

# Language Law and Policy of the Federal Government of Ethiopia: Implications for Fair Trial and the Rights of Non-Amharic Language Speakers Accused

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*Ethiopia is a multilingual country with a federal form of state structure. The 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution) gave equal recognition for all Ethiopian languages, but has chosen Amharic to become the working language of the Federal Government. In order to accommodate the needs of non-Amharic speakers in the provision of public services, the Constitution and other laws such as the Criminal Procedure Code, require the use of interpreters. Particularly in criminal proceedings, non-Amharic speakers are entitled to be assisted with a 'qualified' interpreter to meaningfully participate in the cases. In practice, it is observed that accused people who do not speak the working language of the federal government are unable to effectively understand or get prompt and detailed information regarding the nature and effect of the case brought against them. Even if they know the case, they are not able to effectively explain their defences to the court or associated bodies, and thereby defend their rights. This study reveals that non-Amharic speakers are not effectively served according to the legal standards. This problem subsists mainly due to the absence or limited number of interpreters, as well as the use of untrained interpreters. Despite some efforts to address the problem, the federal government has not yet laid down any formal mechanism by which people with limited and/or no Amharic language proficiency are properly served in criminal proceedings both before and during trial. This study proposes the federal government to establish court interpreter training institutions and to standardise court interpretation by allocating the necessary budget; lay down a formal mechanism such as enacting detailed laws and working manuals for assigning interpreters; providing other local languages the status of working language; consulting interpretation technologies and working in collaboration with different stakeholders.*

**Keywords:** non-Amharic speakers, language barrier, multilingual community, untrained interpreter

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## Introduction

Ethiopia is home to diverse cultures, languages, ethnic groups, religions, customs and traditions. The 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE), which provides the legal basis for Ethiopia's federal form of government, constituted the federation of nine ethno-linguistically composed regional states which are predominately delineated based on ethnic identity. These include Afar, Amhara, Benishangul-Gumuz, Gambela, Harar, Oromiya, Somali, Southern Nations Nationalities and People's (SNNP) Region and Tigray, and two charter cities, Addis Ababa and Dire Dawa.<sup>2</sup> Recently a tenth regional state, namely, Sidama, one of the Zones in SNNP, was established after a referendum was made on November 20, 2019.<sup>3</sup> In all these parts of the country, researchers estimate that more than 75 languages are spoken.<sup>4</sup> In this type of heterogeneous and multilingual community, it is difficult for government institutions to provide public services in all the languages of the society. Hence, the choice of one or more language as a working language through adopting a language policy becomes inevitable even if it may create problems.<sup>5</sup>

The current Constitution of the federal government of Ethiopia, under Article 5, states that all Ethiopian languages are equally recognised. The Constitution makes Amharic the working language of the Federal Government even though it recognises that regional states of the Federation may determine their own respective working languages. Regardless of the fact that both federally chartered cities Addis Ababa and Dire Dawa are home to different ethnic and linguistic groups, this provision implies that Amharic language is the only official language that the federal government uses in the public domain.

This study reviews the impact of the language policy of the federal government of Ethiopia on the rights and freedoms of non-Amharic speakers accused in Addis Ababa. It aims at identifying the major challenges non-Amharic speakers encounter in criminal proceeding and analyses its implications on their fundamental human rights. This work is an extension of the author's Master thesis done in 2016, which only assess the problem in Lideta Sub-City. But the current research is significantly different in terms of scope of the area, as it covers the practice of criminal justice institutions, that is, police, prosecution office as well the Federal First Instance, High and Supreme courts at five selected sub-cities (Kofe, Nifas Silk Lafto, Yeka, Lideta and Bole) of Addis Ababa. The data of the current study was collected from October 2019 to January 2020. The two works are also different in terms of the change in the

2 Constitution of the Federal Democratic Republic of Ethiopia. Proclamation No 1/1995 (hereinafter referred to as 'FDRE Constitution'), Art. 47.

3 The country is also expecting additional regional states as there are different requests for regional statehood.

4 J Záhořík, 'Debating language policy in Ethiopia', *Journal of Asian and African Studies* 18, no 1 (2009), 86.

5 WF Mackey, 'Language policy and language planning', *Journal of Communication* 29, no 2 (1979), 48.

political and policy landscape that happened in the country. It has also substantially benefited from recent literature, published later than the Master thesis. Consequently, the findings and the conclusions of the research are also more developed.

