



Assessing language use in the translation of legislations in the attorney general of the South Nations, Nationalities and Peoples Regional State (SNNPRS)

Mengistu Dinato^{1*}

¹Department of English Language and Literature, College of Social Sciences and Humanities, Hawassa University

*Corresponding email: medidi10@gmail.com

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Abstract

The study examines language use in the translation of legislation and legal translators' use of the legislative drafting manual of Ethiopia in the Office of the Attorney General of the SNNPRS. Adopting a qualitative approach, data for the study were gathered using document review, KII, and FGD. Thirteen bilingual laws that address issues related to public law, private law, criminal law, and civil law were reviewed, and four key informants and three FGD participants were involved in the data generation. Participants in the KII and FGDs were drafters, judges, prosecutors, attorneys, and legal translators. Data analysis was conducted using notes taken from document reviews and transcripts of FGD and KII. The findings of the study indicated that the translation of legislation in the state experiences various language use problems. While language use problems in the translation of "shall" and "may" and the maintenance of legal equivalence were found to emanate from the low linguistic competence of legal translators, other language use problems were found to emanate from the wrong editing and translation procedures followed, the absence of orientation and on-the-job training for legal translators, and the absence of mechanisms for quality control. It was also found out that legal translators in the state are not using the Ethiopian legislative drafting manual that was meant to support the translation practices of the Attorney General. Given the growing trend of globalization, the Attorney General of the state should foresee the higher need for the English version of legislation and hence pay special attention to the translation of legislation in the state.

Keywords: translation, legal translation, language use problems, legislations

1. INTRODUCTION

1.1. Background of the study

Translation is the process of rendering the words of a text written in one language into those of another. As an inter-lingual and intercultural communication, it is used in various contexts. One of the contexts in which translation is applied is the legal system where the process is referred to as legal translation. In the legal context, texts from one legal system are translated into another. Unlike pure science, law remains a national phenomenon, and each national law constitutes an independent legal system with its own terminological apparatus, underlying conceptual structure, rules of classification, sources of law, methodological approaches and socio-economic principles (Sarcevic 1997: 13). This has implications for legal translation when communication is channeled across different languages, cultures and legal systems.

Translation serves an important function in organizations. [Swigart \(2018\)](#) states, “translation is a critical part of language services in many organizations without which they could not provide full service. In this respect, translation of legislations falls under the generic term “legal translation” which covers both the translation of law and other communications in legal settings. In this paper, the focus is mainly on the translation of law. In the SNNPR state Attorney General (AG), translation is a language service organized as a work process under the Directorate for Legislative Drafting. In Ethiopia, the regional states that use the National language (Amharic) as a working language, produce bilingual legislations. The original draft is authored in Amharic and translated into English. In this process, the greatest challenge for translators is to interpret legal concepts in the source language (Amharic) and find appropriate legal terminology in the target language, i.e., English ([Cavoski, 2017](#): 61). In addition, in most cases, impreciseness is observed in the source language legal texts. This often occurs because legal drafting is usually conducted by sector office professionals of various disciplines (subjects) who are not familiar with key legal concepts.

By its very nature, legal translation demands precision more than literary translation. It has its own rules and procedures which have to be added to those already existing in the translation of non-legal texts. Thus, two basic skills are required in translating legal and social science texts ([Lessig, 1993](#)). They are solid linguistic knowledge of both language systems and a thorough knowledge of the subject in the legal or social systems concerned. Furthermore, the issue of language use¹ which is concerned with the way we do things with words, is very important for translation. It is with the words that we think about our use of words in any act of cognition, identification, or recognition ([Yoos, 2009](#)).

In the production of legislations, translation is a process that comes at the end. When we take the context of the SNNPR, first legislative drafts are initiated, mostly by individual sector offices and in a few cases by the AG. The legislative drafts that are initiated by individual sector offices are submitted to the AG for comments and giving legal format. The draft legislations are then submitted to the State Council for approval. It is only after the approval that the legislations are submitted to legal translators for translation. Although editing and translation of legislations is supposed to be completed before they are formally approved by the Office of the Administrative

¹ In the current study the term language use has been used to refer to the communicative meaning of language as used by the legislative drafters and translators in the SNNPRS Attorney General. It differs from language usage, which refers to the rules for making language and the structures we use to make it.

Council, the practice is sending the Amharic version only for approval. Legal translators are given the legislations to translate after they have been approved.

1.2. Statement of the Problem

Legislations can be produced unilingually, bilingually or multilingually as the context of users' demands. In the process of producing bilingual legislations, a particular emphasis is placed on the importance of language because each language has its own accepted rules and conventions. Thus, where bilingual legislations are produced, special care is given to the creation of versions of legislations with equal intended legal effects. That means both language versions must convey the same legal meaning.

