

Linguistic Disharmony, National Language Authority and Legislative Drafting in Islamic Republic of Pakistan

Mazhar Ilahi*

Abstract

It is quite interesting to note that first, the first language of most of the population of Pakistan remains different in different geographical regions. Secondly, Urdu, which is the second language of most of the population of Pakistan though declared to be the sole constitutional and official language, is not so accepted by all the communities resident in Pakistan. As a result, and thirdly, the laws of Pakistan are drafted in a non-native language, English, which is mostly the third language of a small fraction of the country's population. This situation runs counter to the theme of the Plain Language Movement for writing of laws (PLM), which strives to make the laws understandable for its subjects. The problem, in reality, owes its genesis to different ethno-lingual and political issues. However, without going into much detail of these ethno-lingual and political elements, this article aims to analyse the question of the need for linguistic harmony, the main causes of lack of focus upon the same and the role of the National Language Authority (NLA) in the context. In addressing these issues the author concludes that lack of political will to handle the natural ensuing issues of the multilingual features of the Pakistani society and the (English) linguistic hegemony of the ruling elites (civil and military bureaucracy) are the two main causes of the failure of the NLA to administer Urdu as a sole national/official/legislative language of Pakistan.

Keywords: National Language Authority, National Language of Pakistan, Legislation in Urdu, Plain Language Movement, Urdu Language.

The plain language movement for writing of laws (PLM) is not as plain as it sounds, inasmuch as the PLM was not generally welcomed by the legal fraternity and various commentators. However, it is due to the strength of the doctrines of the rule of law, access to justice, etc. that the movement has survived the criticism of its opponents. Yet the truth remains that the identification and analysis

* The author is a Solicitor qualified in England & Wales currently working as an Associate Research Fellow and Director of the Legislative Drafting Clinic at the Institute of Advanced Legal Studies, School of Advanced Study, University of London. Previously, he has worked as a Civil Judge/Judicial Magistrate and is practicing as Advocate of High Courts in Pakistan. He is also country (Pakistan) representative of 'CLARITY', International Association Promoting Plain Legal Language. The author acknowledges the research facilitation provided by the IALS in writing this article.

of the legislative audience and nature of law; the intricacies of the questions concerning clarity of legislative language, the understudied aspects of standard, degree and measure of the balance of simplicity, archaic styled precision and imprecision for the sake of literal clarity and legislative accuracy; the lack of drafters' academic and professional training and passion, inadequate linguistic expertise and time constraints to finding suitable plain words in place of legal jargon and non-cooperation of different organs of the State have remained the major challenges to the PLM in the modern legislative world. However, the movement is progressing, and the reformation of the structure and style of the statutes is also being considered as a tool to improve the accessibility of the legislation.

On the other hand, the PLM is to face additional difficulties in the multilingual jurisdictions in the context of their peculiar social, political, religious, ethnic, cultural, legal and constitutional perspectives. In this respect, the most common problem is that the legislative language is different from the largely spoken language(s) of the population. For example, in most of the former British colonies, the legislative text is still in English, which, on the other hand, is invariably the language of a small minority of the respective urban elites in each of these jurisdictions. Among them are South Africa, Kenya, Tanzania, Nigeria, Pakistan, Bangladesh, India and Malaysia. Yet a large percentage of the populations of these multilingual countries fail to acquire prior information about the law veiled in the convoluted form of the alien language, and so are caught in an unavoidable web of litigation and unwarranted prosecution to the detriment of the essence of the rule of law.

In analysing these issues in the context of Pakistan it transpires that first, the first language of most of Pakistan's population is different in different geographical regions. Second, *Urdu*, which is the second language of most of the population of Pakistan, though declared to be the sole constitutional and ultimate official language, is not so accepted by all the communities resident in Pakistan. As a result, and third, the laws of Pakistan are drafted in a non-native language, English, which is mostly the third language of a small fraction of the population of the country.

The main reasons for this diversity and failure to have an authentic legislative text in a non-alien language appear to be the lack of political will to handle the natural ensuing issues of the multilingual feature of the society and the (English) linguistic hegemony of the ruling elites (civil and military bureaucracy) in Pakistan. Because, first, *Urdu*, the national sacrosanct language of Pakistan, is the mother tongue of merely a small part of the nationals of Pakistan mostly settled as *Mohajirs* (immigrants from India)¹ in the province of *Sindh*, and mainly because of mishandling of the *Sindhi v. Urdu* controversy, its status of being the sole

1 At the time of Independence and Partition of British India (1947), the immigrants from *Urdu*-speaking Northern and Central India happened to have been settled by the then regime mostly in Karachi, now the provincial capital of the province of *Sindh*, and parts of Hyderabad, etc. However, the Punjabi-speaking immigrants from West Punjab (now Indian Punjab) were mostly settled in East Punjab (now Pakistani Punjab).

Mazhar Ilahi

national language of Pakistan has always remained in doubt. Similarly, the ruling elites, who are mostly well versed in English, use the colonial technique of linguistic imperialism to maintain decorum against the ordinary people.² As a result, there appears to be much less hope for *Urdu* or any other language to practically replace English as the language of the State or the legislative text.

