

Language and Humanity

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Centre for Policy Alternatives

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CENTRE FOR POLICY ALTERNATIVES
தமிழ் சமூக அமைப்பு
மேற்கு கருத்துரைப்பு மையம்

Centre for Policy Alternatives

LANGUAGE AND HUMANITY

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FOREWORD

We were embroiled in a devastating war for thirty long years. Our habit of not honouring the Tamil Language deems to be the cause for such war. At the beginning , due to the suppression of demands, demonstrations and agitations, the resolving of the problem was assigned to gun powder. Through this, we have destroyed the human, material and intellectual resources which belonged to all races of our country in an unusual way. But the worst of all is that we have eliminated our humanity.

The war has ceased. But the causes for eruption of war has not ceased. Hence, at least the necessary wisdom should now prevail. As an initial and a sustainable step, Sinhala and Tamil languages should be treated in an equal and justifiable manner. I think that this booklet will provide the necessary guidance in this regard.

My highest regards are due to Mr. Lionel Guruge of the Community Participation Programme Division, Centre for Policy Alternatives who encouraged me in this endeavour.

S.G.Punchihewa.

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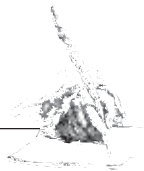
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*(This is the English translation of the book written by Mr.
S.G. Punchihewa in Sinhala titled “**Bhashava Saha
Manushyathvaya**”)*

PART I

Language and Humanity



Amma (Mother) is the most endearing word we have ever heard. Word 'mother' in any language is so endearing to those who use that language. Why is it that this word is so endearing? When we are loved, the seed of love within us will grow and blossom in to a flower. Every such blossoming moment is enchanting and we feel that we are healed. Along with such love we enjoy the happiness through kindness and compassion. This emotional world we savor, we received from mother. The word 'amma' is most endearing than other words carrying the same meaning as 'Matha' 'Mathru' or Mawa'. The 'Home' is more lovable a term than the 'house'. These feelings were born along with the motherly affection. First of all mother feeds us with her milk when we are hungry. The fulfillment we enjoyed after being fed with milk is expressed today in the words

*the words
"Amma" and
"Home" are
very
endearing to
us. It is so as
all our worldly
resources
originate from
her, the
"Mother" or
"Buddha in
our home".*

it is the mother who taught us the language first. All the authors of great literary works learned their first language from her. Whatever we achieved were centred around the language. Hence, the language is so endearing just as 'the mother'.

like 'Amma' and 'Home' . When we are ill or unhappy, it is the mother who suffers. Through her suffering we are healed. When we felt insecure or frightened, we used to hide in her bosom for protection.

We received our food, security, health and education all from her. She is our first teacher in life and hence we call her 'Guru – Meniyo' (Mother Teacher). To get us to pronounce the word 'Amma' or any other single word, she may have uttered that word a million times. Every other word is the same. Men like Shakespeare , Kalidasa and Gurulugomi who were great persons in the world learnt their first words from the mother. That language we learnt is our mother tongue. We have become distinguished persons in the society through that language.

Our language is a mother to us as it needs to be loved dearly. Every thing we acquired were centered around our language. Hence our request to receive what is due for us is also presented in the same language. We

have grown up along with the language. Hence it is through this language we express all that is needed for our growth. Our humaneness is expressed in our own language. If we could discern the fact that while humanity is a common factor for all of us but the languages are different from one another, then we will understand that we have to honour another's language as his humaneness is inseparable from his language. Only then his humaneness will be expressed. To honour another's language is the right owned by him to use and practice that language. The satisfaction we get by honouring that right is really the right of that other person. Every one will get entitled to peace and prosperity only when such an environment prevails.

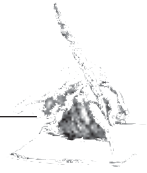
When such right of honouring is denied, what will be felt by the person, who speaks that language ? He will feel that his mother, his self and the fact that he is a human being has been disregarded. When he is obstructed or hindered, his emotional world gets

*Honouring his
language is
honouring him.
Disrespect
towards his
language is
disrespecting
him.*

We have faced a thirty year long war, the cause for which was the disrespect for a language. War has stopped. But there are no victors. Both parties can win if the language is honoured.

disturbed. It hurts his soul. It instigates anger and hatred. So, is it a wonder that solving of this problem created by pushing a certain group of the community through a span of a large number of years(even up to date) towards a language grievance, got assigned to gun powder ? That is how our country had to face a prolonged war of thirty years, the cause of which was a language issue. It is true that the war has now stopped. But no one has won. If we are to win, we have to start with the language issue in the first place. If any further discrimination happens to either Sinhala or Tamil languages by implementation of administrative or executive actions, it will be another act of collecting gun powder. That is how an administrative or executive act, a word or something neglected, will eventually get converted to explosives with the passage of time.

British Rule



In the Kandyan Convention, there is no mention regarding the language to be used for ruling the country. Due to the absence of such mention, all the parties silently accepted that English language would definitely be the administrative language. There was room for certain things to be done in Sinhala or Tamil when it had to be done and could not be avoided. But English was the only official language. All day to day administrative matters were carried out in English. Birth certificate, Education certificates, Marriage certificate, and even the death certificate were issued in English Language. They have acquired not only the properties, lands and natural resources, but also the human lives by ruling in English language.

*After being
conquered by
Britain , all our
affairs from
birth to death
were executed
in English
Language.*

in 1948 , we got a certain degree of Independence. Until then , English Language was the official language of the country. After the Independence, we were freed from the English language too. Then the Sinhala and Tamil should have been declared the official languages. Did that happen ?

Even though British administration agreed to change the cruel administration by Lankan aristocrats, with the passage of time people were of the view that they should be rid of British rule. By that time British domination had spread in to all the spheres in Lanka. The Media of language in some of the spheres is as follows.

	Before 1948	After 1948
Official Language	English	English, Sinhala
Administration	English	English, Sinhala
Executive	English	English, Sinhala
Law	English	English
Higher Education	English	Sinhala
Military rule	English	English, Sinhala
Police	English	English

According to Colebrook Commission Report, Lanka came under a single central administration in 1831. Accordingly, administration throughout the country was done in English Medium. English was the only Official Language.