### *Language policy: the need for careful consideration*

Despite the attempt for defining the concept, there is no standard definition for language policy. For the purpose of this paper, language policy refers to implicit or explicit sets of principles or decisions of government authorities to choose one or more languages to administer provision of public services in a multilingual society.<sup>6</sup> It can be said that language policy is an intentional decision made to determine language use in the public domain.

The choice of one or more languages in the language policy or law of a country is a necessary evil which often comes with a challenge of devising a mechanism for accommodating other minority languages, and which is usually associated with the availability of financial resources and political will.<sup>7</sup> In a country like Ethiopia with limited resources, choosing a language spoken by a relatively large number of speakers may perhaps be viable. But it can also have the effect of limiting or violating the linguistic and other fundamental human rights of persons who speak a different language.

When a certain language is chosen as a working language, it basically means that the language will be used as a medium of communication, written or oral, in the provision of public services by different branches of the government and other sectors. Language policy determines the use of a language in legislature, judiciary proceedings, financial and bank system, media, healthcare services and so on. This includes, but not limited to, communication in public institutions such as courts, police offices, prosecution offices, health centres, public schools, transportation military, and media. Even though most researchers focus on the impact of language policy on education, language policy practically influences people's everyday lives, in schools, in the market, in health care centres, and generally in the public spheres.

Language choice poses all kinds of problems that need to be handled cautiously.<sup>8</sup> On one hand, the government should be careful about the impact of language policy on national unity and political stability. On the other hand, the issue of accommodating the rights and claims of different linguistic groups and the cost thereof is also another critical challenge that requires careful consideration. Practically, it has been observed that linguistic diversity has been a source of political conflicts across the world

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6 RL Cooper, *Language Planning and Social Change* (Cambridge: Cambridge University Press, 1989).

7 L Brenda, 'The Problems with Language Policy and Planning', *Journal of Language, Identity & Education* 14, no 1 (2015), 36.

8 R Tsegaye, *Issues of federalism in Ethiopia: towards an inventory of legal issues* (Addis Ababa: Addis Ababa University, 2009).

affecting the stability and sustainability of a wide range of political communities.<sup>9</sup> The experience of many countries in Africa, America as well as Asia shows that it has been a challenge to create shared identity and common institutions.<sup>10</sup> Multilingual states shall ensure that the policy represent and reflect the interest of all its members, including members of the different linguistic communities who are legally entitled to demand public services in a language that they understand. Thus determining language policy requires a careful and deep analysis, weighing up the pros and cons of the proposed alternatives.

## 1. Ethiopian language policy

### 1.1 *The legal basis for the language policy*

Language policies may take different formats. It can generally be found as part of an explicit clause in a constitution and other written legal documents. It can also be developed in a separate policy document that provides the objective as well as detailed guidelines and specific procedures of language usage.<sup>11</sup> Ethiopia does not have a separate language policy which provides detailed guidelines about language policy of the government and how it deals about language problems in different layers of government.

Since its adoption in 1995, the Federal Constitution has been the authoritative legal document which is usually cited as a source of the language policy of the country. The Constitution also gives equal recognition to all languages in the country. Despite that, Article 5 Section (2) of the FDRE Constitution stipulates that Amharic is the working language of the federal government. Accordingly, this language has been in use as a working language for providing different public services within the Federal government structure. Compared to the past experience of the country, in which Amharic was predominantly the language of the state, the current constitution can be considered as a move forward, insomuch as it attempts to officially recognise linguistic diversity and the use of different local languages in different parts of the country.<sup>12</sup>

In spite of the progress that the Federal Constitution introduces with regard to language policy, it is criticised for overlooking equal rights of languages of nations, nationalities and peoples of Ethiopia other than Amharic. This is generally evident in the public administration, education and the judiciary in the Federal setting.<sup>13</sup> This paper takes a closer look at the justice sector, especially the criminal

9 W Kymlicka and A Patten, 'Language Rights and Political Theory', *Annual Review of Applied Linguistics* 23, no 1 (2003), 3–21.

10 B Weinstein (ed.), *Language Policy and Political Development*. Norwood, NJ: Praeger, 1990.

11 B Spolsky, *Language Policy (Key Topics in Sociolinguistics)* (Cambridge: Cambridge University Press, 2004).

12 Záhorič, 'Debating', 86.

13 F Haftetsion, *The State of Vertical Division of Political Power in the Ethiopian Federation*, PhD Dissertation (Addis Ababa: Addis Ababa University, 2017), 261–264.

proceeding process, and review the practical challenges of non-Amharic speakers at the federal level.

