had been proved quite clearly by the two elected Executive Presidents we had earlier.

The office of the Executive President is limited to two terms only. The person who won the election for the second term had ignored the minority interests because he knew that he cannot become the President for the third term.

It is argued that the powers of the Executive Presidency are necessary for rapid economic development. But we have realised that the Executive Presidency had not worked the way it was expected. During the last seventeen years rule of the Executive Presidency, thousands of men, women and children have been killed and injured. The number of people who have become refugees have exceeded million. Billions of Rupees have been spent on war.

When the Executive President's political party secures overwhelming majority as happened during the terms of President Jayewardene and President Premadasa, then the Executive President has the right to choose the Prime Minister, the right to determine the number of Ministers and appoint Ministers and assign subjects and functions to them, to determine what subject and functions shall be retained by him, change the assignments, alter the composition of Cabinet and the right to appoint Ministers outside the Cabinet and the absolute power to remove any one of them from office, coupled with the powers to dissolve Parliament after the expiration of one year after the general election, his unfettered right to appoint to the highest posts in the public service, the judiciary, diplomatic representa-

-tives and the defence forces are breathtaking and make the Executive President the most powerful person in Sri Lanka.

To circumvent the requirement of Parliamentary approval for expenditure, there is a special fund known as the President's Fund and payments out of this do not need to conform to the procedures for payments out of the Consolidated Funds and is operated according to President's discretion and pleasure.

The situation would be different when the political party of which the President is the leader, ceases to be the majority in Parliament and the President is confronted by a hostile majority and he is vulnerable to the risk of impeachment and dismissal from the office. If the President's policies encounter opposition at the General Election or secure a slender majority, there will be substantial diminution of the powers of the Executive President.

Parliament is the sources of law making. But there is a rival law making body as well. That is the Executive Presidency. The Executive President under emergency regulation under the Public Security Ordinance not only made laws but also made them prevail over ordinary laws if they conflict. The sole purpose of this kind of use of Emergency Regulations was to by pass Parliament and to dispose with debate, discussions and questions that would otherwise have been raised in Parliament.

There is little justification for granting the President the power to dissolve Parliament which body has as much legitimacy and claim to freedom of action as being elected as representatives of the people in the same way as the President. There can be no equality between the President and Parliament when the life of Parliament depends upon the Presidential will.

The Executive Presidency in Sri Lanka has made a single person a dictator where by the sovereignty is removed from the Parliament where it should be vested.

CAPTER III

SUMMARY AND PROPOSALS

1. Government Proposals:
 - a. Parliament to have 245 members.
 - b. 168 members elected from territorial constituencies on FPP.
 - c. 77 members elected on National PR.
 - d. 2 ballots - one to elect the candidate for the territorial constituency on FPP and the other to elect the Party/Group on National PR.
2. PA manifesto:
 - a. One half the members of Parliament from territorial constituencies on FPP and other half on National PR.
 - b. Votes on the National PR is the deciding factor for the number of seats a Party/Group should have in the Parliament as in the German system.
3. Major political parties insist the retention of the 160 territorial constituencies as provided by the 1976 Delimitation Commission.
4. Country is unable to conduct immediately a General Census to carry out a fresh delimitation of the territorial constituencies.
5. 1976 Delimitation:
 - a. 1976 Delimitation Commission used 1971 Census. Population 12,711,143 Citizens 11,605,903 and provided 143 territorial constituencies on the basis of 90,000 people per constituency and 25 additional constituencies for the land area of 1,000 sq.mls. per constituency. Total 160 territorial constituencies returning 168 members.
 - b. The 1,105,240 non-citizens, had no voting rights to elect the representatives provided for their number in population.
 - c. This gave the 73% Sinhalese an undue advantage to elect 82% of the membership while the minorities - 12% Tamils had the opportunity to elect 11% members, 8% Muslims had the opportunity to elect 5% members and the 6% Indian Tamils had the opportunity to elect 3% members.
 - d. In demarcating territorial constituencies the 1976 Delimitation Commission was required to take into account the question of minority interests. Quite contrary to this, the Delimitation Commission had divided minority villages as in Akkaraipattu, one part in Pottuvil and the other part in Sammanthurai electorates and made them politically weak.
 - e. The general rule of each electorate having as possible an equal number of voters was subject to exemption with regard to the representation of minorities interests only. But the Delimitation Commission had created constituencies with less than half the average number of voters in predominant Sinhala area-Mahanuwera, Teldeniya, Wiyaluwa and Colombo West.
6. 1981 delimitation:
 - a. 1981 delimitation was carried out without the General Census due in 1981. It retained the 160 territorial constituencies determined by the 1976 delimitation. 36 seats added for the 9 provinces-4 seats each without any consideration for the population or land. Further 29 seats added on the National PR. Total members in Parliament 225.
 - b. The provisions of 1978 constitution with regard to the demarcation of Electoral Districts and the PR election system virtually eliminated Muslim elected representatives from the legislature.
 - c. Out of the 22 Electoral Districts, Muslims have been denied the opportunity of electing their own representation in 18 Electoral Districts.
 - d. However good a representation chosen for it by others may be, he cannot be regarded as an adequate substitute for a representative chosen by the community itself.

