

Soulbury Constitution (1947)

The independence constitution drafted under the Soulbury Commission, containing the Section 29(2) safeguard against discriminatory legislation — later read down by the Privy Council and effectively erased by the 1972 republican constitution.

Soulbury is the first broken safeguard. Section 29(2) prohibited Parliament from making any law conferring on persons of any community a privilege or imposing on them a disability not conferred or imposed on others. Within a decade — Citizenship Act 1948, Sinhala Only 1956 — the safeguard had failed in practice; within a quarter-century, the 1972 Constitution removed it entirely.

§1 Section 29(2)

The Soulbury constitution made personal laws (Thesawalamai, Kandyan, Muslim) survive into independent Ceylon by statute. Section 29(2) was the structural protection against majoritarian legislation.

Kodeeswaran v. The Attorney-General (1969–70) tested whether Section 29(2) could be enforced against the Official Language Act. The Privy Council ultimately ruled the section justiciable in principle — but by 1972 the section had been removed.

§2 Why this matters for /case

Tamil constitutional argument from 1948 onward has had to answer: what good is a safeguard that the legislature can remove? The 1972 and 1978 constitutions answered that question definitively. Every subsequent Tamil resolution attempt operates in the constitutional space Soulbury's failure left behind.

Sources

- Soulbury Commission Report, HMSO Cmd. 6677 (1945).
- Kodeeswaran v. The Attorney-General — Section 29 litigation.
- Wakeley — analysis of Section 29's removal in the 1972 Constitution.

What this is not

- This article does not romanticise British rule.
- This article does not adjudicate the Privy Council's full reasoning.