### *1.2 The right to interpretation in criminal proceedings*

With regard to the right to interpretation in criminal proceedings, the current baseline instrument in Ethiopia is the 1995 Constitution. The reading of the constitutional provisions indicates that the state of Ethiopia has given special attention to the language problem in the justice system as it has dedicated two important articles to providing protection for accused and arrested persons with limited proficiency in the working language. The protection of the law for accused and arrested persons extends from the time of arrest to the time of prosecution in court of law.

The FDRE Constitution, after recognising Amharic as working language, did not provide detailed mechanisms how non-Amharic speakers are going to be served in the public domain. However, the Constitution specifically provides, under Article 19 and 20, the rights of accused and arrested persons in the criminal proceedings. Article 19 of the Constitution provides that persons arrested have the right to be informed promptly, in a language they understand, of the reasons for their arrest or if any charge is against them. It also adds that they shall be informed of their right to remain silent in a language they understand and/or that any statement they make may be used as evidence against them in court of law. In addition to this, Article 20 Section (7) of the Constitution provides that accused persons have the right to request the assistance of an interpreter at state expense where the court proceedings are conducted in a language they do not understand. The Constitution not only obliges responsible government bodies to assist people with limited working language proficiency, it also indicates that the cost of language accommodation shall be covered by the state.

In addition to the constitutional provisions, there are also specific laws that provide protection for people with limited working language proficiency. The federal system endeavors to accommodate the needs of the diverse peoples of Ethiopia from different regions. The Criminal Procedure Code of Ethiopia also provides under Article 27 Section (4) that arrested persons shall be supplied with a competent interpreter where he/she is unable to understand the language and his/her answer is to be recorded.<sup>14</sup> Moreover, Article 126 Section (2) of the same document also provides that the court shall select a qualified court interpreter where it is required for the purposes of any proceedings. This article also adds that a relative of the accused, prosecutor or witness shall not be selected as interpreter. From the reading of these provisions, the Criminal Procedure Code, in addition to the assistance of interpreter, even requires the court to choose 'qualified' or 'competent' interpreters to assist individuals with limited language proficiency in criminal proceedings. But there is no legal instrument or other official document that provides for what qualified or competent interpreter

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14 The Criminal Procedure Code, Proclamation No. 185/1961. Available: <https://chilot.blog/wp-content/uploads/2011/01/civil-procedure-code-english.pdf> (05. 06. 2020.)

actually means. As a result, problems are observed in criminal proceedings across the country that impede citizens' right to access the justice system.

On the other hand, Article 25 Section (2) of the Federal Courts Proclamation and its amendments expressly state that the courts shall provide an interpreter to individuals that do not know the working language of the federal courts.<sup>15</sup>

In addition to the constitutional provisions and specific laws, there are numerous international and regional human rights instruments that Ethiopia has ratified on the right to free assistance of an interpreter in criminal proceeding.<sup>16</sup> With regard to this, Article 14 Section (3) (f) of ICCPR provides for minimum guarantees that everyone in criminal proceeding is entitled to. It specifically provides that everyone is entitled to have the free assistance of an interpreter if he cannot understand or speak the language used in court. This provision again held the government responsible for covering the cost of interpretation and leaves the accused or arrested persons free of cost. Similarly, the regional human rights law, the African Charter on Human and Peoples' Rights in this case, provides that the entitlement to the assistance of an interpreter is an essential element of fair trial when a person is unable to understand or speak the language used by the judicial body.<sup>17</sup> Moreover, some researchers also argue that the right to an interpreter is a right recognised and protected by customary international law.<sup>18</sup>

By being party to the international and regional human rights laws, Ethiopia is required by law to comply with the standards contained in the conventions. These legal frameworks generally provide that everyone charged with a criminal offence shall enjoy the minimum right to the free assistance of an interpreter if the accused cannot understand or speak the language used before and during trial.

### *1.3 Attempts to change the language policy at the federal level*

The importance of the issue of language policy and its impact on non-Amharic speakers has been felt by the federal government. In fact, the issue of language recognition at the federal level has been one of the major reasons for political debate. In addition to organisational efforts to address the problem among the federal institutions, the federal government has shown its willingness to change the language policy. For instance, in July 2017, while discussing the special interest of Oromiya over the capital city Addis Ababa, the Ethiopian Council of Ministers approved a draft act which would make Afan Oromo a second working language of the federal government. This draft act was criticised by researchers for lacking the proper language policy and

15 Proclamation No. 25/1996.

16 Article 9 Section (4) of the FDRE Constitution actually states that all international agreements ratified by Ethiopia are an integral part of the law of the land.