7. Proposals:

- a. Muslims insist a firm commitment to the mandate the people gave for the PA manifesto.
- b. Electoral Reforms under the new constitution should provide equal opportunities for all communities and the legislature should reflect the true national ethnic composition.
- c. In view of maximum devolution and a second chamber, the parliament need not be large. Even the present 225 members should be reduced.
- d. The Parliament should be bicameral - House of Representative with 220 members and Senate with 50 members.
- e. The 220 members to the House of Representatives - one half should be filled on FPP electing the members from the territorial constituencies while the other half electing the Party/Group on National PR.
- f. The 50 members to the Senate should be appointed on the basis of the votes on the National PR each Party/Group received in a General Election
- g. Both House of Representatives and the Senate should be co-terminus.
- h. Two ballots - one to elect the candidate for the territorial constituencies on FPP and the other to elect the Party/Group on National PR.
- i. Parliament should reflect the true voting pattern of the people. Votes on National PR should be the deciding factor each Party/Group should have in the legislature.
- j. Retain the boundaries and areas of the 160 territorial constituencies of 1976 delimitation with necessary combination of adjacent constituencies to ensure the returning of 110 members from 99 constituencies.
- (i). One Member constituencies 75 x 1 75 members
 Two member constituencies 10 x 2 20 members
 Three member constituencies 5 x 3 15 members
Total territorial constituencies 90 110 members
- (11). The 220 seats in Parliament should be allocated as follows:
- | <u>Ethnic Group</u> | <u>%</u> | <u>Seats/FPP</u> | <u>Seats/NPR</u> | <u>Total</u> |
|---------------------|------------|------------------|------------------|--------------|
| Sinhalese | 74 | 82 | 82 | 164 |
| Tamils | 12 | 14 | 14 | 28 |
| Muslims | 8 | 8 | 8 | 16 |
| Indian Tamils | 6 | 6 | 6 | 12 |
| <u>Total:</u> | <u>100</u> | <u>110</u> | <u>110</u> | <u>220</u> |
- k. Preference votes, 5% cut-off point and district bonus should be abolished.
- l. Include the entire population of Akkaraipattu in one constituency Pottuvil. The name should be changed to Akkaraipattu which is the largest village and business centre in the area.
- m. Within three months after the commencement of the new constitution, a delimitation commission should be established.
- n. The delimitation commission should have the power to creat multi-member constituencies in appropriate areas in order to render possible the representation of minority communities.
- o. In the demarcation of constituencies, reduced electoral strength should be utilised by the delimitation commission in order to give adequate representation to the minorities according to their national ethnic ratio.
- p. Conscientious voting and crossing over should be prohibited.

APPENDIX I

ALLOCATION OF 110 MEMBERS

- (a). 25 members on territorial basis - 1,000 sq. mls. per member.
(b). 85 members on voters basis.

<u>Province</u>	<u>1993 Rgd.</u> <u>Voters</u>	<u>Members on</u> <u>Territory</u>	<u>members on</u> <u>Voters</u>	<u>Correction</u>	<u>Total</u> <u>Members</u>
WP	3,022,966	1	23	-	24
CP	1,372,131	2	11	+3	16
SP	1,462,805	2	11	-1	12
NP	775,063	4	6	-1	9
EP	757,994	4	6	+3	13
NWP	1,256,783	3	10	-2	11
NCP	607,118	4	5	-2	7
UVA	634,651	3	5	-	8
SAB	1,055,554	2	8	-	10
<u>Total</u>	<u>10,945,065</u>	<u>25</u>	<u>85</u>	<u>-</u>	<u>110</u>

Note: Correction applied to balance short-fall in minority representations.

110 TERRITORIAL CONSTITUENCIES

<u>Province No.</u>	<u>District</u>	<u>FPP</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>Sinhala</u>	<u>Tamil</u>	<u>Muslim</u>	<u>In.Tamil</u>	
		<u>Seats</u>	<u>Seat</u>	<u>Seats</u>	<u>Seats</u>	<u>Seats</u>	<u>Seats</u>	<u>Seats</u>	<u>Seats</u>	
WP	24	Colombo	12	9	-	1	11	-	1	-
		Gampaha	7	7	-	-	7	-	-	-
		Kalutara	5	3	1	-	5	-	-	-
CP	16	Kandy	8	6	1	-	8	-	-	-
		Matale	2	2	-	-	2	-	-	-
		N'Eliya	6	-	-	2	3	-	-	3
SP	12	Galle	5	5	-	-	5	-	-	-
		Matara	4	2	1	-	4	-	-	-
		H'tota	3	1	1	-	3	-	-	-
NP	9	Jaffna	6	4	1	-	-	6	-	-
		Mannar	1	1	-	-	-	1	-	-
		Vavuniya	1	1	-	-	-	1	-	-
		M'tivu	1	1	-	-	-	1	-	-
EP	13	Batticaloa	4	1	-	1	-	3	1	-
		Ampara	6	3	-	1	1	1	4	-
		Trinco.	3	3	-	-	1	1	1	-
NWP	11	Kurunagala	7	7	-	-	7	-	-	-
		Puttalam	4	2	1	-	3	-	1	-
NCP	7	A'pura	5	5	-	-	5	-	-	-
		P'naruwa	2	2	-	-	2	-	-	-
UVA	7	Badulla	6	2	2	-	4	-	-	2
		M'gala	2	2	-	-	2	-	-	-
SAB.	9	Ratnapura	4	4	-	-	4	-	-	-
		Kegalla	6	2	2	-	5	-	-	1
Total:	110		110	75	10	5	82	14	8	6

APPENDIX III.