In this respect, turning the pages of history, particularly in the context of the *Sindhi v. Urdu* controversy in the province of Sindh, also reveals that the roots of multilingualism in Pakistan are not confined to cultural, social or ethnic phenomena, but rather involve the violent political interests of different regional political movements as well.³ On top of this, a few recent competing constitutional amendment bills at the behest of the *Sindhi*-speaking legislators and a political party (MQM) largely comprising the *Urdu*-speaking settlers in the province of Sindh, denying the status of *Urdu* as the sole national language of Pakistan on the one hand,⁴ and promoting the idea of the ethno-lingual constitutional identity of the *Siraiki* and *Hazara* population in Punjab and KPK provinces on the other hand,⁵ respectively, are likely to open a Pandora's box (at the behest of the leading political parties of the Punjab PML (N) and the KPK (ANP)) for the division of Sindh province into two different sub-nationalities: the *Sindhis* and the *Mohajirs*, and further culminating in the argument against *Urdu* as it is a provincial language and not the national language of all Pakistan. In this respect, an analysis of the annual reports of the NLA and the proceedings upon its recommendations sent to the Prime Minister of Pakistan reveals that for want of political will the

2 See R. Phillipson, *Linguistic Imperialism Continued*, 1st edn, Orient Blackswan, Hyderabad, India, 2009, pp. 202, 203; T. Rahman, *Language and Politics in Pakistan* (First Published in 1997 by Oxford University Press), Orient Longman, Hyderabad, India, 2007, pp. 242, 250, 253; T. Rahman, 'The Role of English in Pakistan with Special Reference to Tolerance and Militancy', in A.B.M. Tsui & J.W. Tollefson (Eds.), *Language Policy, Culture, and Identity in Asian Contexts*, Lawrence Erlbaum Associates, Mahwah, NJ, 2007, p. 220; T. Rahman, 'The Urdu-English Controversy in Pakistan', in G. Johnson (Ed.), *Modern Asian Studies*, Cambridge University Press, Cambridge, 1997, p. 179.

3 Rahman, *Language and Politics in Pakistan*, 2007, at 132.

4 See A Bill to Further Amend the Constitution of the Islamic Republic of Pakistan, 2008 and A Bill to Further Amend the Constitution of Islamic Republic of Pakistan, 2011 proposing amendment in the Constitution of Pakistan on two different occasions to add, besides *Urdu*, Pashto, Balti/Shina, Punjabi, *Siraiki*, *Sindhi* and Balochi as national languages of Pakistan; See also *The Nation*, 9 January 2012, <www.nation.com.pk/pakistan-news-newspaper-daily-english-online/karachi/09-Jan-2012/mps-want-sindhi-as-lingua-franca>, accessed 14 May 2012, where members of the legislature from other provinces are reported to have also demanded the adoption of their distinct languages as national languages of the country. It is pertinent to point out that the desire of the *Sindhis* for such an action dates back to the language riots of 1971 in Karachi: Moreover, according to Rahman, even during the pre-Partition days (before 1947) the *Sindhis*, despite showing their anguish against Hindi (in the context of the then *Hindi v. Urdu* controversy), have never believed *Sindhi* to be subservient to *Urdu*. See Rahman, *Language and Politics in Pakistan*, 2007, at 110, 125.

5 A Bill to Further Amend the Constiution of Islamic Republic of Pakistan, 2012, Private Member Bill No. 142, also available at <www.na.gov.pk/uploads/documents/1326865286_418.pdf>, accessed 14 May 2013.

role of the NLA in promoting the use of *Urdu* as the national and official language has also remained unaccomplished.⁶

In the context of the PLM and the debate on linguistic disharmony, this article attempts to analyse the question whether the people of Pakistan can yet hope to have the legislative text in a familiar language so as to benefit from the theme of the PLM. Here, the first question that arises is why Pakistan is still continuing with the colonial heritage of the English language in its legislative text; the second question is, why not the national and desired official language *Urdu*? However, an in-depth study of the issues relating to multilingualism in Pakistan (as below) reveals that the question of *Urdu* being the national language of Pakistan, the failure of the relevant NLA to play its role of achieving the goal of linguistic harmony, and, above all, the English aristocracy of the ruling elites are the main reasons for the prevalence of English over *Urdu* in every walk of life in Pakistan.

A. Is Urdu the *De facto* 'National' Language of Pakistan?

I. *Question of a Single National Language in Multilingual States: Linguistic Harmony a Must!*

The term 'national language' has not so far been defined in any authoritative linguistic encyclopedia or dictionary; however, it essentially implies the language shared by a nation as a whole.⁷ Moreover, as the nomenclature sounds, the question of a single national language for a country involves the classification and characterisation of citizens comprising different ethnicities, as a homogeneous nation,⁸ and the determination of an acceptable regular language for the entire

6 *Recommendations for Adoption of Urdu as Official Language*, National Language Authority, Islamabad, Pakistan, 2005, p. 10, English Version.

7 In the case of countries having more than one national language, each language must be shared by the relevant communities as a whole.