17 Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (November 1999), African Charter on Human and Peoples' Rights, African Union.

18 J Sherman, 'The Right to an Interpreter under Customary International Law', *Columbia Human Rights Law Review* 48, no 3 (2017), 257.

evaluation.<sup>19</sup> The Council of Ministers neither adopts an explicit model to recommend Afan Oromo as a working language nor does it explain why other local languages were not considered. Consequently, this decision was criticised because it lacked to foresee the consequent practical challenges. The draft act did not discuss as to how the language policy will be implemented. Issues such as constitutional amendment, resource allocation, institutional reforms and other subsequent measures were not properly discussed. Moreover, it overlooked the interest of residents of Addis Ababa, where more than 70 per cent of the population belongs to other linguistic groups. As a result, this act may lead to continuous political unrest in the country and may also put the national standing at stake.

The other recent attempt to change the policy was made by Abiy Ahmed, the current Prime Minister of Ethiopia, who has been trying to take numerous reform measures since he came to power in April 2018. In his public statement on November 2019, Abiy Ahmed stated that he and his party, that is, the Prosperity Party, which was formerly known as Ethiopian People's Revolutionary Democratic Front, was working to incorporate more languages and improve the language policy at the federal level in a reform measure. He said his party had decided to incorporate Afan Oromo, Tigrinya, Somali and Afar languages as working languages of the federal government in addition to Amharic.<sup>20</sup> He said: 'This is a significantly better approach than the previously ones which will enable Ethiopians learn from one another and strengthen their desire to build their country.'<sup>21</sup>

Similarly to the previous attempt, the Prime Minister's announcement was criticised for lacking a legal ground and a detailed justification for this decision. Perhaps, the decision to change the language policy is the result of political, economic and social conjunctions in the country.<sup>22</sup>

#### *1.4 The practice in criminal proceedings*

Language barrier can be a daunting experience for non-Amharic speakers going through the legal system, especially if they appear before the law as an accused. The accused person's ability to understand the proceeding and communicate with lawyer, judge or others has a direct impact on his right to access the justice system, fair trial and other fundamental rights. Usually, a person with no or limited language proficiency has 'difficulty speaking or comprehending working language in a pressured or highly charged situation or in a location that is not part of their common experience,

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19 L Yemserach, 'Challenges and Prospects of Adding Working Language in Ethiopia,' Conference Paper, presented on Legal and Human Rights Academy / Policy Forum on Sustaining Political Reforms, Democratization and Human Rights in Ethiopia: Informing the Next Steps, October 1, 2018, Adama, Ethiopia.

20 Abiy Ahmed's speech from FDRE Office of the Prime Minister is available at [www.youtube.com/watch?v=0m5TRUFLQ3M](https://www.youtube.com/watch?v=0m5TRUFLQ3M) (05. 05. 2020.)

21 Ibid.

22 A Minasyan, 'Language policy, national identity and politics,' *European Scientific Journal* 2, (2014).

such as in a court room or at a police station.<sup>23</sup> Moreover, words used in court of law comprise much legal jargon which is usually not easily understood by persons outside the legal professions. It is thus important to assist non-Amharic speakers with language and ensure their meaningful participation in criminal proceeding.

The current Ethiopian legal system uses interpreters as a means of breaking the language barrier in legal proceedings. Hence, government institutions such as the police station and courts are by law responsible to meet the need of people who do not know the working language of the federal government by providing interpreters.

In this study, non-Amharic speakers can refer to three groups; Ethiopians who speak local languages other than Amharic, people with hearing impairments who use sign language and non-nationals who speak different foreign languages. These groups of individuals encounter more or less similar problems when it comes to language barrier in a criminal proceeding, even if the magnitude of language barrier or the challenge thereof is different.

#### *1.4.1 Language barrier before trial*

A criminal proceeding usually starts with the police, and a person is entitled to certain fundamental human rights at the first contact with the police officer who arrests him/her. As per the FDRE Constitution as well as other specific legislations, an accused/arrested person has a right to be promptly informed of the nature and cause of charge against him in a language he understands.<sup>24</sup> Arrested persons who do not know the working language also have the right to be informed of his right to refrain from making a statement at the police station. And if he provides statement, he shall be informed, in a language he understands, that it will be used as evidence in court of law.<sup>25</sup>

Usually, in a country like Ethiopia, it is not unusual to observe that accused individuals do not know their rights in legal proceedings in general and police stations in particular. Hence, it is at this critical stage of criminal proceeding that an interpreter should be available to break the language barrier. At the police station, the investigating police officer needs to communicate with the accused in different phases such as during detention, recording statement, investigation and application of remand. In order to conduct these responsibilities effectively, the police shall be assisted with an interpreter if they do not speak the language of the accused.