MINORITY CONSTITUENCIES - TAMILS 14

<u>Province</u>	<u>District</u>	<u>No.</u>	<u>Name</u>	<u>Voters</u>	<u>Seats</u>	<u>No.</u>	<u>Name</u>	<u>Voters</u>	<u>Seats</u>	
NP	Jaffna	79	Kayts	49,504	1					
		80	Vattukottai	58,949	1	1	Vattukottai	108,453	1	
		81	K.K'thurai	60,417	1					
		82	Manipay	58,382	1					
		83	Kopai	56,496	1	2	K.K'thurai	175,295	2	
		84	Udupitty	52,153	1					
		86	C'kachcheri	51,717	1	1	C'kachcheri	103,870	1	
		87	Nallur	62,372	1					
		88	Jaffna	50,045	1	1	Jaffna	112,412	1	
		85	Point Pedro	40,336	1					
		89	Kilinochi	55,995	1	1	Point Pedro	96,331	1	
			Mannar	90	Mannar	54,006	1	1	Mannar	54,066
	M'thievu	91	M'thievu	52,197	1	1	M'thievu	52,197	1	
	Vavunia	92	Vavunia	72,434	1	1	Vavunia	72,434	1	
EP	Trinco.	94	Trinco	67,509	1	1	Trinco	67,509	1	
		Batticaloa	96	Kalkuda	73,640	1				
			97	Batticaloa	123,893	2	3	Batticaloa	197,533	2
			98	Paddiruppu	64,365	1	1	Paddiruppu	64,365	1
		Ampara	102	Pottuvil	111,622	2	3	Akkaraipattu	111,622	1
			<u>Total:</u>		<u>21</u>	<u>Total:</u>		<u>14</u>		

MINORITY CONSTITUENCIES - MUSLIMS 8

WP	Colombo	1	Colombo C.	139,012	3	3	Colombo C.	139,012	1
EP	Trinco.	95	Muthur	61,949	1	1	Muthur	61,049	1
		Batticaloa	96	Kalkuda	73,640	1			
97	Batticaloa		123,893	2	3	Batticaloa	197,533	1	
Ampara	100		Samman.	51,991	1	1	Samman.	37,835	1
		101	Kalmunai	50,248	1	1	Kalmunai	50,248	1
		102	Pottuvil	97,221	2	3	Akkaraipattu	111,622	2
NWP	Puttalam	103	Puttalam	73,757	1	1	Puttalam	73,757	1
			<u>Total:</u>		<u>12</u>	<u>Total:</u>		<u>8</u>	

MINORITY CONSTITUENCIES - INDIAN TAMILS 6

CP	N'Eliya	54	N'Eli.+Mas.	212,690	3				
		55	Kotamle	56,977	1	3	N'Eliya	269,667	2
		56	Hanguran	54,001	1				
		57	Walapane	63,000	1	3	Kotmale	117,001	1
UVA	Badulla	134	Passara	45,788	1				
		135	Badulla	40,127	1				
		136	Hali Ela	48,807	1	2	Badulla	134,634	1
		139	Bandarewal	56,426	1				
		140	Haputale	48,853	1	2	Bandarewala	105,279	1
SAB	Kegalla	150	Yattiyantot	57,328	1				
		152	Derniyagala	52,714	1	2	Derniyagala	110,042	1
			<u>Total:</u>		<u>13</u>	<u>Total:</u>		<u>6</u>	

ETHNIC COMPOSITION OF MINORITY CONSTITUENCIES

No.	Constituency	Voters	%	Sinhala	%	Tamil	%	Muslim	%	In.Tamil
1	Colombo North	63,528	52.5	33,352	23.8	15,120	12.6	8,005	6.9	4,383
2	Colombo Cent.	135,012	36.4	50,600	15.7	21,825	39.6	55,049	1.9	2,641
3	Boralla	52,002	70.0	36,401	8.3	4,368	10.9	5,668	2.5	1,300
33	Matugama	80,135	82.4	66,031	2.1	1,683	1.8	1,442	13.5	10,818
35	Beruwela	83,849	72.7	60,991	0.6	503	26.2	21,980	0.4	336
		163,984	83.5	137,022	1.3	2,186	14.3	23,422	6.8	11,154
42	Harispattu	109,246	74.1	80,951	0.7	765	19.3	21,084	5.6	6,118
65	Galle	62,011	75.2	46,632	1.1	682	22.7	14,076	0.4	248
90	Mannar	54,066	4.3	2,325	49.8	26,925	29.8	16,112	16.1	8,705
95	Muthur	61,949	3.9	2,416	29.2	18,089	66.1	40,948	1.8	1,115
96	Kalkuda	73,640	3.7	2,725	64.9	47,792	29.3	21,577	2.2	1,620
97	Batticaloa	123,893	3.9	4,832	56.9	70,495	34.2	42,371	3.5	4,336
		197,533	3.8	7,557	59.9	118,287	32.5	63,948	3.0	5,956
100	Sammanthura#	37,835	3.0	1,144	29.8	11,282	65.8	24,889	1.4	520
101	Kalmunai	50,248	1.2	603	28.1	14,120	69.6	34,973	0.8	402
102	Pottuvil#	111,622	13.1	14,658	28.5	31,857	56.8	63,444	1.5	1,661
100	Sammanthura*	51,991	2.2	1,144	21.7	11,282	74.8	38,899	1.0	520
102	Pottuvil*	97,721	15.0	14,658	32.6	31,857	50.6	49,446	1.7	1,661
103	Puttalam	73,757	37.9	27,924	19.9	14,677	39.5	29,134	1.9	1,401
54	N'Eliya Mask.	212,690	19.7	41,900	7.0	14,888	2.4	5,105	70.4	149,733
55	Kotmale	56,977	41.0	23,361	3.3	1,880	2.9	1,652	53.3	30,369
		269,667	24.2	65,261	6.2	16,768	2.5	6,757	66.8	180,102
56	Hankuranketa	54,001	72.23	39,005	1.9	1,026	0.4	216	25.3	13,662
57	Walapana	63,000	57.1	35,973	3.3	2,079	0.9	567	38.0	23,940
		117,001	64.1	74,978	2.7	3,105	0.7	783	32.1	37,602
134	Passara	45,788	40.1	18,361	4.3	1,969	2.6	1,190	52.1	23,856
135	Badulla	40,039	59.7	23,903	8.0	3,203	7.7	3,083	22.7	9,089
136	Hali Ela	48,807	46.8	22,842	3.1	1,513	2.1	1,025	47.6	23,232
		134,634	48.4	65,106	5.0	6,685	3.9	5,298	41.7	56,177
39	Matale	58,638	67.1	39,346	2.6	4,457	11.8	6,919	12.8	7,506
40	Ratota	66,238	61.1	40,471	3.4	2,252	7.3	4,835	27.9	18,480
		124,876	63.9	79,817	5.4	6,707	9.4	11,754	18.4	22,986
150	Yattiyantota	57,328	70.6	40,474	5.0	2,866	1.8	1,032	22.4	12,841
152	Derniyagala	52,714	70.1	39,953	3.8	2,003	0.7	369	25.2	13,284
		110,042	70.4	77,427	4.4	4,869	1.3	1,401	23.7	26,125
139	Bandarawale	56,426	56.2	31,711	4.2	2,370	3.2	1,806	36.0	20,313
140	Haputale	48,853	39.7	19,395	4.1	2,003	3.1	1,514	52.7	25,746
		105,279	48.5	51,106	4.2	4,373	3.2	3,320	43.7	46,059