In Ethiopia, the SNNPRS is one of the regional states which is linguistically the most diverse region hosting about 56 linguistic and cultural groups. Because of this diversity, Amharic, the national language, has been chosen as the working language of the state.² Legislations are produced first in Amharic and then translated into English by legal translators employed by the AG of the state. All proclamations and regulations that are produced in the state are issued in the DEBUB NEGARIT GAZETA in two versions: Amharic and English. From 1995 to 2018, more than 180 proclamations and more than 178 regulations have been issued by the state council. The main reason legislations are translated into English is to make the laws accessible to foreigners who do not understand Amharic. However, the quality with which English version legislation is produced is poor to serve the purpose for which it is intended.

.Drafting legislations is the mission of the regional state council which works jointly with the regional AG. Taking into account the challenges involved in drafting of legislations, the Justice and Legal System Research Institute / Justice System Administration Reform Program of Ethiopia prepared a legislative drafting manual in February 2008. The purpose of the manual is to help professionals who are involved in the production of legislations to solve language use problems they experience while producing legislations. The manual which was prepared in both Amharic and English is, in fact, a general guide which does not have detailed description on how language should be used for specific purposes in the production of legislations.

Translation of legislations requires higher level understanding of the disciplines concerned and the source language in which legal texts are originally written and the target language into which the texts are translated. Nevertheless, the attention given to the recruitment of editing and translation professionals, the working conditions, and the institutional policies of the AG are not conducive to the language professionals. Because of these problems, although the AG has been functioning since 1994, it does not have well experienced legal translators. Besides, there is no institutional mechanism to capacitate the language professionals. These factors have the potential to negatively impact the quality of translation of legislations into English.

Despite all these problems, no scientific study has been made so far. Hence, investigating the situation of legal translation in the state will help to understand the language use problems in the legal translation practices and to identify possible solutions to be taken. Moreover, the legal translators, other personnel of the institution who are involved in the production of legislations directly or indirectly, and the external stakeholders can benefit from the findings of the study

2 FDRE Constitution, "A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995," Federal Negarit Gazeta of the FDRE 1st Year No 1, Addis Ababa, 21 August 1995.

when the research report is submitted to the organization, or when it is presented in validation workshops or conferences, or published in proceedings, or journals.

The study was conducted to answer the following questions:

- What is the major language use problem observed in the translation of Amharic legislations into English in the AG of the SNNPRS?
- To what extent are the legal translators of using the LDME to improve their translation practices?
- What are the sources of language use problems observed in the translation of legislations in the AG of the SNNPRS?

2. MATERIALS AND METHODS

2.1. Data sources and methods of data collection

The study adopted mainly a qualitative approach which focuses on the meanings, concepts, definitions, characteristics, and descriptions of things (Berg, 2001: 32). Data for the study were collected from document 3 review taking a sample of proclamations and regulations that were issued in the state from 1997 to 2015. The study used the soft copy of the legislations uploaded on the website (<https://ashamlaws.wordpress.com>) because the soft copies of legislations are convenient for the desired textual analysis. Out of the 72 bilingual legislations, a total of 13 legislations (7 proclamations and 6 regulations) were selected by lottery method for the review. The bilingual legislations were selected so that it will be easier to assess language use in both Amharic and English versions. The focus of the document review was on language use problems relating to grammar, diction, style, punctuation, gender-neutrality and translation.

Additional data were generated from purposively selected professionals, including drafters, judges, prosecutors, attorneys, legal translators, and law instructors, who participated in the FGDs and interviews that were conducted in Hawassa, Arba Minch, and Wolkite. The medium of communication was Amharic. The FGD at Hawassa had 13 participants, while those at Arba Minch and Wolkite had 11 participants each. The tools for FGD were designed by myself and commented on by the research team members. Participants in the FGD were identified from each research site with the help of research assistants. Before the focus group discussions and interviews were commenced, explanations were given to the participants about the purpose of the study and that only interested individuals could participate. The focus of the FGDs was identifying language use problems observed in the state's legislation and obtaining possible solutions they suggested to improve the practices in the future. The KII was conducted with four participants (two legislative drafters and two translators, all of whom are employees of the AG). The interview focused on the perceptions of the practitioners regarding the rationale behind preparing bilingual legislation, the procedure followed in the production of legislation, language use problems they observe in the legislation, their experience of using the LDME, and the mechanism by which quality of language use in the legislation is ensured.

3 The term “document” is used to refer to written texts that serve as a record or piece of evidence of an event or fact, and in modern societies they occupy a prominent position.

The data that were gathered through FGD and kII were first transcribed. The analysis of data was made using transcripts and notes taken from the document review. Themes that emerged from the analysis were categorized in relation to the research objectives.

3. RESULTS AND DISCUSSION

The study indicated that different language use problems are observed in the translation of legislation in the AG of the state. The study also identified different sources of language use problems. Utilizing the LDME was also found to be below expectations. This section will present details of the findings of the study.