The state is therefore responsible to allow arrested persons to make an informed decision about making statements to police. For non-Amharic speakers, the state is

23 RW Cole and L Maslow-Armand, 'The Role of Counsel and the Courts in Addressing Foreign Language and Cultural Barriers at Different Stages of Criminal Proceeding', *Western New England Law Review* 19, no 1 (1997), 193–228.

24 FDRE Constitution Art. 19 s. (1).

25 FDRE Constitution Art. 19 s. (2).

not only responsible for informing the accused/arrested of his/her rights before trial, it is also expected to do it in a language that he understands.

The results of the study show that in Addis Ababa there are numbers of cases involving both local and foreigner people who do not speak the working language of the police. Regardless of the number of cases that appear before the police, there are no formal institutional or legal mechanisms laid down to assist non-Amharic speakers either to inform the accused/arrested the nature of the crime or his/her right not to make statement. Unless the police officer knows the language of the accused, it is very difficult for the accused person to know the nature and cause of crime if he is detained outside the police station. Even after arriving at the police station, a non-Amharic speaker may not be promptly informed of the charge brought against him because there are no interpreters hired at the police station. It is only when the search for possible interpreter is successful that non-Amharic speakers can be provided with the necessary information that the law requires.

Non-Amharic speakers generally shall be well-informed of their right to choose whether to make a statement or not, which also requires communication and effective understanding between the police officer and the accused person. Especially, in Ethiopian legal system whereby the statement of the accused can be taken by the court as evidence, it is important that these groups of individuals get the necessary information that the law requires in a language that they understand.

According to Article 86 of the Criminal Procedure Code,<sup>26</sup> a statement shall be read out to the accused before he is asked to sign it. After taking down the statement of the accused in Amharic, the police officer is expected to use the same interpreter to read what has been written in the statement before letting the accused sign it. But the practice shows the contrary.

The majority of non-Amharic speaker participants in this study stated that their inability to read and speak the working language of the federal government significantly limited them from exercising their fundamental rights such as the right to express their ideas, the right to defend oneself and the right for fair trial.

The absence of interpreters at the police station has an impact not only on the accused's fundamental rights, but also on the police officers' day to day activity. The police officers stated that this has an impact on their daily work, as the search for an interpreter had been taking most of their time, which they could have used to do other important activities. The very fact that a non-Amharic speaker is involved in a criminal case always implies that the proceeding will be prolonged. Perhaps this is partly because interpretation by its nature requires extra time, patience and effort, especially from the police.

In police stations, it is either the police officers or other individuals such as friends, families of the accused, or anyone who claims to be a bilingual, who acts as an interpreter to assist with the language barrier. All individuals who provide

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<sup>26</sup> The Criminal Procedure Code, Proclamation No. 185/1961.

the interpretation service are expected to provide the service on a voluntary basis and no payment is made for them. This definitely compromises the quality of the interpretation service, which may negatively affect the accused person's fundamental right. According to some accused respondents, the fact that the police officers are the ones who act as interpreters in criminal cases of non-Amharic speakers poses the question of neutrality, which is a very essential aspect.

The issue of language barrier also raises a similar challenge for the public prosecutors assigned in that specific police station. Usually, prosecutors are assigned in police stations to work in collaboration with the police officers during criminal investigation. Hence, they will be expected to talk to non-Amharic speakers while framing and preparing their charges. Usually, an investigating police officer and public prosecutor share the same office so as to work together on criminal cases. Hence, the public prosecutors can observe and assist police officers in numerous instances starting from recording statement to visiting prisoners in the respective temporary detention centres. Similarly to police officers, public prosecutors are also involved in the search for a person who could assist them in interpreting the language of their clients. Public prosecutors involved in this research stated that even if there are no formal guidelines or procedures for assigning an interpreter, they usually give priority for bilingual police officers at that station to help them with the communication barrier. It is after checking that there are no bilingual police officers that the prosecutors tell the accused person to bring their own interpreter or start to search for any interpreter around.