8 For the relationship between ethnicity, nationalism and the modern State see A. Khan, *Politics of Identity: Ethnic Nationalism and the State in Pakistan*, 1st edn, SAGE, New Delhi, India, 2005, pp. 28-31, and for use of the same for politics see p. 125.

population echoing the national identity.⁹ On this basis, the theory of national language in its ethno-lingual perspective entails a closer nexus between the 'nation: nationalism' as well as 'any common language' that the members of that community have largely volunteered to share.¹⁰ In this respect and context, in the case of multilingual and multination federations and states, the question of a single national language has remained mostly controversial, owing to the lack of linguistic commonality and sharing of a single language among different resident sub-nations and ethnicities of the respective federations or States. As a result,

- 9 According to J. Rehman, 'Accommodating National Identity: New Approaches in International and Domestic Law', 6 *International Journal on Minority and Group Rights* 1999, p. 271, the terms 'nation', 'national' and 'identity' have remained elusive concepts, and so they lack any comprehensive definition in jurisprudence. However, L.W. Barrington, 'Introduction', in *After Independence: Making and Protecting the Nation in Postcolonial and Post Communist States*, The University of Michigan Press, Ann Arbor, MI, 2006, p. 7, has mentioned several elements of a 'nation', distinguishing it from other groups. According to him, it is the collective unit sharing language, myths, values (*i.e.* the cultural feature) and belief in the right to territorial self-determination. So the sharing of language is an essential ingredient in the formation of a nation: nationalism; and the goal of a single national language cannot be achieved without linguistic harmony in the case of different ethno-lingual entities residing in a country. Thus, linguistic harmony is a must for adopting a single national language policy in multilingual states. See also F. Orsini, *The Hindi Public Sphere: 1920-1940; Language and Literature in the Age of Nationalism*, 1st edn, Oxford University Press, New Delhi, India, 2002, p. 126; J. Breuilly, 'Dating the Nation: How Old Is An Old Nation', in A. Ichijo & G. Uzelac (Eds.), *When Is the Nation?*, Routledge, Oxon, 2005, p. 17; A.A. Barreto, *Nationalism and Its Logical Foundation*, 1st edn, Palgrave Macmillan, New York, 2009, p. 81. Similarly, according to T.P. Bonfiglio, *Mother Tongues and Nations*, 1st edn, Walter de Gruyter, New York, 2010, p. 221: "From early modernity to the present, the unreflective arborification of language has been a major source for the racial ideologies of ethnolinguistic nationalism." Likewise, the locus of the Rahman, *Language and Politics in Pakistan*, 2007, thesis has also been that there remains a very close nexus between language and identity construction. See also T. Rahman, *Language, Ideology and Power*, 2nd edn, Orient Longman, Hyderabad, India, 2008, p. 523; N. Chandhoke, 'Negotiating Linguistic Diversity: A Comparative Study of India and the United States', in K. Shankar Bajpai (Ed.), *Democracy and Diversity: India and the American Experience*, Oxford University Press, New Delhi, India, 2007, pp. 109, 110. For a brief debate on multiculturalism and national identity in the perspective of one of the world's ethnically diverse countries, the U.K., see A. Xanthaki, 'Multiculturalism and Extremism: International Law Perspectives', in J. Rehman & S.C. Breau (Eds.), *Religion, Human Rights and International Law*, Vol. 6, Martinus Nijhoff, Leiden, the Netherlands, 2007, p. 450.
- 10 This kind of classical nationalism has its roots in the ethnic-genealogical foundations, where the people are related through common descent, and are distinguished from others by vernacular languages and customs, religions and a strong sense of native history. On the other hand, the modern phenomenon of nationalism is rooted in civic-territorial planes, which are motivated by the economic revolutions or the nationalism shared by the communities owing to similar territorial birth, residence, legal and public culture (usually in the official language). A.D. Smith, 'Theories of Nationalism: Alternative Models of Nation Formation', in M. Leifer (Ed.), *Asian Nationalism*, Routledge, London, 2000, p. 16. See for further discussion and reference to debates; Barrington, 2006, at 11-14; A. Smith, 'Civic and Ethnic Nationalism', in P. Spencer & H. Wollman (Eds.), *Nations and Nationalism: A Reader*, Edinburgh University Press, Edinburgh, 2005; H. Wollman & P. Spencer, 'Good and Bad Nationalisms', in *Nations and Nationalism: A Reader*, Edinburgh University Press, Edinburgh, 2005, pp. 203-207.

some have preferred the policy of multinational language,¹¹ and many have found it safe not to declare any language as the national language but to rely on the term 'official language' instead.¹² There are a few (like Pakistan) who have used both the terms 'official language' and 'national language' for different time frames, and have selected one of the vernaculars as a national language for different reasons.¹³ However, in the latter case, the consideration of linguistic harmony is always instrumental in arousing the collective national conscience among different ethno-lingual communities, and is a must to prepare the countrymen in the long run for a single national language.

II. Lack of Focus on Linguistic Harmony in Pakistan

From the above discussion, it is clear that in the case of multiethno-lingual identities, normally, the natural driving force entailing social, cultural, ethnic and linguistic harmony is the need to create a pure national conscience. However, in the case of linguistically polarised Pakistan, the political exploitation of religion by different regimes as a means to arouse the sense of Muslim nationalism has

11 Finnish and Swedish are two national languages of the Republic of Finland. See Section 17 of Constitution of Finland, 1999; Sinhala and Tamil in Democratic Socialist Republic of Sri Lanka: See Art. 19 of Constitution of Democratic Socialist Republic of Sri Lanka, 1978.