Major Language Use Problems Observed in the Translation of Amharic Legislations into English in the Attorney General of the SNNPRS

Translation is a widely used practice in legislative drafting, particularly in multilingual nations (Kielar, 1977). The discussion in this section is devoted to the examination of language use problems in the translation practices of the AG of SNNPRS and related institutional conditions. The study found that non-equivalence in translation, problems in the translation of “shall” and “may”, using gender-based language, and failure to maintain gender neutrality in legislation were the major language use problems observed in the English version of the legislation of the AG of the state.

3.1. Non-equivalence in Translation

Equivalence is a central concept in translation in all contexts. Scholars in the area of applied linguistics and jurilinguistics admit that translating existing legislation into a legally equivalent plain language version has proven difficult to achieve (Tanner, 2006). Maintaining equivalence may also be challenging when a legal / technical concept which does not have an equivalent in the target language is introduced. This could be either because the existing legal term in the target language has a slightly different meaning or because a term does not exist at all (Stefanou and Xanthaki, 2008). The study indicated that the majority of problems of non-equivalence in translations in the SNNPRS legislations are not due to the above two factors. Rather they are related to the linguistic competence of the legal translators in both languages – Amharic and English, respectively. The examples presented below demonstrate this fact.

Example 1: “በኢትዮጵያ ውሃ ሀብት አስተዳደር ፖሊሲ መሠረት የራሱን የኦፕሬሽንና ጥገና ወጪዎች በአጥጋቢ መልኩ እንዲሸፍንና ወጪዎችን ለመመለስ መቻል (to enable to cover operational and maintenance costs in sufficient manner and cost recovery independently according to Ethiopian Water Resources Management Policy) (Reg. 2/2003, Art 5 (2)).”

Example2: “ማንኛውም አርሶ አደር ከሌል አርብቶ አደርና አርብቶ አደር ቤተሰብ አባል፣ ከቤተሰቡ ስጦታ ወይም በውርስ ወይም አግባብ ካለው ባለሥልጣን የገጠር መሬት ሊያገኝ ይችላል (Any person who is a member of a peasant, semi pastoralist and pastoralist family have the right to use rural land that may be obtained from his family by gift or inheritance or from the competent authority (Proclamation 110 Art 5 (11)).”

From example 1 above, we can see that there is language use problem in the source language (Amharic) version itself. “የአፕራሽንና ጥገና ወጪዎች በአጥጋቢ መልኩ እንዲሸፍን” and “ወጪዎችን ለመመለስ መቻል” are semantically the same. The redundancy the drafter made was also repeated in the translation. Apart from this, the translation has syntactic and mechanics errors. It should have been translated as “To be able to effectively cover its operational and maintenance costs as per the Ethiopian Water Resources Management Policy”. In this regard, the translators expressed that they translate things as they are because they translate the legislations after they had been approved. Whether an apparent language use problem in the approved Amharic version should be maintained or it should be corrected has to get a clear decision. It is obvious that the source of the problem is the procedure followed as it was discussed in section 3.3.

In the second example, the phrase “ማንኛውም አርሶ አደር ከፊል አርብቶ አደርና አርብቶ አደር ቤተሰብ አባል” was translated as “Any person who is a member of a peasant, semi pastoralist and pastoralist family”. The equivalent of the Amharic version should have been “Any member of a peasant, semi pastoralist and pastoralist family” because the two are grammatically not equivalent. It is not appropriate to say “any person” while the intention is to talk about any member of the families specified. “Any person” is general and may relate to all human beings, but “any person who is a member of . . .” is specific to the families in question. There are many instances of such language use that affect equivalence. The language use problems in the examples relate to the linguistic competence legislative drafter and translators.

3.2. Problems in the Translation of “shall” and “may”

The modal auxiliaries “shall” (አለበት) and “may” (ይችላል) are widely used in legislations. Proper use of these terms needs much care on the part of legislative drafters and legal translators. Most legislative drafting manuals also insist that care should be taken with the use of these terms. The LDME instructs drafters to use “shall” to express a duty, obligation, or condition precedent, and to use “may” to confer a discretion, privilege, or right (The Justice and Legal System Research Institute, 2008: 48). By implication, this could also apply to legal translators who change legal texts from local languages to a foreign language, in the case of Ethiopia, English. As to the meaning of these terms, while “shall” is construed as imperative, “may” is construed as permissive and empowering (The National Democratic Institute for International Affairs, 2000). The negative forms of these modal verbs are also widely used in legislations. Regarding the function of the negative forms of “shall” and “may”, the legislative drafting manual of Ethiopia states this, “ክልላን ለመግለጽ “የለበትም” የሚለውን ተጠቀም፤ “አይችልም” የሚለውን አትጠቀም። ይህ ቃል በኢትዮጵያ ላሉ የሕግ ባለሙያዎችም ባይሆን ለብዙ የሕግ ባለሙያ ላልሆኑ ሰዎች ግራ የሚያጋባ መሆኑ ተረጋግጧል። “የለበትም” ከሚለው የበለጠ ጠንካራ መሆኑ ይታመናል ለማንኛውም በማርቀቁ ሂደት ውስጥ አትጠቀምበት (Use “shall not” to express a prohibition. Don’t use may not”. This phrase has proved confusing for most non-lawyers, if not for lawyers in Ethiopia. It is often believed to be stronger than “shall not”. Avoid it any way during drafting).”

