

LANGUAGE IN INDIA
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**THE EVOLUTION OF LANGUAGE POLICY IN
THE CONSTITUENT ASSEMBLY OF INDIA**

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THE CONGRESS PARTY IN THE CONSTITUENT ASSEMBLY

Elections to the Constituent Assembly were held in July 1946. These were not based on direct adult franchise. Members were elected indirectly on a limited and communal franchise. The Provincial Legislative Assemblies were treated as the electorate following the then existing pattern.

The Indian National Congress won all but 7 of the 210 General seats, and All India Muslim League all but five of the 78 Muslim seats.

The Muslim League refused to participate in the proceedings of the Constituent Assembly and, thus, when the Constituent Assembly was finally convened on December 9, 1946, the Assembly had only the representatives of the Indian National Congress and a small number of other delegates representing non-Congress ideologies.

REPRESENTATION OF INTELLECTUALS AND PROFESSIONALS, AND OTHER POLITICAL PARTIES

The Congress had ensured that its representatives in the Constituent Assembly should not only be the practical politicians from its own rank and file but also those intellectuals and professionals, who, although they were not members of the Indian National Congress in the strict sense of the term, were considered to be nationalist in their outlook.

The Indian National Congress also nominated members of some other political parties to the Constituent Assembly with a view to ensuring participation of all shades of opinion in the constitution-making exercise.

The intellectuals and professionals thus elected on the Congress ticket were expected to help the politicians in their pursuit of a Constitution that would fulfill the dreams of the nation as a whole, as reflected in the various policy resolutions of the Indian National Congress.

WE CAN BE PROUD OF OUR LEADERS

Indians can always be proud of their leaders who led them to freedom. It was mainly to the influence and unreserved support of the towering personalities of statesmen like Jawaharlal, C. Rajagopalachari, Sardar Vallabhbhai Patel, Rajendra Prasad, Abul Kalam Azad, G. B. Pant, Kripalani, and others that the intellectuals and civil servants like Alladi Krishnaswamy Aiyar, K. M. Munshi, Gopalaswamy Ayyangar, B.N. Rau, and Dr. B. R.

Ambedkar could have a more or less free hand in formulating the provisions in the Constitution.

Behind all these efforts in 1946 was the Indian National Congress, which had a history of sixty-one years of deliberate activity in the political life of India.

FREEDOM TO EXPRESS INDIVIDUAL OPINIONS

Within the Constituent Assembly, the Indian National Congress assumed the responsibility for framing up a Constitution for Free India only in an indirect manner in the sense that partisan politics was kept to the minimum by giving enough freedom to the members of the Constituent Assembly to express their own independently considered opinion on all issues before them.

It was possible because, somehow the Congressmen of yester-years were relatively more disciplined and had been imbued with a greater sense of duty to the nation and were endowed with a perception that always insisted upon a consensus; and hence the unwritten law of accepting finally the less explicitly stated commands of leadership at the top carried the day. Fortunately for the nation, the leadership at the top – Jawaharlal, Abul Kalam Azad, Vallabhbhai Pate, C. Rajagopalachari, et al. – were men of great foresight and forbearance.

PARTY LOYALTY AND SUBMISSION TO LEADERSHIP

In a nutshell, although the Congress Party always kept its presence not explicitly felt within the Constituent Assembly, most of the members of the Assembly were influenced and guided by the policies of the Indian National Congress, and when conflicts arose, These were settled by following the Congress guidelines, meetings of the Constituent Assembly members of the party in closed door sessions.

CLOSED-DOOR SESSIONS – LACK OF DETAILS OF DELIBERATIONS

It was in one such session that the final shape of the language policy for Free India was settled amidst intense political conflict between those who supported Hindi as the Official Language and those who opposed giving that status exclusively to Hindi. Unfortunately, most of the details of this are not readily available and, in fact, there were indeed conflicting versions of this crucial session of the Congress Party.

For instance, Dr. B. R. Ambedkar once reported in December 1955 that “... in the Congress Party meeting when the Draft Constitution of India was being considered on the issue of adopting Hindi as the national language, there was no Article which proved more controversial than Article 116 which deals with the question of official language. NO articles produced more opposition, no article more heat. After prolonged discussion when the question was put, the vote was 78 against 78. The tie could not be resolved. After a long time when the question was put to the Party meeting, the result was 77 against, 78

for Hindi. Hindi won its place as a national by one vote. As Chairman of the Drafting Committee, I had naturally entry to the Congress Party enclosure” (Kodandaraao 1969).

Mr. Frank Anthony also said in 1967 that “as a member of the Steering Committee – I was not a member of the Congress Party – I was invited to its deliberations. The decision to make Hindi even as an official language first scraped through by one vote ... With such richer and much older languages than Hindi, languages like Tamil and Bengali, we will never be able to have a national language. And because of that, all we did with great difficulty was to say that Hindi would be the *official language*, meaning clearly that it may be used only for official purposes” (Kodandaraao, 1969).

However, on the other hand, Jaspat Rai Kapoor, a member who took continued interest in language issues in the Constituent Assembly, reported that there was never any occasion in which the language policy was put to vote in the Constituent Assembly Congress Party meetings. There was sharp division of opinion relating to the form of numerals to be used (the use either of Devanagari numerals or the international form numerals) and the issue was put to vote, Jaspat Rai Kapoor reported (Kodandaraao, 1969).

ALL WITHIN TWO YEARS, ELEVEN MONTHS, AND SEVENTEEN DAYS!

It was mainly due to the discipline that the Congress members exhibited in their participation in the deliberations in the Constituent Assembly that the details of the Constitution, including the most controversial provisions relating to the official language of India were passed within the short duration of two years, eleven months and seventeen days which the Constituent Assembly took to finalize and pass a Constitution for Free India. It is a great achievement.

It was not for nothing that Dr. B. R. Ambedkar, one of the staunchest critic of the Indian National Congress and its leadership, who was the Chairman of the Drafting Committee and who moved the final motion to pass the Constitution said on that occasion on November 17, 1949,

The task of the Drafting Committee would have been a very difficulty one if the Constituent Assembly had been merely a motley crowd, a tessellated pavement without cement, a black stone here and a white stone there in which each member or each group was a law unto itself. There would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress Party inside the Assembly, which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit, for the smooth sailing of the Draft Constitution in the Assembly.

THE LEADERSHIP OF DR. AMBEDKAR

With such radical differences he had with the leadership of the Congress Party, Dr. Ambedkar could have delayed or even scuttled the process of Constitution-making, as the Chairman of the Drafting Committee. With thousands of years of oppression of the Dalits pressing heavy in the heart of a great leader such as Dr. Ambedkar, surely there would have been every justification if Dr. Ambedkar followed this destructive, sweet-revenge route. But Dr. Ambedkar was a true scholar, social reformer, a great human, and a great patriot. He would rather take up his cudgels against social oppression, and wage his battles against the dominant castes in another place and time.

SIR B. N. RAU, THE CONSTITUTION ADVISER

As already pointed out, the Constituent Assembly of India took two years, eleven months and seventeen days to finish its work. It met for the first time on December 9, 1946 and its last meeting was held on November 26, 1949. There were eleven sessions in all. The Drafting Committee was elected on August 29, 1947. It began work on August 30, 1947 and sat for 140 days. It started its work on a draft prepared by the Constitution Adviser, Sir Benegal N. Rau, a fine civil servant, intellectual, and a man of great scholarship, insight and patience.

LANGUAGE IN B. N. RAU'S FIRST DRAFT

The draft of Sir B. N. Rau consisted of 243 Articles and 13 schedules, but it did not contain any information on the official language/official languages of the Union and the States. As regards the language or languages to be used in the Constituent Assembly and State Legislatures, the draft, however, followed the resolution earlier of the Constituent Assembly which laid down that Hindustani (Hindi in Devanagari, or Urdu in Perso-Arabic scrip) be the language of the proceedings of the Constituent Assembly while allowing for the continued use of English on par, along with provisions for using other Indian languages by the members in their addresses in the Assembly.

THE FINAL DRAFT

On the other hand, the Drafting Committee's Draft Constitution, presented to the Assembly by its Chairman Dr. B. R. Ambedkar on February 21, 1948, consisted of 315 Articles and 8 Schedules. The final draft adopted by the Constituent Assembly contained 395 Articles and 8 Schedules. The expenses up to November 22, 1949 came to Rupees 63,96,729 only, according to Dr. Rajendra Prasad, President of the Constituent Assembly.

EXPERTS COMMITTEE

Earlier, the Indian National Congress appointed an Experts Committee in 1946 for preparing material for the Constituent Assembly. This Committee recommended an Objectives Resolution outlining the main objectives of the Constituent Assembly in the very first session of the Constituent Assembly. Thus, when the Constituent Assembly met

for the first time on December 9, 1946, Jawaharlal Nehru moved the historic Objectives Resolution, which was passed on December 13, 1946.

OBJECTIVES RESOLUTION

The draft of the Resolution closely followed the text of the Congress Experts Committee. Jawaharlal Nehru, while proposing the Resolution expressing the solemn resolve of the people of India to proclaim India as an Independent Sovereign Democratic Republic and to draw up for her future governance a Constitution, spoke briefly first Hindustani (Hindi or Urdu), and then said in English, among other things that,

Words are magic things often enough, but even the magic of words sometimes cannot convey the magic of the human spirit and of a nation's passion. And so, I cannot say that this Resolution at all conveys the passion that lies in the hearts and the minds of the Indian people today. It seeks very feebly to tell the world what we now hope to achieve in the near future. It is in that spirit that I venture to place this Resolution before the House and it is in that spirit that I trust the House will receive it and ultimately pass it.

Even during this very same speech in the Constituent Assembly, he had to point out to the nature of words and their meanings:

The House will notice that in this Resolution, although we have not used the word 'democratic,' because we thought it obvious that the word 'republic' contains the meaning of that word and we did not want to use unnecessary words and redundant words, but we have done much more than using the word. We have given the content of democracy in this Resolution and not only the content of democracy but the content, if I may say so, of economic democracy in this Resolution.

CAREFUL WITH THE WORDS USED

Note that from the beginning the founding fathers of our Republic were very careful with the words they used. Each word was carefully evaluated for its denotations, connotations and for all its ramifications. As we shall see later on, the use of words *may* and *shall* led to serious discussions in framing the language provisions in the Constitution of India.

RULES OF PROCEDURE

On December 21, 1946, K. M. Munshi presented to the Constituent Assembly the Report of the Committee of the Rules of Procedures. This report contained the following provisions as regards the language or languages permitted for use in the Constituent Assembly.

18 (1) In the Assembly, business shall be transacted in Hindustani (Hindi or Urdu) or English, provided that the Chairman may permit any member unacquainted with either language to address the Assembly in his mother tongue. The Chairman shall make arrangements for giving the Assembly, *whenever he thinks fit*, (italics, mine), a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the Assembly.

(2) The official records of the Assembly shall be kept in Hindustani (Hindi and Urdu) and English.

Please note the two phrases in parentheses! Under 18 (1) it is Hindustani (Hindi or Urdu) fully recognizing the close similarity and mutual intelligibility of both the styles. Under 18 (2) it Hindustani (Hindi and Urdu), fully recognizing the mutual unintelligibility of the scripts involved!

FINAL POSITION REGARDING THE RULES OF PROCEDURE AND LANGUAGE USE

By the time the Constituent Assembly reached the end of its deliberations, there were several amendments during the intervening period of December 1946 and October 1949. The provisions relating to the use of language in the Constituent Assembly stood as follows under the Rules of Procedure:

29 (1) In the Assembly, business shall be transacted in Hindustani (Hindi or Urdu), or English, provided that the Chairman may permit any member who cannot adequately express himself in either language to address the Assembly in his mother tongue. The Chairman shall make arrangements for giving the Assembly *whenever he thinks fit* (italics, mine), a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the Assembly.

