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REFORMING THE PROVISION OF LANGUAGE SERVICES DURING CIVIL PROCEEDINGS IN ETHIOPIA: LESSONS FROM COMPARATIVE EXPERIENCES

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ABSTRACT

This study assesses the experiences of offering language services and accommodating language diversity during civil proceedings in the United States, India, and South Africa as a lesson for Ethiopia. To explore the experiences of the above countries, the author used a comparative socio-legal research approach that includes extensive document reviews as well as legal and case analyses. In the case of Ethiopia, the study additionally undertakes semi-structured interviews with court staff and litigants of the selected Federal Courts, Oromia Regional State Courts, and Central Ethiopia Regional State Courts. To enrich the study, the author conducted court room observations of civil proceedings. The article concludes that Ethiopia's civil justice system should learn from comparative experiences in terms of developing comprehensive legal and normative frameworks that govern the provision of quality court interpretation, court file translations, and sign language interpreters. Effective communication and defending of one's own case in court is an essential element for accessing justice. The state is responsible for regulating and providing appropriate facilities or mechanisms to address the language barriers encountered by court litigants.

KEYWORDS: Civil Proceedings; Comparative Lessons; Court Interpretation; Ethiopia; Translation.

Questo contributo è stato sottoposto a referaggio anonimo (doppio cieco)
This paper has been subjected to double-blind peer review



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Published online: 23/07/2025



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1. INTRODUCTION

The interface between language and court proceedings goes beyond facilitating for effective communication. It is an integral part of fundamental human rights and access to justice. Courts use language to adjudicate disputes and interpret laws and facts. C. Namakula stated that “trial is a communicative process”.¹ In civil cases, the litigants present their statements of claim and defense in state working language. The court then examines the claims, facts and law as well as issue interlocutory orders and judgments using language. Language is used as well in oral proceedings and witness examinations. The court has no laboratory to test and determine the truth other than the words of the law and the facts presented to them.

If the litigant or his witness is unable to communicate effectively in the court’s working language, mere physical presence does not guarantee one’s ability to present and defend the case.² The individual who understands and communicates in the court’s working language has a communication advantage over the party who does not. The court has since become a partisan weapon, jeopardising judicial credibility.³ The absence of professional court interpreters delays case resolution and may lead to miscarriages of justice. It also increases judges’ burden by requiring them to deal with language barriers, in addition to their regular duty of interpreting laws.

In contrast to criminal proceedings, the right to language services is not universally recognized as a human right in civil litigations. States are under no international obligation to recognise and enforce the right to oral interpretation or written trans-

¹ CS. Namakula, *Language Rights in the Minimum Guarantees of Fair Criminal Trial*, in *International Journal of Speech, Language and the Law*, 2012, Vol. 19, No. 1, p. 73–93.

² *Ivi*, p. 84.

³ California Commission on Access to Justice, *Language Barriers to Justice in California*, 2005.

lation services in civil proceedings.⁴ In effect, the recognition of language services is dependent on the states' margin of appreciation or discretion.

This article investigates the experiences of civil lawsuits in the United States, Indian, and South African courts in terms of working languages and providing language assistance in order to draw lessons for Ethiopia. Each country attributed to the federal system of government, but with distinct court structure and experience in providing language services to civil case litigant parties. All of the countries considered for comparison are a mosaic of multilingual, multicultural societies.

Despite the adoption of a working language, a considerable percentage of the population in each state is unable to understand and communicate in the judicial working language. For example, in the United States, almost twenty-five million people have limited English proficiency.⁵ In spite of the fact that English and Hindi are often used as working languages in India's Courts, more than half of the population is not fluent in either.⁶

Similarly, more than 70% of South Africans do not speak the colonial descendant court working languages of English and Afrikaans.⁷ In the same spirit, a sizable proportion of the Ethiopian population is unable to communicate in federal and/or regional court working languages. Each country designed multiple mechanisms to address litigant parties' communication barriers and provide language services to ensure equal participation of all parties in court proceedings.

This study uses a sociolegal method to investigate the comparative experiences and practices of providing language services in Ethiopia during civil proceedings. The research conducts in-depth literature and legal reviews on the provision of language services in USA, Indian, and South African courts. These countries were chosen based on the multilingual nature of their societies, their comprehensive system for handling language diversity in civil proceedings, and judicial federalism structures from which Ethiopia could possibly learn.

⁴ JD. Stone, *Assessing the Existence of the Right to Translation under the International Covenant on Civil and Political Rights*, in Max Plank UNYB, 2012, Vol. 19, p. 159-181.

⁵ National Center for Access to justice (NCAJ), *Language Access*, 2025.

⁶ S. Choudhry, *Language*, in S. Choudhry, M. Khosla, & P.B. Mehta (eds), *The Oxford Handbook of the Indian Constitution*, 2016, p. 180-195.

⁷ M. Ralarala, *A Compromise of Rights, Rights of Language and Rights to a Language in Eugene Terreblanche's (ET) Trial within a Trial: Evidence Lost in Translation*, in *Stellenbosch Paper Linguistic*, 2019, Vol. 41, p. 55-70.

In the case of Ethiopia, the author obtains data from relevant Federal Courts, Oromia Regional State Courts, and Central Ethiopia Regional State Courts. Courts were selected based on the diversity of working languages, the demand for language services, and the ways they use to accommodate court litigants' language diversity. To conduct the research, the author used semi-structured interviews, courtroom observations, case analyses, and literature studies. In-depth semi-structured interviews were done with judges, court interpreters, private translation services, private attorneys, litigant parties, and other relevant key informants to saturate the data for the study. The author followed appropriate ethical principles in collecting, analyzing and reporting data.