In this respect, the practice of legal translation in the SNNPRS exhibits problems, especially in the use of the negative forms to the modals “shall not (የለበትም)” and “may not (አይችልም)”.

3.3. Confusing the translation of “shall not” and “may not”

One of the problems that are observed in the translation of legislations is confusing the negative forms of modals “shall not” and “may not”. Because of such use, in many cases “may not” was used to express prohibition instead of “shall not”. The term “shall not” must be used for

prohibition, whereas “may not” must be used for non-conference of power so as to avoid the confusion (see አዋጅ ቁጥር ፻፵፯ /፪ሺ፬ ሺ፪ (፩), አዋጅ ቁጥር ፻፵፯ /፪ሺ፬ ሺ፪ (፪), ደንብ ቁጥር 29/1997 አንቀጽ 17 (2), ደንብ ቁጥር 29/1997 አንቀጽ 18 (3), and ደንብ ቁጥር ፳፱/፲ ሺህ ፳ አንቀጽ ፶፯ (፭)).

Example 1: “በንዑስ አንቀጽ ፫ የተቀመጠው ቃለ መሀላ ሳይፈጸም ማንኛውም ተ ሚ ሥራ መጀመር አይችልም (Any appointee shall not commence his duty before he undertaken the oath specified under sub article 3 above.)::” (Reg. 16/2015 Article 97 (5))”

Example 2: “በዚህ አንቀጽ ንዑስ አንቀጽ /2/ የተጠቀሰው እንደተጠበቀ ሆኖ፤ የሕግ ትምህርት ወይም ሥልጠና እና ልምድ የሌለው በሕግ ጉዳይ ፀሐፊነት ሊቀጠር አይችልም (Without prejudice to provisions of Article (2) of this Article, a Person who has no legal education, training or experience may not be employed as a law clerk.)” (Reg. 29/2004 Article 18 (3))”

Example 3: “ማንኛውም ባለሀብት የመሬት ርክክብ ከተደረገበት ጊዜ አንስቶ በአንድ ዓመት ጊዜ ውስጥ በውሉ መሠረት የኾሮጀክቱን ሥራ መጀመር አለበት (Any investor shall commence to implement his project within one year from the delivery of the land) (Sub-article (2) of Article 11, Reg. 2/1997)

In the above examples, the term “አይችልም” was translated into both as “shall not” and “may not”. Such indiscriminate use of the term avoids the difference between obligation and the conference of power. As a result, it affects the legal force of the sentences in the legislations. This problem is wide spread in the legislations of the SNNPRS.

Introducing “shall” or “shall not” in the target text

The other problem that is observed in the translation of legislations of SNNPRS is introducing “shall” or “shall not” while they are not there in the source text. In the source texts, drafters omit the modals and use only main verbs to express the intention, whether it is of positive or negative sense, but legal translators introduce the modals. This kind of problem is observed in አዋጅ 161/2015 አንቀጽ 4 (1), አዋጅ 135/2010 አንቀጽ 13 (4), ደንብ ቁጥር ፪/፲፱፻፺ አንቀጽ 3, ደንብ ቁጥር ፪ ፲፱፻፺ አንቀጽ 7 (1), etc.

Example 1: “በዚህ አዋጅ ውስጥ ያልተመለከቱ ሌሎች የክልሉ መንግሥት አስፈጻሚ አካላት በማቋቋሚያ ሕጎቻቸው መሰረት ስራቸውን ይቀጥላሉ:: (Other regional government executive organs which are uncovered by this proclamation shall carry on their functions by their establishment laws”) Proc. 161/2015, Article 4, sub-Art (1)),

Example 2: “የሚከተሉት የመስተዳድር ምክር ቤት አባላት ናቸው፤ (Administrative council shall have the following members:”) አዋጅ 161/2008 Art. 5, sub-art 1)

Example 3: “በዚህ አንቀጽ ንዑስ አንቀጽ /፩/ የተደነገገው በወንጀል ፍርድ ቤት በሚታይ ክርክር በማሰረጃነት የሚቀርቡ ሰነዶችን አይመለከትም:: (Sub-Article/1/ of this Article shall not affect the Validity of the instrument when submitted has evidence in any proceeding in a criminal court).” አዋጅ 135/2010 Art. 13, sub-art 2)

As we can see from the above examples, the source texts in which modals “shall” or “shall not” were not used do not have the flavor of legal language they should have and the legal force they should hold. Thus, although the introduction of the modals help to elevate the statements from the level of everyday language to that of legal language and make the target texts possess the

flavor of legal language and make them have the legal force, the equivalence of the translation may be questioned. If translation makes such change in the quality of the text, it may lead one to question the loyalty of the legal translator. As it was discussed in section 3.3.1, the legal translators claimed that they translate legislations as they are in the source text, even if it has problems, since they conduct translation after they have been approved.