(2) The official records of the proceedings of the Assembly shall be kept in Hindustani (both Hindi and Urdu) and English.

HOW DID THE CONSTITUENT ASSEMBLY CARRY OUT ITS WORK?

Broadly speaking, the Constituent Assembly carried on its work in two ways:

1. The Assembly constituted several committees most of whose members were elected by the Assembly from among the members of the Assembly, and some nominated from outside the membership of the Constituent Assembly. The Committees discussed in detail the various issues and forwarded their recommendations/reports to the President of the Assembly.
2. The Assembly discussed the reports and recommendations of various committees, modified or deleted or suggested new provisions to various committees and took final decisions on all matters originating both from the committees and from the Assembly itself. The exercise was totally and comprehensively democratic, there

was permission to express various shades of opinion, but, in the end, it was the majority of the Indian National Congress that carried the day. However, in the exercise of its majority status, the Indian National Congress always looked for an amicable consensus.

FUNDAMENTAL RIGHTS INCLUDING LANGUAGE RIGHTS

The Cabinet Mission's Statement of May 16, 1946 had stipulated that at a preliminary meeting of the Constituent Assembly, an Advisory Committee be constituted to determine the fundamental rights of citizens, minorities, etc. After the adoption of the Objectives Resolution, the Constituent Assembly constituted an Advisory Committee on the subject of Fundamental Rights, Minorities, etc.

The Committees that were directly involved in the formulation of various aspects of the language policy for Free India were as follows:

1. Advisory Committee on Fundamental Rights, Minorities, etc. (Chairman: Sardar Vallabhbhai Patel).
2. Subcommittee on Fundamental Rights.
3. Subcommittee on North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Subcommittee.
4. Subcommittee on North-West Frontier Tribal Areas.
5. Subcommittee on Excluded and Partially Excluded Areas (except those in Assam).
6. Subcommittee on Minorities.
7. Union Constitution Committee.
8. Drafting Committee

LANGUAGE IN FUNDAMENTAL RIGHTS PROVISIONS

The discussions in the Fundamental Rights Subcommittee turned out to be of far reaching consequences not only as regards rights of citizens in general and of minorities in particular but also in regard to choice of official language for India. Fundamental Rights subcommittee in fact broached the subject matter boldly when even the top leadership of the Congress Party was reluctant to take up the issue that soon.

PROFESSOR K. T. SHAH'S NOTE

Professor K. T. Shah, a much respected intellectual, said that “the term ‘Minorities’ referred not to political minorities, but those fixed and unchanging entities distinguished by religion or nationality, culture or language, which made small groups in the midst of larger populations. These groups had fundamental differences regarding the ways of life which demanded special safeguards and protection with reference to those items which they prize specially, namely, religion, culture or language.’ Rights of minorities, according to him, were not of the individual, but of the group. “They are more in the nature of safeguards, than of positive privileges, and they follow inevitably as a corollary once the generic conception of rights of man in a civilized State is accepted.”

K. M. MUNSHI’S NOTE

Another interesting and far-reaching position was that of K. M. Munshi. K. M. Munshi’s Note and Draft Articles on Fundamental Rights dated the March 17, 1947 included the following on language, culture and script:

National Language (Article IV)

- (1) Hindustani, including Hindi and Urdu shall be the National language of the Union written at the choice of a citizen in the Nagari or Persian characters. (Note that the proposal retaining the option of Nagari and Persian characters was mooted at a time when India was still hoping to remain united, and at a time, when Gandhi was still alive.)
- (2) It shall be competent to the Union by law to declare that all official or educational medium in any State or a part thereof shall be Hindustani in addition to any other language.

The Right to Religious and Cultural Freedom (Article VI)

- (2) All citizens are entitled to cultural freedom, to the use of their mother tongue and the script thereof, and to adopt, study or use any other language and script of their choice.
- (3) Citizens belonging to national minorities in a State whether based on religion or language have equal rights with the other citizens informing, controlling and administering at their own expense, charitable, religious and social institutions, schools and other educational establishments with the free use of their language and practice of their religion.
- (8) It shall be the duty of every unit to provide in the public educational system in towns and districts in which a considerable proportion of citizens of other than the language of the unit are residents, adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such citizens through the medium of their own language.

Nothing in this clause shall be deemed to prevent the Unit from making the teaching of the national language in the variant and script of the choice of the pupil obligatory in the schools.

(9) No legislation providing State-aid for schools shall discriminate against schools under the management of minorities whether based on religion or language.

Right to Education (Article VIII)

(3) Every citizen is entitled to have facilities provided for learning the national language in the variant and script of his choice.

SARDAR HARNAM SINGH'S DRAFT ON FUNDAMENTAL RIGHTS

Sardar Harnam Singh's Draft on Fundamental Rights dated the March 18, 1947 had the following on language:

(6) All inhabitants shall be entitled to establish, manage, and administer at their own expense, religious, charitable and social institutions, schools, and other educational establishments and shall have the right to the free use of their own language and script, if any, and the free exercise of their own religion in such institutions.

(16) The State shall protect the culture, language and script of the various communities and linguistic areas in India.

(17) The right to employ Punjabi for social and cultural inter-course and for the conduct of official and administrative business in the Punjab shall be guaranteed by Constitution with option to the various communities to use their own script, if any. (Compare Art. 7 of the German Polish Constitution).

(20) Sciences and the arts and the teaching thereof are unrestricted in the Republic of India. Elementary education is obligatory and free in the primary schools. Instruction in their own tongue is guaranteed to children of religious minorities. (Art. 12 of Estonian Constitution).

DR. B. R. AMBEDKAR'S MEMORANDUM AND DRAFT ARTICLES ON THE RIGHTS OF STATES AND MINORITIES

Dr. B. R. Ambedkar's Memorandum and draft Articles on the Rights of States and Minorities dated the March 24, 1947 did not contain information on language.

DELIBERATIONS AND CONCLUSIONS

The Minutes of the Subcommittee on Fundamental Rights meeting on March 24, 1947 show that the Subcommittee discussed Article IV of Mr. K. M. Munshi's draft and reached the following decision:

"Hindustani, written at the option of the citizen, either in the *Devanagari* or the Persian script shall, as the national language, be the first official language for such period as the

Union may by law determine. It shall be competent to the Union by law to declare that all official records of the Union shall be kept in Hindustani in both the scripts as and until the law otherwise provides, also in English.”

THE CONGRESS VIEWED LANGUAGE TO BE PART OF CULTURE, MEDIUM OF INSTRUCTION, ETC.

It is important to point out here that even from the very beginning, the Indian National Congress, through its members in the Constituent Assembly, was not viewing the language policy only in relation to which of the Indian languages should be accepted as official language or languages of the Union.

The language policy, from the point of view of the Congress, covered also issues relating to culture, medium of education, preservation and development of linguistic identities of all linguistic communities in India.

That was why K.M. Munshi’s resolution tried to cover all these aspects even when its primary aim was to first identify, adopt, and develop a national language for the entire country. Note also that at the end it was suggested by the Subcommittee that English be retained for a specific purpose and period, although no reference to English was made in the original draft of K.M. Munshi. Insistence on English based on pragmatism came onto the stage openly but in a very reluctant posture only in the early days of the Constituent Assembly. After this time, attitudes towards English and Hindi began to harden on both the sides.

THE RESOLUTION ON NATIONAL LANGUAGE IN THE SUBCOMMITTEE

The Subcommittee further resolved that, “the above decisions were subject to further consideration of the point as to whether a clause on the above lines may properly be included in a chapter on fundamental rights.” The clauses of Mr. K.M. Munshi, as revised by the March 24, 1947 meeting, retained a provision stating that there would be no discrimination against any person on grounds of religion, race, caste, language, or gender.

The next day (March 25, 1947), Dr. B.R. Ambedkar was present while the Subcommittee debated whether the clause regarding the national language should be included in the chapter on fundamental rights.

The view was expressed that while undoubtedly such a clause properly fell within the Union Constitution as an implied power of the Union, it was a matter of considerable doubt as to whether it was a fundamental right. The majority decided that, in view of the peculiar conditions of this country, it should be included in the chapter on fundamental rights.

THE QUESTION OF USING THE ROMAN SCRIPT FOR INDIAN LANGUAGES

Mr. Masani submitted a clause stating that it shall be open to a citizen, at his option, to use the Roman script as an alternative to Devanagari or Persian script.

On March 27, 1947 it was ratified by a majority vote that every citizen would be entitled, as part of his right to free primary education, to have facilities provided for learning the national language either in Devanagari or the Persian script at his option.

Note that although the Subcommittee on Fundamental Rights met on February 27, 1947 and then from March 24 to April 15, a total of eleven sittings, the issue of language as part of fundamental rights was settled in four sittings only, thus showing the near unanimity of views on the question of language use which was prevalent in the nation at that time.

JUSTICIABLE AND NON-JUSTICIABLE RIGHTS

The draft Report of the subcommittee on Fundamental Rights sent to the Chairman of the Advisory Committee on Minorities, Fundamental Rights, etc., dated the 3rd April, 1947, divided the fundamental rights into two classes, namely, those rights which were justiciable, that is to say, those which could be normally enforced by legal action, and non-justiciable rights, which were not normally either capable of, or suitable for, enforcement by legal action.

Under the justiciable rights, the following were concerned with language:

- (i) Under Rights to Equality: There shall be no discrimination against any person on grounds of religion, race, caste, language or sex.
- (ii) National Language: Hindustani, written in the Devanagari or the Persian script at the option of the citizen, shall, as the national language, be the first official language of the Union. English shall be the second official language for such period as the Union may by law determine. All official records of the Union shall be kept in Hindustani in both the scripts and also in English until the Union by law otherwise provides.
- (iii) Every citizen is entitled, as part of his right to free primary education, to have facilities provided for learning the national language either in the Devanagari or the Persian script at his option.

Note the progress as it related to the position of English. Whereas the original draft submitted by K.M. Munshi did not seek the retention of English, the Subcommittee on Fundamental Rights had to provide for the retention of English as *the second official language*.

The non-justiciable rights list did not contain any explicit statements regarding language. The notes of Sir B.N. Rau (Constitutional Advisor to the Constituent Assembly) from April 8, 1947, reveal that in fact most of the points listed in the Draft on Fundamental

Rights cited above had some correspondence to listing such rights in the Constitutions of several other countries. Concerning language use, Sir Rau indicates that the 'rights to equality' clause, which dealt with language as well ("There shall be no discrimination against any person on grounds of religion, race, caste, language, or sex"), was adapted from the Weimar Constitution, Article 109, paragraph 1, but widened so as to be applicable to all persons, not merely citizens.

The clause on national language, according to the notes of Sir Rau, was in its form and implication adapted from the Irish Constitution, Section 8, whereas the clause on primary education was based on the Irish Constitution, Section 42 (4), and the Chinese Constitution, Articles 21 and 160. Sir Rau also noted that the latter part of the clause (perhaps referring to the option of Devanagari or Persian script) was necessitated by Indian conditions. He also questioned whether the clause relating to National Language would truly be enforceable by legal action.

A MINUTE OF DISSENT

Mr. M.R. Masani, a member of the Subcommittee, wrote minutes of dissent to the Draft Report on several counts. One of these related to the provision allowing only the use of the Devanagari and the Persian scripts to write Hindustani:

Clauses 8 and 25 give the citizen the option to learn and use the national language through the medium of either the Devanagari or Persian scripts...my colleagues on the subcommittee did not find it possible to agree to the option of being extended to the use of the Roman script as a further alternative. While those who have received English education may form a small part of our population, the fact remains that the lakhs [majority] of Indians are familiar with the Roman script and that those of them, particularly in the South, who are not familiar at the same time with the Nagari or Persian scripts would find it easier to learn the national language and use it if they were able to do so through the medium of Roman script. These considerations apply with special force to members of small minorities like the Indian Christians, Anglo-Indians and Jews who know the Roman script above. So too the Indian Army has so far been successfully imparted and education through the medium of "Roman Urdu" which means Hindustani in the Roman Scripts. This is a salutary practice, which has made it possible for mixed regiments to be taught the national language without distinction of religion or province. If it is now to be abandoned, it will mean that our national army will have to take cognizance of the religious grouping or provincial origin of each of its soldiers, thus making mixed regiments difficult to organize and educate. I trust, therefore, that the advisory Committee will add the Roman script to those already specified in clauses 8 and 25.