* Present Constituency

Proposed Constituency.

SRI LANKA

COLOMBO DISTRICT

- 1 COLOMBO NORTH
- 2 COLOMBO CENTRAL (A)
- 3 BORELLA
- 4 COLOMBO EAST
- 5 COLOMBO WEST
- 6 PENHALLA
- 7 DATTAHALANA
- 8 MATTALA
- 9 MCGONNIG
- 10 MATANA
- 11 DUNDULPITIYA
- 12 ANURADHAMA
- 13 MULUWANGOMA
- 14 ATTINWALLE
- 15 GAMPANA
- 16 DE FLA
- 17 ANARA
- 18 KOTTE
- 19 BIRUGAMA
- 20 KALANAYA
- 21 MCGONNAMA
- 22 KOTTE
- 23 PADUWELA
- 24 AV SANWELLA
- 25 HONGGAMA
- 26 MAMPARAGAMA
- 27 MCGERANA
- 28 MCRATUNA

KALUTARA DISTRICT

- 29 PANGURU
- 30 PANINDAGAMA
- 31 MURANA
- 32 HIRATHINHALA
- 33 MATHUGAMA
- 34 KALUTARA
- 35 PANGUWALA (A)
- 36 MATHARWATA

NAYALE DISTRICT

- 37 NAYALE
- 38 NAYALE
- 39 NAYALE
- 40 NAYALE

KANDY DISTRICT

- 41 GALLEPESA
- 42 MUDIPATIYAYA (A)
- 43 MUDIPATIYAYA (B)
- 44 MUDIPATIYAYA (C)
- 45 MUDIPATIYAYA (D)
- 46 MUDIPATIYAYA (E)
- 47 MUDIPATIYAYA (F)
- 48 MUDIPATIYAYA (G)
- 49 MUDIPATIYAYA (H)
- 50 MUDIPATIYAYA (I)
- 51 MUDIPATIYAYA (J)
- 52 MUDIPATIYAYA (K)
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- 64 MUDIPATIYAYA (W)
- 65 MUDIPATIYAYA (X)
- 66 MUDIPATIYAYA (Y)
- 67 MUDIPATIYAYA (Z)

MUWARA ELIYA DISTRICT

- 68 MUWARA ELIYA - ANSRELIYA (A)
- 69 MUWARA ELIYA - ANSRELIYA (B)
- 70 MUWARA ELIYA - ANSRELIYA (C)
- 71 MUWARA ELIYA - ANSRELIYA (D)

DALE DISTRICT

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MATARA DISTRICT

- 101 DEWAPAYA
- 102 NERAYANA
- 103 AKUNDESSA
- 104 KAMBUNIPITIYA
- 105 DEWUNWARA
- 106 MATARA
- 107 WELISAMA

HAMBANTOTA DISTRICT

- 108 HAMBANTOTA
- 109 BELLAHITA
- 110 TANGALLA
- 111 TANGANARAMA

JAFNA DISTRICT

- 112 JAFNA
- 113 VADUPATIYAI
- 114 KANKESANTURAI
- 115 MANICAY
- 116 KATTIPAY
- 117 MUDURUPEY
- 118 ADINT PEDRO
- 119 CHAYAKACHCHERI
- 120 KALLAY
- 121 JAFFNA
- 122 KILMOCHCHI

MANNAR DISTRICT

- 123 MANNAR

VAVUNIYA DISTRICT

- 124 VAVUNIYA
- 125 VAVUNIYA

TRINCOMALEE DIST.

- 91 SERUWILA
- 92 TRINCOMALEE
- 93 MUTUR

BATTICALOA DIST.

- 94 KALUODAN
- 95 BATTICALOA (A)
- 96 PADONUPPU

AMPARA DISTRICT

- 97 AMPARA
- 98 SAMMANTURAI
- 99 KALAMUNAI
- 100 POTTUVIL (A)

PUTTALAM DIST.