It was stated that the purpose was to make it easier in administration. Due to this, Sinhala and Tamil languages were driven away from the government and got cornered in the villages. British rule extended for 117 years up to 1948. due to the domination by British and their language, we the natives lost more than what we gained. The attitude for recognition of language is one such loss. The natives, both from Sinhala and Tamil communities who were educated in English Language were found suitable for administration. As the use of English language was convenient to them, even in politics, Sinhala and Tamil languages got isolated. Executive and Legislative Councils established after the Colebrook Commission, functioned in English. Whilst the proceedings of the State Council was

Though we became independent of British domination , we did not become independent of domination by English language. Hence both the Sinhala and Tamil languages were neglected.

even though a resolution was adopted in the State Council to say that speeches could be made in Sinhala or Tamil language, it was used very rarely.

carried out in English, in 1932 a new resolution was submitted by the Mr. G.K.W. Perera, Member for Matara –

“ In accordance with the Standing Order 105, the proceedings of the Council should be in English. But a member could speak in Sinhala or Tamil with due permission.”

The committee appointed to review this resolution, rejected it. However, on the second reading it was adopted with a majority of votes. But this concession was used very sparsely by Sinhala or Tamil Members.

Mr. G.K.W.Perera, Member for Matara submitted a number of resolutions that are very much appropriate for today, even after 50 years.

They are :

“ No person should be appointed to civil or clerical service without an advanced knowledge in Sinhala or Tamil language”

“ Promotions should not be granted to officers in civil and clerical services if he has

failed to obtain the Sinhala or Tamil Language proficiency. “

“ No person should be appointed as a judge in the Police Courts or in any Higher Court if he cannot conduct or report the court proceedings in either Sinhala or Tamil Language “

“Permission should be granted to lawyers to engage in courts activities in either Sinhala or Tamil Language “

These resolutions were submitted to the Secretary General and Attorney General. But in 1935, the State Council was dissolved. Hence these issues were avoided. The art of avoiding important issues which prevails at present, started then with avoiding of the above resolutions.

A new State Council was elected in 1936. The next person to raise the issue regarding the use of Sinhala – Tamil Languages was Mr.Philip Gunawardane, Member for Avissawella. His resolutions is as follows,

“ To avoid the inconvenience and injustice caused to the people in Courts when

Though there were resolutions for proficiency in national languages and for conducting court proceedings in national languages , they were not implemented.

the resolution that proceedings of the Municipal Courts should be in national languages was adopted in 1939 and was implemented.

questions and answers are translated erroneously, the proceedings in the Municipal Courts and Police Courts should be conducted in native languages” (1937)

This resolution was forwarded to Legal Secretary and objections were raised. However, it was adopted by the council subject to the condition that it shall be implemented within three years. Some time later Mr. Philip Gunawardana submitted another resolution.

That is :

“ Due to the fact that complaints made at the police stations are recorded in English, serious injustices and errors occur. Those officers who record the complaints are neither fluent in English or the native languages. Hence, the complaints made at the police stations should be recorded in the language used by the complainant.” This resolution was adopted by the State Council on 09.02.1939.

The third attempt to use the native languages was made by Mr.J.R.Jayawardane, then Member for Kelaniya. The resolution submitted on 22.06.1943 in as follows :

“ Due to the objections raised for adopting Sinhala Language as the official language within a justifiable period of time, the following resolutions are submitted :

- * Sinhala should be the medium of education in schools.
- * Sinhala Language should be compulsory for all government examinations.
- * Legislation should be adopted to carry on the proceedings in the State Council in Sinhala Language too.
- * A Commission should be appointed to select the books written in other languages to be translated in to Sinhala Language.
- A Commission should be appointed to decide on the steps needed to change from English language to Sinhala language.

*In 1944 ,
another
resolution was
adopted. It was
that the State
Council
proceedings
should be in
national
languages. The
national
languages
should be the
medium of
education in
schools.*

Mr.C.W.W.Kannangara proposed the amendment that the words “Sinhala Language” should be replaced by ‘Mother Tongue’.

The amendment proposed by Mr.V.Nalliah to include ‘Tamil Language’ along with the Sinhala language was accepted by the Council. The resolution with the amendments was adopted on 04.05.1944. A select committee was appointed with Secretary General of the State Council, Mr.Philip Gunawardana and Mr.J.R.Jayawardana. The select committee proposed as follows :

- * Sinhala and Tamil should be Official Languages.

Thereafter State Council adopted are following resolutions(1945)

- * Mother tongue should be the medium of education in the primary schools and English should be a compulsory subject.
- * In the post primary schools, the medium of education could be English, Sinhala or Tamil or bilingual.

the resolution that Sinhala and Tamil languages should be official languages was adopted in the State Council on 04.05.1944.

The proposal put forth by Mr.J.R. Jayawardana in this regard was defeated. It says :

“ Mother tongue should be the medium of education in all the schools.”

When all the examples cited above are examined, it is clear that there was a certain amount of a continuous struggle against the English language being the only official language. There was also a peoples opinion regarding Sinhala, and Tamil languages. However, as the Sinhala and Tamil politicians continued to function in English languages, it became the permanent link language. Through the politics that emerged from this background, a group of people evolved who did not have any love for all the three languages, English, Sinhala, and Tamil. But the language was used as a tool to build up racism in both Sinhala and Tamil sections.

Most of the above mentioned steps were taken to get freedom from British rule and English Language. In 1948, the political

As there was a continued struggle against the English language becoming the official language, there were resolutions from time to time. But English language as the link language has been able to retain that status to date.