2. GOVERNANCE OF LANGUAGE SERVICES IN USA, INDIA AND SOUTH AFRICAN COURTS

This section looks at court working language trends and court language service provision in the United States, South Africa, and India. The United States has dual court structures at the federal and state levels, whereas India has an integrated system in which the Supreme Court is administered by the central government, and high courts and subordinate courts are managed by the states.⁸ South Africa has a single court hierarchy, which means that the central government manages all courts, regardless of hierarchy.

Each nation uses a different approach to court working languages. In USA, English is commonly used as a judicial working language in federal and state courts.⁹ Even though South Africa acknowledges twelve official languages, only English and Afrikaans are used as court working languages.¹⁰ Other languages are regarded as in the development phase. Exceptionally, the South African Constitutional Court admits and hears cases in any of the country's official languages.¹¹ However, there is no corresponding commitment from ordinary courts. States' implementation of

⁸ C. Saunders, *Courts in Federal Countries- Constitutional Brief*, in *International IDEA*, 2019.

⁹ S. Choudhry & E. Houlihan, *Official Language Designation- Constitutional Building Primer* 20, in *International IDEA*, 2021.

¹⁰ I Bambust et al., *Constitutional and Judicial Language Protection in Multilingual States: A Brief Overview of South Africa and Belgium*, in *Erasmus Law Review*, 2012, Vol. 5, p. 211-232; I. Currie, *Official Languages and Language Rights*, in W. Stu & B. Michael (eds.), *Constitutional Law of South Africa*, 2013, Chapter 65, p. 1-18.

¹¹ *Ivi*, p. 225.

official language policy in practice is subject to constitutional criteria of “usage, practicality, expense, regional circumstances, and the balance of the needs and preferences of the population as a whole or in the province concerned”.¹²

In India, the constitution designated English as the Supreme Court’s sole working language, while the High Court is authorised to use English, Hindi, or any official language of the state.¹³ In practice, only English and Hindi are permitted as working languages in the high courts. The claim to use other languages at high court levels are consistently rejected by the Supreme Court on grounds of lack of sufficient standardisation of local legal languages and the potential impact of limiting employment opportunities for non-speakers of the language.¹⁴

Unlike the High and Supreme Courts, the majority of India’s subordinate courts hear cases in local languages. Accordingly, the oral litigation and hearing evidence are performed in the local language, while the record and judgment are made in English.¹⁵ This design aimed to offer language accessibility for local residents, enhance court case management timing efficiency and reduce the demand and cost of interpreting factual findings.

In this sense, it is imperative to consider how judicial institutions accommodate the rights and interests of non-speakers of court working language litigants. Failure to accommodate language diversity among court litigants may jeopardise their right to due process owing to communication problems. Dealing with language barriers entails oral communication, written file translation, and offering sign language for deaf litigants. This section looks at how language services are provided in the three jurisdictions mentioned above.

2.1. USA

In the United States, the right to access language services is inferred from the Fifth, Sixth, and Fourteenth Amendments of the Constitution, which provide the

¹² South Africa’s Constitution of 1996 with Amendments, 2012.

¹³ R. Thawani, *Official Languages in District Courts: A Case to Encourage the Use of English*, in *Bar and Bench- Indian Legal News*, 2020.

¹⁴ A. Lakshman, *SC’s Translation Projects Raced Ahead in 2023 as Retd. HC Judges, Law Clerks Help AI*, in *The Hindu*, 31.12.2023.

¹⁵ S. Choudhry & E. Houlihan, *Official Language Designation: Constitutional Building Primer* 20, cit., p. 30; R. Thawani, *Official Languages in District Courts*,

right to due process.¹⁶ The Court Interpreters Act was passed at the federal level by Congress in 1978. The Act requires federal courts to provide court interpreters in all criminal and civil lawsuits filed by the US government at the expense of the state.¹⁷ The act does not mandate federal courts to provide court interpretation services for civil proceeding litigants at state expense. The Act was amended in 1990 to ensure that hard-of-hearing people have access to sign language interpreters in any proceedings.

In other cases, litigant parties must furnish their own interpreters at their own expense. The Director of the Administrative Office of the United States Courts sets the service charge for court interpreters.¹⁸ Accordingly, certified or professionally qualified interpreters offer court interpretation services for \$415 for a full day, \$226 for a half day, and \$59 for each additional hour.¹⁹ The service charge standard for an ad hoc/unqualified translator is \$202 for a full day, \$111 for a half day, and \$35 per hour for overtime payments. The service charge is reviewed on a regular basis by the office.²⁰

The American Bar Association and several court judgments, including *Figueroa v. Doherty* and *Augustin v. Sava*, have emphasised the need of state-provided court interpreters in civil proceedings.²¹ The above cases stressed that failing to offer language services for litigants who are unable to speak courts working language jeopardises their right to a fair hearing or a meaningful opportunity to be heard. In practice, the provision of court interpreters in civil proceedings is at the discretion of federal judges.²²

At the state level, the right to interpretation in civil cases is typically drawn from state statutes or decisions of courts. Several states, including Idaho, Iowa, Kansas, Kentucky, Maine, Minnesota, Nebraska, New Jersey, New York, Oklahoma, Oregon, Tennessee, Wisconsin, and Washington, D.C., recognised the right to an interpreter in civil disputes at state expense.²³ The body in charge of covering interpreter expenses differs by state. This includes the Office of Interpreter Services in Washington, D.C.,

¹⁶ U.S. Department of Justice Civil Rights Division, *Language Access in State Courts*, 2016.

¹⁷ Legal Information Institute, *Interpreters in courts of the United States*, 28 U.S. Code § 1827 - LII, 1978.

¹⁸ *Ivi*.