- 101 PUTTALAM
- 102 ANAMADUWA
- 103 CHILAN
- 104 NATTANIYA
- 105 WENNAPPUWA

KURUNEGALA DISTRICT

- 106 GALAMUWA
- 107 AYAKINPATIYA
- 108 YAPAMUWA
- 109 MIRIPALA
- 110 WARIYAPOLA
- 111 PANDURASAMUWALA
- 112 BINGICHIYA
- 113 KATUGAMPOLA
- 114 KULIYAPITIYA
- 115 PAMPAPITIYA
- 116 POUWANWELA
- 117 KURUNEGALA
- 118 KURUNEGALA
- 119 DODANGAPILANDA

ANURADHAPURA DIST

- 121 MEDAWALACHIYA
- 122 MUDUNUPITANA
- 123 ANURADHAPURA EAST
- 124 ANURADHAPURA WEST
- 125 KALAWENA
- 126 MININTALE
- 127 KERIRAMA

POLONNARUWA DIST.

- 128 MINNERIYA
- 129 MEDDISIYIYA
- 130 POLONNARUWA

BADULLA DISTRICT

- 131 MAHIYANSANA
- 132 NYALUWA
- 133 HESSARA
- 134 BADULLA
- 135 KALI ELA
- 136 UNAPARANAGAMA
- 137 WELIMADA
- 138 BANGARAWELA
- 139 HARUTALE

MONERAGALA DIST.

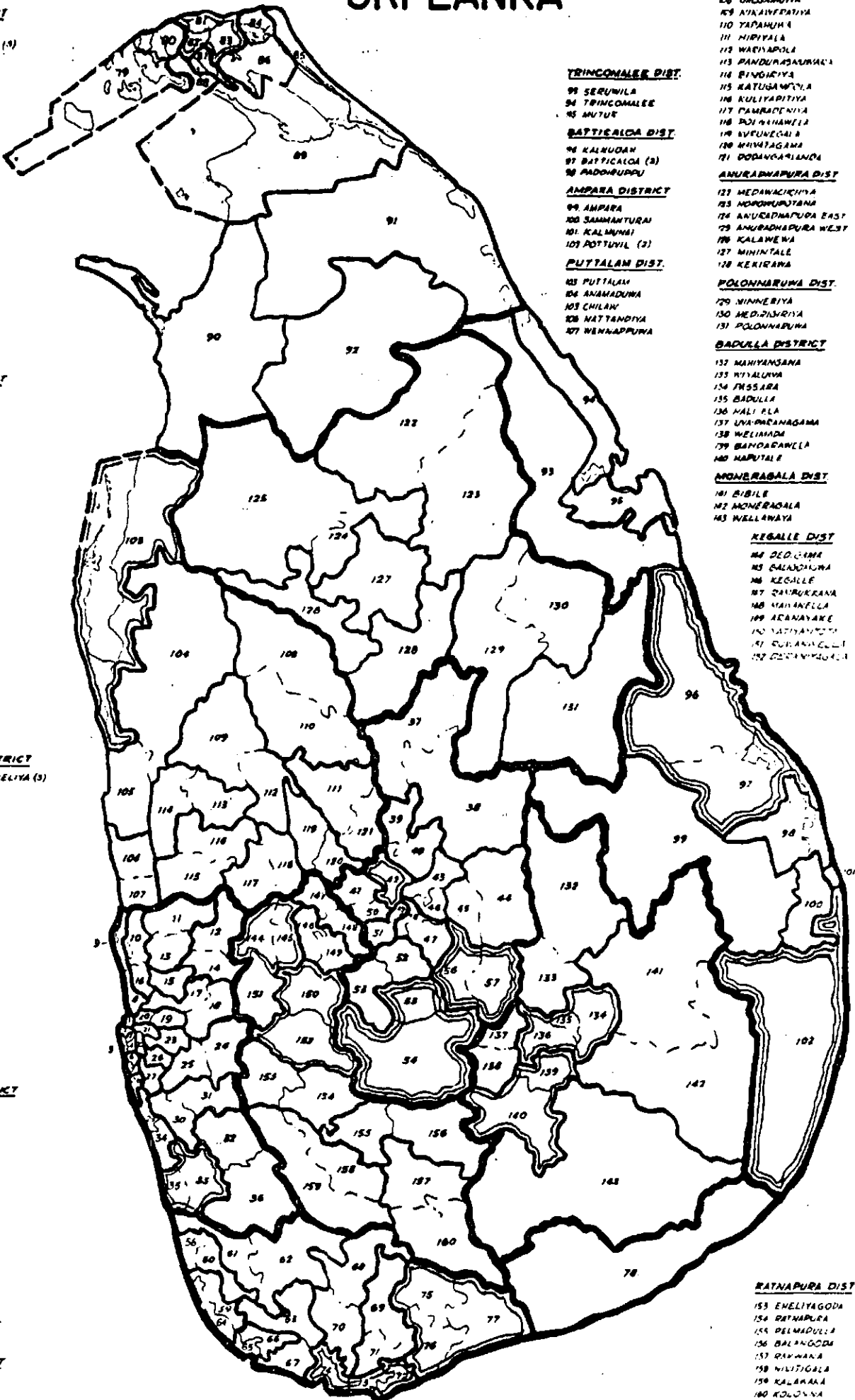
- 140 BIBLE
- 141 MONERAGALA
- 142 WELAWAYA

KEGALLE DIST

- 143 DEGUMMA
- 144 GALADUWA
- 145 KEGALLE
- 146 DANURUKKANA
- 147 MAHANAYAKE
- 148 ADANAYAKE
- 149 KURUNEGALA
- 150 KURUNEGALA

RATNAPURA DIST

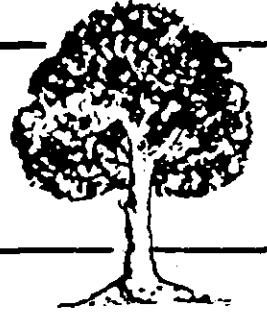
- 151 ENELIYAGODA
- 152 RATNAPURA
- 153 PELMADULLA
- 154 BALANGODI
- 155 RAVANALA
- 156 NULIYIGALA
- 157 KALAMANA
- 158 KOLONNA