Who were those engaged in the struggle for limited independence in 1948 ? it was the Sinhala , Tamil and Muslim population. But the Sinhala language got the place held by English language. Tamil language was forgotten.

freedom that was accomplished could have been more meaningful to achieve such freedom. Even now, it is quite clear that the change which took place was very much superficial and has no depth. However, who toiled hard to get this 'Freedom'? They are the Sinhalese, Tamil and Muslim population. They had the idea of 'Swaraj' or 'Independent State' within them. As a result, a limited freedom was granted in 1948. It was the duty of the Sinhalese Tamils and Muslims to complete the freedom they got. But a very unfortunate thing happened. Sinhalese who had more power tended to forget that the administration should be done through both Sinhala and Tamil Languages. They were keen to show that the Sinhalese have acquired all the powers. Accordingly, the idea that Sinhala Language should be the official language emerged. The power and status enjoyed by the English language under the British rule was legally transferred to Sinhala Language after 1948.

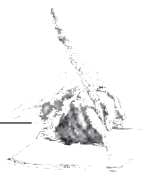
Accordingly Sinhala Language was legally adopted as the official language by the Act No : 33 of 1956. Tamil and Muslim leaders who were together with the Sinhala leaders in their struggle against British rule and the domination of English language, were deeply hurt and disgusted to see how ungrateful the Sinhala leaders were. If this situation was understood by Sinhala leaders both the Tamil and Sinhala Languages should have been declared Official Languages. We are still facing the unpleasant consequences of this default. Even though Sinhala Language was legally adopted as the official language, it was subservient to English language for many more years. The domination acquired by over the Sinhala Language gave certain powers to Sinhala Language. In turn those powers of domination were exerted over the Tamil Language. This is the problem that exists even today.

the problem which exists up to date is that no action was taken to allay the feeling of hurt in the Tamil and Muslim people caused by forgetting the Tamil language.

*even if there
are plenty of
laws and
regulations and
circulars,
without the
concern and
commitment to
correct the
wrong, could
there be
national amity?*

However much there could be legislations, Regulations, Circulars, they will not get implemented correctly in the absence of required willingness, intent or discipline. As a nation, such quality should be a component of our national culture. For this to happen, the usage of our language should be popular in the spheres like education, law and politics. If it does not happen, the violation of the usage of language is not considered as a fault. If the state administration does not consider the non provision of necessary resources and concessions to the using of a language as a severe fault or stress, could there be a national unity in such a society?

The habit of neglect and its history



The report of the Soulbury Commission States as follows.

“ It there seems to be any discrimination towards a minority population, it happens through administrative actions. It is so, as it is not able to identify and expose such actions easily.”

Due to the persistence of this idea, those who drafted the Constitution had to include section 29 (2) in the Constitution in 1947.

It is as follows:

29(2) By any law,

- (a) There should be no limitation or abolition of the independent usage of any religion.
- (b) Any inconveniences or disability not caused to persons of a certain

the injustices caused by executive or administrative actions cannot be exposed easily. That is why the Constitution 29 was included in to the 1947 Constitution.

religion or ethnic group, should not be imposed upon the persons belonging to another religion or another ethnic group.

- (c) Any concessions or conveniences not granted to persons belonging to a certain religion or ethnic group should not be granted to any other persons belonging to a different religion or ethnic group.

Although this is stated in law, in practice it is quite contrary. This happened due to the fact that anti - imperialist feelings which prevailed prior to 1948 changed in to nationalistic feelings thereafter. In 1958, another Act had to be adopted to eliminate the shortcomings of Act No : 33 of 1956 which declared Sinhala Language as the Official Language. The new Act was termed as Usage of Tamil Language Act No : 28 of 1958. In terms of this Act legislation was adopted to use Tamil Language for government activities.

*Constitution 29
(2) states that
laws cannot be
enacted which
caters lesser
or more to any
race or
religion.*

- * Tamil Language should be the language medium for Government Tamil schools. [2(1)]
- * The examinations for selecting Tamil persons to Government service should be conducted in Tamil Language. [2 (2)]
- * Tamil speaking people should be able to deal with state institutions in their own language. (4)
- * Government activities in the North and East should be done in Tamil Language. (4)

Due to strong objections raised by nationalistic elements against these provisions, it became a mere document only. With a culture of neglecting or not implementing the legally adopted provisions, all rules and regulations and circulars issued became useless. If there is no attitude to grant the rights violation of such rights does not warrant any punishment.

However an Act (1956/33) came in to operation making Sinhala language as the only official language. The Act for using Tamil language (1985/28) was not implemented.

Mr. Kodeswaran won the case he filed against the provision that Tamil public servants should obtain Sinhala language proficiency within 3 years.

With the adoption of Sinhala Language as official language in 1956 and the non implementation of the Tamil Language Usage Act in 1958, Tamil government officers were directed to acquire Sinhala proficiency within a stipulated time period (3 years). If such proficiency is not acquired, salary increments were stopped. A government officer, Mr. Kodeswaran filed a case in the District Court of Colombo challenging that punishment meted out for not obtaining the Sinhala proficiency is inconsistent with the Constitution of the country. Mr. Kodeswaran won the case. The government made an appeal to Court of Appeal against this judgment which dismissed the ruling of the District Court. Mr. Kodeswaran, then appealed to the Privy Council in Britain, where it was ruled that section 29(2) of the Constitution has been violated. The judgment was received only in 1970. Instead of granting the language rights of the Tamil government officers, the government committed a historical error. The thinking

was that if we are to be rid of British bondages, we should be rid of the Privy Council too. Giving way to the surging nationalistic feelings, Lanka (Ceylon) became a Republic. What is the historical error that was committed in this process ?

* 1972 – Buddhism was declared as the State Religion by the 6th Constitution.

* 1972 – Sinhala Language which was declared as the Official Language by Act No: 33 of 1956 was redeclared and adopted as the Official language by the 7th Constitution.

Both the above Constitutions are strictly against section 29(2) of the former Constitution.

Accordingly will it not hurt the feelings of those who follow another religion and use another language ? There were two Acts pertaining to Tamil Language provisions adopted in 1966. Along with the 1972 Constitution, the practice of those Acts was abandoned. When Acts pertaining to

In 1972, when Sri Lanka became a Republic, the verdict that was given favoring Kodeswaran was subdued and a historical error was also committed. Sinhala language which was stated as the official language by an Act was included in to the Constitution legally. Buddhism became the State religion.