3.4. Using gender-based language

Gender-based language use in legislative drafting has been an issue of debate by scholars for decades. Legislative drafters are often advised to use gender-neutral language, which is, like plain language, the signpost for legislative drafters (Hauerstein, 2016). Gender-neutral language is a tool for accuracy, since it promotes gender specificity in drafting. Hence, legislative drafters should primarily pursue quality in legislations. To ensure quality of legislations, one area to address is gender neutrality. The legislative drafting manual of Ethiopia prescribes that drafters should not use gender-based pronouns: “አንድ አርቃቂ የታን መሀረት ያደረጉ ተውላጠ ስሞች መጠቀም የለበትም (A drafter should not use gender-based pronouns) 4. Despite this instruction, there are legislations in which gender-neutrality was not maintained. Although using pronouns is not observed in the Amharic version laws as it is in the English versions, gender-based language is still apparent in the Amharic versions. One may ponder as to why the Amharic version laws demonstrate gender-based language while gender-based pronouns are not used. The mystery is that in Amharic gender is not marked by pronouns only. It is also reflected in other grammatical categories of the language. Thus, avoiding pronouns alone would not make the language gender-neutral. The following examples demonstrate how gender-neutrality is affected in the two versions of the laws:

Example 1: “ማንኛውም ባለሀብት የተከራየውን መሬት እና በመሬት ላይ የሚገኙትን የተፈጥሮ ሃብቶች የመንከባከብ ግዴታ አለበት። በተለይም፡- ሀ/ ለእርሻ ሥራ አመቺ ለማድረግ በማመነጠሩ 5 ዛፎች ምትክ ሌላ ዛፎችን መትከል . . . (Any investor shall be obliged to protect and preserve the natural resources of the land and in particular, he shall plant suitable species of trees to replace trees . . .) (Sub-article (1) of Article 11, Reg. 2/1997).

Example 2: “ግለሰቦች በራሳቸው ጥረት ለማገድ፣ ለኮንስትራክሽን ለሌሎች የደን ጥቅምት የሚሆኑ ደኖችን ሲያለሙ በሚመቻቸውና አግባብ ባው መልኩ ስያሜ የመስጠት መብት አላቸው * (Private individual may, while developing fore on his effort for the purpose fire wood construction and other uses, have the right designate based on his will and properly thereof*) (Sub-article (3) of Article 13, Proc. 147/2012,)

Example 3: “የጥብቅና ፈቃድ ያለው ማንኛውም ሰው በዚህ አንቀጽ ንዑስ አንቀጽ 1 የተገለፁትን የሚያሟላ ከሆነ ልዩ የጥብቅና ፈቃድ ሳያስፈልገው አገልግሎት መስጠት ይችላል። ነገር ግን ይህን አገልግሎት ከመስጠቱ በፊት ለቢሮው ማስታወቅ አለበት (Any person who has an advocacy license and meets the requirements specified in the provisions of sub- article (1) of this Article may render advocacy services without as special advocacy license. However, he shall notify the bureau before rendering such a serves.) (Sub-article (2) of Article 13, Reg. 29/2004)

The above examples show what the gender-based language in the two language versions of the legislations look like. In the Amharic version, gender-based language is not reflected in

4 የፍትሕና ሕግ ሥርዐት ምርምር ኢንስቲትዩት/ የፍትሕ ሥርዐት አስተዳደር ማሻሻያ ኘሮግራም፡ የኢትዮጵያ የሕግ አረቃቀቅ መመሪያ፣ አዲስ አበባ (2002)

5 All typographical errors in both Amharic and English versions are those in the original

the pronoun as it does in the English version. In fact, in Amharic sentence we may have more words that indicate gender-bias than its equivalent in English. For instance, in example 4, there is only one word (pronoun “he”) that indicates gender-bias in the English version, but in the Amharic version of the same Article there are seven words (“ያለው”, “የሚያሟላ”, “ከሆነ”, “ሳያስፈልገው”, “ይችላል”, “ከመስጠቱ”, and “አለበት”) that indicate gender-bias. The variations in the nature of the two languages imply that the strategies to handle the problem of gender-bias may also differ. As a result, we should look for strategies that fit best to the specific nature of the languages in question. Below we will see the various strategies to maintain gender-neutrality in the legislations. In this respect, using plural form seems to be the best option to maintain gender-neutrality in Amharic legislations (see example 2 above). The section below will discuss different strategies of maintaining gender gender-neutrality.

3.5. Failure to maintain gender-neutrality in legislations

Different strategies can be used to maintain gender-neutrality in legislations. One of these is omitting the use of personal pronoun, while the other one is repeating the noun in question instead of the pronoun (The Justice and Legal System Research [Institute, 2008](#): 48). In addition to this, it is possible to use the plural form of the pronoun, or the passive construction if the actor is clear (Counsel to the Massachusetts Senate (3rd ed.), 2003). For example, in the case of English, drafters and legal translators must avoid the use of he or she (and his or her) when referring to a person affected by a statute (Legislative [Council, 2021](#): 92). Gender-neutrality can also be achieved by using gender-neutral words, such as “applicant, applicant’s, candidate, candidate’s, commissioner, commissioner’s, individual, individual’s, person, person’s, etc. Corresponding gender-neutral words can also be used in Amharic legislations”.