The current practice of the criminal proceeding before trial shows that there are no interpreters hired at the police station to break the language barrier in cases involving non-Amharic speakers. Moreover, there are no guidelines or formal procedure laid down to indicate how communication with accused people who do not know the working language should be provided. This can imply that the issue of non-Amharic speakers or the challenges they are encountering at police stations has not been felt by concerned bodies.

#### *1.4.2 Language barrier during trial*

The current criminal benches, the Federal First Instance Court (FFIC), Federal High Court (FHC) and Supreme Court (SC), are divided into different special courts that entertain specific cases on specific areas. These special benches include those that only see flagrant offences, remand applications from police, tax and customs, children and young offenders and women and children bench. And hence, the occurrence of cases involving non-Amharic speakers before one court depends on numerous factors such as the nature of cases, the area where the crime is committed, and the types of institutions in a certain sub-city.<sup>27</sup>

<sup>27</sup> The situation with language interpreters is relatively better at the Federal Supreme Court, as most cases involve the exchange of written pleadings and not the physical appearance of the plaintiff and

The problem that language barrier may cause to the rights of citizens seems to be felt better in the judiciary than the executive. In all three levels of court structure, the job post for language interpreter, for both local and foreign languages, exists even though most of the job posts are vacant. The reason for this will be discussed in the following section.

In spite of the government's commitment to respond to lingual diversity and implement the legal requirements, the result of this study shows that multiple challenges, especially logistical limitations, hinder the justice system to achieve its objective at the level possible.

#### 1.4.2.1 Major challenges in interpretation in court

##### A. Lack of qualified court interpreters

In a criminal legal system, the role of interpreters is indispensable as life, liberty, and other rights of the accused depend on the quality of service of the interpreter. Currently, when cases of non-Amharic speakers are presented before federal courts, the judge may take formal measures where he/she issues a written order to the main registrar office and/or other governmental and non-governmental institutions. When formal options are unfruitful, the judge asks anyone in and around the courtroom who speaks the language of the accused without any written or recorded communication. This includes employees such as assistant judges and secretaries as well as non-employees of the court such as police officers, relatives of the accused,<sup>28</sup> interpreters that the accused bring and court attendants.

The job qualification required for local language court interpreters was completion of the 12<sup>th</sup> grade with four or more years of experience in any sector. Recently, due to the request of the court, the qualification was changed. Nonetheless, almost none of the interpreters in the study had experience in interpretation service. Hence, most interpreters provide a summarised interpretation, which is not advised in court of law, especially in criminal proceeding.<sup>29</sup>

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the defendant in court. When interpreter is required, there are permanently hired interpreters that currently work in the court for English and Afan Oromo languages. For other languages, a similar challenge is encountered at the Federal Supreme Court level.

28 This in fact is against Article 126 Section (2) of the Criminal Procedure Code (Proclamation No. 185/1961) that clearly states that no person shall be selected who is a relative to the accused or the prosecutor, or himself/herself a witness.

29 According to William E. Hewitt there are different types of court interpretation. But only two models, namely, simultaneous and consecutive interpretations should be used in court of law. Simultaneous interpreting is rendering an interpretation continuously at the same time someone is speaking. On the other hand, 'consecutive interpreting is rendering statements made in a source language into statements in the target language intermittently after a pause between each completed statement in the source language'. According to this author, there is also a third common mode of interpretation called 'summary' interpreting. This mode of interpreting refers to paraphrasing and condensing the speaker's statement. Unlike the two previous models, the latter

Moreover, court interpreters do not have prior short or long term legal training, which makes the interpretation service more difficult. In many cases, people who had little or no familiarity with the court setting or legal jargons served as interpreters.

All participant judges commonly confirmed that it is not unusual to observe incompetent interpreters committing mistakes during trial. When competent interpreters are lacking, the individual's legal rights in the judicial system and their rights and freedoms within the system will be jeopardised. These inevitably result in commission of errors and misunderstanding.

In order to improve the service of court interpreters, different measures are taken by the government. One of the measures includes the job grading reform taken by the Federal Civil Service Commission. As interpreters are employees of the government, the job post requirement as well as benefits are usually revised by the Commission. As part of its usual activity, the Federal Civil Service Commission of Ethiopia was conducting a research to review all of the job posts in governmental institution from the year 2008 to 2013. With regard to the job post for court interpreters, taking into account the comments forwarded from the judiciary administration offices, the Commission has made improvements to the qualification thereof. Accordingly, local language interpreters are required to have qualification of a degree in any field of study and two years of experience. Although this may be praised as an effort to increase the quality of service, this has resulted in another problem. According to human resource management of the courts, these job posts have stayed vacant since the implementation of the newly revised job grading reform because they could not find anyone who is interested and fulfils the qualifications. According to the Human Resource Management of the First Instance Court, the reform has actually worsened the situation in courts, leaving them with no applicants that qualifies the requirement for local language interpreter job post.

