

CHAPTER III

FUNDAMENTAL RIGHTS

Freedom of thought, conscience and religion.

10. Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

Freedom from torture.

11. No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Right to equality.

12. (1) All persons are equal before the law and are entitled to the equal protection of the law.

(2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds :

Provided that it shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any language as a qualification for any employment or office in the Public, Judicial or Local Government Service or in the service of any Public Corporation, where such knowledge is reasonably necessary for the discharge of the duties of such employment or office :

Provided further that it shall be lawful to require a person to have a sufficient knowledge of any language as a qualification for any such employment or office where no function of that employment or office can be discharged otherwise than with a knowledge of that language.

(3) No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

(4) Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.

13. (1) No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.

Freedom from arbitrary arrest, detention and punishment, and prohibition of retrospective penal legislation.

(2) Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such judge made in accordance with procedure established by law.

(3) Any person charged with an offence shall be entitled to be heard, in person or by an attorney-at-law, at a fair trial by a competent court.

(4) No person shall be punished with death or imprisonment except by order of a competent court, made in accordance with procedure established by law. The arrest, holding in custody, detention or other deprivation of personal liberty of a person, pending investigation or trial, shall not constitute punishment.

(5) Every person shall be presumed innocent until he is proved guilty :

Provided that the burden of proving particular facts may, by law, be placed on an accused person.

(6) No person shall be held guilty of an offence on account of any act or omission which did not, at the time of such act or omission, constitute such an offence and no penalty shall be imposed for any offence more severe than the penalty in force at the time such offence was committed.

Nothing in this Article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

It shall not be contravention of this Article to require the imposition of a minimum penalty for an offence provided that such penalty does not exceed the maximum penalty prescribed for such offence at the time such offence was committed.

(7) The arrest, holding in custody, detention or other deprivation of personal liberty of a person, by reason of a removal order or a deportation order made under the provisions of the Immigrants and Emigrants Act or the Indo-Ceylon Agreement (Implementation) Act, No. 14 of 1967, or such other law as may be enacted in substitution therefor, shall not be a contravention of this Article.

Freedom of
speech,
assembly,
association,
occupation,
movement &c.

14. (1) Every citizen is entitled to –

- (a) the freedom of speech and expression including publication ;
- (b) the freedom of peaceful assembly ;
- (c) the freedom of association ;
- (d) the freedom to form and join a trade union ;
- (e) the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching;
- (f) the freedom by himself or in association with others to enjoy and promote his own culture and to use his own language ;
- (g) the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise ;
- (h) the freedom of movement and of choosing his residence within Sri Lanka ; and
- (i) the freedom to return to Sri Lanka.

(2) A person who, not being a citizen of any other country, has been permanently and legally resident in Sri Lanka immediately prior to the commencement of the Constitution and continues to be so resident shall be entitled, for a period of ten years from the commencement of the Constitution, to the rights declared and recognized by paragraph (1) of this Article.

Restrictions on
fundamental
rights

15. (1) The exercise and operation of the fundamental rights declared and recognized by Articles 13(5) and 13(6) shall be subject only to such restrictions as may be prescribed by law in the interests of national security. For the purposes of this paragraph “law” includes regulations made under the law for the time being relating to public security.

(2) The exercise and operation of the fundamental right declared and recognized by Article 14(1)(a) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence.

(3) The exercise and operation of the fundamental right declared and recognized by Article 14(1)(b) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony.

(4) The exercise and operation of the fundamental right declared and recognized by Article 14(1)(c) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or national economy.

(5) The exercise and operation of the fundamental right declared and recognized by Article 14(1)(g) shall be subject to such restrictions as may be prescribed by law in the interests of national economy or in relation to –

- (a) the professional, technical, academic, financial and other qualifications necessary for practising any profession or carrying on any occupation, trade, business or enterprise and the licensing and disciplinary control of the person entitled to such fundamental right; and
- (b) the carrying on by the State, a State agency or a public corporation of any trade, business, industry, service or enterprise whether to the exclusion, complete or partial, of citizens or otherwise.

(6) The exercise and operation of the fundamental right declared and recognized by Article 14(1)(h) shall be subject to such restrictions as may be prescribed by law in the interests of national economy.

(7) The exercise and operation of all the fundamental rights declared and recognized by Articles 12, 13(1), 13(2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. For the purposes of this paragraph “law” includes regulations made under the law for the time being relating to public security.

(8) The exercise and operation of the fundamental rights declared and recognized by Articles 12(1), 13 and 14 shall, in their application to the members of the Armed Forces, Police Force and other Forces charged with the maintenance of public order, be subject to such restrictions as may be prescribed by law in the interests of the proper discharge of their duties and the maintenance of discipline among them.