12 Hindi and English in India: See Art. 343 of Constitution of Union of India, 1950; EU 23 official languages.

13 See Art. 251 of Constitution of Islamic Republic of Pakistan, 1973.

passed over the notion of secular (the ethnic or civic) nationalism.¹⁴ As a result, the national religion has gained more primacy over the social, cultural, ethnic and linguistic harmony for the national engineering of the different “micro-nations”¹⁵ in Pakistan. In this respect, it is pertinent to point out that a close analysis of the characteristics of the nation-building policy of various regimes reveals that different political forces have continued to maintain a false bond of Muslim nation-

- 14 See I. Talbot, *Pakistan: A Modern History*, 3rd edn, Hurst, London, 2009, p. 1, for conclusive comments on the application of Islamic populism in search of a national identity in Pakistan; as a counter-mechanism against the apprehension of an uprising of ethnic, linguistic and regional forces. See also S.P. Cohen, *The Idea of Pakistan*, 1st edn, Brookings Institution Press, Washington, DC, 2006, p. 163; However, according to Rahman, *Language and Politics in Pakistan*, 2007, at 251, besides Islam, *Urdu* was also used by the Punjabi-dominated ruling elites to create a Pakistani national identity. Yet there is no denying the fact that *Urdu* (which was the symbol of the Muslim identity in north India: T. Rahman, *From Hindi to Urdu: A Social and Political History*, Oxford University Press, Karachi, 2011, p.1) has been utilised as an instrument of political identification and mobilisation of the Muslims of India as against the Hindi-speaking Hindus of British India (Rahman, *Language and Politics in Pakistan*, 2007, at 250); J.D. Gupta, *Language Conflict and National Development: Group Politics and National Language Policy in India*, 1st edn, University of California Press, Berkeley, CA, 1970, p. 108, and as such has been applied to give Islamic ideology and national identity to a new State of Pakistan. See also U. Phadnis & R. Ganguly, *Ethnicity and Nation-Building in South Asia*, 2nd edn, SAGE, New Delhi, India, 2001, p. 163. In this respect, because of a consistent lack of focus of different State administrations in transforming the different ethno-lingual identities into Pakistani ethnicity with *Urdu* as its ethnic vernacular, the question of an *Urdu*-based Pakistani national identity does not arise. In reality, the use of *Urdu* by the Punjabi-led ruling elites, in the absence of a simultaneous political will for linguistic harmony, appears to have (more) supplemented the cause of Islam as opposed to giving a sense of national ethno-lingual Pakistani identity. See also H. Haqqani, *Pakistan: Between Mosque and Military*, 1st edn, Carnegie Endowment for International Peace, Washington, DC, 2005, p. 3. However, its use by the users must have been tainted with political objectives, as was initially meant by the leaders of two distinct major religious factions of British India. Rahman, *Language and Politics in Pakistan*, 2007, at 59. See also R. Jahan, *Pakistan: Failure in National Integration*, 2nd edn, Oxford University Press and University Press Limited, Bagladesh, Dhaka, 1977, p. 1: She has argued that the locus of nationalism in the freed colonies of Asia and Africa has remained the anti-Western colonialism: as opposed to the Western nation states, where the common culture and language had been key elements in the growth of the nation states. In the same context, L.L. Snyder, *The New Nationalism*, 2nd edn, Transaction, New Brunswick, NJ, 2003, pp. 142-147, has also given a similar account of nationalism in Asia. However, in Pakistan, since the break-out of Russia, Islam has taken the place of anti-Western colonialism as the locus of nationalism also, against the same non-Muslim Western power groups.
- 15 Cohen, 2006, at 222, has used this term for different ethno-religious groups in Pakistan desiring a kind of autonomy.

hood among different native races of the country to achieve the goal of a collective national conscience.¹⁶

Yet unfortunately, on the other hand, even Islam alone has failed to play its role in developing a sense of strong nationalism to outweigh the need for linguistic harmony as a must for a single national language for the country. For that matter, although some propagate the view that Muslim nationalism and Pakistani nationalism are “indistinguishable”,¹⁷ the idea of Islamic nationhood and its relationship with the national language has largely remained the weakest of its kind. In this respect, turning the pages of history reveals that linguistic disharmony (*Bengali v. Urdu controversy*), among others, has outweighed the Islamic nationalism of the country in disintegrating (1972) the Muslim nation between the People’s Republic of Bangladesh and the Islamic Republic of Pakistan.¹⁸ As a result, the two-nation theory of the subdivision of India based primarily on religious lines was transformed into a multi-nation theory giving primacy to the ethno-lingual divide while weakening the religious bonds of the Muslim nation of the Indian subcontinent.¹⁹

On the other hand, in the case of neighbouring India, unlike Pakistan, there is no essential role for religion in creating the national conscience; however, the linguistic disharmony had caused riots and protests (1965) by different non-