CONSIDERATION OF THE CLAUSES

The clauses of the Draft Report were considered one by one in the meetings of the Subcommittee on April 14th and 15th, 1947. The following were present: Acharya J.B.

Kripalani, Rajkumari Amrit Kaur, Mrs. Hansa Mehta, Dr. B.R. Ambedkar, Professor K.T.Shah, Mr. M.R. Masani, Sardar K.M. Panikkar, Sir Alladi Krishnaswami Ayyar, and Mr. K.M. Munshi.

The clause relating to the National Language (which had been so far approved without dissent, except for the demand for inclusion of Roman script to be used in addition to Devanagari and Persian scripts for writing Hindustani) was approved in this meeting only by a majority.

On the next day, April 15th, 1947, subsequent clauses were considered. Sardar K.M. Panikkar objected to clause 25 (on the right to learn Hindustani up to primary education level, cited above) and intimated that he would send a minute of dissent. Mr. Panikkar had very recently been nominated to the Sub-Committee on Fundamental Rights (April 10th, 1947), and was attending his first meeting on April 14th.

The other members of the Sub-Committee were (1) Acharya J.B. Kripalani, (2) Mr. M.R. Masani, (3) Professor K.T. Shah, (4) Rajkumari Amrit Kaur, (5) Sir Alladi Krishnaswami Ayyar, (6) Mr. K.M.Munshi, (7) Sardar Harnam Singh, (8) The Honorable Maulana Abdul Kalam Azad, (9) Dr. B.R. Ambedkar, (10) Mr. Jairamdas Daulatram (originally nominated members), and (11) Mrs. Hansa Mehta. From the records of attendance in the Subcommittee on Fundamental Rights it appears that Maulana Abdul Kalam Azad was not present for any of its sittings.

THE FINAL REPORT OF THE SUBCOMMITTEE ON FUNDAMENTAL RIGHTS – MINUTES OF DISSERT

The final report of the Subcommittee on Fundamental Rights was sent to the Advisory Committee on April 16th, 1947. Mr. M.R. Masani, now joined by Mrs. Hansa Mehta, reiterated his minutes of dissent, arguing in favor of inclusion of the Roman Script for writing Hindustani, in addition to the Devanagari and Persian scripts.

Dr. B.R. Ambedkar wrote a minute of dissent finding the provisions for Hindustani inadequate since the provisions, as contained in the list of Fundamental Rights, were so framed as to be applicable to the Union only:

Clause 9 as it stands makes Hindustani the language of the Union. In view of the terminology adopted by the Committee it is clear Hindustani shall not be the language of the units.

I am of the opinion that Hindustani shall be the language of the State i.e., of the Union as well as of the units. If each unit is given liberty as the clause does to make any language an official language not only the object of having a national language for India will be defeated but linguistic diversity will make Indian administration impossible. I therefore am of the opinion that for the word 'Union' the word 'State' should be substituted. It may be that the units may require time to make Hindustani

their official language. There is no harm in giving them such time. But there cannot be any doubt upon the issue that the units shall be put under an obligation to adopt Hindustani as an official language at the very start.

There is a great danger of the Hindustani language becoming sanskritized by Hindu writers and arabicized by Muslim writers. If this happens Hindustani will cease to be a national language and will become a sectional language. Without a National Academy, the Hindustani language will not be able to overcome this danger. It is therefore necessary for the Constitution to make provision for the establishment of a National Academy on the model of the French National Academy.”

Note that the proposal of Dr. B.R. Ambedkar was radically different from the Congress policy—the Congress had always championed the cause of provincial languages, even as it emphasized the role of Hindustani as the national language. The Motilal Nehru Committee gave a pride of place to the major language of a province within that province. The Ambedkar position was in favor of making Hindustani an official language also of the provinces.

Sardar K.M. Panikkar wrote in his minutes of dissent that:

It was only at a late stage, after the report on fundamental rights had been drafted and the proposals formulated, that I was enabled to take part in the discussions of the Committee. I acknowledge with gratitude that on a number of important points raised by me the Committee was good enough to hear my views and meet my point of view either by the omission of certain clauses or by redrafting them in the light of what I submitted...I give below my views in regard to certain articles in the chapter on fundamental rights...

Article 5 states that there shall be equality of opportunity for all citizens in the matter of public employment. As is well known in all the Indian States and in most of the provinces there is a well established policy of giving preferences to the people of the Province or the States concerned in the matter of public employment. In many cases where the local people have but an inadequate share in the employment provided by the State, this may even be considered necessary. All such preferences are declared illegal not only in respect of employment in the Union but in the units; and a justifiable right is sought to be created in this matter by providing that equal opportunities shall exist for every citizen of India for public employment. I agree that no distinction shall be made on the grounds of religion, race, caste, or sex but to provide that there shall be equality of opportunity [in] the matter of public employment, whether in the unit or in the Union, without reference to local conditions is I think utterly impracticable. Again it is provided that no disability or disadvantage shall exist on the basis of language in the matter of employment. A simple

instance will prove that it is impracticable. Assuming that it is provided that for a person seeking employment in Cochin a knowledge of Malayalam is essential as indeed it is, such a provision will create a disadvantage for non-Malayalam knowing citizens and the provision may be declared *ultra vires* by the courts.

Article 6...to my mind is unreasonable for this would invalidate the provision that the local language should be compulsory for appointment in areas where Hindi and Urdu are not generally in use...

Article 24 reads as follows: 'Every citizen is entitled, as part of his right to free primary education, to have facilities provided for learning the national language either in the Devanagari or the Persian script at his option.' With the first part I am entirely in agreement, but the second part would involve grave conflicts between the Centre and the units in large areas involving millions of people. Such an attempt would be resisted by people of many provinces on sentimental grounds of attachment to their languages. Considered from the administrative point of view it is also impracticable. The cost involved will be so high that the whole educational policy in non-Hindi areas may possibly be wrecked on it. To provide in every primary school at the option of the student for the study of the national language in Devanagari or the Persian script in areas where these languages are foreign will involve the appointment of so many teachers that the cost of primary education will become enormous.

If education was voluntary this might not have been so difficult [,] but when it is made compulsory to ask boys to be instructed in this language also is to my mind impracticable. The agitation which followed the attempt to introduce Hindi in Madras by Shri Rajagopalachari will at least indicate how strongly people feel on this matter.

Note that the dissenting minutes of Sardar K.M. Panikkar, insofar as these related to employment opportunities, were fully in tune with the recommendations contained in Dr. Rajendra Prasad's report on the Bengali-Bihari Controversy (see earlier articles in this series). Sardar Panikkar expressed his opposition to teaching Hindi/Hindustani in non-Hindi provinces in the primary schools on a very mild form. The prevailing mood was one of according paramount importance to Hindustani and it was with great reluctance the non-Hindi members of the Constituent Assembly, particularly those from the South, began to voice their criticism of the language policy of the Congress.

UNANIMITY IN CERTAIN AREAS – AND SARDAR PANIKKAR'S DEMANDS

It may be pointed out that, in general, there was complete unanimity at this stage in the Subcommittee as regards the choice of the first official language for the Union, namely, Hindustani. There was also unanimity as regards the use of the Devanagari and Persian scripts. Any demand in this regard was to the inclusion of the Roman script as well. The dissent by a Southerner, Sardar K.M. Panikkar, did not relate in any manner to the non-

acceptance of Hindustani, but his demand was towards the assertion of provincial and state's rights to insist on the knowledge of the local languages for employment. Whether he would have the same rule applied even for the Union jobs in provinces was not made clear, but the demand appeared to be asking for knowledge of the local language even in the case of Union jobs.

Sardar K. M. Panikkar was opposed to the introduction of compulsory teaching of the first official language in primary classes. From the proceedings of the Subcommittee it was clear that even these minutes of dissent would not have been there if Sardar K.M. Panikkar had not been nominated to enable him to attend the final sittings (two days) of the Subcommittee. The fact that there was unanimity on the first official language of the Union as well as the option of two scripts for writing it is proof of the influence and success of the language policy held thus far, under the influence of Mahatma Gandhi, by the Indian National Congress. This also provided proof of the influence of the Motilal Nehru Committee Report submitted to the All Parties Conference in 1928.

LANGUAGE IN MINORITIES' RIGHTS

The resolution which set up the Advisory Committee on the subject of Fundamental Rights, Minorities, etc, provided for the appointment of subcommittees. We saw above the deliberations and recommendations of the Subcommittee on Fundamental Rights, which finally resulted in the adoption of a set of fundamental rights by the Constituent Assembly. The set of rights that were adopted also included rights of minorities relating to their language, script, and culture, which had been suggested by the Minorities Subcommittee based on the original suggestions of the Fundamental Rights Sub-Committee. Thus the Subcommittee on Minorities had also dealt with language use in its several aspects.

The Subcommittee on Minorities had the following as its members: (1) Sardar Vallabhbhai Patel (Chairman), (2) Mr. R.K. Sidhwa, (3) Dr. S.P. Mukherjee, (4) Mr. Frank Anthony, (5) The Honorable Govind Ballabh Pant, (6) The Honorable Sri C. Rajagopalachari, (7) Sir Homi Modi, (8) Mr. K.M. Munshi, (9) Rajkumari Amrit Kaur, (10) Mr P.R. Thakur, (11) The Honorable Mr. Jagjivan Ram, (12) Mr H. Khandekar, (13) Dr Allan D'Souza, (14) Sardar Harnam Singh, (15) Sardar Uhhall Singh, (16) Dr. B.R. Ambedkar, (17) Mr. P.K. Salve, (18) Mr. Jairamdas Daulatram, (19) Dr. H.C. Mookherjee, (20) Bakshi Sir Tek Chand, (21) Mr. S. H. Prater, (22) Mr. M.V.H Collins, (23) The Honorable Maulana Abul Kalam Azad, and (24) Mr, Rup Nath Brahma.

Dr. H.C. Mookherjee was elected Chairman of the Subcommittee on Feb 27, 1947. Mr. K.M. Munshi's questionnaire, given below, was accepted for circulation. The questionnaire had the following questions.

1. What should be the nature and scope of the safeguards for a minority in the new Constitution?
2. What should be the political safeguards of a minority (a) in the Centre, (b) in the Provinces?

3. What should be the economic safeguards of a minority (a) in the Centre, (b) in the Provinces?
4. What should be the nature and scope of the safeguards for a minority in the new Constitution?
5. What should be the political safeguards of a minority (a) in the Centre, (b) in the Provinces?
6. What should be the economic safeguards of a minority (a) in the Centre, (b) in the Provinces?
7. What should be the religious, educational, and cultural safeguards for a minority?
8. What machinery should be set up to ensure that the safeguards are effective?
9. How is it proposed that the safeguards should be eliminated, in what time and under what circumstances?

There were several memoranda submitted by members and organizations. The following are several of the remarks that are notable.

Rajkumari Amrit Kaur's memorandum dated March 20th, 1947, states:

...trust in the goodness of men is the best way of invoking generosity in them. I am, therefore, of opinion that no minority should demand any safeguards but should be brave enough to rely solely on the goodwill of the majority and its own inherent moral strength. Nevertheless it is up to the majority communities to inspire the necessary confidence in the minorities so as to enable them to adopt this attitude. The larger responsibility is really theirs."

Mr. M. Ruthnaswamy suggested that only as permanent minorities (be they national, religious, or cultural):

never able or hoping to be able to influence and carry the government of any day that they require certain rights to be asserted and safeguarded. It is true that many of these rights will be concerned with the claims in regard to their nationality or religion or culture.