The study revealed that there is low sensitivity to gender-based language in the legislations of the state. Some of the FGD participants argued that there is no convincing reason, on the part of the drafters, that prohibits them from using gender-neutral expressions. On the contrary, others argued that the conventional gender-based language use does not have any problem. For example, one participant of FGD said this, “በወንድ ጾታ መደንገግ እና በወንድ ጾታ የተገለጸው የሴት ጾታን ይጨምራል ወይም ሴትንም ያካትታል የሚል ድንጋጌ ስለሚቀምጥ ለሱ ችግር ያለው አይመስለኝም” (I don’t think drafting using masculine and, declaring “what has been expressed in masculine also works for feminine” has any problem. (FGDH, 7 Dec., 2019). That kind of view indicates that there is apparent insensitivity to gender-based language among the practitioners.

Moreover, document review showed that there are many legislations of the state in which gender-based language is used (see Reg. 2/1997 Art. 11 (2, 3 & 5), 13 (1 & 3), 14 (1 & 3), and 15 (1); Reg. 8/2003, Art. 2 (1), 17 (2), 19 (2 & 3), 20 (2), 51(1), etc., and Proc. 161/2015 Art. 9 (2c), 10 (2), 13 (19), & 36 (2); Proc. 147/2012, Art. 13 (3), 16 (3), 22 (4), and 25 (1)). This problem is reflected equally in both Amharic and English versions.

Table 2: How to apply gender-neutrality strategies in the legislations in two languages

Strategy adopted	GNL- Amharic	GNL- English
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Using the plural form	የመሬት ኪራይ በዚህ አንቀጽ ንዑስ አንቀጽ ፩ መሠረት በወቅቱ ካልተከፈለ የሰላላቶቹ የይዘታ መብታቸውን ሊያጡ ይችላሉ።	If the rent to the leased land is not paid at the time specified in sub Article (3) of this Article, investors may lose the right of possession.
Using the passive voice	የመሬት ኪራይ በዚህ አንቀጽ ንዑስ አንቀጽ ፩ መሠረት በወቅቱ ካልተከፈለ የሰላላቶች የይዘታ ባለቤትነት መብት ሊታጣ ይችላል።	If the rent to the leased land is not paid at the time specified in sub Article (3) of this Article, the right of possession to the land may be denied.
Omitting the use of a pronoun		If the rent to the leased land is not paid at the time specified in sub Article (3) of this Article, an investor may lose the right of possession.
Repeating the noun		If an investor fails to pay the rent to the leased land at the time specified in sub Article (3) of this Article, the investor may lose the right of possession.

As it is presented in Table 2 above, there are more options for translators who use English than there are for the drafters who use Amharic to apply GNL. This is related to the linguistic nature of the respective language. This means that languages do not lend themselves equally to apply different strategies to maintain gender-neutrality. Among the strategies listed in the table above, using the plural form seems to be already in practice among legislative drafters in the SNNPRS. For example, sub Article (1) of Article 28, Reg 16/2015, says, “በጉባኤ ወቅት የሚመደቡ ሠራተኞች የምክር ቤቱን ጉባኤ በማያውክ ሁኔታ ስራቸውን ማከናወን አለባቸው” (Support staff members that are in duty during sitting of the council shall perform their duties in a manner that does not disturb the sitting). Other Articles in which the same strategy was used include Proc. 147/2012 Article 13 (2), and Proc. 161/2015 Article 33 (1). This means legislative drafters can capitalize on using the plural form to avoid gender-based language which is widely observed in Amharic version legislations. The other two strategies, omitting the use of a pronoun, and repeating the noun do not appear relevant to the Amharic legislations.

3.6. The Extent to which Legal Translators of the AG Use the Legislative Drafting Manual of Ethiopia (LDME) to Improve Their Practices

In many nations, governments commit time and resources for the preparation of laws so that the resulting laws comply with the international standards and with local norms. Developing legislative drafting manual (LDM) facilitates consistency and uniformity of a country’s laws and assists officials in the process of drafting and adopting legislations.⁶ In Ethiopia, a LDM was designed for the first time in 2008 with the purpose of providing drafters with the necessary minimum standards, rules, techniques, styles, and procedures of drafting legislations.⁷ Based on this, the current study tried to examine the extent to which the manual has contributed to improve language use in the legislative drafting and translation of legislations in the SNNPRS. The study focused on exploring the perception of legislative drafters and legal translators about the role of LDM, and understanding the extent to which they utilize it. It was learnt that: (1) The existing LDME is not being used by law professionals. For instance, one of the drafters

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mentioned lack of LDM as a major problem. When I asked him if he knows about the LDM by Ethiopian Justice System, he said, “when I joined this office, the owner of the work process said there is one, but he didn’t give, and neither did I ask him again.” (2) The production of LDM alone cannot guarantee success in addressing the language use problems observed in the legislations in the region unless a strong mechanism is put in place to promote the manual and raise awareness about its role to improve the quality of legislations. The problem seems to be associated with the knowing what LDM is and lack of awareness about the role of LDM in the production of legislations.