Language struggle transformed in to an armed struggle. As a consequence, Tamil Language was also declared as an official language in 1987.

Languages turned in to misdeeds, the struggle for Language became an armed struggle. One of the solutions offered was the acceptance of the Tamil Language as an official Language in 1987.

Still the act of 'not doing' continued further. In 1991 Official Language Commission was appointed as one of the solutions. Later this Commission was brought under the Ministry of Constitutional Affairs and National Integration. At present it is assigned to the Ministry of National Languages and Social Integration which has a different set of nomenclature and subjects and a new mode of operation.

The report of the Official Languages Commission issued in June, 2005 provides strong evidence to say that there was discrimination against Tamil Language through administrative and executive actions as mentioned in the Soulbury Commission Report, and that such discrimination continued up to 2005. It is as follows.

“those Divisional Secretary Divisions which are directed to function in both Sinhala and Tamil languages, have so far failed to offer satisfactory services to people who use Tamil Language.” (page 05)

“State has failed to provide the necessary facilities to citizens speaking Tamil Language and residing in areas where administrative functions are carried out in Sinhala Language, to receive the due services in their own Tamil Language. These citizens are also denied the facility of obtaining a copy or a translation of a report, a publication or any other document in Tamil Language. They are also unable to obtain a Tamil translation of the documents which are issued to them. Vice-versa, Sinhala speaking persons are not given the similar facilities in areas where the administrative language is the Tamil Language.

Even though there were laws, the habit of neglecting continued forthwith. The Official Language Commission was established in 1991. The Commission in 2005 says that discrimination still exists.

The injustice caused by Administration and Executive cannot be changed by laws alone. We need a procedural arrangement to change our mode of thinking. This is delegated to the "Ministry of National Languages and Social Integration"

Hence the injustices caused by the Administration and the Executive cannot be remedied by laws alone. It has to be done with our conscience and through our actions. If we love all the mankind, the language that understands that love does not have figures, sounds or words. If the language is to be considered a tool to suppress, discriminate and suspect others, we are simply inviting the people and humanity to engage in conflicts and calamities. Time is now long lapsed to change this behaviour.

PART II

Discrimination as reported by the Soulbury Report



Soulbury Commission was appointed for submitting necessary proposals for drafting a Constitution for Lanka (Ceylon). The Commission has called for evidence by various sections of the society. The views presented by All Ceylon Tamil Union before the Commission appears at page 41

of the report. Under section 138 of chapter 08 , it states as follows:

“Discrimination towards Tamil population in Lanka happens through Administration or Executive actions much more than it happens through Constitution. It could be through neglect too”

The views of the Commission with regard to this evidence appears next.

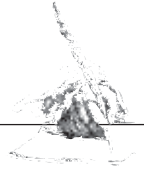
*There were
enough rules
and
regulations.
But the
authorities did
not implement
them. There
was not even
a punishment
for such
lapses.*

“ If there is any discrimination against a minority population, it happens through administrative actions: it is because that such actions cannot be easily comprehended or revealed.”

This is the situation which prevailed over a period of 100 years. Even though there are enough and more rules and regulations, it is clear that discrimination is still continuing through administrative and executive actions.

*Non
implementation
of laws
which was a
condition
that
prevailed
before 100
years, still
prevails, at
present.*

Kandyan Convention 1815 (2nd March)



This convention was signed by Governor Robert Brownrig on behalf of the King of Britain and Adigars, Government Agents and Aristocrats on behalf of Sinhalese citizens.

Accordingly the methods of capital punishment and corporal punishments including chopping of hands, legs, nose and ears that prevailed at that time were abolished.

British rule was implemented. Areas were administrated by Government Agents.

Though the honouring of the leaders continued, prostrating, worshipping and kneeling before the Governor and the aristocrats was abolished.

However, when a leader travels on a road , people should get on to a side. When a leader arrives , people should get up from their seats and greet him.

32 Types of corporal punishments was abolished by the Kandyan Convention. Except for lying prostrate and kneeling before the leaders, other forms of honouring the leaders remained.

Through a Governors declaration in 1818, all types of gifts and in various forms of bribes offered for getting appointments in public service was abolished. But due payment of taxes remained.

Among a host of other issues, the above conditions were put in to practice. It is certain that common people were happy to accept these conditions. They were relieved that they are now free from painful corporal punishments, fines etc.

Thereafter on an order issued by the Governor on 21.11.1818 , any fees or payments to Government or its leaders for any appointments was prohibited. Giving gifts to Governor or officers was also prohibited.

But paying of various taxes to the government prevailed.

The above issues are highlighted to show that most citizens were happy regarding the way they were ruled. During this period there were no communal feelings. The concessionary situation was accepted by all as human beings. It was the cruelty and the inhuman treatment they suffered at the

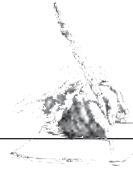
hands of the King and the aristocrats which made people to enjoy the British rule.

Such a pleasing administration was done by the British in English Language. Honouring the British continued and it was automatic that the language was also honoured. Paying homage to English Language which started then, continues to date. There was consent to suppress our own language and the habit of suppressing the Tamil language which was in use then, also stated.

Judging by the conditions that prevailed it was anticipated that a better status could be achieved. But the result was that we became slaves to foreign dominations. The malefic practices we acquired regarding the language are displayed and proved in the history thereafter.

Under these conditions, there was a certain degree of honour towards the British in the minds of the people. That was as honour for English language too.

Fundamental Rights



Constitution 10,11,12,13, and 14 of Chapter III and the Constitutions relating to Language in chapter IV of the Sri Lanka Constitution belong to the group of Fundamental Rights.

What are Fundamental Rights ? They are the Human Rights affirmed by law with concessions and punishments. The Fundamental Right regarding the language appears in section 12(2) of the Constitution as follows:

*It is a
Fundamental
Right to not to
be
discriminated
due to a
language. [*
constitution
12(2)]

12(2) – No citizen should be discriminated or favoured due to the reasons of race, religion, language, caste, sex, political opinion, place of birth or any one of these reasons. Discrimination or favouration means :

To treat a person in a lesser degree than usual or treat a person in a

higher degree than usual. It means that justice is not meted out in an equal manner. A person has to get subjected to that discrimination. It should be done either by a government institution or an officer.