¹⁹ United States Courts, *Interpreter Categories*.

²⁰ *Ivi*.

²¹ ABA, *American Bar Association Standards for Language Access in Courts*, 2012.

²² *Ivi*, p. 23.

²³ LK. Abel, *Language Access in the Federal Courts*, in *Drake Law Review*, 2013, Vol. 61, p. 593-639.

the Kentucky State Treasury, and the Tennessee Pro Bono Fund.²⁴ In contrast, Texas and Alaska require litigants to cover their own interpreter expenses. Some states offer free sign language interpretation to deaf civil litigants.²⁵

Several state courts have expanded their language services to include translations of relevant documents for persons with limited English proficiency. As an instance, the District of Colombia court offers free translation services for 631 documents (423,915 word counts) in 2022 and 536 documents (410,489 word counts) in 2023.²⁶ Translation services are provided for a variety of documents, including court orders, notices, summons, forms, and handbooks.

According to the data presented above, state courts are better positioned to provide language services in civil proceedings, including court interpretation and translation services. This enables local citizens access to linguistic justice and serve as a laboratory to apply at national level. However, limited resources and insufficient funding make language services in civil disputes difficult to offer. When there are inadequate funds or interpreters, courts prioritise specific groups or cases. The California court system, for example, prioritises family concerns such as parental rights, guardianship, supply of maintenance, and domestic abuse in offering language services.²⁷

Institutionally, the Consortium for State Court Interpreter Certification was formed by the National Center for State Courts to ensure the provision of quality court interpretation services. As of 2023, the consortium has at least forty-three members.²⁸ The consortium facilitates a means for states to share the costs of certification exams, curricula, and training materials.

2.2. India

The Indian Constitution and other subordinate legislations do not adequately acknowledge the provision of language services for individuals who are unable to understand the court's working language. Nonetheless, Article 14 of the Indian Constitution states that the right to equality before the law and equal protection under the law are fundamental rights. Similarly, Article 39 (A) of the Constitution requires

²⁴ *Ivi*, p. 597.

²⁵ *Ivi*, p. 631.

²⁶ District of Colombia Courts, *Language Access Program 2023 Annual Report*, 2024.

²⁷ Civil Justice for All, *Recommendation 6: Simplification and Innovation*.

²⁸ Delaware Courts, *Orientation Seminar for Prospective Interpreters*, 2023.

states to promote equal justice based on equal opportunity. The state's provision for a court interpreter and other language services fosters equal opportunity and equal legal protection for litigants who speak the court's working language and those who do not.

The Use of Official Language in High Courts Bill (2016) recognised the importance of language in ensuring fair hearings. The bill reads, "the right to a fair hearing cannot be done unless the litigant understands the language of the hearing."²⁹ Accordingly, limiting the right to interpretation for someone who fails to understand the court's working language violates the right to a fair hearing. In practice, the state provides court interpreters for individuals who are unable to speak in the court's working language. For example, the Supreme Court of India uses court interpreters to conduct proceedings in eleven languages in the *Kesavananda Bharati vs. State of Kerala* case.³⁰ Courts at different levels are authorised to certify court interpreters.

The Indian judiciary has a comprehensive system of court-related file translation. First, if subordinate courts deliver judgments in local languages, they must freely translate the decisions into English to facilitate litigant parties' right to appeal.³¹ Likewise, as English is the language of record at all levels of court, all documents must be translated into English before being used in court proceedings.³² The litigants are responsible for providing a translated version of their documents at their own expense.

The state sets translation charges and other associated expenses to prevent translation costs from becoming unaffordable, which may impede access to justice, particularly for the indigent members of society. In this regard, the Indian Supreme Court Circular (2015) prescribes translation rates for court files.³³ As the number of pages to be translated increases, the price per page decreases. A translation of 200 words equals one page. The minimal translation fee is 250 rupees (about \$3). A person who translates between 100 and 200 pages is charged twenty-five rupees each page, excluding typing and copying fees.³⁴

²⁹ Indian High Courts Use of Official Languages Bill, Pub. L. No. Bill No. XLVI of 2016, 2016.

³⁰ *Kesavananda Bharati vs. State of Kerala*, Indian Supreme Court, 1973.

³¹ S. Choudhry & E. Houlihan, *Official Language Designation: Constitutional Building Primer* 20, cit., p. 30; R. Thawani, *Official Languages in District Courts*,

³² A. Lakshman, *SC's Translation Projects Raced Ahead in 2023 as Retd. HC Judges, Law Clerks Help AI*, cit.

³³ Supreme Court of India, *Supreme Court of India Circular*, 2015.

³⁴ Supreme Court of India, *Handbook on Practice and Procedure and Office Procedure*, 2017.

The third category of court case translation is the translation of Supreme Court and High Court rulings from English into regional or local languages. Each level of court accomplishes the task with the aim of enhancing the language accessibility of its decisions in local languages. As an illustration, the Indian Supreme Court began interpreting its decisions in 2019.³⁵ To ensure translation efficiency, the court uses a range of Artificial Intelligence (AI) translation tools, including Google Translation. Furthermore, editorial committees have been established at the Supreme and High Court levels to review and correct faulty AI translations.³⁶

Concerning deaf litigants, India ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2007 and enacted the Rights of Persons with Disabilities Act (2016), both of which recognise the necessity for provision accommodations to ensure them access to justice. Actually, the provision of sign language interpreters and other facilities for deaf individuals to access public services in India is still in its infancy. There are limited licensed sign language interpreters in India, serving millions of deaf people.³⁷ In October 2023, the Indian Supreme Court appoints its first sign language interpreter to assist deaf litigants and lawyers in all Supreme Court proceedings.³⁸ However, no comparable commitments are undertaken at other levels of Indian courts.