SRI LANKA POPULATION - 1981

PROVINCES & DISTRICTS		AREA-SQ MLS.	TOTAL	SINHALA %	TAMIL %	IN. TAMIL %	MUSLIM %	MALAY %	BURGHIR %
1. WP	WESTERN PROVINCE	1,432	3,916,001	5,325,678 85	230,380 8	60,748 1	540,774 6	28,830 1	27,089 1
	COLOMBO		1,898,322	1,322,858 78	165,862 10	31,504 1	146,461 6	26,041 1	18,897 1
	QAMPAHA		1,369,490	1,280,902 92	48,607 3	5,732 1	36,807 8	8,071 1	7,742 1
	KALUTARA		827,189	722,076 87	8,601 1	33,510 4	61,708 8	712	330
2. CP	CENTRAL PROVINCE	2,158	2,005,956	1,917,119 66	147,082 7	378,036 19	152,566 8	4,375	3,254
	KANDY		1,126,296	844,328 75	58,878 5	104,840 9	112,082 10	2,648	2,462
	MATALE		357,441	285,8 14	30,936 8	34,084 7	35,836 7	514	250
	NUWERA ELIYA		522,219	187,280 36	40,471 14	247,131 47	14,868 3	1,113	602
3. SP	SOUTHERN PROVINCE	2,146	1,882,912	1,791,260 95	11,564 1	25,308 1	47,085 3	4,599	533
	GALLE		814,879	789,928 94	6,093 1	11,089 1	25,898 3	158	218
	MATARA		844,231	807,367 96	3,918 1	13,931 2	16,457 3	61	254
	HAMBANTOTA		424,102	412,965 97	1,853	308	4,732 1	4,380 1	63
4. NP	NORTHERN PROVINCE	3,429	1,111,468	33,149 3	859,797 86	63,431 6	62,698 6	117	505
	JAFFNA		738,788	0,648 1	715,892 97	4,924 1	11,839 2	40	300
	KILINOCHCHI		92,324	1,011 1	76,354 81	15,056 16	1,119 1	15	70
	MANNAR		106,940	8,710 1	54,106 51	14,072 13	28,464 24	23	41
	VAVUNIYA		95,904	15,876 17	54,541 56	18,592 19	6,640 7	31	21
	MULLAITTIYU		77,512	3,948 5	58,904 76	10,766 14	3,777 5	17	93
5. EP	EASTERN PROVINCE	2,064	804,465	108,900 18	322,664 53	9,496 2	158,552 26	784	3,969 1
	TRINCOMALEE		274,032	87,845 34	88,951 33	5,422 2	79,735 29	7356	313
	BATTICALOA		330,433	11,256 3	233,713 71	4,074 1	78,829 24	49	3,696 1
6. SEP	SOUTH EASTERN PROVINCE	920	277,982	41,393 15	75,680 27	886	161,140 58	179	702
	KALMUNAI		277,982	41,393 15	75,680 27	886	161,140 58	179	702
7. NWP	NORTH WESTERN PROVINCE	3,016	1,706,099	1,536,001 90	46,656 3	9,891 1	109,301 6	2,033	1,049
	KURUNEGALA		1,212,755	1,128,548 93	13,438 1	6,427 1	61,342 5	1,201	605
	PUTTALAM		493,344	347,453 93	33,218 7	2,964 1	47,959 10	882	444
8. NCP	NORTH CENTRAL PROVINCE	4,140	830,575	775,702 91	12,981 2	990	56,924 7	398	337
	ANURADHAPURA		587,822	538,889 91	7,113 1	735	41,833 7	226	280
	POLONNARUWA		262,753	238,803 91	5,875 2	205	17,091 7	132	57
9. UVA	UVA PROVINCE	4,131	1,031,824	805,620 78	43,754 4	145,484 14	32,566 3	1,791	721
	BADULLA		642,893	440,245 69	36,595 6	135,795 21	26,808 4	1,300	641
	MONARAGALA		388,931	325,375 84	7,159 2	9,689 2	5,760 1	491	80
10. SAB	SABARAGAMUWA PROVINCE	1,892	1,478,879	1,263,332 85	32,074 2	132,308 9	46,363 3	661	614
	RATNAPURA		796,403	674,657 85	17,979 2	88,429 11	13,531 2	410	450
	KEGALLE		682,411	588,675 86	14,085 2	43,875 6	34,832 5	251	164
SRI LANKA		25,328	14,650,001	10,985,668 74	1,671,935 13	625,233 6	1,056,972 7	43,378	38,266

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ஸ்ரீ லங்கா முஸ்லிம் காங்கிரஸ்
SRI LANKA MUSLIM CONGRESS



**Summary of the submissions made to the
Parliamentary Select Committee
On Constitutional Reforms**

By

Sri Lanka Muslim Congress

26th May 1995

1. Preamble

The Sri Lanka Muslim Congress considers the proposed constitutional reform as part of an overall strategy to tackle some of the major problems that have led to the erosion of fundamental democratic principles and the war which the country cannot afford.

The 1978 constitution can be identified as one of the major causes that have aggravated the crisis at hand. The country today pays the price for having abused a comfortable parliamentary majority for the purpose of proliferating constitutional amendments in order to retain particular individuals and political parties in power.

Changes to our constitution should not be approached with a partisan mind. As far as possible and practical, legislators must have broad and national objectives in mind and must clearly identify the aims and objectives of the proposed changes. In the absence of specific direction, constitutional reform could become a futile exercise.