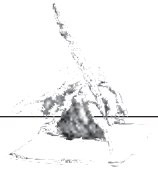
Redress can then be sought under 12(2).

(However, when a certain level of knowledge in a language is specified for the purpose of requirements in the service of Government, Courts, Local Government or a Corporation, it does not deem to be a discrimination)

No one could be barred from entering public service institution or places of worship on the grounds of language.

*It is wrong for
any
government
institution or a
government
officer to treat
one person
more and
another less
due to the
language.*

Official Languages



Constitution 18

- 18 (1) Sinhala Language shall be the Official Language of Sri Lanka. (it was the same in the two Constitutions of 1972 and 1978) After 13th Amendment to Constitution-
- (2) Tamil Language is also adopted as an Official Language.
- (3) English Language shall be the Link Language. (The result of been declared as Official language is that all activities in all the government institutions should be done in either Sinhala or Tamil Language. In limited situations like giving the verdict in higher Courts, provisions are there for English

By 18th Constitution of Sri Lanka Constitution , Tamil language was declared as an official language. Accordingly government affairs should take place in both the official languages.

Language. (Link language) to be used)

- (4) To implement the provisions in this Chapter (Chapter ÉV), the Parliament has to make arrangements through legislation. (Accordingly, the Ministry of National Languages and Social Integration and Official Language Commission do function at present)

Constitution 19

19 Sinhala Language and Tamil Language are the National Languages of Sri Lanka.

- (I) As a result of this provision a Member of Parliament or Provincial Council or Local Government Institute is entitled to make arrangements to speak in one of the national languages (Constitution 20)

As the Sinhala language and Tamil language are accepted as National Languages (Constitution 19) one could speak in any one of these languages whilst within the National Institutions.

Conducting the affairs and keeping records in the government institutions should be done in an administrative language Sinhala and Tamil are administrative languages.

- (II) Any person can receive education through the medium of language of his choice. (Constitution 21) (But this rule does not apply to a school which uses another language for purpose of education. eg. International schools)

Constitution 22 – Administrative Languages

Sinhala and Tamil Languages shall be the administrative languages throughout Sri Lanka. Before this, by Constitution 18, Sinhala and Tamil languages were declared as Official Languages.

What is the difference between Official Languages and Administrative Languages ?
The language in which activities proceed and records are kept in government institutions is termed administrative language. Even though another language (English) could be the administrative language apart from Sinhala and English languages, it has not been adopted so far. While Tamil Language is the administrative language in North and

East, Sinhala Language is the administrative language in the rest of the Island.

During the British rule English language was both the Official Language and Administrative Language. Sinhala and Tamil languages were not recognized at least as national languages. In certain areas both the official languages could be declared as administrative languages. Then Administrative activities have to be carried out in both Sinhala and Tamil Languages.

Accordingly 29 Divisions have been declared as bilingual. These are –

(Badulla)- Badulla, Bandarawela, Ella, Haldummulla, Haliela, Haputhale, Lunugala, Meegahakiwula, Passara, Soranathota, Welimada.

(Colombo) - Thimbirigasyaya

(Kalutara) - Beruwala

(Kandy) - Akurana, Delthota, Panwila, Pasbage Korale, Uda Palatha

In some areas, both the languages could be administrative languages. Then all activities and records should be done in both the languages.

(Nuwara Eliya) - Ambagamuwa, Hanguranketha, Kothmale, Nuwara Eliya, Walapane

(Puttalam) - Kalpitiya, Mundel, Puttalam, Wanathawilluwa

(Galle) - Galle Kadawathsathara

With all such declarations, discrimination against language still continues. The reasons are the absence of necessary facilities and the attitudes of the officers concerned.

But, according to the law regarding the administrative language, people have the right –

- (I) To communicate by letters written either in Tamil language or English language,
- (II) To examine an official register a report or any other document, to obtain an extract or to obtain a translation either in Tamil or English language,
- (III) To obtain a translated copy either in Tamil or English language when a

Although this is stated in law, there are situations when it is not put in to practice.

document has been signed by that person. [Constitution 22 (2) a– d]

In an area where administrative language is Tamil, a person is entitled to obtain the above mentioned services in Sinhala language.

[Constitution 22 (3)]

But these provisions are just limited to words due to lack of necessary facilities.

Constitution 22 (4) Provincial Council Affairs

In the Provincial Councils which use Sinhala language as its administrative language, negotiations could be done in Sinhala language. If the Provincial Council functions in the Tamil language, such negotiations could be done in Tamil language. There is the right to negotiate in English, when the administrative language of the Provincial Council is different.

Even though there is provision made in law to say that, communicating by letters, obtaining translations of documents could be done in an administrative language, there are hindrances in real practice.

Constitution 22 (5) –

Special Knowledge in Sinhala or Tamil

It is not contrary to the above mentioned Fundamental Rights to determine that there should be a certain level of knowledge in Sinhala or Tamil to sit for the entrance examinations held for government service, judicial service, provincial government service or a government institution.

Constitution 23

Enactment and gazetting of all the laws and subsidiary laws should be done in both the official languages, Sinhala and Tamil. There should be an English translation. [23 (1)]

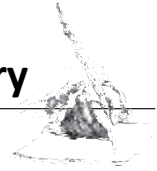
All the publications, regulations, interim constitutional orders and notices which are issued by a local government institution or by a Provincial Council could be in the administrative language used by the Provincial Council.

Enactment of laws should be in Sinhala and Tamil languages. An English translation is also required.

However, all the orders, publications, regulations, interim constitutions, directives, notices and announcements and the gazettes which are issued under a certain written law, should be published in both the official languages, Sinhala and Tamil along with an English translation [23 (2)]

*Written law,
Notices and
the Gazette
should be
published in all
the three
languages.*

Language of the Judiciary



The language of all the Judiciary shall be Sinhala and Tamil. Sinhala language will be the judiciary language of all the areas of the Island except for North and East. (Constitution 24 (1))

That is, the judicial reports and the judicial proceedings should be in Sinhala or Tamil. However, judicial proceedings still happen in English as an inheritance from British.