2.3. South Africa

Several studies show that in South Africa more than 90% of court cases are heard between people who do not speak court's working language, which is English or Afrikaans.³⁹ This means that court interpreters are equally as important in South African courts as judges. The influx of immigrants into the country increases the demand for court interpretation services. Without court interpreters, litigants face the risk of

³⁵ A. Lakshman, *SC's Translation Projects Raced Ahead in 2023 as Retd. HC Judges, Law Clerks Help AI*, cit.

³⁶ Ministry of Law and Justice of India, *Promotion of Hindi in Higher Courts-AI Assisted Legal Translation Advisory Committee Assisting Translation of e-SCR Judgments into Vernacular Languages By using AI Tool*, 02.02.2024.

³⁷ N. Jaiswal, *With a Deaf Community of Millions, Hearing India is only just Beginning to Sign*, in *The World from PRX*, 2017.

³⁸ S. Kakkar, *Supreme Court Appoints Sign Language Interpreter for Lawyer with Hearing Impairment*, in *The New Indian Express*, 2023.

³⁹ CS. Moyo, *The Growing Need for Foreign Language Court Interpreters in South African Courts*, MA Thesis, University of Witwatersrand, 2016.

injustice owing to language barriers. As a result, court interpretation is an integral part of the judicial system in South Africa, particularly in multilingual provinces.⁴⁰

The South African Constitution (1996) recognises the right to court interpretation only for criminally accused person during trial phase and not in civil litigation.⁴¹ As a result, the right to interpretation in civil proceedings is inferred from the general provision of the right to access courts (Section 34 of the Constitution). This section reads as: “everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court”. Provision of language services is one of the elements that pledges fairness of the hearing.

In court proceedings, the judge may require interpretation for litigants or witnesses. According to Curie, the civil litigant party seeking court interpretation services is responsible for finding their own interpreters and for the cost of interpretation.⁴² Furthermore, English and Afrikaans are the languages of record in court. In consequence, proceedings held in other languages should be interpreted and translated into English and/or Afrikaans.

In 2004, a committee of High Court judges-presidents was established to investigate language use in South African courts.⁴³ The majority of committee members support civil litigants’ rights to open files, respond to pleadings, and pursue litigation in any of the eleven official languages. The Committee also recommends that states include a free interpretation clause in civil proceedings. However, the committee’s decision has yet to be implemented.⁴⁴

To promote professionalism of language services in courts, South Africa issued Language Practitioners’ Council bill and regulations. The regulation sets details of competency, confidentiality, professional dignity, honesty, impartiality, quality, and accountability as ethical standards for all language practitioners in the country.⁴⁵ Court interpreters must also swear an oath to perform court interpretation in good faith.

Furthermore, since the late 1990s, numerous educational institutions have been involved in court interpretation and translation training and education programs

⁴⁰ NC. Steytler, *Implementing Language Rights in Court: The Role of the Court Interpreter*, in *South African Journal on Human Rights*, 1993, Vol. 9, p. 205-222.

⁴¹ I. Currie, *Official Languages and Language Rights*, cit. Ch.65, p. 17.

⁴² *Ivi*, p. 18.

⁴³ I Bambust et al., *Constitutional and Judicial Language Protection in Multilingual States*, cit., p. 231.

⁴⁴ *Ivi*, p. 230.

⁴⁵ South African Language Practitioners’ Council Act: Regulations, NO. 1105, 2015.

to enhance the professionalisation of court language services. Several notable universities in the country, including the University of Pretoria, have begun to offer programs ranging from short-term professional development training to PhD programs in legal interpretation and translation.⁴⁶

The government also established the South African Translators Institute (SATI), a regulatory agency for translators and interpreters.⁴⁷ SATI is in charge of fostering the professionalism of court interpreting services and developing an ethical code. Additionally, SATI is mandated to accrediting the country's language practitioners.⁴⁸

South Africa recognised sign language as the 12th official language in 2023, facilitating Deaf litigants to access civil justice. The government also ratified the CRPD in 2007 and the African Disability Protocol in 2023. In practice, sign language interpretation started to be provided to deaf people seeking access to legal information and court proceedings, including civil litigations.⁴⁹ Nonetheless, the inaccessibility of sign language interpreters and their inexpertise in legal matters puts the system under strain.

3. PROVISION OF LANGUAGE SERVICES IN ETHIOPIAN COURT PROCEEDINGS

Ethiopia is an uncolonised federal nation located in the Horn of Africa. The country has a dual court structure: the federal (central) and regional state courts. The federal and regional courts have their own separate three-tiered regular courts: First Instance Court, High Court, and Supreme Court in ascending order.⁵⁰ In addition, there are informal courts (religious and customary) and special tribunals. The federal courts primarily operate in the federal cities of Addis Ababa and Dire Dawa. Regional courts established and run in their respective regional states.

⁴⁶ MX. Mpahlwa, *Language Policy and Practice in Eastern Cape Courtrooms with Reference to Interpretation in Selected Cases*, MA Thesis, Rhodes University, 2015; SJ. Lebesse, *The Undefined Role of Court Interpreters in South Africa*, MA Thesis, UNISA, 2013.

⁴⁷ TO. Israel, *Court Interpreting: The Effect of Omission, Code-Switching, and Self-Generated Utterances on Interpreter Performance*, PHD Thesis, UNISA, 2022.

⁴⁸ *Ivi*, p. 19.

⁴⁹ CRPD, *List of Issues Prior to Submission of the Combined Second, Third and Fourth Periodic Reports of South Africa*, 2023.

⁵⁰ Constitution of Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, 1995.