Overall, interpreters play an important role in court of law, especially in criminal proceeding. They are the voice and ears of judges, public prosecutors and other parties on one hand, and those of non-Amharic speakers on the other. They contribute their share for the overall efforts of protecting the rights of the accused in criminal justice system. Nevertheless, the current strategies employed at the federal level to respond to the need of non-Amharic speakers in criminal proceeding are still inadequate.

## B. Lack of incentive mechanisms for interpreters

According to the records of the human resources of the courts, there are only few permanent interpreters at the federal level who are hired for limited languages. This shows that the number of interpreters are insignificant compared to the diverse languages spoken in the country and the need in courts. Most interpreters in the

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does not provide a precise rendering of everything that is being said in to the target language.

See William E Hewitt, *Court Interpretation: Model Guides for Policy and Practice in State Courts* (Williamsburg: National Centre for State Courts, 1995), 31.

study indicated that this is due to the unattractive salary or *per diem* payment, the absence of incentive mechanisms for court interpreters.

Most interviewees indicated that the challenges in strategies to overcome language barrier in court of law has been mainly related with budget. Even though the issue of budget is essential, it cannot be a justification to deny rights of citizens, because this is the issue of access to justice and equality. It is also the duty of the government to provide public services fairly if not equally for any tax paying citizen in the country.

### C. Different payment for foreign languages and local languages interpreters

Despite the fact that the government is expected to give more attention to accommodate local languages, the practice until 2017 shows that the number of foreign language interpreters, English in this case, as well as the salary was greater than those of local language interpreters. The starting salary for a local language interpreter was 1305.00 birr (one thousand three hundred and five birr) while it is 3425.00 birr (three thousand four hundred and twenty five birr) for a foreign language interpreter. The qualification as well as the payment for a foreign language interpreter is higher than those of local language interpreters. And this has been indicated as a problem discouraging local language interpreters. But since 2017, the qualification required for local and foreign language as well as the payment has been the same, still, there have been no interpreters hired for local language interpreters since then.<sup>30</sup>

### D. Absence of job post for sign language interpreter

The absence of job post for sign language interpreter may imply that sign language has not been recognised as a language by itself, or other verbal languages overshadow it. It may also imply that the concern of persons with hearing impairment has not been given due attention in court proceedings.

Despite the current language policy that Ethiopia follows, it can be seen from the above discussion that only little has been done in terms of accommodating the diverse needs of non-Amharic speakers in criminal proceedings. The practice of using random individuals in court interpretation will definitely increase the chance of error and misinterpretation. In addition to that, the absence of means of ensuring quality of service and accountability is also very problematic. The fact that most interpreters who are formally or informally assigned do not have experience of interpretation also has an impact on the justice process.

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30 The fact that the qualification requirement for local language interpreters increased even pushes away those applicants for the post. It led to an absence of permanently hired interpreters in courts, except some few in the Supreme Court. According to the Human Resource Management in Federal First Instance Court, they are now planning to request the Federal Civil Service Commission to lower the qualification requirement again as they could not find anyone that with a degree and two years' work experience.

In many countries, such as the USA and Canada, courtroom interpretation has been professionalised as there are different legal frameworks and guidelines that require interpreters to pass through regular ‘training programs, certification standards and codes of ethics.’<sup>31</sup> But in Ethiopia, where there are no standard requirements for court interpretation, it is not unusual to observe unprofessional interpreters providing service in courtroom. And this creates a significant variation in the quality of courtroom interpretation, leaving the risk of errors on the shoulder of the accused, who is vulnerable in criminal proceedings.

#### 1.4.2.2 Language barrier in criminal proceedings and its human rights implications

The absence of interpreters in criminal proceedings before trial not only affects the accused person’s right to interpreters, but also his/her right to fair and speedy trial and fair procedures. It will also affect his constitutional right to be brought before court of law within a reasonable time after having been charged. Similarly, the accused person’s right to be informed about the charge brought against them, to be informed of his/her right not to answer questions during investigation, the right to bail, and the right to liberty will likely be confined.