The Minister of Justice with the concurrence of the cabinet of Ministers can order that judicial proceedings and reports could be implemented in a language which is not official [24 (1)]. Accordingly the court proceeding and reports of the Appeal Court and Supreme Court are still implemented in English Language.

Tamil is the judicial language in North and East while Sinhala is the judicial language in rest of the country.

But the lawyer who initiates the judicial proceedings could present the case in either Sinhala or Tamil language. [24 (2)]. However the use of such practice is very rare. Such practice receives a poor response in the judicial environment.

A judge could obtain the assistance of an interpreter. Also, a party to the judicial case could obtain a translation of the case record. [24(3)]. But, there is a shortage of the required number of interpreters still.

Constitution 25 states that the Government should provide the required facilities for practice of the languages.

*All the
proceeding of
the Court of
Appeal and the
Supreme Court
are still
conducted in
English
language.*

Implementation of the Official Language Policy



As the official language provisions were not implemented, an extraordinary gazette notification was issued in 2009 delegating the responsibility to the officers to implement these provisions.

Even though various laws, regulations and Acts with regard to official languages, were there in the past, they were not implemented properly. Hence the extraordinary gazette notification No; 1620/27 dated 25.09.2009 had to be issued. By this gazette notification the government institutions listed below have to implement the language policy: Ministries, Departments, Provincial Councils and Local Government Institutions.

1. Secretaries to Ministries hold the responsibility. An additional Secretary or a Senior Assistant Secretary shall be the implementing officer.
2. In a Department, the Head of the Department holds the responsibility

whilst an Additional Head or the Deputy shall be in charge of implementation.

3. In the Provincial Councils, Chief Secretary is vested with the responsibility and the Deputy Chief Secretary shall be in charge of implementation.
4. In a Ministry of the Provincial Council, the responsibility is vested with the Secretary. Implementation shall be done by the Deputy.
5. In a Department of the Provincial Councils, the Head of the Department holds the responsibility. The Additional Head or the Deputy shall be in charge of implementation.
6. In a Municipal Council, the Municipal Commissioner holds the responsibility. Deputy Municipal Commissioner shall be in charge of implementation.

The officers who should implement these provisions are Secretaries to Ministries, Assistant Secretaries, Heads of Departments, Deputy Heads of Departments, Secretaries to Provincial Councils, Commissioners of Local Government, Secretaries to Divisional Councils and Administrative Officers.

Functions delegated to these officers are to ensure that there is legal knowledge relevant to official language policy, that there is an action plan and that there is monitoring and removing any obstacles in the process of implementation.

7. In the case of Urban Councils and Divisional Councils, the Secretary to the council holds the responsibility whilst the Administrative Officers shall implement the policy.

Those chief officers who are vested with the responsibility should be responsible for the following rules:

- (a) That they have a comprehensive knowledge about the laws pertaining to Official Language Policy and the orders relevant to it;
- (b) That they have planned the strategy for the Institution to observe the government policies spelt out in the Constitution;
- (c) That there are provisions and methods for sufficient monitoring of the plains;

- (d) That steps have been taken to eliminate any obstructions for implementation of the plans;
- (e) That relevant reports will be submitted to the Ministry National Integration, to the Official Language Commissioner and to the Chairman of the Official language Commission when required to do so;

The responsibilities of the officers who are entrusted with the implementation of the official languages are as follows;

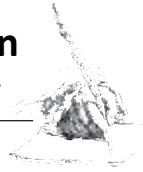
- (a) That the subordinate officers of the Institution possess sufficient knowledge regarding the laws relevant to the official languages policy;
- (b) That strategies are in place to ensure that those officers act according to the laws and necessary steps are taken by them to implement the laws.

These officers should submit the reports. Officers also should possess the knowledge regarding the laws and there should be a plan of action.

- (c) That there is a definite procedure for the implementation, monitoring and evaluation of the Official Language Policy.
- (d) That information, data and reports as stated above are submitted to the Ministry, Official Language Commissioner and Chairman of the Official Language Commission whenever required to do so.

The relevant information should be submitted to the Ministry, to the Commissioner and to the Chairman of the Official Language Commission.

A few Circulars issued for purpose of implementation of Official Language Policy



Even though it is enacted in the Constitution and various laws and circulars are issued accordingly, it is clear from the reiterations that are issued frequently, that the Language Policy is not implemented in a proper manner.

The Public Administration Circular letter 03 / 2010 (issued on 2010-09- 01)

States as follows :

- * Even though three circulars were issued previously, they have not been implemented. These are :

Circular No: 25/89 (issued on 1989.04.18)

Circular No: 25/89 (1) (issued on 1989.12.06)

Circular No: 01/2006 (issued on 2006.12.13)

Another circular (03 / 2012) had to be issued in 2010 as the implementation was not done as required.

Still there are complaints to say that letters sent in Tamil language are not replied in the same language.

- * That letters written in Tamil Language do not get the replies in the same language, and there are complaints in this regard.
- * That action should be taken as follows ;
 - I Replies to letters written in Sinhala, Tamil or English should receive the replies in the same language.
 - II If the officers concerned does not have the required knowledge in that language, a translation should be sent.
 - II General instructions like Circulars should be issued in all three languages.

If action has not been taken while all the necessary facilities are available, there should be a punishment. The government shall be responsible if the facilities are not available.

Public Administration

Circular No: 7 / 2007 / 1

This has drawn attention to the Circular No: 07 /2007 dated 2007.05.28 issued previously.

By this circular, a law has been enacted to make the proficiency in the second language as compulsory as it is essential for implementing these provisions.

That is, a new subsection has been introduced after subsection 12:11:1 in Chapter 11 of the Establishments Code. It is as follows:

12:11:2 – Every officer should obtain the proficiency in the second language as specified for the relevant post (The level is specified for the post) within 5 years of appointment to service / post. The salary increments will be suspended for those officers who fail to obtain the specified proficiency within the stipulated period of time.