The jurisdiction and powers of federal and regional courts are decided by the respective federal and regional state legislatures. Both federal and regional courts have jurisdiction over civil, criminal, commercial, administrative, and other matters. The Ethiopian constitution also delegated the jurisdiction of Federal High Courts to State Supreme Courts and the jurisdictions of Federal First Instance Courts to State High Courts.⁵¹ However, state court jurisdiction is not delegated to federal courts.

Despite this, the Federal Supreme Court of Ethiopia hears matters brought from regional courts through appeal (on federal delegated powers and cassation (handling errors in federal and regional laws interpretation) cases.⁵² This article, however, does not seek to investigate Ethiopian judicial federalism systems or jurisdictions. Instead, this section examines the potential implications of working with language diversity in Ethiopian courts, as well as how they address language barriers and concerns when hearing civil cases.

3.1. Court Working Languages in Ethiopia

Ethiopia has more than eighty native languages. Language is an integral part of Ethiopian nation-building process, including the demarcation of regional and local government boundaries.⁵³ The Ethiopian federal and state constitutions protect the equality of all languages. Nonetheless, only a limited number of languages earned working language status.⁵⁴ Both the federal government and regional states use a monolingual working language approach, with the exception of the Harari region, which uses a bilingual working language. In Ethiopia, the state's working language automatically becomes the court's working language. The court working language recognised under Ethiopia's federal and regional constitutions appears as follows in the table below:

⁵¹ *Ivi* Article 78.

⁵² GT. Hessebon & AK. Idris, 6. *The Supreme Court of Ethiopia: Federalism's Bystander*, in NT. Aroney & J. Kincaid (eds.), *Courts in Federal Countries: Federalists or Unitarists?*, University of Toronto Press, 2017, p. 165-192.

⁵³ L. Smith, *The Politics of Contemporary Language Policy in Ethiopia*, in *Journal of Developing Societies*, 2008, Vol. 24, p. 207-243.

⁵⁴ Constitution of Federal Democratic Republic of Ethiopia, cit., Article 5.

Federal/ Regional State Courts	Working Language
Federal Courts	Amharic
Afar Region	Afarigna
Amhara Region	Amharic
Benishangul- Gumuz Region	Amharic
Central Ethiopia Region	Amharic
Gambela Region	Amharic
Harari Region	Harari and Afaan Oromo
Oromiya Region	Afaan Oromo
Sidama Region	Sidamu Afoo
Somali Region	Somaligna
South Western Ethiopia Region	Amharic
Southern Ethiopia Region	Amharic
Tigray Region	Tigrigna

According to the table above, Amharic is the working language in federal courts and six regions, whereas Oromiya and Harari use Afaan Oromo. In federal and regional courts, all parties must submit their pleadings in the court's working language. Court working language is also used to hear cases, record court proceedings, and issue judgments.⁵⁵ Written evidence produced to each court must be translated into the court's working language by the party who submits it.

3.2. Language Services in Civil Proceedings

A substantial number of people in Ethiopia's regions and federal cities are unable to speak court working language. Although Amharic is a working language in the federal and several regional states, the language's mother tongue speakers are believed to be one-quarter of Ethiopia's 120 million population.⁵⁶ Similarly, despite the

⁵⁵ MK. Amid, *The Rights of Deaf Persons Access to Civil Justice in Ethiopia: Examining the Laws and Practices*, in *Hawassa University Journal of Law*, 2024, Vol. 8, p. 71-109.

⁵⁶ YT. Fessha. *Language Policy in Federal Ethiopia: Too Much or Too Little?*, in *Forum of Federations*, 2022.

fact that Amharic is widely spoken in several regional state cities, six of the twelve regional states only use their vernacular language in court. These facets draw attention to the issue of how non-speakers of court working language speakers can be accommodated during court proceedings. This subsection examines the normative frameworks and procedures governing the provision of language services in Federal Courts, Oromia Regional State Courts, and Central Ethiopia Regional Courts.

3.2.1. *Court Interpretation Services*

Both the federal and all regional state constitutions in Ethiopia acknowledge free court interpretation solely for criminally accused persons and are silent on the provision of the same language service for civil litigants. Despite this, the Ethiopian constitution guarantee “everyone’s right to access justice,” (Article 37) “equal access to publicly funded social services (including courts),” (Article 41 (3)) and “equality of all languages.” (Article 5) Each constitutional provision serves as the basis for asserting the right to access language services, markedly court interpretation in civil matters.

At the federal level, Article 34 of the Federal Court Proclamation No. 1234/2021 requires federal courts to provide competent interpreters for people who do not understand Amharic. In the same line, the Federal Courts Civil Cases Flow Management Directive No. 08/2021 mandates judges to identify the need for a language interpreter before beginning hearing of the case. The Federal Courts Court Proceeding Directive No. 13/ 2021 further includes ethical standards for court interpreters, such as diligence and impartiality, however it lacks clarity.

In addition, the Federal Court Interpreters Service Fee Determination and Payment Directive specifies the amount of the service fee for court interpreters. Accordingly, local language interpreters are entitled to 250 Ethiopian Birrs (ETB), or approximately 2.5 dollars, for half-day services and double payment (ETB500) for full-day services.⁵⁷ The charge for a foreign language interpreter is double that of a local language interpreter (ETB500 for half day and ETB1000 for full day service). In practice, court interpretation services are provided by court administrative staff, police officers, or any volunteer.⁵⁸ Federal courts fund the expense of interpreting civil and

⁵⁷ Federal Court Interpreters Service Fee Determination and Payment Directive, 2021.