Correspondingly, in court of law, the number of interpreters to assist the language barrier during trial has a similar impact on the accused person’s human rights. The continuous adjournment of cases will eventually lead to delayed justice. And as often said, ‘justice delayed is justice denied’. The right to justice, the right to defend oneself, the right to speedy trial and other rights of the accused will be limited and/or violated.

The language barrier also affects non-Amharic speakers’ emotional wellbeing, as they can easily feel frustration when they are unable to express themselves effectively. Most of the research participants stated that the language barrier put great limitation on their capacity to express their ideas, feeling or even to ask questions to the responsible person before, during or after trial.

In addition to this, most non-Amharic speakers also indicated that language barrier in the criminal proceeding also affected them economically. They stated that they usually incur costs of travel and accommodation for themselves as well as witnesses for court appearance when in fact their cases may not be seen the first day because the judge will adjourn the case if there is no interpreter available at that time. The inadequate service of interpreters and continuous adjournments of cases will also indirectly affect individuals who are socially and economically dependent on the accused, such as children, family members and relatives.

31 MI Ahmad, ‘Interpreting Communities: Lawyering Across Language Difference’, *UCLA Law Review* 54, no 5 (2007), 999–1086.

The study also observed that there are no interpreters in prison, which again affect the accused person's right to appeal. Given the limited period for appeal, it is very difficult for the accused to effectively communicate with prison administrators and express the intention for appeal.

The prolonged proceeding in criminal cases will also have impact on evidences that need to be timely presented before court of law and assist the judge to provide fair judgment.

## **Conclusion and recommendations**

Ethiopia has adopted an accommodationist language policy to linguistic diversity, taking into account the multilingual nature of nation, nationalities and peoples that comprise the nation. Hence the federal government is expected to lay down the necessary legal and institutional mechanisms by which people that do not speak the working language of the constituent members of the federation are assisted in their attempt to access the justice system.

Despite the promise in the Constitution and other legal documents, non-Amharic speakers are encountering different challenges at the different stages of criminal proceeding. The current practice shows that the federal government has not laid down any formal mechanism by which people with limited and/or no Amharic language proficiency are properly served in criminal proceedings before trial. Even though the situation looks better in courts as there are permanently hired interpreters, most of the job posts are vacant as the salary and incentive mechanisms for interpreters are very low.

The absence of adequate and professional interpretation service affects the day to day activities of justice institutions such as the police, public prosecutors and courts. It also affects the quality of interpretation services, which directly or indirectly affect the accused's fundamental human rights in criminal proceeding. It also affects the economy as well as the trust of the accused towards the justice system in general. Overall, the issue of persons with limited or no Amharic language proficiency is acute and should be given the attention it deserves.

In order to improve the challenges of non-Amharic speakers at the federal level, it is recommended that the current language policy be revised in a way that provides opportunity for local languages as well as international languages such as English to be recognised as working language of the federal government, based on a scientific research. The language policy should come up with defined criteria such as number of people speaking that language in the federal city, population size, contribution to GDP that will provide each local language an equal opportunity to be considered for federal working language.

It is important for the government to adopt a new language policy in a separate document that explicitly provides the rationale of the policy. In addition to this, detailed laws and working manuals should be prepared to lay down clear procedures

that need to be followed while handling the language barrier in public sectors including justice sector.

Besides, it is important for the government to consider establishing federal courts in different regions of the country, especially Federal Supreme Courts. That would enable non-Amharic speakers to access the justice system in their own language and also avert costs related to interpretation services. If such is also the case at regional level, similar measures should be taken.

The role of interpreters is undeniable in bridging the communication barrier. In order to ensure that there are adequate and qualified interpreters, the job grading, salary and incentive mechanisms should be improved. As the major factor impeding this is related to resource, it is recommended that the government work in collaboration with concerned stakeholders such as civil society organisations and embassies to solicit sustainable funding for interpretation service in the justice sector. Besides, in order to provide competent and qualified interpreters, the government should facilitate the opening of professional interpreters training centres in the private and public higher educational institutions. The institutions will be helpful in providing standardised interpreter training for legal, medical, conference and other interpretation services. Moreover, higher educational institutions could also conduct scientific research on the issue across the country, provide reliable data and updated recommendation to address the problem.

It is also important for Ethiopia to draw a lesson from others such as California that considers the use of technology to respond to language barrier in public services. It is thus advisable to invest in the development of advanced software and other innovative technologies that could assist language barrier in criminal proceedings and other public services.

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