Another reminder is issued by Circular (07 / 2007) to say that government officers should obtain the specified proficiency in the second language.

There were several Circulars sent earlier regarding the forms, translators and language proficiency.

Hence it became a condition to be fulfilled on entry to public service.

Other Circulars

- * All government forms to be printed in all three languages.
- * To buy necessary equipment to remove any obstacles.
- * To get the services of translator from within the Institution or from outside.
- * To pay incentives for proficiency in other languages.

The provisions have been made available for such requirements.

Cabinet Decisions

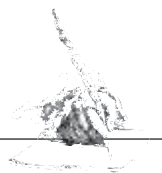
“The necessity for including the introducing theme in Tamil language too for government programmes and projects which carry the theme only in Sinhala Language at present”

The Cabinet of Ministers has taken a decision in this regard on 2008.04.09 Accordingly, introducing theme of government projects should be done in Sinhala Tamil and English for which assistance could be sought from Official Languages Department.

In future, Government and Government owned institutions should seek the assistance of Official Language Department to compile the theme in all three languages for the projects that are scheduled to commence.

There is a cabinet decision to say that introductory passages of all government projects should be in all three languages.

The Ministry for implementing the Language Policy



It is named as Ministry of National Languages and Social Integration. It was established on 2010- 11- 25, by the gazette notification No :1681 / 03.

Powers and functions of the Ministry

- * Functions of Official Languages Department, Official Languages Commission and Institute for language training and the monitoring of these Institution.
- * Compiling of plans, programmes and projects pertaining to National Languages and Social Integration.
- * Arriving at agreements with planning authorities on the above aspects, implementation and operation.

The Ministry of National Languages and Social Integration is an institution with executive powers to implement the language policy.

- * Relevant factors for preparation of National Language Policies and its operation.
- * Social integration and ethnic affairs.

Activities of the three Institutions coming under the Ministry.

1. Official LanguageS Department

- * Training public servants to achieve proficiency in all three languages.
- * To educate and train how to translate Sinhala to Tamil and Tamil to Sinhala.
- * To compile glossaries for education and administrative purposes.
- * To compile a trilingual dictionary.
- * To provide translation facilities to government institutions.
- * To arrange courses to teach languages.

*Official
Languages
Department,
National
Languages
Commission
and National
Languages
Education and
Training
Institute
function under
this Ministry.*

The Department and the Commission are vested with the responsibility to impart training for achieving proficiency in all three languages, and to ensure that official language policy is implemented considering it as a Fundamental Right.

- * To introduce modern technology for training in languages.
- * To arrange examinations and relevant certificates.

2. Official Languages Commission

This was established by the Act 1991 / 18. the objective of the Commission is to inquire and monitor whether action is being taken in conformity to the provisions of chapter VÉ of the Constitution.

The functions of the Commission are :

- * To take the responsibility of implementing the official languages as a Fundamental Right.
- * Evaluation, encouragement of the official languages and to accept the status, equality, and the right to practice them.
Shall continue to maintain statusquo.
- * To inquire in to the complaints made by citizens by the Commission itself and to remedy the situation.

3. National Languages Education and Training Institute (Agalawatte)

National Language Education and Training Institute was established as a corporation under the Act 2007 / 26.

Objectives

- * To produce teachers to teach Sinhala, Tamil and English.
- * To produce language translators for Sinhala, Tamil and English languages.
- * To produce teachers to train translators.
- * To train for achieving trilingual ability.

Functions of the Institute

- * To impart training in all three languages for above mentioned activities.
- * To do research and studies with regard to language training.
- * To award certificates and grant Diplomas in respect of training and education.

*The Training
Institute
produces
Language
Translators.*

The Commission can inquire in to the complaints made against any action taken by a government institution in respect of a language or for not taking action or neglecting a language issue.

- * To conduct special training courses for languages, translators and short hand typists.
- * To make recommendations to the authority regarding the advancement of languages.
- * To engage in research activities regarding Sinhala, Tamil, English and foreign languages.

Inquiring in to complaints by the Commission

A complaint could be made against a government institution for making a fault in respect of the status or practice of a language by some act or by neglect :

That is ,

- (a) There is no acceptance or has not accepted the entitled status of a certain official language: or

- (b) Action is not being taken in accordance with the Constitutions 20 -24 of the Constitution : or
- (c) Action is not being taken in accordance with an order, regulation, conclusion, administrative decision made according to provisions of an Act : or
- (d) Action is not being taken according to objectives stated in chapter ÉV of the Constitution ;

In such instances the Commission has to make inquiries.

(2) Complaints can be dismissed on justifiable grounds. The reason for dismissal has to be conveyed to the complainant. Within 14 days –

- * A person or a group of persons who were affected by doing or not doing a certain act can make a complaint.
- * If so requested, the inquiry could proceed in a confidential manner.

Complaints could be made to the Commission on the grounds that action is not taken accordingly to an Act or for not abiding by the objectives spelt out in chapter ÉV of the Constitution.

Powers of the Commission (Section 21 of the Act)

- (a) Summoning of witnesses and to order submission of any relevant documents.
- (b) Giving evidence under oath.
- (c) Any information which is not considered as evidence before a court of law can be accepted and considered by the Commission.
- (d) Investigations could be done at a suitable place.

22 (1) The complainant do not have the right to demand that he should be heard during the investigation.

The Commission can summon evidence, investigate and forward recommendations.

(2) In an instance where a recommendation has to be made which could affect a person or an institution, an opportunity has to be given to that person or institution to respond.

23 (1) After investigating –

- (a) The act that was investigated or the act that was not performed should be forwarded to the relevant institution to consider and take appropriate action.
 - (b) The Head of the Institution should be informed along with the reasons whether a certain order should be reviewed, a certain habit should be changed or stopped or an alternate act should be done instead.
- (2) If the complaint is not proved, the complainant should be informed of the view taken by the commission and the reasons for it.
- (3) A report regarding a complaint should be submitted within 60 days. If the report gets delayed due to external reasons, an interim report should be submitted highlighting those reasons.