- 16 See for a short survey the history of the use of Islam for their vested gains by political leaders of Pakistan: A. Malik, *Political Survival in Pakistan*, 1st edn, Routledge Advances in South Asian Studies, Oxon, 2011, pp. 40-43; See also M. Ali, ‘Pakistan’s Search of Identity’, in P. Brass & A. Vanaik (Eds.), *Competing Nationalisms in South Asia*, Orient Longman, Hyderabad, India, 2002, p. 270; H.N. Gardezi, ‘Religion, Ethnicity, and State Power in Pakistan: The Question of Class’, in D. Allen (Ed.), *Religion and Political Conflict in South Asia; India, Pakistan, and Sri Lanka*, Greenwood Press, Westport, CT, 1992, p. 83; Khan, 2005, at 70, 71; I.H. Malik, *Islam, Nationalism and the West: Issues of National Identity in Pakistan*, 1st edn, Macmillan Press, New York, 1999, p. 113; and J. Rehman, ‘Nation-Building in an Islamic State: Minority Rights and Self-determination in the Islamic Republic of Pakistan’, in J. Rehman & S.C. Breau (Eds.), *Religion, Human Rights and International Law*, Vol. 6, Martinus Nijhoff, Leiden, 2007, and for brief comments see S.S. Ali & J. Rehman, *Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional and Legal Perspective*, 1st edn, Curzon Press, London, 2001, pp. 1, 2, 162.
- 17 Y.K. Malik et al., *Government and Politics in South Asia*, 6th edn, Westview Press, Philadelphia, PA, 2009, p. 149.
- 18 For comments on the role of the Bengali language issue in the movement for an independent Bangladesh: see T. Hossain & J.W. Tollefson, ‘Language Policy in Education in Bangladesh’, in A.B.M. Tsui & J.W. Tollefson (Eds.), *Language Policy, Culture, and Identity in Asian Contexts*, Lawrence Erlbaum Associates, Mahwah, NJ, 2007, pp. 243, 244; See also M.N. Islam, *Pakistan: A Study in National Integration*, 1st edn, Vanguard Books, Lahore, Pakistan, 1990, pp. 8, 16; T. Rahman, ‘The Medium of Instruction Controversy in Pakistan’, *Journal of Multilingual and Multicultural Development*, Vol. 18, No. 2, 1997, p. 149.
- 19 A.A. Kazi, *Ethnicity and Education in Nation Building in Pakistan*, 1st edn, Vanguard, Lahore, Pakistan, 1994, p. 66; See also Rahman, *Language and Politics in Pakistan*, 2007, at 251; According to him, during the Independence movement the Bengalis, Sindhis and Mohajirs had joined the cause against Hindus in religious terms: however, since the accomplishment of their goals, they saw themselves in ethnic terms. Ali, 2002, at 251; In view of the *Sindhi v. Urdu Controversy*, to be discussed later on, it is pertinent to note that the Mohajirs do not vote for the religious parties in Sindh, but rather for their ethnic party MQM. O. Verkaaik, *Migrants and Militants: Fun and Urban Violence in Pakistan*, 1st edn, Princeton University Press, Princeton, NJ, 2004, p. 60.

Mazhar Ilahi

Hindi speaking communities endangering the “Indian Unity”.²⁰ So even without going into the question of authentication of Islamic nationalism, it becomes evident that in this part of the Indian subcontinent (*i.e.* India, Pakistan and Bangladesh) the goal of linguistic harmony for the sake of development of a national conscience and the single national language remains indispensable. In this view of the matter, the next emerging issue concerning the question of a single national language in Pakistan remains whether the goal of linguistic harmony, a must for a single national language, is ever achievable in Pakistan? However, this requires a closer analysis of different ethno-lingual and political issues relevant to Pakistan, which is not the subject of this article, yet this article is confined to the role of NLA in achieving the related goals and making *Urdu* the official language acceptable to all the resident communities.

B. Role of National Language Authority

According to Article 251 of the Constitution of the Islamic Republic of Pakistan, 1973, the national language of the State is *Urdu*, whereas English was to be used as the interim official language until arrangements had been made to replace it with *Urdu*. In this respect, the period prescribed for making the relevant arrangements was fifteen years from the date of commencement of the Constitution of 1973.²¹ However, that period expired long ago (1988), and the only effort in this respect remains the establishment of an office by the executive organ of the State with a ceremonial nomenclature of NLA. Moreover, how much the State machinery has been interested in the replacement of English would be evident from the fact that even the NLA was established in 1979, after a lapse of six years from the date of reckoning, leaving nine years left to carry out the constitutional mandate. So the NLA proved to be a victim of a lack of political will since its very inception, and in essence, the successive authorities have failed in making any serious attempt to adhere to the constitutional mandate.

In this context, a perusal of the relevant documents (Resolution No. 275/CF/79 dated 4 October 1979: of Cabinet Division, Government of Pakistan) establishing and defining the NLA reveals that the first and foremost function of the NLA remains: “to consider the ways and means for the promotion of *Urdu* as the national language of Pakistan and to make all necessary arrangements in this regard and to submit recommendations to the Prime Minister for expediting the use of national language.” Now, as to the promotion of *Urdu as the national lan-*

20 S.M. Kumaramangalam, *India's Language Crisis: An Introductory Study*, 1st edn, New Century Book House, Madras, India, 1965, p. iii (Introduction); *See also* Chandhoke, 2007, at 114-118.