3.7. Perception of practitioners about LDM

There is a general consensus that laws should be written in a simple and clear language and direct style, using complete sentences phrased for the common reader as well as for the political or legal experts. This is because language is the instrument using which the intent of the legislature is externalized and reaches the subjects of the law. In order to impart the message as intended by the law maker, it is imperative to use the language properly⁸. The study indicated that the practitioners recognize the importance of a manual to guide language use in the legislative drafting and translation of drafts. Moreover, legislative drafters and translators expressed that using the drafting manual is imperative to make the way language is used prudent and helps the law they make to say what they mean. According to them, the manual, which defines the rules drafters need to follow to achieve their goals, is critical to the success of the legislations. One of the FGD participants explained the need for LDM as follows:

ሕጎች ተደራሽ መሆን ስለሚገባቸው፣ ወርደው ተግባራዊ መደረግ ስለሚገባቸው መርሁ ቀጥተኛ፣ ቀላል፣ አጭርና ትክክለኛ ቃላት መጠቀም የሚለው የሚገዛን ይመስለኛል። ሁለተኛ ይኸ ሆኖ እያለ እነዚህን ስንጠቅም በመመሪያ የታገዘ ቢሆን ኖሮ ያሉትን ችግሮች የሚፈታ ይመስለኛል። . . . አንድ ቃል ስተረጎም የሚዛባ ከሆነ ሰውየውን የሚያድን ወይም የሚያጠፋ ልሆን ይችላል (because laws should be accessible and implemented in the day-to-day lives of the people, I think the principle that the words we use should be direct, simple, precise and appropriate is binding. Secondly, I think when we use this, it will solve the problems if it is guided by manual. . . . If a word is interpreted wrongly, it could either save him or destroy him) (FGDH, 7 Dec., 2019).

From this we can see that the practitioners need a manual very much to accomplish their professional duties effectively. In fact, practitioners need not only LDM. Some countries have, in addition to LDM, a counsel that provides support to drafters in various drafting and translation related issues.

3.8. Awareness about and utilization of the LDM

Legislative drafting manual outlines guidelines drafters and legal translators should follow. An attempt was made to assess the extent to which the practitioners are aware of the existing LDME. In this regard, although the Justice and Legal System Research Institute of Ethiopia produced the manual in 2008, the majority of the practitioners are not aware about its existence. Those who do not know the existence of the manual say:

(1) “በሕግ አረቃቀቅ ላይ ሊመራ የሚችል መመሪያ የለም። አረቃቀቁም በግለሰብ ደረጃ በራሱ በግል እሳቤ በመመራት ነው የሚሄደው። ይህ ደግሞ ክፍተት ይፈጥራል” (there is no directive to guide on legal

drafting. The drafting is conducted based on the ideas of an individual. This creates a gap) (FGDH, 7 Dec., 2019).

(2) በህግ አረቃቀቅ ላይ የቋንቋ አጠቃቀምንና አጠቃላይ የህግ መዋቅርን ጭምር የያዘ መመሪያ ልኖረን ይገባል (we need to have a directive on drafting and it shall cover the issue of language usage and overall structure of the laws). (FGDW, 11 Jan 2020)

According to these FGD participants, when drafting is done only depending on the experience and reading of each practitioner, it is difficult to bring about uniformity. They attributed the absence of a guideline on language use as a factor for a wide gap observed between the drafts produced in the region. Besides, they said that absence of tailored training to the practitioners of legislative drafting is also a factor that contributes to the problem. These factors resulted in poorly drafted legislations that exhibit different problems of clarity. In spite of these inhibiting factors, these participants admitted that there are legislations that are of high quality and can serve as a model in terms of their language use. The practitioners also acknowledged that the LDM contains some details regarding how the language should be used during drafting.

On the other hand, the practitioners who are aware of the existence of the manual complained that the manual has not been communicated well to the practitioners. In relation to this, one of the participants said:

ከፍተኛ የሚሰጠው ችግር አለ። የቋንቋ ክፍተት በተመለከተ በተግባር ለማስተካከል አስቀድሞ የሚሰጠው ሥራ ሊሰራ ይገባል የሚል ነገር ነው ያለኝ። የቋንቋ አጠቃቀምንም በተመለከተ መመሪያዎች ላይ ግሶችን፣ ቅጽሎችን እንዴት መጠቀም እንዳለብን ያስረዳሉ። ይህንንም በደምብ ያለማሳወቅ ችግር ይፈጥራል” (there is much problem in terms of raising awareness. To address language use problems in practice, I personally feel that awareness raising should be done first. The guidelines on language use explain how we should use verbs and adjectives. Failing to make this known well causes problems) (FGDH, 7 Dec., 2019).