Mr. R.K. Sidhwa in his Memorandum on Minorities, dated March 31st, 1947, wrote:

"Parsee's catholicity is...well known and needs no stressing... It has sought no favor and seeks none... Before the future constitution of India is framed and put on the statute book the community hopes justice will be dispersed fairly and it will be given freedom to cultivate and develop its innate genius according to its own cultural pattern and on its own lines compatible with national interest... no enactment affecting the religion, customs, personal law, endowments, and other cognate subjects should be initiated and passed except with their own concurrence..."

Sir Homi Modi, in his reply to the questionnaire, wrote that he:

was not in favor of the elimination, in the course of time, of any safeguards which may, under the Constitution, be provided for minorities. It is not a question of any minority regarding itself as a separate entity and refusing to be absorbed by the main currents of political life and thought. Even with the closest possible identity of interests with the rest of the population, a minority cannot always depend on having political opportunities under modern democratic processes, and it should be the aim of the majority communities to see to it that well-defined groups [,] though small in numbers, are not denied the privilege of sharing, to however small an extent, in the conduct of the affairs of the country.

The Memorandum on Minorities by Mr. H.J. Khandekar dated April 2nd, 1947, discussed the provisions to be made for the Scheduled Castes.

The reply to the questionnaire received from Mr. P.K. Salve, dated April 3rd, 1947, included among other things a one-sentence provision touching on language, “No interference with language and festivals subject to requirements of law and order.” He also suggested that there be no fixed time limit to eliminate the safeguards.

Mr. Jagjuvan Ram replied to the questionnaire (also on April 3, 1947):

the nature of the safeguards should be such as

- (i) to ensure protection to religious and racial minorities (for example, Christians and Aborigines) from destruction, and
- (ii) to accelerate the assimilation of the other minorities (such as the Scheduled Castes) in the parent body by bringing them to an equal level with others in that community.

He also suggested that fundamental rights should include provisions for the protection of the language, culture, etc. of the minorities. He suggested that some of the safeguards would have to remain for all times in the Constitution such as those guaranteeing religious and cultural freedom to religions and racial minorities.

Mr. S. P. Mukherjee’s memorandum referred to the Resolutions of A.I.C.C. Bombay, August 1931, and stated, “the culture, language and script of the minorities and of the different linguistic areas shall be protected.” He further wrote:

All minorities shall have equal right to establish, manage, and control at their own expense, charitable and religious institutions, and start educational schools and colleges with freedom to use their own language and to practice their own religion therein.”

Regarding education of the children of minorities, he declared,

If in any village, or in a group of contiguous villages or towns a demand is made on behalf of a prescribed number of children of a minority community for a separate educational institution for them, the authorities concerned shall set up such an institution for suitable instruction through the language and script of the community.

Furthermore, he made it a point that

Any racial , religious, or linguistic minority in any province may demand and secure the establishment of a separate authority or separate authorities for the primary, secondary, and higher education of its members.

Mr. S.P. Mukherjee presented yet another significant point in which he said that:

the Communities and groups of people in a Province who together profess a particular religion, or speak a particular language, or belong to a particular race, and who are not a majority of the total population of the Province, but are at least fifty thousand in number, shall be declared as minorities and the protection of their interests shall be guaranteed to them.

The suggestions of Mr. Mukherjee included those relating to linguistic redistribution of the provinces. He said that:

if the majority of citizens who constitute a minority within a Province living in more or less contiguous areas and numbering at least seven millions desire to form themselves into a separate province for linguistic, cultural, or economic reason, such province may be formed in accordance with certain conditions... If the majority of citizens who live in more or less contiguous areas and who constitute a minority within their Province, desire to be amalgamated with other contiguous Province for linguistic, cultural, or economic reasons, a redistribution of provincial boundaries may be made in accordance with (certain) conditions...

The Memorandum on the Anglo-Indian Community by Mr. Frank Anthony states:

... the community claims the retention, and adequate provision for the maintenance, of its schools by the State as a fundamental right, the right of a minority to preserve its religion, its culture, its language, and its way of life. ... to reiterate that the mother tongue of the community is English, and because of this, is as much an Indian language as the mother tongue of any other Indian community. I appreciate the fact that the national self-respect will require that increasing importance to be given to the main Indian languages. Our schools have recognized the need for the mastery of one of the main languages but the principle of cultural autonomy gives the right to expect the continuance of English as the medium of instruction in our schools. We should also draw attention to the unnecessary hardship

that will be caused to minorities, whose mother tongue is not Hindi or Urdu, by precipitate measures as to the language media.

In regard to language safeguards to minorities in general, Mr. S.H. Prater's reply to the questionnaire stated, “

The right of a minority to education is [‘in’ not ‘is’] its mother tongue is fundamental. It is a right especially recognized in the Minority Treaties signed by various European States. It is however stipulated in these treaties that the right does not prevent the making of the teaching of the “majority” language obligatory in minority schools.

Facilities for the use of the minority language in the law courts are equally obligatory. Under the laws dealing with the administration of justice, pleading might be made and evidence given in a minority language, provided the other party and the jury understand the language. Otherwise an interpreter must be provided.

In the Administrative Services the official language is used but provision is made that written petitions in minority languages must be accepted by the local authorities and replies must be given both in official and minority languages. The same principle is applied to the conduct of local Assemblies.

These provisions adopted for safeguarding the language of a minority help to indicate what should be done to provide similar protection in India.

The Anglo-Indian community claims the right to instruction in English which is its mother-tongue and equally insists that the teaching of such Indian languages as the State may prescribe, be made obligatory in its schools throughout the primary and secondary stages of education. It is however essential that time should be given to the community to acquire proficiency in Indian languages in the primary and secondary stages of education. The policy of provincial authorities to make Indian languages the media of instruction and immediately to introduce entrance examination in Indian languages to universities, would place an embargo on the entrance of Anglo-Indians into the colleges and would shut the door of higher education.

In these circumstances, and in fairness to the community, it should be expressed stipulated that in the absence of opportunities for higher education in English, facilities for such education should be provided provisionally by the State for the community ... Facilities for the use of minority languages should be made available in courts administrative offices, local Assemblies and their use permitted by law.

The distinctions in languages and culture exhibited by various minorities can only disappear gradually in the course of generations of mutual toleration. Attempts to

hasten the process by force, to carry out a superficial assimilation of language and culture of the minorities to those of the majority defeat their own ends.

The Memorandum on Minorities Protection by Jairamdas Daulatram did not say anything specifically about provisions for minority languages. The Memorandum on Minorities by Messrs. Ujjal Singh and Harnam Singh suggested that the State shall protect the culture, language and script of the various communities and linguistic areas in India. They further said that “the right to employ Punjabi for the conduct of administrative and legislative business in the Punjab shall be guaranteed by the Constitution,” or “the Constitution shall guarantee Punjabi to be the court and official language of the Punjab with option to the various communities to use their own script, if any,” and that “the State shall make provisions for the teaching of Gurumukhi in all educational institutions where a minimum of 10 Sikh students in one class are receiving education.”

The Memorandum on the safeguards for the plains tribal people of Assam submitted by Mr. R. N. Brahma (March/April 1947) stated,

... the tribal people in the plains are composed of different tribes all of whom are equally backward. All of them retained their own dialects. They use their own mother tongue among themselves and in schools they have been adopting Assamese language as their medium of instruction. ... Many of the Assam tribals living in the plains such as the Kacharis, and the Miris have got their own distinct cultural peculiarities. They have their own dialects, arts, traditions, social customs and usages. All the plains tribal people in Assam should have the statutory rights to retain and develop their own cultural peculiarities. ... In these areas where it is found necessary the tribal people in the plains should be allowed the option of introducing their mother-tongue or vernacular as medium of instruction at least in the primary schools.

The Memoranda by other individuals and organizations also had something to say, report and demand on language use. The memorandum by the representative of the Jain community (March/April 1947) had nothing to say specifically on language choice and language use, while demanding that no legislation affecting religion, culture, philosophy, etc., should be introduced without the consent of the Jain community.

PROFESSOR K. T. SHAH’S MEMORANDUM ON MINORITIES

The memorandum on minorities by Prof. K. T. Shah was elaborate. Professor Shah said that

side by side with and as part of the right and freedom of worship is claimed the right of keeping intact one’s own language and culture. This is not necessarily the common or official language of the country; but rather a language and script used by the community claiming the right as something marking its separate individuality. It may but need not have any

connection with the language of the scriptures of the community making the claim. The language of scripture is hardly in any case a language of daily intercourse. But the protection and safeguard of the language and script used in daily life by the minority, and facility to cultivate the same is demanded as part of the rights of minorities. This, if conceded, will not only keep up the feelings of separateness between the communities, but prevent the evolution of a common language so essential for national solidarity and administrative efficiency. Nevertheless if the minorities demand so much importance to their right in this regard, it is much better to concede it than keeping up the gulf by opposing.

Note that this had been the underlying thinking of the Indian National Congress all along. The Congress strategy had been that if the minorities insisted upon something in relation to their own lives, the same be accepted.

Professor K. T. Shah elaborated his statement further,

“... culture again is a wide term in which religion is included. There is mutual reaction upon one another, and so a given culture is deemed to be particularly associated with a given religion, so that one cannot be separated from the other. Due safeguard and assurance of the language and culture of all minorities – with the corollary that full opportunity for the use of these in educational and other institutions of social services or public utility will be facilitated, and every opportunity afforded for its cultivation and development, without prejudice to the equal rights of others to the same degree and in the same field.”

ADI-HINDU DEPRESSED CLASSES ASSOCIATION AND OTHERS

The Memorandum by the Working Committee of the All India Adi-Hindu Depressed Classes Association did not comment on language choice or use. Likewise the Memorandum by Jain Swetambar Conference and the letter from Maulana Hifzure Rahman and Abdul Qayyum Ansary (the letter dated 24 July 1947) did not say anything on language use or choice.

A SUMMARY OF DEMANDS

Thus, a variety of opinions was expressed and was before the Subcommittee on Minorities. These related to several aspects as follows:

- i. Some demanded that there be no special rights. But the majority desired incorporation of minorities' rights on language, script and culture in the constitution.
- ii. The petitioners asked in favor of covering the choice and use of minorities' languages as media of instruction, and also as media of administration, the

- latter under some specified conditions geographical contiguity and numerical strength.
- iii. Linguistic redistribution of provinces was also demanded.
 - iv. Script was seen as an integral part of the linguistic rights sought for by the minorities.

K. M. MUNSHI'S NOTE

Mr. K. M. Munshi, a member of the subcommittee both of Fundamental and Minorities Rights, circulated a letter dated the April 16, 1947 to the members of the Subcommittee on Minorities, which paved the way for momentous linguistic rights subsequently. He suggested in his letter, among other things, that

1. "All citizens are entitled to the use of their mother tongue and the script thereof, and to adopt, study or use any other language and script of his choice.
2. "Citizens belonging to national minorities in a State whether based on religion or language have equal rights with other citizens in forming, controlling and administering at their own expense, charitable, religious, and social institutions, schools and other educational establishments with the free use of their language and practice of their religion.
3. ...
4. "It shall be the duty of every unit to provide in the public educational system in towns and districts in which a considerable proportion of citizens of other than the language of the unit are residence, adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such citizens through the medium of their own language.

"Nothing in this class shall be deemed to prevent the unit from making the teaching of the national language in the variant and script of the choice of the pupil obligatory in the schools (Italics ours).
5. "No legislation providing state aid for schools shall discriminate against schools under the management of minorities whether based on religion or language"

The minutes of the meetings of the Subcommittee on Minorities indicate that on its meeting on 17th April 1947, Mr. K. M. Munshi drew attention to the necessity of permitting all citizens to use their mother tongue and script for all private purposes. The

minutes of the meeting on 18th April 1947 indicate that another member, Mr. S. H. Prater, suggested that the right of education in the mother tongue of a child to be guaranteed.