21 Article 251 (Constitution of Pakistan, 1973). In the previous Art. 262 (Constitution of Pakistan, 1972); Art. 262 (Constitution of Pakistan, 1962); Art. 214 (Constitution of Pakistan, 1956), Bengali along with *Urdu* was also declared as the national and State language; likewise, English was to be used as an official language till the arrangements for its replacement were made within a period prescribed by the respective Constitutions. However, unfortunately, these Constitutions could not live that long. *See for the South African experience:* B. Bekink & C. Botha, ‘Aspects of Legislative Drafting: Some South African Realities (or Plain Language Is Not Always Plain Sailing)’, 28 *Statute Law Review* 2007, p. 55.

guage of Pakistan, a study of different annual reports (1979-2010)²² reveals that no recommendation or other effort worth mentioning has been made by the NLA to eliminate the linguistic disharmony that has been the most insurmountable hurdle in the way of acceptance of *Urdu* as a national language of all Pakistan. Rather, so far, the role of this government concern has been nothing more than of a facilitative and advisory nature.²³ In this respect, it has done mainly the job of translations of numerous works in *Urdu* (including some public-related statute laws)²⁴ and sent general recommendations to the Prime Minister of Pakistan for the adoption of *Urdu* as an official language. For that matter, perusal of different official publications of the NLA reveals that so far only two bunches of recommendations, in 1981 and 2005, had been sent by the NLA in its lifespan of 32 years.²⁵ However, both the recommendations have happened to be a victim of the conspiracy theory propagated by the English-loving ruling elites of Pakistan. In this respect, as to the recommendations of 1981, two things deserve special attention: (1) that these recommendations were made during the regime of the most powerful, strongly anti-Western culture and longest serving military ruler of Pakistan (1977-1988), General Muhammad Zia-ul-Haq, (2) that he was also the only person who succeeded in launching the NLA under Article 251, that had long been ignored by the ambitious creators of the Constitution themselves. However, the fact remains that the late general remained helpless to enforce the recommendations in front of the ruling elites.²⁶ Moreover, as to the recommendations of the year 2005, suffice it to state that it took five years to attract the attention of any Chief Executive of the country, to only form a committee on 11 November 2010 comprising members of legislatures to look into the proposals.²⁷ However, the question as to how long it will take to hold its first meeting entails serious

22 *Salana Reportain (Annual Reports) 1979-1985*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 1986; *Salana Reportain (Annual Reports) 1986-1987*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 1987; *Salana Reportain (Annual Reports) 1987-1988*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 1988; *Salana Reportain (Annual Reports) 1988-1989*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 1990; *Salana Reportain (Annual Reports) 1990-1991*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 1992; *Salana Reportain (Annual Reports) 1991-1992*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 1993; *Hayat-e-Hakima Ki Raoudadaain (Minutes of the Meetings of Board of Governors) 1988-2010*, Muqtadara Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 2011.

23 A. Ahmad, Chairman, National Language Authority, Government of Pakistan, Islamabad, 27 July 2011.

24 For example, Muslim Family Laws Ordinance, 1961; Arbitration Act, 1940; Conciliation Courts Ordinance, 1961; Pakistan Penal Code, 1860; Partnership Act, 1932; Limitation Act, 1908; Qanun-e-Shahadat Order, 1984, The Gazette of Pakistan Extraordinary, Part 1, dated 28 October 1984, p. 587; Contract Act, 1872, Gazette of India, Part IV, dated 11 May 1872, pp. 335, 509 and for further details see *Matboot-e-Muqtadra: Taouzehe Fahrist (Publications of Authority: Explanatory List)*, 2nd edn, Muqtadra Qaumi Zaban (National Language Authority), Islamabad, Pakistan, 2002, pp. 48-52.

25 *Recommendations for Adoption of Urdu as Official Language*, 2005. These recommendations include the gist of the recommendations of 1981 as well.

26 Rahman, *Language and Politics in Pakistan*, 2007, at 242.

27 See Notification No. F1 (31)/2004-NLA, dated 11 November 2010 (Cabinet Division).

attention; yet suffice it to state that a similar committee formed earlier by the previous regime in 2004 took more than 2½ years to hold its first meeting in 2007.²⁸ So the recommendations of the NLA have been the victim of a lack of political will at the behest of the ruling elites of Pakistan.

Now in regard to the role of the NLA, in the context of change of legislative text from English to *Urdu*, it is curious to note that none of these recommendations specifically prescribes the production of the original version of the legislative text in *Urdu*. The only thing in this context that can be found in the recommendations of 2005 is that “the Constitution of Islamic Republic of Pakistan 1973, as amended from time to time, may be translated into *Urdu* by Ministry of Law and Justice and a copy be provided to each Ministry/Division/Department/Provincial Government.” So the emphasis has remained on translating the law instead of having the original Government Bills drafted in *Urdu*. In this context, the term “for official and/or other purposes” as used in Article 251 of the Constitution of Pakistan, 1973 also remains curious²⁹ in regard to the question of whether the official or other purposes include the replacement of English by *Urdu* as the language of the legislative text as well. The NLA claims it to be inclusive;³⁰ however, on the face of it (Article 251), this does not appear to be so! This is because reading the Constitution as an organic whole, where Article 255 relating to “Oath of office” was amended (in 1985) to provide for administering the oath under the Constitution “preferably in Urdu Language”, the Original text of the Oath as appended to the Constitution still remained in English. Be it the intention of Parliament while acting as a Constituent Assembly to imply the mandate of Article 251 to include the legislative drafting in *Urdu*, the legislature, at least, must have approved the set of prescribed forms of Oath in *Urdu* in view of the special provision in the nature of Article 255. So it appears that for the purpose of Article 251 the intention of the legislature as to the “official and/or other purpose” does not extend to the legislative text; and perhaps for the same reason the objectives of the NLA do not have any specific mention of the reformation of the legislative language from English to *Urdu*. As a result, the focus of NLA remains on translation of laws in *Urdu* instead of sending recommendations to have the original legislative text in the same language (*Urdu*). Similarly, in the sub-constitutional field too, although the short title of a few enactments was drafted in *Urdu* phonology, they were written in the English alphabet, *i.e.* Roman *Urdu*.³¹ Yet keeping in view the juristic sense of sole “national language” of the country as

28 The committee was formed (vide Notification No. 1 (31)/2004-NLA, dated 14 June 2004 (Cabinet Division)) by the Prime Minister and was able to hold its first meeting on 1 February 2007.