⁵⁸ Interview with Z. Behonegn, *Director of Federal Supreme Court Bench Service Directorate*, Addis Ababa, 2024.

non-civil disputes. However, if the litigant provides his own interpreter at his own expense, the interpreter and beneficiary reach an agreement on amount of service fees.⁵⁹

In the Oromia Regional State, the regional constitution and court statutes restrict court interpretation services to criminally charged individuals. In civil proceedings, litigants are required to provide their own interpreters.⁶⁰ Courts, on rare occasions, offer court interpreters for poor litigants who are unable to produce their own interpreters. In some cities, the practice differs. For instance, in Adama City, more than 90% of court litigants are unable to communicate in the Afaan Oromo court working language.⁶¹ In such matters, judges frequently conduct oral litigation in Amharic, but formal records and rulings are in Afaan Oromo. Although the judges' measures contravene the regional court working language rule, it ensures linguistic accessibility for court litigants and enhance the efficiency of handling cases.⁶²

In Central Ethiopia Regional State, the regional court proclamation authorises the provision of court interpretation services in all court proceedings, including civil matters.⁶³ Practically, oral court proceedings are done in Amharic, the working language of the court, as well as the local languages spoken in the area. As an example, judges in Hadiya Zone First Instance Court and High Court hear oral litigation in Hadiyisa and Amharic languages, and the litigation is recorded in Amharic.⁶⁴ Court interpreters are assigned when litigants and judges are unable to communicate in one other's languages.

Concerning deaf litigants, only a federal court proclamation guarantees the provision of sign language interpreters at court expense. When the necessity arises, the federal courts engage a temporary sign language interpreter.⁶⁵ In the case of Oromia and Central Ethiopia, no court law recognise the provision of sign language interpreters for deaf people. In civil disputes, judges from each region advises the deaf litigant party be represented by a family member, an attorney, or another person

⁵⁹ Interview with A. Legese, *Vice Chief Registrar of Federal High Court*, Addis Ababa, 2024.

⁶⁰ Interview with O. Yadesa, *Oromia Supreme Court President of the Office*, Addis Ababa/ Finfinne, 2024.

⁶¹ Confidential Interview with *Judge of Adama City State First Instance Court (Oromia Region)*, 2024; Confidential Interview, *Private Attorney at Oromia and Federal Courts*, Adama City, 2024.

⁶² *Id.*

⁶³ Interview with I. Mulatu, *Judge of Hadiya Zone State High Court (Central Ethiopia Region)*, Hossaena City, 2024.

⁶⁴ *Id.*; Interview with F. Tadese, *Judge of Hossaena City State First Instance Court (Central Ethiopia Region)*, Hossaena City, 2024.

⁶⁵ Interview with Z. Behonegn, cit.

of their choosing.⁶⁶ However, such practice violates deaf litigants' rights under the CRPD, such as the right to equal recognition, equal access before courts, the right to self-representation, and the right to access procedural accommodation by the state.⁶⁷

3.2.2. *Court Files Translations*

Court file translation refers to the process of converting written documents from their original language to the court's working language. Documents submitted to Ethiopian federal and regional courts must be presented by respective courts working language. In Ethiopia nowadays, court-related files contain written evidence attached to pleadings (such as commercial contracts or medical evidences) as well as court rulings.

Court ruling files comprise court judgments, orders, and summonses as needed. Court judgement can be translated and used as evidence in other courts that use a different working language. For instance, in the *Kassahun Ali vs Michot Aklilu* inheritance case, a proof of heir certificate issued by the Oromia First Instance Court in Afaan Oromo was presented as evidence to claim inheritance at the Hadiya Zone High Court, which works in Amharic.⁶⁸

Court judgments are also translated for the purpose of filing an appeal or cassation before the Federal Supreme Court.⁶⁹ As previously stated, the jurisdiction of federal courts is delegated to regional state high courts and state supreme courts. In effect, federal jurisdiction cases that were initially heard by regional courts using regional working language are eventually appealed to the Federal Supreme Court that operates in the federal working language. Furthermore, the Federal Supreme Court of Ethiopia has a contentious cassation power over regional matters.⁷⁰ The Federal Supreme Court entertains errors in the interpretation of laws decided by regional courts' cassation benches on exclusively regional issues. In cases where the working languages of federal and regional courts differ, the applicant must present the original ruling as well as a translated version in Amharic.⁷¹

⁶⁶ Interview with O. Yadesa, cit; Confidential Interview with *Judge at Central Ethiopia Regional State*, Alaba City, 2024.

⁶⁷ UN General Assembly, *Convention on the Rights of Persons with Disabilities and Optional Protocol*, 2006.

⁶⁸ *Kassahun Ali v Michot Aklilu*, Hadiya Zone State High Court (Central Ethiopia Regional State), 2024.

⁶⁹ Interview with H. Kabtyimer, *Judge at Federal Supreme Court of Ethiopia*, Addis Ababa, 2024.

⁷⁰ GT. Hessebon & AK. Idris, 6. *The Supreme Court of Ethiopia*, cit., p. 179.

⁷¹ Interview with H. Kabtyimer, cit.

In all cases, the interested party is responsible for translating evidentiary files and court decisions at his own expense. Exceptionally, Sidama Regional State Supreme Court gives a translated version of his own verdict for petitioners who wish to appeal to the Federal Supreme Court.⁷² In other cases, the judgment creditor/winner may seek reimbursement for translation costs and expenses in accordance to Article 463 of the Ethiopian Civil Procedure Code (1965).

Translation prices are set by agreements between the translation service provider and the beneficiary. The price of translation in Addis Ababa city ranges from ETB150ETB to 180 (about \$1.5-1.8) per page for regularly available translation needs such as Afaan Oromo, Tigrigna, and English language translation, while the translation rate for sporadic nature languages such as Somali, Afarigna, German, and other foreign languages is double of the above rate (from ETB300-360).⁷³ Because translation firms hire permanent translators for routinely available language translations and outsource for occasional language translation requests.