The Commission can inform the Head of the Institution to change or stop some actions or to take alternate action instead.

Among the judicial remedies, the foremost is the ability to file a case regarding Fundamental Rights. 24(1) The person who was denied that Right should file the case.

- (4) Whatever the reasons could be, the final report has to be submitted within 120 days of making the complaint along with a copy to the complainant.
- (5) Recommendations by the commission could be sent along with the report, and could direct the government institution to inform the Commission how the recommendation will be implemented.

Judicial Remedies

Constitution 24 (1) – Filing of a Fundamental Rights Case before the Supreme Court

- (a) When these findings of the investigations regarding the complaint has not been informed within 120 days.
- (b) When it is not informed whether the investigation is rejected or stopped.
- (c) When it is informed that the complaint can not be proved.

After the lapse of 120 days or within 30 days of receiving the verdict, the complainant can file a Fundamental Rights case before the Supreme Court. Such a case has to be filed by the complainant.

Constitution 25 (1) – Filing a case before the High Court

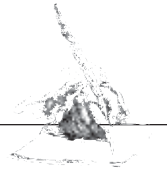
The case has to be filed by the Commissioner of the Official Languages Commission.

If the relevant institution which has received the report and the recommendations as mentioned in 23 (5) has not taken appropriate action as directed by the Commission within 90 days of such receipt, a case can be filed in Provincial High Court within the Province where the complainant resides seeking an order. Accordingly the Provincial High Court can give an order to be implemented.

26. If the Supreme Court directs that such a case be transferred to the Supreme Court, it shall be done accordingly.

After informing the relevant institution, if action is not taken accordingly within 90 days, the Commissioner can file a case before the High Court against the said Head of the Institution.

Filing a case before the Magistrates Courts



A case can be instituted against an officer before the Magistrates Courts in the instance that he has intentionally neglected to issue a copy in relevant language regarding an act which has not been carried out. It is a summary inquiry. That is to inquire whether he has done any wrong or not. The case is instituted under section 289 of the Penal Code.

Section 29 (1) –

According to the Official Language Commission Act, a case can be filed directly before the Magistrates Courts or Supreme Court without making a complaint to the Commission.

In the proceeding of the case, for the welfare of the public, the Commission can appear before the court with its due permission.

A case could be filed before the Magistrates Courts too for neglecting the delegated duty intentionally.

6.5 - Concession by the Human Rights Commission (1996 /21)

According to section 10 (a) of the Human Rights Commission Act, it can inquire in to the complaints regarding violation of Fundamental Rights and can make recommendations. In the first instance, action will be taken to resolve the conflict.

6.6 - Public Petitions Committee

According to Parliamentary Standing Orders, a petition received by the Parliament will be referred to the Public Petitions Committee. This Committee can refer it to the Parliamentary Commissioner known as Ombudsman. For this purpose, he has the powers to summon persons and question them, to scrutinize any documents and to enter a certain premise, if needed.

*Can complain
to the Human
Rights
Commission
as a violation
of a
Fundamental
Right.*

6.4 Concessions that could be granted by the Ombudsman

Ombudsman is a post created under [156(1)] of the Constitution. Complaints can be made to the Ombudsman against government institutions, if there is violation of Fundamental Rights and other acts of injustice.

The procedure to be adopted is explained in the relevant Act and amendments.

If action is not taken after conveying the recommendations to the relevant institution and the Ministries concerned, it could be reported to the President and Parliament.

(Even with all such reporting, there are many incidences of unresolved problems)

It is stated that relief could be granted by complaining to the Ombudsman or Parliamentary Commissioner regarding an administrative fault.

Human Rights Declaration and Language



Everyone is entitled to all the rights and powers of freedom stated in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

All are equal before the law. All are entitled to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

The Human Right which spells that "All are equal before the law" should be the basis of all the laws in the country. It is an injustice to cause discrimination due to the use of a language.

By signing the United National Civil and Political Covenant, Sri Lanka is bound not to discriminate against any language. (Article 14)

International Covenant on Civil and Political Rights (1996)

(This was adopted at the U.N. General Assembly on 16.12.1966 Sri Lanka ratified the Covenant on 11.06.1980)

Article 2

All state parties oblige to honour the rights recognized in this covenant, and to ensure that all are entitled without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status to all rights within its territory and subject to its areas of jurisdiction.

Article 14

When a person is convicted, he is entitled –

- (a) To receive an explanation regarding the nature of accusations against him in the language he uses,

- (b) To obtain the services of a translator when the languages used in Courts is not understood by him.

Article 26

All are equal before the law. Hence all are entitled to equal protection without any distinction. Whatever discrimination should be prohibited by law. Irrespective of distinction of any kind such as race, colour, sex, language, political or other opinion, national or social origin, property, birth or other status, equal and task oriented protection should be ensured legally against any kind of discrimination.

Article 27

In States where minority communities based on religion or language reside, their right to enjoy their own culture along with others belonging to their community, their

Those communities using a different language should be legally protected against any discrimination.

right to express and follow their religion, the right to use their language should not be denied or rejected. Sri Lanka is bound by the Convention to protect these rights.

Declaration of Rights of the persons belonging ethnic, religious or language wise minorities – 1992

(This was accepted at U.N.General Assembly on 18.12.1992 under 47 / 135. Sri Lanka has to abide by this decision)

Article 1

- (1) All States shall ensure to secure the national, cultural, religious and language wise existence and shall take action to promote the existence of their identity, of their existence.
- (2) The Government shall accordingly make laws to fulfill these aspirations.

In the countries where there are minority communities based on religion or language, their right to use their language should not be denied.

Article 2

It is a Right for the persons who belong to the ethnic, religion or language wise minorities to enjoy their culture, to worship their religion and to use their language personally or at public instances without any obstruction.

According to the Declaration on the Rights of the Minorities (1992), necessary laws should be enacted to secure the Right to the use of their language. (Articles 1 and 2)



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