29 Moreover, Art. 251 of the (Constitution of Pakistan, 1973) reads: “(1) The National language of Pakistan is Urdu, and arrangements shall be made for its being used for official and/or other purposes within fifteen years from the commencing day.” It can be argued that even if the official language corresponds to the language of the offices in Pakistan, the suffix “and/or other purposes” may include the legislative purpose as well. However, this interpretation could have been undoubtedly accepted, if it had read: “and all other purposes”.

30 Ahmad, 2011.

31 Ehteram-e-Ramazan Ordinance, 1981; Zakat and Ushr Ordinance, 1980; Ehtesab Ordinance, 1996; Qanun-e-Shahadat Order, 1984, The Gazette of Pakistan Extraordinary, Part 1, dated 28 October 1984, p. 587.

mandated by the Constitution, the official language in Pakistan must include the legislative text as well. However, one cannot help concluding that the avoidance of the legislature and the executive Government of changing the legislative text from English must not be without reasons. Perhaps these reasons owe their genesis to the complex ethno-lingual characteristics of different communities constituting the State of Pakistan that have reduced the distinguishing feature of *Urdu* as the national language of Pakistan coupled with the hegemony of the English-loving ruling elites (civil and military bureaucracy), and so are mostly common to the failure of the State to effectively replace English in the official circles.³² In a nutshell, the NLA and the Government of Pakistan have both so far failed to achieve the goal of linguistic harmony. As a result, English is still being largely used as the official language in the provincial and Federal Government departments as well as in the legislative arena.³³

C. Conclusion

Pakistan has many mother tongues closely associated with different ethnicities largely concentrated in distinct geographical regions constituting the State of Pakistan. And unfortunately, in view of the prevailing ground realities of the country, the constitutional national language (*Urdu*) of Pakistan too happened to be so! Inasmuch as, mainly in the province of Sindh, *Urdu* as mother tongue is strictly attached to the immigrants from India (*Mohajirs*) mostly settled in the urban parts of the province of *Sindh*. In this respect, history reveals that like many other former colonies, the issue of official and national language has remained politically sensitive for Pakistan as well. In particular, the *Hindi v. Urdu* language controversy during the movement of Independence of British India has played an important role in the partition of the dominion into Pakistan and India. Similarly, the *Bengali v. Urdu* issue remained active all through the constitutional history (1947-1972) of Pakistan and became instrumental in the further division of Pakistan into East and West Pakistan, now termed Pakistan and Bangladesh. And since the independence of the People's Republic of Bangladesh, the *Sindhi v. Urdu* controversy has, at times, been a cause of initiating and promoting the culture of violent politics in major cities in the *Sindh* province. In view of this empirical evidence, it remains clear that the question of the adoption of *Urdu* as a language of the legislative text in the rest of Pakistan involves complex ethno-political issues that go down to the very roots of the existence of Pakistan as a Muslim nation with a single national language. However, the situation appears to be more volatile when seen in the light of a few recent political developments in

32 However, according to A.R. Haque, 'The Position and Status of English in Pakistan', in R.J. Baumgardner (Ed.), *The English Language in Pakistan*, Oxford University Press, Karachi, 1993, pp. 14, 15, the cause of continuation of the English language in official circles, etc. is the drafting of the laws in English.

33 *Urdu* is mostly used in the lower administration of the Police, Revenue and Judicial departments. However, the language at any of these levels had never been English even during undivided India.

Mazhar Ilahi

the country aiming at constitutional recognition³⁴ of different ethno-lingual sub-nationalities (*Siraiki* and *Hazara*) in the province of the Punjab and the KPK at the behest of the MQM³⁵, and the demand of the *Sindhi* legislators to include *Sindhi* and some other regional languages in addition to *Urdu* in the 'national language' clause of the Constitution of Pakistan.³⁶ Indeed, this encouragement of ethno-lingual elements in the province of *Punjab* and *KPK* by a political party originally formed to restore the rights of the largely *Urdu*-speaking *Mohajirs* in the province of *Sindh* and the claim of the *Sindhis* to recognise, among others, *Sindhi* as the national language of Pakistan will not be without its effects on the existing ethno-lingual diversity between the *Sindhis* and the *Mohajirs* in the province of *Sindh*.

In this context, the role of the NLA, a department established by the Federal Government of Pakistan to promote *Urdu* as the official (in place of existing English) as well as the national language of the country, appears to have been prevented by the lack of political will of different Governments mainly owing to the dominion of the ruling elites (civil and military bureaucracy), who normally prefer English for communication at different levels and forums.³⁷ Similarly, in the context of PLM, it is also interesting to note that neither any member of the legislature nor any political party nor the linguistic experts have ever loudly demanded the change of the legislative or official language in Pakistan. Likewise, the different language movements and the academic researchers encompassing the linguistic field too have not played any substantial role in the promotion of *Urdu* as the national or official or legislative language; nor have they examined the question of *Urdu* as the national language of Pakistan. Instead, the focus of the different

34 A Bill to Further Amend the Constitution of Islamic Republic of Pakistan, 2012, Private Member Bill No. 142, also available at <www.na.gov.pk/uploads/documents/1326865286_418.pdf>, accessed 14 May 2013.