16. (1) All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of this Chapter.

Existing written law and unwritten law to continue in force.

(2) The subjection of any person on the order of a competent court to any form of punishment recognized by any existing written law shall not be a contravention of the provisions of this Chapter.

Remedy for the
infringement of
fundamental
rights by
executive action.

17. Every person shall be entitled to apply to the Supreme Court, as provided by Article 126, in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter.

CHAPTER IV

LANGUAGE

18. *[(1)] The Official Language of Sri Lanka shall be Sinhala.

Official
Language.

**[(2)] Tamil shall also be an official language.

(3) English shall be the link language.

(4) Parliament shall by law provide for the implementation of the provisions of this Chapter].

19. The National Languages of Sri Lanka shall be Sinhala and Tamil.

National
Languages.

20. A Member of Parliament or ***[a member of a Provincial Council or a Local Authority] shall be entitled to perform his duties and discharge his functions in Parliament ****[or in such Provincial Council or Local Authority] in either of the National Languages.

Use of National
Languages in
Parliament,
Provincial
Councils and
Local
Authorities.

21. (1) A person shall be entitled to be educated through the medium of either of the National Languages :

Medium of
instruction.

Provided that the provisions of this paragraph shall not apply to an institution of higher education where the medium of instruction is a language other than a National Language.

(2) Where one National Language is a medium of instruction for or in any course, department or faculty of any University directly or indirectly financed by the State, the other National Language shall also be made a medium of instruction for or in such course, department or faculty for students who prior to their admission to such University, were educated through the medium of such other National Language :

Provided that compliance with the preceding provisions of this paragraph shall not be obligatory if such other National Language is the medium of instruction for or in any like course, department or faculty either at any other campus or branch of such University or of any other like University.

-
- * Renumbered as paragraph (1) of Article 18 by Section 2(a) of the Thirteenth Amendment to the Constitution.
 - ** Inserted by Section 2(b) of the Thirteenth Amendment to the Constitution.
 - *** Substituted by Section 2(1) of the Sixteenth Amendment to the Constitution for "or a member of a Local Authority".
 - **** Substituted by Section 2(2) of the Sixteenth Amendment to the Constitution for "or in such Local Authority".

(3) In this Article “University” includes any institution of higher education.

Languages of
Administration.

*[22. (1) Sinhala and Tamil shall be the languages of administration throughout Sri Lanka and Sinhala shall be the language of administration and be used for the maintenance of public records and the transaction of all business by public institutions of all the Provinces of Sri Lanka other than the Northern and Eastern Provinces where Tamil shall be so used :

Provided that the President may, having regard to the proportion which the Sinhala or Tamil linguistic minority population in any unit comprising a division of an Assistant Government Agent, bears to the total population of that area, direct that both Sinhala and Tamil or a language other than the language used as the language of administration in the province in which such area may be situated, be used as the language of administration for such area.

(2) In any area where Sinhala is used as the language of administration a person other than an official acting in his official capacity, shall be entitled :

- (a) to receive communications from and to communicate and transact business with, any official in his official capacity, in either Tamil or English ;
- (b) If the law recognizes his right to inspect or to obtain copies of or extracts from any official register, record, publication or other document, to obtain a copy of, or an extract from such register, record, publication or other document, or a translation thereof, as the case may be, in either Tamil or English ;
- (c) where a document is executed by any official for the purpose of being issued to him, to obtain such document or a translation thereof, in either Tamil or English ;

(3) In any area where Tamil is used as the language of administration, a person other than an official acting in his official capacity, shall be entitled to exercise the rights and to obtain the services, referred to in sub paragraphs (a), (b) and (c) of paragraph (2) of this Article, in Sinhala or English.

* Original Article 22 replaced by Section 03 of the Sixteenth Amendment to the Constitution.

(4) A Provincial Council or a Local Authority which conducts its business in Sinhala shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Sinhala and a Provincial Council or a Local Authority which conducts its business in Tamil shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Tamil :

Provided, however, that a Provincial Council, Local Authority, Public Institution or any official receiving communications from transacting business with any other or Provincial Council, Local Authority, Public Institution or an official functioning in an area in which a different language is used as the Language of administration shall be entitled to receive communications from and to communicate and transact business in English.

(5) A person shall be entitled to be examined through the medium of either Sinhala or Tamil or a language of his choice at any examination for the admission of persons to the Public Service, Judicial Service, Provincial Public Service, Local Government Service or any public institution, subject to the condition that he may be required to acquire a sufficient knowledge of Tamil or Sinhala, as the case may be, within a reasonable time after admission to such service or public institution where such knowledge is reasonably necessary for the discharge of his duties :

Provided that a person may be required to have a sufficient knowledge of Sinhala or Tamil, as a condition for admission to any such service or public institution where no function of the office or employment for which he is recruited can be discharged otherwise than with a sufficient knowledge of such language.