NON-JUDICIABLE FUNDAMENTAL RIGHTS

In the non-judicial fundamental rights section, the subcommittee concluded that there should be an addition made in the clause providing against discrimination on the ground of religion, race, caste, language or sex in trading establishments, public hotels and restaurants. The Subcommittee also resolved that (i) all citizens are entitled to use their mother tongue and the script thereof and to adopt, study or use any other language and script of their choice, (ii) minorities in every unit shall be adequately protected in respect of their language and culture, and no government may enact any laws or regulations that may act oppressively or prejudicially in this respect, (iii) no minority whether of religion, community or language shall be deprived of its rights or discriminated against in regard to the admission into State educational institutions, nor shall any religious instruction be compulsorily imposed on them, and (iv) all minorities whether of religion, community or language shall be free in any unit to establish and administer educational institutions of their choice, and they shall be entitled to State aid in the same manner and measure as given to similar State-aided institutions.

LANGUAGE IN ADVISORY COMMITTEE RECOMMENDATIONS – A CAUTIOUS APPROACH

The Advisory Committee on Fundamental Rights, Minorities, etc. met on April 21 and 22, 1947 to discuss the recommendations of the Subcommittee on Fundamental Rights and the modification of these recommendations by the Subcommittee on Minorities.

When the Chairman took up the clause 9 on national language, “Hindustani, written in the Devanagari or the Persian script at the option of the citizen, etc.,” Mr. P. R. Thakur suggested that the clause be amended as Hindustani written either in the Devanagari or the Persian or the Roman script at the option of citizens. Note, here, the influence of the position taken by Mr. M. R. Masani in the Subcommittee on Fundamental Rights.

The Chairman immediately said that the question be kept over: “This is likely to raise controversies.” Note that what the Chairman feared was perhaps the controversies that might come up again as regards the various scripts, including the newly proposed Roman script for Hindustani. There was no question of not accepting or changing the provisions already made for Hindustani as the national language, a policy of the Indian National Congress for decades. The question of controversies like to be raised was only with regard to the use of scripts for writing Hindustani, thus assumed by most people then. Subsequently, the role and function of Hindi in any script came to be questioned in the Constituent Assembly in a reluctant manner.

When clause 23 (“Every citizen is entitled as of right to free primary education and it shall be the duty of the State to provide within a period of 10 years,” etc.) was discussed,

one of the members, Mr. M. Ruthnaswamy, remarked, “is this a justiciable right? Supposing the Government have no money?”

Another member (Sir Alladi Krishnaswamy Ayyar) wanted the deletion of this clause. Govind Ballabh Pant suggested that this clause be transferred to Part 2 saying that it could not be justiciable and that no court could possibly adjudicate.

The Chairman simply called for the reading of the next clause, 24, which said that “every citizen is entitled, as part of his right to free primary education to have facilities provided for learning the national language either in the Devanagari or the Persian script at his option.” The Chairman, Sardar Vallabhbhai Patel, simply said, “That also goes.”

Then other clauses were taken up. Thus, here too, there was so much unanimity of views that there were hardly any discussions on the use of language for education, etc. Or is it unanimity or helplessness? Or the fear that such divisive questions might add to the problems the country was facing?

RECOMMENDATIONS OF THE MINORITIES’ COMMITTEE

The Advisory Committee, after completing discussions on the Fundamental Rights as modified by the Minorities Committee, took up the other recommendations of the Minorities Committee, one by one.

The first was the recommendation that “all citizens are entitled to use their mother tongue and the script thereof, and to adopt, study or use any other language or script of their choice.” Mr. K.M. Munshi said that these were justiciable rights.

Sir Alladi Krishnaswamy Ayyar thought that it was unnecessary: “How can anybody interfere with the use of any mother tongue?”

This, indeed, is a very interesting observation, standing on the great Indian civilization that hitherto allowed every conceivable language, dialect, and culture to thrive in some limited manner.

Read the following dialogue:

K. M. Munshi: I shall inform the House how this came to be drafted. This was taken from the minorities’ rights in the Polish Treaty, which came to form part of the Polish Constitution. Attempts were made in Europe and other places to prevent the minorities from using their own language or studying in their own language. Therefore this has become what is called the classical rights of minorities. For instance, in Bombay, a Marathi speaking province, there are Bengali speaking people.

Chairman: The clause has stated rights as if there can be any prohibition to talking in their own language. How can that be? Of course, all citizens are entitled to use their mother tongue.

Jaipal Singh: We have got a language that is very different from any other language. I am afraid we should have some clause like this or the second.

K. M. Munshi: In small states with a democratic majority, there has been a tendency to stop people from using it,

Chairman: In school or in house?

K. M. Munshi: A democratic legislative majority may stop it. This clause has been brought into existence for that purpose.

Chairman: Every man shall be entitled to use his own eyes. This looks like that.

Alladi Krishnaswamy Ayyar: I am a Tamil, for generations settled in Andhra. Andhra is my adopted country. We speak a kind of hybrid Tamil in our house. I read and write Telugu because Telugu is the language of my province. Some of my girls are reading Tamil. Nobody can prevent this.

Ujjal Singh: Suppose the minorities have got their own institutions.

Chairman: Institutions are not mentioned here.

Ujjal Singh: I think this covers institutions. The clause says, all citizens are entitled to use their mother tongue and the script thereof and to adopt, study or use any other language and script of their choice. The study must be in institutions. It cannot be otherwise. They should be free to adopt their mother tongue for education and a script of their own choice. The State should not penalize or stop the use of the mother tongue and their own script by a majority.

JUSTICIABLE FUNDAMENTAL RIGHTS INCLUDING LANGUAGE RIGHTS FOR THE MINORITIES

The minutes of the meetings of the Advisory Committee held on April 21-22, 1947 recorded that the consideration of the clause (ix) relating to Hindustani was postponed. It further recorded the following as approved and suggested their insertion among the justiciable fundamental rights:

1. Minorities in every unit shall be protected in respect of their language, script and culture, and no laws or regulations may be enacted that may operate oppressively on prejudicially in this respect.
2. No minority whether based on religion, community or language shall be discriminated against in regard to the admission into State educational institutions, nor shall any religious instruction be compulsorily imposed on them.
3. (a) All minorities whether based on religion, community, or language shall be free in any unit to establish and administer educational institutions of their choice.

(b) The State shall not while providing State aid to schools discriminate against schools under the management of minorities whether based on religion, community, or language.

INTERIM REPORT OF THE ADVISORY COMMITTEE

The Advisory Committee submitted on April 23, 1947 an interim report, which confined itself to an examination only of the judiciable rights, that is, fundamental rights strictly so called. The Interim Report was presented to the Constituent Assembly on April 29, 1947. The recommendations were discussed for four days, April 29-30 and May 1-2, 1947 and adopted with certain modifications. Several provisions including the one on admission to educational institutions on grounds of religion, community and languages were referred back to the Advisory Committee for reexamination and report.

In a supplementary report, the Advisory Committee sent to the Constituent Assembly its consideration of several clauses referred to it by the Constituent Assembly, including the one on educational institutions run religious, linguistic and communal minorities. When the Advisory Committee submitted its supplementary report on the subject of fundamental rights as they related to some clauses referred back to it by the Constituent Assembly, the Chairman of the Advisory Committee wrote to the President of the Constituent Assembly on August 25, 1947. Note the date; it was after August 15, 1947, the Day of Independence.

The Fundamental Rights Sub-Committee in their report to us had recommended the adoption of Hindustani, written either in Devanagari or the Persian script, as the national language of the Union of India, but we had thought fit to postpone consideration of the matter in April 1947. In view of the fact the Constituent Assembly is already seized of the matter by certain recommendations of the Union Constitution Committee's report, we think it unnecessary to incorporate any provision on the subject in the list of fundamental rights.

Thus, the language of the Union and its use and consequent privileges, constraints, etc., were not transferred from the realm of fundamental rights to another realm, that of the Union Constitution Committee. The subject needed to be placed properly in the Union Constitution was the reason given.

I must also note that the list of fundamental rights as adopted by the Constituent Assembly in April-May, 1947 finally separated religious rights from the purely cultural and educational rights, which taken together, could be common to religious, communal and linguistic groups of minorities. Thus, rights relating to religion were presented as a separate group, and the rights, called cultural and educational rights, were presented separately. The rights relating to religion did not contain anything on language, whereas the cultural and educational rights revolved only around safeguarding the religious, linguistic and communal rights of the minorities specifically.

LANGUAGE USE AS FUNDAMENTAL RIGHT IN THE CONSTITUENT ASSEMBLY

The Interim Report on Fundamental Rights prepared by the Subcommittee on Fundamental Rights was presented to the Constituent Assembly on the 29th April 1947. The Assembly took up the consideration of the Interim Report clause by clause and the provisions were suitably modified, amended, or deleted. The Clause of 18 of the Fundamental Rights on cultural and educational rights was moved on 1st May 1947 in the Constituent Assembly. The Clause relating to language stood as follows:

18. 1. Minorities in every Unit shall be protected in respect of their language, script and culture, and no laws or regulations may be enacted that may operate oppressively or prejudicially in these respects.

2. No minority whether based on religion, community, or language shall be discriminated against in regard to the admission into State educational institutions, nor shall any religious instruction be compulsorily imposed on them.

3. (a) All minorities whether based on religion, community or language shall be free in any Unit to establish and administer educational institutions of their choice.

(b) The State shall not, while providing State aid to schools, discriminate against schools under the management of minorities whether based on religion, community or language.

AMENDMENTS AND DISCUSSION ON THE AMENDMENTS

Of the many amendments, only two amendments to the proposal remained till the end.

The first amendment was to refer the clause back to the Advisory Committee and the second was to refer only the sub-clause (2) to the Advisory Committee.

The salient points raised in the debate insofar as these relate to language, script, and culture were as follows:

Seth Govind Das said that he was against the amendments, since he could not see anything in this whole clause against any caste or community:

As I have said that without looking into what is going to happen to India in future (He was presumably referring to the likelihood of the partition of India.), we should pass this resolution keeping in view as to what our duties are and what should be done in this Assembly.

Mr. D. N. Dutta said that,

Suppose in a certain unit there are different communities residing, using different scripts, and that unit intends to make a law that there should be one script instead of different scripts now prevailing. I feel that there may

be necessity for the unit to promulgate a law that there should be one script for that particular unit for the benefit of the unit itself, and if that is not allowed by the Fundamental Rights, I think the interest of the Unit will suffer. I cannot suggest what should be the language of the clause under which such laws can be promulgated so that there should be one script for the benefit of the whole Unit. I suggest that this matter also be referred to the Drafting Committee of the Fundamental Rights Subcommittee because it is a very fundamental matter. The minority must have a right, but at the same time the Unit itself should also have a right to promulgate such a law – that there should be one script for the whole Unit or province. So, I consider that this matter should be considered by the Fundamental Rights Subcommittee or by Sardarji.

Rohini Kumar Chaudhury said of clause (1):

Most of the tribal people in our Province have lost their original script. Some have taken to Assamese language and script, but Roman scripts have been recently imposed on them and now most of them are willing to take Hindi scripts which they would not be able to adopt if the sub clause as it is.

Rajkrushna Bose argued:

Three sub-clauses are attached to it, one is that language, script and culture should be preserved and no laws or regulation may be enacted that may operate oppressively or prejudicially in this respect. If we are going to have one script in India as was suggested by Mr. Dutta, it may create difficulties and any unit which wants to have a common script for the whole unit will have difficulties if this sub-clause is kept. Well, my contention is that the sub-clause should be retained as it is, just because, if today we raise the question of writing out languages or scripts when we are framing our first independent constitution, there may be any number of complications and difficulties and misunderstandings and at a time when we are having a lot of other difficulties we should not invite any more now. Therefore, we ought to keep the first sub-clause as it has been kept in the original.