In the Oromia region, particularly in Adama city, the translation fee ranges from 200-250 ETB (approximately \$2 to 2.5) per page for Amharic document translation, while other languages, including English, vary from 300-400 ETB (\$3-4).⁷⁴ Translation service providers may reduce the cost of translation per page if the beneficiary need a large number of pages translated. The price rate is the same regardless of whether the case is civil or other, evidence or judgment translation.

4. CHALLENGES OF PROVISION OF LANGUAGE SERVICES IN ETHIOPIAN COURTS

The provision of court interpretation and court file translation has encountered numerous hurdles. Among other things, monolingual working language policy at the federal and regional levels fails to consider Ethiopia's multilingual demographics, as well as the country's ethno-linguistic federal system. The tremendous need for language services in many places is not met by providing court interpretation or court file translation. For example, the need for Afaan Oromo language service in the Federal Courts of Addis Ababa and Dire Dawa, on the one hand, and the demand

⁷² Interview with A. Belachew, *Registrar at Federal Supreme Court of Ethiopia*, Addis Ababa, 2024.

⁷³ Confidential Interview with *Word Zone Translation Service*, Addis Ababa, 2024.

⁷⁴ Interview with H. Wake, *Private Translator at Adama City (Oromia Region)*, Adama City, 2024.

for Amharic language service in Adama and other major cities of the country, on the other, necessitate the adoption of bilingual or multilingual court working languages.⁷⁵

Alas, unhealthy historical relationship among ethnic groups and ethnolinguistic structure of the country's federal system generates unpleasant competitiveness and rivalry among speakers of various languages.⁷⁶ Federal and regional states are hesitant to adopt new working languages for fear of marginalising one another's languages, in addition to resource constraints. Language, rather than serving as a means of communication, symbolises ethnic identity in Ethiopia.

Another obstacle to providing high-quality language services in court proceedings is legal constraints. The provision of language services for those who are unable to communicate in court in their working language is poorly regulated by the federal and states. Unlike criminal trials, several states do not recognise a state provision for court interpretation in civil proceedings. Above all, language services in Ethiopia are not professionalised. Anyone can be assigned as a court interpreter or obtain a license for translation services.⁷⁷ Mikkelsen points out that court language interpretation and translation necessitate a thorough understanding of language and legal jargons.⁷⁸ In Ethiopia, the federal and regional courts hire individuals with a bachelor's degree (BA) in language or literature. There are no requirements for legal expertise, nor is induction training provided to improve their competency.⁷⁹

In terms of enforcement, courts that recognise state-provided court interpreters lack adequate competent court interpreters. As an illustration, the Federal Supreme Court has only two court interpreters: one for the Afaan Oromo local language and one for English (a foreign language).⁸⁰ The Federal High Courts do not have a permanent court interpreter and instead use temporary interpreters. More than eleven Federal First Instance Courts in Addis Ababa employ five permanent foreign language court interpreters and one local language court interpreter.⁸¹ As a result,

⁷⁵ Confidential Interview No. 62, cit.

⁷⁶ L. Smith, *The Politics of Contemporary Language Policy in Ethiopia*, cit., p. 209.

⁷⁷ MK. Amid, *The Rights of Deaf Persons Access to Civil Justice in Ethiopia*, cit., p. 87.

⁷⁸ BB. Simelane, *Exploring the Role of Court Interpreters in KwaZulu-Natal Province of South Africa*, MA Thesis, Durban University of Technology, 2022.

⁷⁹ Interview with Z. Haileyesus, *Human Resource Officer at Federal Supreme Court of Ethiopia*, Addis Ababa, 2024; Interview with M. Berhanu, *Director of Human Resource Department at Oromia State Supreme Court*, Addis Ababa/ Finfinne, 2024.

⁸⁰ Interview with Z. Haileyesus, cit.

⁸¹ Confidential Interview with *Federal First Instance Court Chief Registrar*, Addis Ababa, 2024.

federal courts rely heavily on temporary/ad hoc interpreters to cover the wide and diverse range of court interpretation needs.

The situation worsens when an ad hoc interpreter is assigned to carry out the task of court interpretation. The litigant party or court assigns any volunteer as a court interpreter without considering his competence and familiarity with the court setting. If the case is handled by a bilingual judge, the quality of the interpretation can be monitored.⁸² Otherwise, a layperson undertakes court interpretation as they see fit, with no controls or cross-checking systems. Similarly, translation service licenses are issued in federal and regional states to anyone interested in doing business. A translation service license requires no educational qualifications, expertise background, or examination.⁸³ Such practices jeopardise litigants' rights to a fair hearing and access to justice.

Despite this, several translation firms engage translators who are skilled in languages and use legal dictionaries to ensure the quality of their work and prevent potential legal liability for faulty translation. Courts also frequently allow litigants to reflect on the accuracy and correctness of translation and court interpretation. However, litigants who are unfamiliar with legal jargons or are unable to be represented by an attorney are less likely to correct errors of written legal translations and oral court interpretations.⁸⁴

The above-mentioned impediments to court language services have a detrimental effect on access to civil justice. Key informant litigant parties and judges observe that absence of or poor court interpretation and translations causes a delay in the resolution of the dispute and may result in a wrongheaded judgement.⁸⁵ The situation is exacerbated if interpreter interprets the evidence incorrectly during the initial hearing of the case. Because it is difficult to fix errors made during evidence hearings at the appellate or subsequent stages of the litigation phases.

To address this issue, federal courts recently began video recording and documenting throughout court proceedings utilising Artificial Intelligence (AI). A litigant party who is concerned about the accuracy of the interpretation could request cross-check-

⁸² Interview with H. Kabtyimer, cit.