35 MQM is a political party originally formed to restore the rights of the largely *Urdu*-speaking *Mohajirs* in the province of *Sindh*. In this respect, it is pertinent to point out that there are two factions of MQM: the Altaf group and another group led by Afaq Ahmad (the Haqiqi group): However, the latter has been inactive for a long time owing to detention and has recently been released, in December 2011. DAWN.com, 17 December 2011, <<http://dawn.com/2011/12/17/afaq-ahmed-release-from-karachi-jail/>>, accessed 25 May 2012. So the MQM, when referred to in this article, will imply the MQM: Altaf group.

36 A Bill to Further Amend the Constitution of the Islamic Republic of Pakistan, 2008 and A Bill to Further Amend the Constitution of Islamic Republic of Pakistan, 2011.

37 During the early phases of the establishment of the English legislature in India, the language of the majority of Muslims was not only *Urdu*, but Persian, Bengali and Tamil as well. English was introduced by the British to introduce English culture and enable the natives to assist in the administration of the realm. For many reasons, the first choice of Englishmen was Hindus, whereas the Muslims of India were very much opposed to education in English, wrongly considering it to be a major sin. However, later on, as a result of changed political circumstances, the British rulers encouraged the Muslims to adopt English education. However, this effort remained confined to the upper-class Muslims only; most of the educated Muslims joined Pakistan after the partition of British India as part of the ruling elites. See also R.K. Kochhar, 'English Education in India: Hindu Anamnesis versus Muslim Torpor', *Pakistaniaat: A Journal of Pakistan Studies*, Vol. 2, No. 1, 2010, p. 82, <www.pakistaniaat.org/article/view/5365/3819>, accessed 17 May 2012; these were mostly dominated by the Punjabi people. Islam, 1990, at 9; See also Rahman, 1997.

academic researchers has mostly remained the literature, medium of education and sociopolitical aspects of the linguistic diversity in Pakistan; and, on the other hand, the various language movements have also remained largely motivated by the political or ethnic objectives. Yet in the context of statute writing, only one paper in international publications could be found in which the author, namely Haque, while discussing the future of English and *Urdu* in Pakistan, has merely remarked that:

Furthermore, it may be many years before we can codify all our laws in national language.³⁸

On the other hand, besides the issues of the language controversy, *Urdu* as the national language and the lack of political will, the the possibility of plainness of the *Urdu* language and ancillary intricacies are also important concerns for the drafters and the PLM in Pakistan. In this context, an analysis of the statistical data concerning the rate of literacy in Pakistan reveals that despite the legislative drafting in plain *Urdu or English*, a major portion of the population will still remain ignorant of the relevant legislative enactments owing to the low percentage of the population being able to read and understand the required law. In this view, the short-term solution appears to be to continue with the English legislative text, with the fair cooperation and efforts of the different organs of the State to make the legislative instruments plainer for the sake of the legislative audience. On the other hand, the ideal solution remains the change of the legislative text in *Urdu* after achieving national linguistic harmony: a single Muslim nation with one national language. Besides the political will, this essentially entails revolutionising the educational capabilities of the whole population of Pakistan (100% educated population) without ignoring either of the languages: the mother tongue (vernacular), *Urdu* (intra-national: vehicular) and English (international: vehicular). Once achieved, perhaps there remains no more need to change the legislative text as most of the population would know English as well. But this remains a premature conclusion, as this can occur only if at least the next two generations undergo a continuous process of educational reforms. On the other hand, owing to several lengthy martial law regimes, the exercise of political will independent of the whims and wishes of the politics of the establishment (civil and military bureaucracy) has remained a speculative idea.³⁹ As Shackle observes, owing to the non-representative institutions of Pakistan, the situation in Pakistan is distinguishable from that in India; and “this seems likely to entail a particularly lengthy process of working out the linguistic implications of whole variety of conflicting definitions of national identity and local ethnicity.”⁴⁰

38 Haque, 1993, at 17.

39 For a further analysis of the question of subversion of the political system by the military-bureaucratic authoritarianism, see Khan, 2005, at 63.

40 C. Shackle, 'Pakistan', in A. Simpson (Ed.), *Language & National Identity in Asia*, Oxford University Press, Oxford, 2007, p. 115; See also A. Saeed, *Pakistan: Islam, Politics and National Solidarity*, 1st edn, Vanguard Books, Lahore, 1984, p. 211.

Mazhar Ilahi

In a nutshell, owing to a low literacy rate, neither the plain English statutes nor the *Urdu* enactments are likely to benefit the public at large. As a result, English still largely prevails as the language in the official, judicial and legislative spheres of the country, maintaining the obstruction in the progress of PLM in Pakistan.

Yet, this all runs counter to the very basic rights of the people of Pakistan to know the law lest they plead ignorance of the same on grounds of having had no direct intellectual access to the law governing their behaviour and conduct vis-à-vis society and State. Moreover, this right has gained more significance after the insertion of a new fundamental right entitled “Right to Information” providing that “Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.” However, whether the purpose of legislative instruments is only confined to containing and changing the command of law or also includes the communication of the information of the law to which citizens’ right to access can be extended is an important question that still requires determination by authoritative judicial pronouncement of the Superior Courts of Pakistan!