Dr. B. R. Ambedkar surmised that

the only reason in support of this proposal (to refer the clause or part of it to the Advisory Committee once again)- one can sense – is that the rights of minorities should be relative, that is to say, we must wait and see what rights the minority are given by the Pakistan Assembly before we determine the rights we want to give to the minorities in the Hindustan area.

Rejecting emphatically such a possible line of thinking and action, Dr. Ambedkar said,

Now, Sir, with all deference I must deprecate any such idea. Rights of minorities should be absolute rights. They should not be subject to any consideration as to what another party may like to do to minorities within its jurisdiction. If we find that certain minorities in which we are interested and which are within the jurisdiction of another State have not got the same rights, which we have given to minorities in our territory, it would be open for the State to take up the matter in a diplomatic manner and see that the wrongs are rectified. But no matter what others do, I think that we ought to do what is right in our own judgment, and personally I think that the rights which are indicted in clause 18 are rights which every minority, irrespective of every other consideration, is entitled to claim.

Lakshminarayan Sahu said,

by a clause like this, ... difficulties will be removed and our culture will be intact in those places where the Oriyas will be kept outside their province, and so also the culture of other people who will be left in the province of Orissa will be properly safeguarded. But I would like to know what should be the language of the province and also the language of the different aboriginal people who are in the province of Orissa. As I have already said, there are any number of aboriginals speaking any number of different languages. Some of the aboriginal workers who are coming up claim that their language must be respected. In Orissa, if we respect every language, it will be very difficult for the provincial Government to run the administration. Quite apart from all the above difficulties, which may be solved by the Units, I welcome this clause 18 which safeguards our cultural and educational rights.

The Clause 18 as amended (referring sub-clause (2) to the Advisory Committee again) was accepted by the Constituent Assembly.

AN INTERESTING STAND OF DR. RAJENDRA PRASAD

The President of the Constituent Assembly, Dr. Rajendra Prasad, made some remarks, at the end of the discussion and adoption of the Interim Report on Fundamental Rights. These remarks were of great importance. While these remarks sought to postpone discussion on the linguistic re-organization of the provinces in which the non-Hindi members of the Assembly were greatly interested, the remarks brought to the fore, as if it were of an urgent matter, the question of the medium of language in which the Constitution should be finally presented. His remarks were explicitly in favor of Hindi. The remarks are presented below:

There are one or two matters to which I should like to make a reference. Hon'ble members will recollect that notice was given of Resolutions

regarding the formation of linguistic and cultural provinces by several Members in the last Session of the Assembly and those Resolutions were held over and it was expected that they would be taken up in this Session. But as we have already under Resolution of this House decided to constitute two Committees, one for drawing up the principles of the Union constitution and another for drawing up a model Constitution for the provinces, I announced the other day that those Committees would take into consideration those Resolutions also. I take it that that would be done and nothing further need be done now regarding those resolutions.

Then there is one other matter which I have been a bit worried and I wish to share that worry with the House, not that I expect any answer to it just now but I would like the Members to take that into consideration. All our proceedings are being conducted in English because there are many members who are not acquainted with the national language and so that drafts also are being prepared in the English language. In the drafts there are many expressions used which may be called terms of art, that is to say, technical language, taken from some Constitution or other. Some of the constitutions have been subjected to legal interpretations, and by using that language we are in a way attracting the operation of those interpretations also to our constitution. In future – I do not say immediately, but in the future – a time may come when we shall probably cease to depend upon English as our language, and if the Constitution is passed today in the English language, then that remains the original constitution and any question of interpretation will have to be with reference to the language used in that constitution as it is passed today. The question arises whether we shall continue forever in future to interpret our Constitution in English language and whether we shall expect our judges in future always to be acquainted with English language so that they might interpret our Constitution in the future. If the Constitution is passed in the English language, I suppose that will be the natural consequence. It is difficult at the present moment to make a suggestion, which will resolve this difficulty. I was wondering whether we could have a translation made of this Constitution as it is drafted as soon as it is possible, and ultimately adopt that as our original Constitution (Cheers). In case of any ambiguity or any difficulty arising as to interpretation, the English copy will also be available for reference, but I would personally like that the original should be in our main language and not in English language, (Loud Cheers), so that our future judges may have to depend upon our own language and not on a foreign language (Cheers).”

As I said, I do not expect an answer to a question like this, but I would like Members to take this matter into consideration, and in the meantime, if I have your permission, I shall try to get the Constitution as it is drafted translated into our language as soon as possible. I realize the difficulty of interpretation, because appropriate terms of art will not be found in our

language and we have naturally to add clauses, which will explain those expressions of art. But if I have your permission, we might make an attempt. I am afraid our present staff, the staff we have got for translating these things, is not adequate for this purpose and we shall have to take the help of persons who are really persons of a very high order and who can do that I do not know if it will be possible for me to do it, but if I have your leave, I might attempt it. I thought I might bring this to your notice for your consideration, because, if this Constitution is going to be a Constitution, which is expected to last, at any rate, for sometime, then we cannot expect to have it in a language which is not our language. We must provide for a time when we shall have to depend on our own language, and that, at a not very distant date. Therefore I have brought this to the notice of the House so that Members might also take this into consideration and offer their suggestions, if not today, at least at a later stage before we have finalized our Constitution.

Balakrishna Sharma queried,

May I just know whether the arrangement that is going to be made for the translation of the Constitution in our language will be in Hindi, Urdu, or will be in a language which will be a conglomeration of both” The President replied amidst laughter that “It will be in a language which will be intelligible.

A pattern was set in the Constituent Assembly that no sooner the provincial rights and the place of provincial languages were dealt with and insisted upon, generally by the non-Hindi members, a section of the top leadership of the Congress and the entire block of Hindi-speaking members would bring to the fore a discussion on the role and rights of the Union and the place of Hindi, giving the impression that accommodation of provincial rights and provincial languages was against the well being of the Union, and the furtherance of a single Indian language alone was in the interest of the nation.

The attitudes of both the Hindi speaking and non-Hindi speaking members of the Constituent Assembly within the Assembly were slowly getting hardened, mainly with the insistence of Hindi zealots to speak only in Hindi much against the pleas of the non-Hindi members (“the Southern friends,” as the Hindi members used to refer to them in the Assembly) that those among the Hindi speaking members who know English would better speak in English for all to comprehend; in addition, the Hindi supporters always spoke and behaved as if the official language status had already been given exclusively to Hindi, and that it was imperative that this status be implemented and acknowledged by all without reservation at once.

LANGUAGE IN THE UNION AND PROVINCIAL CONSTITUTIONS IN THE MAKING

A questionnaire bearing on the salient features of the Constitution was prepared by Sir B. N. Rau, the Constitutional Adviser to the Constituent Assembly, and circulated among the members of the various legislatures. This questionnaire elicited opinion on several matters relating to structure of the Constitution such as how should the President be chosen, what should be the functions of the President, nature and type of the Union Executive, etc. It did not elicit any information on language choice and use.

By a resolution adopted on April 30, 1947, the Constituent Assembly authorized the appointment of two Committees, one to report on the main principles of the Union Constitution and the other to report on the main principles of a model for the Provincial Constitution.

STRUGGLE TO SEEK RIGHTFUL PLACE FOR PROVINCIAL LANGUAGES

During the discussion on the resolution, Dr. B. Pattabhi Sitaramayya said:

Sir, I welcome the proposal to appoint these two committees and I wish to bring to your notice that I have given notice of a proposition relating to the linguistic re-distribution of provinces. That will be discussed in due course. I do not know whether I shall be in order in referring to the proceedings of the Party, but the Party has been good enough to say that that subject would be referred to these two Committees. I think that it is opportune now for us to say that these two Committees will not only go into these questions which have been associated with them, but that it would also be competent for these Committees to go into the question of the redistribution of provinces on a linguistic basis.

The President remarked:

Suggestion by Dr. Pattabhi Sitaramayya that this Committee should be authorized to deal with the question of the creation of linguistic provinces. I take it that these two Committees when constituted will take into consideration all these and other matters so far as they arise and will make their recommendations in due course. It will be remembered that what is wanted is only a sort of model constitution for the provinces and a constitution for the Union. The model provincial constitution need not necessarily require linguistic provinces for that purpose. It is just possible this may fall within the purview of other committee, which will deal with the general principles of the Union Constitution and that committee may suggest ways and means for the creation of linguistic provinces.

Note the attempt in these remarks of the President to play down the urgency or the importance of the matter of redistribution of the provinces on a linguistic basis for the Provincial Constitution. Compare it with the President's observation, made on his own initiative and volition, at a time when the matter was not indeed raised as

regards the imperative need to have the Constitution framed in the “national,” “main,” or “our” language.

There were several notes, memoranda, etc., submitted to the Union Constitution Committee. Prof. K. T. Shah’s “General Directives” submitted in December 1942 and sent to Jawaharlal Nehru were circulated in May 1947. This did not contain anything specific on the language or languages of the Union or the Provinces.

The Constitutional Adviser prepared the Memorandum on the Union Constitution and Draft Clauses in May 1947. This Draft accepted the fundamental rights and principles of State policy as passed by the Constituent Assembly (dated April-May 1947), thus ensuring certain linguistic rights to minorities.

The Constituent Assembly had not, by May 1947, taken any decision on the language of the Union. The Draft Clauses prepared by the Constituent Adviser were also thus silent on this even while presenting the clause on the medium that should be allowed for the conduct of the business in the Union Parliament.

APPROVED LANGUAGE USE IN THE UNION PARLIAMENT

The Clause 46 of the Draft of the Constitutional Adviser said that,

In the Union Parliament, business shall be transacted (Hindi or Urdu) or English, provided that the Chairman or the Speaker as the case may be, may permit ***any member who cannot adequately express himself in either language*** (italics and bold ours) to address the House in his mother tongue. The Chairman or the Speaker, as the case may be, shall make arrangements for giving the House, whenever he thinks fit, a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the House.

Note that this advice followed the practical step provided for in the Constituent Assembly rules. In any case, this non-inclusion of a provision for the language or languages of the Union in the Draft circulated, coupled with the earlier postponement of the discussion on national or first language by Sardar Vallabhbhai Patel as Chairman in the Fundamental Rights Subcommittee all clearly showed the cautious approach to this problem adopted by the Indian National Congress leadership and the founding fathers of the Constitution.

SARDAR K. M. PANIKKAR’S NOTE

Sardar K. M. Panikkar’s note on some principles of the Union Constitution dated May 1947 and circulated in June 1947 is an important note, for it made explicit the like assumptions that would influence framing the provisions of the Constitution in the context of the certainty of the vivisection of India into Pakistan and Hindustan (India). It also had implications for language policy formulations, since the concept of autonomous provisions initiated by the British in the Cabinet Mission Plan would soon be thrown out.

Sardar Panikkar said,

Federation, with limited powers for the Centre, was an unavoidable evil in India, so long as the Muslim majority Provinces had to be provided for in an All-India Centre. ... It is no longer necessary to provide for the very large measure of power for the Units, which a full Union with the Muslim majority Provinces would have rendered unavoidable. I would, therefore, very strongly urge, that the basic principle of the Constitution should be a unitary one, with large devolution of powers to the Provinces, and with suitable provisions for the States and other units so desiring to accede in a limited manner to the Centre. This, in effect, has been administrative and political tradition of India. The Regulatory Act established a unitary government and the great provincial administrations were no more than local governments, as they were formally designated. The 1935 Act brought in the idea of Federation, primarily because such a conception reduced the possibility of a Hindu majority Centre dominating the Muslim majority Provinces and also in a measure to enable the States to accede to a Union. The experience of the last 10 years, especially in relating to famine and food administration, has shown the weakness of this system. At least for the Hindustan area what we have to do is to go back to the idea of the Regulating Act, i.e., the supremacy of the Centre over the Provinces, while normally keeping with the Provinces the same powers as are given to them in the Act of 1935.