It is important that we bear in mind at every stage of constitutional reform the fundamental fact that the constitution is for all segments of the people of the country. It is also necessary to guard against the prospect of vested interest taking over national interest.

In the final analysis the new constitution must reflect the true aspirations and dreams of all the people.

Hence it is fundamental that we should not lose sight of the following.

1. The Sri Lankan people constitute four distinct communities viz. Sinhalese, Tamils, Muslims and Tamils of Indian Origin, with distinct historical, cultural and religious heritages.
2. The constitution must have the dual aim of preserving and promoting these diversities and at the same time creating unity and harmony amongst these diverse groups of people with their distinct ways of life.
3. The Constitution should pave the way and guide the distinct communities to live together as equals in every sense of the word.
4. The working of the constitutional process should also set in motion a perpetual sense of brotherly dependency of one community on the other.

5. The constitution should hold out the promise that it is possible for every citizen to work towards the goal of occupying the highest seat of power in the land, irrespective of his race, religion, cast or language.
6. The Constitution should enable power sharing among individuals of various communities at different levels of the administration of State.
7. Power sharing should not be limited to individuals of some communities alone at national level. Power sharing should filter down to community levels and must be enjoyed by all communities. Communities must be allowed to determine their own affairs at grass root levels and this right should be available to communities that do not form the majority at national level.
8. The constitution must have as its ultimate aim the removal of the cancerous and out dated concept of drawing a distinction between majority and minority communities and extend the Sri Lankan identity to all the people of this country.
9. The SLMC is convinced that meaningful constitutional reforms will offer a ray of hope to Sri Lankans of all communities that they will be able to live in peace and harmony with dignity.
10. Therefore, we reiterate that the SLMC would support only a total and a complete package of a new constitution. We have formulated our proposals after careful study of the draft proposals made public on behalf of the Government and the public response to those proposals.
11. Our proposals also take into account the fact that the new constitution cannot have the necessary support of the people unless it falls within the framework of the manifesto of the Peoples' Alliance and the unprecedented historic endorsement it received from the people both at the last Parliamentary elections in general and the Presidential elections in particular.

2. Executive Presidency

The Executive Presidency as a feature of the present constitution was originally conceived as a means to ensure effective political leadership in order to maintain a stable Government. It also had the advantage of the Executive President being even in a technical sense the creation of a collective national effort. In the past, the Executive Presidency, notwithstanding the many instances of abuse of power by individuals had the advantage of being an effective instrument for national development. At times of national crises it can be a useful device whereby quick decisions can be made.

The Executive Presidency as an office creates in the minds of the Muslim minority the perception that they are wanted by those forces seeking political power. The abolition of the Executive Presidency may therefore lead to further alienation of this sector from main stream politics and being deprived of a mechanism which protects minority needs and interests.

Those who advocate the abolition of the executive Presidency on grounds of abuse of power do not deny the fact that similar abuse of political power could also take place in Prime Ministerial Governments. Constitutional Lawyers have not disputed the argument that there have been Prime Ministers who have been more dictatorial than some of the incumbents of Executive Presidencies.

SLMC is also conscious of the timing of the exercise of Constitutional Reform. We are convinced that it may be inappropriate to abolish the Executive Presidency especially at a time of serious war which threatens to disintegrate the nation.

Nonetheless the SLMC is prepared to fall in line with the national consensus that the Executive Presidency has to be abolished, upon the specific condition that the abolition will also simultaneously lead to the creation of a strong Parliament in which the minority communities have a responsible role to play.

Those who originally advocated the quick abolition of the Executive Presidency should not be unmindful of the fact that the provisions of the 1978 Constitution created a strong Executive President with a weak Parliament. The abolition of the Presidency without strengthening the Parliament will therefore lead to a situation where the country will have neither a strong president nor a strong parliament at a time of national crisis.

Hence, the SLMC will find it difficult to support piecemeal reform necessitated by political expediency which would result in the abolition of the Executive Presidency, in the absence of general consensus on electoral reforms that will ensure the strengthening of Parliament and the guaranty of minority representation.

3. Electoral Reforms

The laws relating to Parliamentary elections as embodied in the 1978 constitution were formulated at a time when there was no registered political party for the Muslim minority of this country. The 1978 constitution also made a drastic change in the electoral method of representation embodied in both the 1948 and the 1972 constitutions.

It should be noted that while the Donoughmore and Soulbury constitutions of 1948 as well as the 1972 Republican Constitution provided for election of individual Members to Parliament, the 1978 constitution obliterated the importance of the individuality of the Members and made it compulsory to elect registered political parties or independent groups to Parliament. In other words the 1978 constitution handed over the role of representation of the people in Parliament from individuals to political groups.

The Proportional Representation system together with the original 12 1/2 % cut-off point, and the concept of the district bonus seat went against the very spirit of the concept of "Representation according to the proportion of the votes".

In view of the fact that the Sri Lanka Muslim community does not constitute more than 12 1/2 % (of the total population of the electoral district) except in Ampara, Batticaloa, Trincomalee and Vanni districts; the 1978 constitution dealt an effective blow to the political representation of nearly 60% of the Muslim minority community who are scattered in the other 18 districts.

If not for the timely emergence of the SLMC, the Muslims in the North and Eastern provinces too would have been deprived of their independent political representation and their destinies would have been left to the whims and fancies of the chauvinist major political parties.

The features of the PR system which did not enable the minority communities and the minority political parties to have their due, resulted in unjust gain for the major political parties, as the number of seats gained by these parties were disproportionate to the number of votes they received. It is a matter for record that (electoral reform such as) the reduction of the 12 1/2 % cut-off point to 5 % for Parliamentary elections and the total abolition of the 12 1/2 % cut-off point for the Provincial Council election law was a result of the efforts made by

the SLMC.