⁸³ Confidential Interview no. 74, cit.

⁸⁴ Interview with H. Kabtyimer, cit.

⁸⁵ Confidential Interview with *Litigant Party at Federal Supreme Court of Ethiopia*, Addis Ababa, 2024; Interview with H. Gebremichael, *Judge at Lideta Federal First Instance Court*, Addis Ababa, 2024.

ing of the recorded courtroom video.⁸⁶ However, there is no equivalent commitment from regional courts. In effect, judges are overburdened for both interpreting the law and cross-checking the correctness of court interpretation and court file translation in order to discover the truth and provide litigant parties with access to civil justice.

5. LESSONS ETHIOPIAN COURTS LEARNS FROM COMPARATIVE EXPERIENCES OF COURT LANGUAGE SERVICES

In previous parts, we looked at the provision of language services in Ethiopia and the comparative experiences of the United States, India, and South Africa. This section refines the lessons Ethiopian courts should take from foreign experiences to improve the provision of court language services, particularly in civil litigations. Multilingualism is an unavoidable part of human diversity throughout the world. States also select a specific language to serve as the court's working language because it is difficult to make all languages the state working language.⁸⁷

The three foreign countries discussed above do not provide constitutional protections for court interpretation or translation services in civil proceeding at the expense of the state, like Ethiopia. However, they designed statutory-based legal and normative frameworks to ensure access and professionalism in court language services. Each country has accreditation and standardisation mechanisms in place for court language services. In addition, they began providing sign language interpreters for deaf litigants during court proceedings.

Ethiopia can also draw lessons from the distinct approaches used by each country. The USA example, among others, shows that adopting a monolingual court working language system is not an obstacle to accommodating court litigants' who have language barriers. The right to court interpretation and translation services at state expense in civil proceedings has been developed through judicial jurisprudence, which includes precedent court decisions as well as statutes.⁸⁸

Furthermore, sub-national state courts in the United States give better protection and safeguards for language services in civil cases than federal courts. Non-state ac-

⁸⁶ Interview with D. Gizaw, *Information Communication Technology Officer at Federal Supreme Court of Ethiopia*, Addis Ababa, 2024.

⁸⁷ J. Leung, *Shallow Equality and Symbolic Jurisprudence in Multilingual Legal Orders*, Oxford University Press, 2019.

⁸⁸ ABA, *American Bar Association Standards for Language Access in Courts*, cit., p. 23.

tors, like the USA Bar Association, play a crucial role in enhancing the excellence of court language services. In the face of limited resources, courts prioritise vulnerable groups' access to language services, such as family matters and domestic violence cases. Courts also give court file translation services on rare occasions.⁸⁹

Ethiopia could also benefit from India's best practices, particularly the importance of distinguishing court working languages at different levels of the court hierarchy.⁹⁰ This strategy promotes working language diversity at the local level while ensuring uniformity at the Supreme Court by using English. The Indian differentiation technique extended to distinguishing between oral proceedings and judicial records and judgments to balance litigant parties' interest and court working language rule.

India also requires courts to provide translated versions of judgments to litigant parties in cases when the working languages of the local and appeal courts differ. This helps to ensure the parties' right to appeal, as opposed to Ethiopia's approach, which compels litigant parties to furnish a translated version of the court decision at their own expense. India's Supreme and High Courts are also beginning to translate their own verdicts into local languages utilising AI technology in order to increase societal legal awareness and language accessibility to their decisions.⁹¹ Indian Supreme Court further set translation pricing standards to guarantee that translation services are affordable, as opposed to Ethiopia, which relies on market prices.

Ethiopia should learn from South Africa's experience, specifically on the importance of investing in producing of qualified legal interpreting and translating professionals. In Ethiopia, there is no training/education curriculum or institution dedicated to the professionalisation of court language services.⁹² South Africa has also adopted a specific and detailed code of conduct for language services in the courts. In addition, the country recognises sign language as an official language of the state alongside other languages. The recognition serves as a springboard to help deaf litigants overcome communication hurdles while accessing courts.

Overall, Ethiopia can benefit from the best practices of other nations in assuring access to language services in civil proceedings. The recognition and enforcement of litigant parties access to language services in civil proceeding is dependent on

⁸⁹ L.K. Abel, *Language Access in the Federal Courts*, cit., p. 595.

⁹⁰ S. Choudhry & E. Houlihan, *Official Language Designation: Constitutional Building Primer* 20, cit., p. 30.

⁹¹ Ministry of Law and Justice of India, *Promotion of Hindi in Higher Courts*, cit.

⁹² Interview with H. Kabtyimer, cit.

states commitment at the federal and regional levels. Besides, because of the resource-intensive nature of language service provision, it is crucial to contextualise the local circumstances and alternatives while providing and managing court interpretation and translation services.

6. CONCLUSION

Court language interpretation and translations are an indispensable part of court proceedings in multilingual social settings. States are under no international obligation to offer language services in civil proceedings for individuals who are unable to communicate in the court's working language and are unable to afford the cost of language services. However, failure to accommodate litigants' language barriers results in a denial of justice. In Ethiopia, federal and regional courts provide limited language assistance to civil case litigants, particularly oral court interpretations. However, the service lacks comprehensive legal and normative frameworks governing qualification, licensing, and certification, free state provision, code of conduct, standardisation, and professionalisation of language services. The jurisprudence and practices developed by courts in the United States, India, and South Africa contribute to the reform of language services in Ethiopian courts civil proceedings. To do this, pertinent federal and regional actors must commit to learning from best foreign experiences and incorporating them into the Ethiopian legal system by contextualising them in local realities and adhering to access to justice standards.

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