PROVISIONS FOR THE USE OF LANGUAGES IN THE PARLIAMENT

The memorandum on the principles of the Union Constitution prepared by N. Gopalaswamy Ayyangar and Alladi Krishnaswami Ayyar dated June 1947, did not speak of the language or languages for the Union, but had something to say on the language in which the business of the Parliament would be conducted:

All proceedings in the Parliament of the Federation will be conducted in ... language, but the rules of procedure of each chamber and the rules with respect to joint settings will provide for enabling persons unacquainted or not sufficiently acquainted with such language to use another language.

Note that here also a provision was considerably made for those not knowing or partially acquainted with the language of business, irrespective of what language was chosen to be language of business.

ORDER OF DECISIONS ON LANGUAGE USE

As I pointed out earlier, the fundamental rights were among the first ones to be decided on by the Constituent Assembly, which carefully worked out the linguistic rights of the minorities. Now, when provisions were being made for the conduct of the business of the

Parliament in a language, preferably an Indian language, the earliest concerns were with regard to enabling provisions for those who might not know the language or be inadequately acquainted with it. This was the general trend in all the sections of deliberations and this certainly was due to the influence both of the enlightened leadership and the official policies of the Indian National Congress.

UNION CONSTITUTION COMMITTEE – INDIAN NOMENCLATURE FOR HIGH OFFICES

The first meeting of the Union Constitution Committee was held on May 5, 1947. Jawaharlal Nehru was elected as Chairman. On June 3, 1947 the plan for the partition of the country was announced, which necessitated a re-thinking on several matters concerning the structure of the Constitution.

The Union Constitution Committee, during its sittings in May-August 1947 identified the principles to be recommended for the Union Constitution. It had joint sittings with the Provincial Constitution Committee as well as the Union Powers Committee to discuss matters of common interest. The conclusions of the Committee were presented in the memorandum annexed to its report of July 4, 1947, and supplementary reports on July 12, and on August 24, 1947.

The minutes of the proceedings indicate that there were desires on the part of the members to have Indian nomenclatures for various constitutional posts of the Union, for example, the meeting of the Committee on June 6, 1947 resolved that the designation of the Head of the Indian Union should be *Rashtrapati*, and in English the President.

The meeting on June 9, 1947 suggested *Rajya Sabha* in Hindustani as the name of the Council of States and *Loka Sabha* in Hindustani as the name of the lower chamber.

The Report of the Union Constitution Committee sent to the President of the Constituent Assembly, dated the July 4, 1947 said that the Federation be known as India.

PREFERENCE FOR INDIA

In a note under clause 1 of the Part giving the name of the country as *India*, it was explained that “India” had been suggested for the name of the State as being the shortest and the most comprehensive. The memorandum included approvingly the list of fundamental rights including the directive principles of State as passed by the Constituent Assembly under Part III, thus accepting also the minorities’ linguistic and cultural rights enumerated thereon.

The memorandum gave the name *Rashtrapati* within parentheses immediately after the word *President*. It did not provide Hindustani names for the Council of States and the House of the People, thus, perhaps indicating that Hindustani nomenclatures were yet to be developed and approved by all. The memorandum had a provision indicating the language/languages to be used in the conduct of business in Parliament.

LANGUAGE OF BUSINESS IN THE PARLIAMENT

Clause 16 under the head Language suggested,

in the Federal Parliament, business shall be transacted in Hindustani (Hindi or Urdu) or English, provided that the Chairman or the Speaker, as the case may be, may permit any member who cannot adequately express himself in either language, to address the House in his mother tongue. The Chairman or the Speaker, as the case may be, shall make a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the House.

Here also there was a note, which said that the arrangement suggested followed the corresponding provisions in the Constituent Assembly. There was nothing else in this report on language choice and language use for the Union.

REPORT OF THE UNION CONSTITUTION COMMITTEE

On July 18, 1947 Jawaharlal Nehru, the Chairman of the Union Constitution Committee, circulated a statement indicating that the Preamble and the clauses relating to the first part of Part I, Part II (relating to the citizenship) and Part III (relating to the fundamental rights), would not be discussed.

Moving consideration of the Report of the Committee in the Constituent Assembly on the 21st July 1947, Jawaharlal Nehru reiterated this suggestion. Thus, the House discussed Part IV and other parts of the Report for eight days; most of the clauses recommended by the Union Constitution Committee were adopted and consideration of some clauses was postponed.

The clause relating to language use in the Parliament, cited above, was one of the clauses whose consideration was postponed to a later date.

JOINT SITTINGS

The Union Constitution Committee and the Provincial Constitution Committee had joint sittings on June 5, 7, 10 and 11, and on July 18, 1947. The major issues discussed in these joint meetings were:

1. Whether the Constitution should be unitary or federal.
2. The functions of the Governor of a Province and the mode of his appointment.
3. The powers of the Union President and the Governor during an emergency in a Province.
4. The methods of election of the President.
5. The manner of appointment of High Court judges, and
6. The formation of linguistic provinces.

Two joint subcommittees were set up at these meetings to examine, respectively, (i) the effect of June 3, 1947 Plan to divide the country, on the work of the Constituent Assembly, and (ii) the question of forming linguistic provinces.

THE JOINT SUBCOMMITTEE ON LINGUISTIC PROVINCES

The Joint Subcommittee on linguistic provinces met only once, on June 12, 1947. The following were present in the meeting.

1. Dr. B. Pattabhi Sitaramayya.
2. Mr. K. M. Munshi.
3. Mr. Shankarrao Dev.
4. Dr. P. Subbaroyan.
5. Mr. R. R. Diwakar.
6. Mr. P. Govinda Menon.
7. Mr. B. G. Kher.
8. Mr. S. Nagappa.
9. Dr. B. R. Ambedkar.
10. Sir N. Gopalaswamy Ayyangar.

Dr. Sitaramayya was elected to the Chair. The following decisions were reached unanimously.

1. As soon as the Dominion Status Constitution comes into operation (August 15, 1947), the Dominion Government for the areas concerned should appoint a commission under a Dominion Act, if necessary, to examine the question of creating the proposed new Provinces of Andhra, Karnataka, Kerala and Maharashtra and any other proposed Provinces that may be specified in the order of appointment. The commission should submit its report as early as possible so that the new Provinces, if any, which it may recommend, may be enumerated in the new Constitution and suitable provision made therein on the lines of sections 46 and 289 of the Government of India Act, 1935.
2. There should, in addition, be a provision in the new Constitution on the lines of section 290 of Government of India Act, 1935. For this purpose, clause 3 in the Constitutional Adviser's memorandum on the Union Constitution would be generally suitable; but provision should be made for the inclusion of Indian State territory or centrally administered areas.

Note that the above recommendation was fully in consonance with the previous policy and the decisions of the Indian National Congress, which promised linguistic re-distribution of the provinces as soon as independence is achieved. Note also that the recommendation demanded re-distribution on linguistic lines, to come into force along with the coming into force of the proposed republican constitution for India. However,

once independence was achieved, the Indian National Congress would go back on its promises and its leadership would stage manage a Commission, which would torpedo the originally agreed upon resolutions of the Congress that were in favor of the linguistic re-organization of the provinces.

THE PROVINCIAL CONSTITUTION COMMITTEE

The Provincial Constitution Committee held its first meeting on May 5, 1947. To assist the members in preparing their memoranda on the principles of Provincial Constitution, a questionnaire was issued to the members. Only a few responded to this questionnaire.

There was a proposal from two members that the designation of *Governor* in English be given *Prantadhipati* or *Prantapati*.

In response to the subject of forming linguistic provinces, only two members responded. Rajkumari Amrit Kaur suggested, “adoption of the basic principles contained in ‘Linguistic Provinces and Regional Arrangements’ (II), Constitutional Precedents, 1st Series,” whereas Dr. P. Subbaroyan suggested that the “Constituent Assembly should now appoint a Boundary Commission with regard to the constitution of the linguistic Provinces. The question may be considered by the committee appointed to suggest the basis of the Union Constitution.”

The Memorandum on the principles of a model provincial constitution prepared by the Constitutional Adviser dated May 30, 1947 had a clause on the use of language in Provincial Legislature, as follows:

In the Provincial Legislature, business shall be transacted in Hindustani (Hindi or Urdu) or English, provided that the Chairman (where there is an Upper House) or the Speaker, as the case may be, may permit any member who cannot adequately express himself in either language to address the Chamber in his mother tongue. The Chairman (where there is an Upper Chamber) or the Speaker, as the case may be, shall make arrangements for giving the Chamber, whenever he thinks fit, a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the Chamber. (This follows the corresponding provision in the Constituent Assembly Rules.)

BUREAUCRATIC APPROACH TO LANGUAGE CHOICE

Note that the Constituent Adviser here had to take a purely bureaucratic approach to the problem of language choice and language use in Provincial Legislature. The Indian National Congress has always stood for the use of respective Indian languages in Provinces as medium of instruction and administration in the Provinces. The Motilal Nehru Committee Report of 1928 also clearly stated the same position. To take refuge under the relevant provision in the Constituent Assembly rules was perhaps the safest course to adopt in view of the controversies then prevalent regarding the choice of

language/languages for the Union, etc. But, in addition, the clause given by the Constitutional Adviser also indicated the growing tendency to look upon the Provinces from the point of view only of the Centre.

Another member, Mr. Phulan Prasad Verma, suggested twelve points for the framing of the provincial constitution, in the circular dated June 1947. Of these twelve points the following is directly relevant relating to the re-distribution of provinces based on language: “the Provinces shall be formed on the basis of linguistic and cultural homogeneity as far as administratively and financially feasible.”

THE MINUTES OF THE PROVINCIAL CONSTITUTION COMMITTEE

Some interesting trends are noticed in the minutes of the Provincial Constitution Committee held in May-June, 1947 relating to language policy:

1. In the second meeting of the Committee, the Chair ruled in the beginning itself that the question of linguistic provinces might be taken up at a joint meeting with the Union Constitution Committee to be held only at a later stage (the meeting of June 6, 1947). Thus the issue of the linguistic re-distribution of the provinces was postponed in the Provincial Constitution Committee. Only other matters concerning provincial administration, judiciary, etc. were considered in the Provincial Constitution Committee.
2. As regards the conduct of the business of the Provincial Legislatures, the clause cited above, was modified as follows: “In the Provincial Legislature, business shall be transacted in the provincial language or languages, or in Hindustani (Hindi or Urdu), or in English. The Chairman (where there is an Upper Chamber) or the Speaker, as the case may be, shall make arrangements ...” (the meeting held on June 9, 1947).

Thus, now the provincial languages are given an accommodation in the rules of conduct of the business in the Provincial Legislatures. Note, however, the language/languages of the Union received this status automatically even in the provincial arrangements, whereas the Provincial languages had to assert their position for their right.

ADOPTION OF THE REPORT OF THE PROVINCIAL CONSTITUTION COMMITTEE

The Provincial Constitution Committee submitted its report to the President of the Assembly on June 27, 1947. The clause-by-clause consideration of the memorandum prepared by the Provincial Constitution Committee lasted six days in the Constituent Assembly. The memorandum was generally adopted.

Note that, as adopted, the memorandum did not have anything to say on the linguistic re-distribution of the provinces nor on the language/languages to be adopted as Provincial languages for the respective provinces. It contained only a provision of language choice

and language use as these related to the conduct of the business in the Provincial Legislatures.