The SLMC is pleased that the United National Party in its manifesto for 1994 Parliamentary Elections committed itself to the abolition of the district bonus seat as well as the 5 % cut-off point.

The SLMC is also aware of the constraints that would be brought about by the fact that the new electoral reforms will not be preceded by the appointment of a traditional Delimitation Commission and the carving out of the electorates. This is due to the fact that the country has not been in a position to hold its national census after 1981. We are also appreciative of the fact that there is no guarantee that the country can hold another census in the near future on account of the fact that there is no immediate likelihood of achieving peace. The 1976 Delimitation Commission worked on the basis of the 1971 census which reflected a total population of 12,701,143 population; and 11,605,903 citizens.

This Delimitation Commission created 143 territorial constituencies on the basis of 90,000 people per constituency and 25 additional constituencies for the land area of 1,000 sq. miles. Thus the exercise resulted in the creation of a total number of 160 territorial constituencies returning 168 members.

However the fact that a population of over 1 million (1,105 240) were not citizens and therefore ineligible to vote meant that they were deprived of their due share of representation in Parliament. The loss of representation of that community became the gain of the majority community.

The resulting position was that the 73 % Sinhalese were left with 83 % seats in Parliament whilst the 12 % Sri Lankan Tamils had 11% of the seats and 8 % Muslims and 6 % Indian Tamils were left with 5 % and 3 % of parliamentary seats respectively.

The 1976 Delimitation commission did not pay adequate attention to create smaller electorates with a view to ensure the Parliamentary representation of "substantial concentration of persons united by a community of interest where racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area."

For example whilst the Delimitation Commission created constituencies with less than 1/2 the average number of voters in predominant Sinhala areas like Mahanuwara, Teldeniya, Viyaluwa and Colombo West, it is a matter of regret that a substantial concentration of a minority Muslim community, living in a predominant Muslim village such as Akkraipattu in the Ampara district was irrationally and mercilessly divided into two areas so that one area became

part of Sammanthurai electorate and the other area became part of Pottuvil electorate.

This resulted in the permanent deprivation of a reasonable opportunity for a voter from Akkaraipattu from successfully contesting either the Sammanthurai electorate or the Pottuvil electorate.

The 1981 Delimitation was carried out without the figures of the general census held in that year. As a result, the 160 territorial constituencies were retained as provided for by the 1976 Delimitation and 36 seats were added to the 9 provinces at the rate of 4 seats per province without any consideration for the population or land area. A further number of 29 seats were added on the national PR, thus making the total membership of Parliament 225.

The SLMC has taken into consideration the reaction of different sections of political opinion in this country and has come to the following conclusions.

- 1) The membership of future Parliaments should reflect the National ethnic composition. Therefore the territorial constituencies should be created in such a manner as to achieve this objective.
- 2) One half of the members of Parliament should come from territorial constituencies elected on a *first-pass-the-post* system (FPP) and the other 1/2 should be on the basis of the proportion of the votes received by respective parties/groups at national PR.
- 3) In keeping with the tenor of the PA manifesto, the German System of allocating seats should be followed.
 - I. Each voter be entitled to two votes. The 1st ballot will be used to indicate his choice of candidate to represent his territorial constituency.
 - II The 2nd ballot will enable the voter to indicate his choice of the party for the purpose of representing him in matters of national policy.
 - III. The Commissioner of election will determine the total entitlement of seats in Parliament of individual parties / groups based on the composition of the 2nd ballot at National Level. From that entitlement the Election Commissioner will deduct the total number of seats secured by the parties at individual constituencies on the basis of the first ballot.

IV The political party / group concerned, on the direction of the election Commissioner will nominate names of candidates from the National PR list to fill only the remaining number of seats to which that party is entitled.

4) The SLMC favours the reduction of the size of Parliament. However, we suggest that the total number of seats be 220, of which 110 shall be elected from 90 territorial constituencies on FPP and the balance 110 on National PR.

5) The SLMC will not hesitate to support the further reduction of the size of parliament provided the principle of 50 - 50 division between the territorial representation and national representation is maintained. The said 90 territorial Constituencies can be achieved by retaining the boundaries and areas of the present 160 territorial constituencies with the adjacent constituencies joined as far as possible.

The 90 territorial constituencies will consist of 75 one number constituencies, 10 two number constituencies and 5 three number constituencies.

The 220 seats in parliament should be allocated as follows:

<u>Ethnic Group</u>	<u>%</u>	<u>Seats/FPP</u>	<u>Seats/NPR</u>	<u>Total</u>
Sinhalese	74	82	82	164
Tamils	12	14	14	28
Muslims	08	08	08	16
Indian Tamils	06	06	06	12
Total	100	110	110	220

6) The SLMC will be opposed to the holding of a general election which does not precede the appointment of a new Delimitation Commission. in accordance with the proposed electoral changes. The Delimitation Commission should also be empowered to create multi-member constituencies and smaller electorates so as to ensure the legitimate share of representation of minorities and other substantial concentration of persons united by a community of interest such as race, religion etc..

7) The SLMC will support any electoral reform that will strengthen the independence of elected members of Parliament, which will include the right to vote against the mandate of the party. However, the SLMC requires that after the member has exercised the right to vote against the party, he / she should forfeit the seat in Parliament and a bye-election should follow. The SLMC is of the firm view that in so far as the members elected on Proportional Representation are concerned, the independence of the party is paramount and should take precedence over the freedom of the individual members

4. Fundamental Rights

The SLMC vehemently opposes the inclusion of any Constitutional provision under the chapter of Fundamental Rights, including the right to judicial review of legislation which will in any way question the supremacy of the Muslim Personal Law