(6) In this Article –

“Official” means the President, any Minister, Deputy Minister, Governor, Chief Minister or Minister of the Board of Ministers of a Province, or any officer of a public institution ; local authority or Provincial Council ; and

“Public Institution” means a department or institution of the Government, a public corporation or statutory institution.]

Language of
Legislation.

***[23.** (1) All laws and subordinate legislation shall be enacted or made and published in Sinhala and Tamil, together with a translation thereof in English :

Provided that Parliament shall, at the stage of enactment of any law determine which text shall prevail in the event of any inconsistency between texts :

Provided further that in respect of all other written laws and the text in which such written laws was enacted or adopted or made, shall prevail in the event of any inconsistency between such texts.

(2) All Orders, Proclamations, Rules, By-laws, Regulations and Notifications made or issued under any written law other than those made or issued by a Provincial Council or a Local Authority and the Gazette shall be published in Sinhala and Tamil together with a translation thereof in English.

(3) All Orders, Proclamations, Rules, By-laws, Regulations and Notifications made or issued under any written law by any Provincial Council or Local Authority and all documents, including circulars and forms issued by such body or any public institution shall be published in the Language used in the administration in the respective areas in which they function, together with a translation thereof in English.

(4) All laws and subordinate legislation in force immediately prior to the commencement of the Constitution, shall be published in the Gazette in the Sinhala and Tamil Language as expeditiously as possible.]

Languages of the
courts.

24. ******[(1) Sinhala and Tamil shall be the languages of the Courts throughout Sri Lanka and Sinhala shall be used as the language of the courts situated in all the areas of Sri Lanka except those in any area where Tamil is the language of administration. The record and proceedings shall be in the language of the Court. In the event of an appeal from any court records shall also be prepared in the language of the court hearing the appeal, if the language of such court is other than the language used by the court from which the appeal is preferred :

* Original Article 23 replaced by the Sixteenth Amendment to the Constitution Sec. 3.

** Original para (1) repealed and substituted by the Sixteenth Amendment to the Constitution Sec. 4(1).

Provided that the Minister in charge of the subject of Justice may, with the concurrence of the cabinet of Ministers direct that the record of any court shall also be maintained and the proceedings conducted in a language other than the language of the court ;]

(2) Any party or applicant or any person legally entitled to represent such party or applicant may initiate proceedings and submit to court pleadings and other documents and participate in the proceedings in courts, *[in either Sinhala or Tamil.]

(3) Any judge, juror, party or applicant or any person legally entitled to represent such party or applicant, who is not conversant with the language used in a court, shall be entitled to interpretation and to translation into ** [Sinhala or Tamil] provided by the State, to enable him to understand and participate in the proceedings before such court and shall also be entitled to obtain in ***[such language] any such part of the record or a translation thereof, as the case may be, as he may be entitled to obtain according to law.

(4) The Minister in charge of the subject of Justice may, with the concurrence of the Cabinet of Ministers, issue, directions permitting ****[the use of English] in or in relation to the records and proceedings in any court for all purposes or for such purposes as may be specified therein. Every judge shall be bound to implement such directions.

(5) In this Article –

“Court” means any court or tribunal created and established for the administration of justice including the adjudication and settlement of industrial and other disputes, or any other tribunal or institution exercising judicial or quasi-judicial functions or any tribunal or institution created and established for the conciliation and settlement of disputes ;

“Judge” includes the President, Chairman, Presiding Officer and member of any court ; and

“Record” includes Pleadings, Judgments, Orders and Other judicial and Ministerial acts.

* Substituted by the Sixteenth Amendment to the Constitution Sec. 4(2) for “in either of the National Languages”.

** Substituted by the Sixteenth Amendment to the Constitution Sec. 4(3)(a) for “the appropriate National Language.”

*** Substituted by the Sixteenth Amendment to the Constitution Sec. 4(3)(b) for “either of the National Languages.”

**** Substituted by the Sixteenth Amendment to the Constitution Sec. 4(4) for “the use of a Language other than a National Language.”

*The Constitution of the Democratic Socialist
Republic of Sri Lanka*

Provision for
adequate
facilities for use
of languages
provided for in
this Chapter.

25. The State shall provide adequate facilities for the use of the languages provided for in this Chapter.

Provision of
any law
inconsistent
with this
Chapter deemed
to be repealed.

***25A.** In the event of any inconsistency between the provisions of any law and the provisions of this Chapter, the provisions of this Chapter shall prevail.]