THE UNION POWERS COMMITTEE

The Union Powers Committee did not deal with any aspects of language choice and language use. It aimed at identifying areas of activities that would fall within the purview of the Union. However, Dr. Pattabhi Sitaramayya, a member of the Union Powers Committee, pleaded fervently in a Note to the Committee dated the 28th June 1947 that broadcasting be kept under the concurrent jurisdiction of the Union and the Provinces. He said that,

“in regard to civil broadcasting the position under the old 1935 Act is most unhappy. The Central Government has absolute power over broadcasting under section 129. The result is that a number of Provinces, which were willing could not develop broadcasting in their own languages. The Central Government is unable to develop it due financial difficulties. ... Education and rural education particularly will have to be in the language of the people in future India. Regional broadcasting has therefore to be developed by the Provincial Governments or under their immediate supervision. If it is left to the Centre, the development of broadcasting in India will suffer to that extent as it has already suffered ... The Union Government can control and regulate external, national and urban broadcasting. The rural and the educational aspects of broadcasting must be left to the Governments of the Units.”

Note that the original demand for the use of Indian languages now covered also the mass communication media and that the members began to see this issue as related to provincial administration. Generally speaking, insistence on the use and development of non-Hindi Indian languages was (is, and will be) always related to the powers of the provinces.

JOINT SITTINGS OF THE UNION POWERS AND UNION CONSTITUTION COMMITTEES

The minutes of the joint meetings of the Union Powers and Union Constitution Committees held in June-July, 1947 indicate that the clause 17 which dealt with the conduct of the business of the Union be so stated as to include provision of the medium of language for the conduct of such business. In the joint meeting held on June 30, 1947 Sir N. Gopalaswamy Ayyangar suggested that a provision be made in clause 17 that the text of all statutes should be in English; “but no decision was taken on this point. The clause was agreed to without any change.”

JAWAHAR LAL’S NOTE ON THE REPORT OF THE UNION POWERS COMMITTEE

While forwarding the Report of the Union Powers Committee to the President of the Constituent Assembly, Jawaharlal Nehru, Chairman of the Committee said in his letter dated July 5, 1947:

The severe limitation on the scope of central authority in the Cabinet Mission's Plan was a compromise accepted by the Assembly much, we think, against its judgment of the administrative needs of the country, in order to accommodate the Muslim League. Now that partition is a settled fact, we are unanimously of the view that it would be injurious to the interests of the country to provide for a weak central authority, which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere. At the same time, we are quite clear in our minds that there are many matters in which authority must be solely with the units and that to frame a constitution on the basis of a unitary State could be a retrograde step, both politically and administratively. We have accordingly come to the conclusion – a conclusion which was also reached by the Union Constitution Committee – that the soundest framework for our Constitution is a Federation, with a strong Centre.”

With this came an end to the earlier version of the Federation concept supported by the Indian National Congress, and, in my opinion, a stage was set for the notion of “Hindi and regional languages,” as an approved fact.

FAILURE TO FULFILL THE PROMISES TO FORM LINGUISTIC PROVINCES

At this time, an important question on which the Indian National Congress went back on its earlier decision and promises was the question of forming Linguistic Provinces. This was rather a temporary move, as events after the declaration of the Constitution came into effect proved. Because of the fear of further partitioning India, the Congress went back on its earlier decisions and promises relating to the re-organization of the province on a linguistic basis.

We saw earlier how the Indian National Congress, ever since the advent of the Home Rule Movement, was in favor of the re-organization of the provinces on a linguistic basis. The Motilal Nehru Committee of 1928 made a pointed and elaborate focus on this issue, setting out in explicit terms the advantages of re-organizing the provinces on a linguistic basis.

Peoples of different religions in the country were brought into a stream of national consciousness through the identity of regional cultures and languages. Cultivation of love for one's own mother tongue formed an integral part of national patriotism in the scheme of various agitations conducted by the Indian National Congress.

Thus, when India attained independence and when the Constituent Assembly was involved in framing a permanent Constitutional set up for the entire nation, it was but natural that there were demands raised in favor of linguistic re-organization of the provinces before the proposed Constitution came into force.

We saw earlier how the members of the Provincial Constitution Committee were asking for such an advance action of re-organizing the provinces on a linguistic basis before the Constitution came into force. Prime Minister Nehru agreed with this demand for the re-organization of the provinces on a linguistic basis in his speech in the Constituent Assembly (Legislative) on November 27, 1947.

While, thus, the Government of India and the Indian National Congress accepted the principle of the re-organization of provinces on a linguistic basis, decision on its implementation before the Constitution came into force was stalled by a move to make a non-political assessment of this political demand by constituting a commission to go into the demand.

THE LINGUISTIC PROVINCES COMMISSION

The Government of India, subsequent to Prime Minister Nehru's acceptance of the demand for the re-organization of provinces on a linguistic basis, made a statement that Andhra could be listed as a separate unit in the new Constitution, following the precedent set in the case of Sind and Orissa in the Government of India Act, 1935.

The Drafting Committee (of the Constituent Assembly), however, said that a mere listing of Andhra as a separate State was not sufficient to bring it into being. Hence it recommended that a Commission be appointed to inquire into and work out the details with regard to the pending demands for the reorganization of the provinces on a linguistic basis.

Based on this recommendation, the President of the Constituent Assembly appointed the Linguistic Provinces Commission on June 17, 1948. The Commission consisted of S. K. Dar, a retired judge of the Allahabad High Court, Pannalal, a retired member of the Indian Civil Service, and Jagat Narain Lal, a member of the Constituent Assembly. This Commission had the mandate to examine and report on the formation of new provinces of Andhra, Kerala, Karnataka, and Maharashtra. It was announced that there would be associate members representing the linguistic areas of Andhra, Tamilnad, Kerala, Karnataka, Gujarat, Maharashtra and Maha Koshal (Hindi-speaking areas). These associate members would participate in the proceedings of the Commission with no barrier, but they would not be involved in drafting and signing the final report.

This Commission submitted its report on December 10, 1948. This Commission, the Linguistic Provinces Commission, gave its report against the formation of provinces on a linguistic basis.

Among other things, the Commission stated:

The case for the formation of linguistic provinces rests upon two alternative grounds: upon the theory that these linguistic groups are sub-nations and as such contracting parties to the Constitution from which the Federation and the Centre derive their existence and power; alternatively it rests upon the unwieldy size of the existing provinces, their heterogeneous composition, and the administrative advantage which may result from bringing together people speaking one language, in imparting education and in the working of courts, legislatures, and governmental machinery and democratic institutions.

The case against the formation of these linguistic provinces rests upon the intolerance, which they breed against the minority speaking a different language in the same province, the interprovincial isolation and antagonism which they bring into existence, the parochial patriotism which they emphasize as against the growth of the nascent national feeling and lastly the bitterness which is likely to be generated as a result of making of the boundaries of these provinces between rival claimants and the allotment of the capital cities of Madras and Bombay.

The arguments in favor of the immediate formation of linguistic provinces are that on account of Congress pledges the demand has got deep down into the masses and its postponement is creating bitterness, impatience and frustration and the country cannot settle down to constructive work till the demand is conceded, and that the Constitution will start on a faulty basis without the linguistic provinces being put in its Schedule.

The arguments in favor of its postponement are that the country is not yet free from the dangers of external aggression, that it is in the grip of the economic crisis of great magnitude, that Indian States have not yet been properly integrated, that the Government is preoccupied with more urgent problems, that the country cannot at this moment bear the financial and administrative strain which these new provinces will put upon it, and that it does not possess the necessary peaceful atmosphere in which new provinces can be scientifically and properly planned and a new Map of India rationally drawn.

This Commission appears to have taken a position against the formation of linguistic provinces even before it began its operation. It did describe the various positions taken in favor or against the formation of linguistic provinces in neutral terms. However, it said in an earlier paragraph (para 8) that,

Indian nationalism is yet in its infancy. India has, in the words of its Prime Minister, just survived a major operation. It is in the midst of an undeclared war with Pakistan. It has still to settle its refugee problem and the problem of feeding its teeming millions and as a result of British withdrawal it is working and must work for time to come with a depleted

and over-strained administration. And, as if these anxieties were not sufficient India is about to experiment under the new Constitution with autonomous States and adult franchise without the cementing force of a national language to take the place of English.

This position actually reflected the view of the leadership of Congress at the top and thus paved the way for the Congress to go back on its time-honored promises in this regard.

REASONS AGAINST THE FORMATION OF LINGUISTIC PROVINCES

The Linguistic Provinces Commission concluded much against the wishes of non-Hindi speaking peoples, particularly, the Telugus, Kannadigas, Malayalees, Marathis, and Gujaratis that:

1. The formation of provinces or exclusively or even mainly linguistic considerations is not in the larger interest of the Indian nation and should not be taken in hand.
2. The existing Provinces of Madras, Bombay, C.P and Berar present serious administrative problems for which an administrative solution is urgently necessary and it is for the Centre to find a satisfactory solution of these problems.
3. The aforesaid problems do not call for an immediate reformation of provinces. As soon as Indian States have been integrated and the country has stabilized itself and other conditions are favorable they may be reformed and convenient administrative Provinces set up.
4. In the formation of new provinces, whenever such a work is taken in hand, oneness of language may be one of the factors to be taken into consideration along with others but it should not be the decisive or even the main factor. Generally speaking, bilingual districts in border areas, which have developed an economic and organic life of their own, should not be broken up and should be disposed of on considerations of their own special needs. Similarly the cities of Bombay and Madras should receive special treatment and be disposed of in the best interests of India as a whole and in their own interest. Subject to the above and other relevant and paramount considerations, if some new provinces come into being and produce more or less linguistic homogeneity they need not be objected to.
5. If any necessary powers are necessary for a proper solution of the administrative problems in the provinces the Constitution should provide for them.

CONGRESS TOP LEADERSHIP ROLE IN SHAPING UP THE DECISIONS AGAINST THE FORMATION OF LINGUISTIC PROVINCES

The suspicion that the above conclusions might have been based on the thinking of Congress leaders at the topmost slot was strengthened in due course when, subsequent to

the enactment of the Constitution of India, the Indian National Congress government at the Centre always took steps only very reluctantly to recognize the linguistic aspirations of non-Hindi peoples. There was considerable delay in acceding to the unanimous demand of the Telugus to have a separate Telugu-speaking province, Andhra Pradesh. After much agitation, which led to violent incidents and loss of life and property, the demand was granted in 1953. Likewise Congressmen took a very unreasonable position when they refused to name the remaining Tamil speaking part of the Madras State after the formation of Andhra Pradesh, as Tamilnadu.

As we pointed out in the earlier articles on this subject, there was a growing tendency among the leaders of the Congress Party to ignore the linguistic aspirations of people in various provinces even as the Indian National Congress insisted upon Hindi as the national language. While Hindi was given the status, which was expected to be honored and accepted, the other major Indian languages and linguistic regions had to assert themselves to gain recognition. This tendency became stronger after India attained independence, and, in this process, agitations for regional autonomy and for the recognition of languages became strong political platforms.

CONSENSUS RELATING TO THE PROVISIONS FOR AN OFFICIAL LANGUAGE

The Constituent Assembly, from its inception, was postponing a decision on the likely choice of an Indian language as the official language of India. The inevitable had to be faced finally. So, the members of the Indian National Congress within the Constituent Assembly were battling against one another, so to say, on the issues of language use within the Assembly and on the issues relating to language rights for the minorities, and the nature of the Units that would constitute the Indian Union.

It was from November, 1948 to September 1949 that there were some concrete steps taken, rather allowed to be taken, by the strong, hidden hand of the leadership of the Indian National Congress, relating to a decision on the official language of India.

The policy of the Indian National Congress was well established long before the attainment of independence from the British, but non-Hindi members wanted to re-examine the contours of this policy. They were encouraged in this demand by the trend within the Congress to re-examine the Gandhian economic proposals, etc., began to re-examine the issues relating to the use of provincial languages. However, members from the Hindi-speaking provinces assumed that the policy followed by the Congress relating to language use was a settled fact, which needed simply acceptance without much discussion.

NEXT ARTICLE

Next month, we present the emotion charged atmosphere in the Constituent Assembly and the final steps and decisions leading on to the acceptance of Hindi in Devanagari Script as the Official Language of India.