From this we can understand that producing a LDM is just one step to address the problem observed in the legislative drafting practices. The manual has to be communicated effectively to the practitioners to achieve the intended goals. The existence of the manual cannot bring about improvement in the practice if the practitioners do not make use of it in their everyday practices.

Some participants associated the lack of sensitivity to language use issues in the judicial system to the level of understanding law professionals have to the very science of legislative drafting. They argued that individuals who have not been trained in legislative training at higher level cannot appreciate well the role of language use in legislative drafting. According to them, there should be an LMM program in the country on legislative drafting. Then language use issue can get more attention because such professionals can be more aware and sensitive to the issue of language use than those with training in law at first degree level.

3.9. Sources of Language Use Problems Observed in the Translation of Legislations in the AG of the SNNPRS

A number of sources contribute to the language use problems observed in the legislations of the SNNPRS. This section is devoted to describing these sources.

3.9.1. *Editing and translation procedures of the AG*

In the study, effort was made to explore the sources of language use problems observed in the AG of the state. Accordingly, the researcher looked into the procedures that are followed to carry out editing and translation of legislations in the region. Basically, as the BPR document stipulates, editing and translation works are carried out after drafting is completed (ፍትህ ቢሮ፣ በደብዳቤ መሰረት የህግ ጥናት፣ ማርቀቅና ማስረጃ ዋና የስራ ሂደት የክለሳ ጥናት ሰነድ, 2008 E.C). The interviewees with legislative drafters and legal translators indicated that the Amharic version drafts are first sent directly to the Regional Administration Office for approval. Then, the approved drafts are given to the legal translators. Consequently, legislations with glaring grammatical or typographical errors are approved and implemented, but the faults are always attributed to legal translators. Hence, the legal translators complain that getting the Amharic version drafts after they have been approved is not appropriate.

Their complaint seems to be valid because the BPR document instructs drafters to send the final draft directly to the Regional Administration Office for approval instead of submitting it to legal translators for editing and translation (see the BPR document, page 62). Sub-Article (8d) of Article 50 of Reg. 16/2015 of the state stipulates that a draft law that is initiated by anybody shall be presented in Amharic and English copies. Therefore, the procedural problem needs to be resolved so that drafting, editing and translation works may result in drafts as prescribed by Regulation 16/2015 Article 50 (8d).

In the FGD, one participant expressed the procedural problem they experience as follows:

ረቂቅ ሕግ ስዘጋጅ ዐቃቤ ሕግ አዘጋጅቶ ያመጣል። ከዛ በኋላ ሄዶ ከጸደቀ በኋላ ነው ለእኛ ለትርጉም የሚመጣው። ከፀደቀ በኋላ ቋንቋ የማየት እድል ዝግ ነው። ስለዚህ የመናበብ እና አብሮ የመስራት ሁኔታ ስለሌለ ክፍተት ያመጣል። ያ ክፍተት ይዘቱንም እስከመቀየር ድረስ የሚያደርስ ሁኔታ ተፈጥሯል። በመመሪያ ወይም በወይይት የመደገፍ ነገር የለውም። የቋንቋ ባለሙያ የመጣውን ተቀብሎ ትርጉሙን ብቻ ሠርተው የመስጠት ሁኔታ ነው ያለው። ስለዚህ ክፍተት አለ (In the process of legislative draft preparation, a drafter submit the draft. It is after it has been approved that it is given to us for translation. After approval there is no room to address language use problem. Such gap caused even changing the content of the legislation. It is not supported by directive or discussion. The practice is that a language professional only translates what is given to him and submits. So, there is a gap) (FGDH, 7 Dec. 2019).

The point the above participant raised indicates that there is systemic source for language use problems that negatively affect legal translation practices in the AG of the state. This needs serious attention of the management. Overall quality in the legislations can be achieved only if systemic problems of the institution and technical skills of the practitioners are addressed properly.

3.9.2. *Absence of capacity building efforts in the AG of the SNNPRS*

Capacity-building plays an important role in improving an organization's ability to fulfill its mission. It combines sound management, strong governance, and dedication to assessing and achieving results. In this respect, legal translators in the AG of the SNNPRS who participated in the interview complained that absence of proper orientation to new employees joining the organization as editing and translation professional is affecting the practice of legal translation. A new employee is left to learn things through trial and error. For example, one of the legal

translators explained that he didn't know the difference between "will" and "shall" in the legal context, and therefore was using "will" instead of "shall" until one of the legislative drafters explained to him that in legal language "shall" has different effect than "will". This interviewee explained that he was using "will" instead of "shall" because in the school he had been teaching his students to use "will" rather than "shall". He said he would not have made that mistake if he had received proper orientation when he joined the organization (Inter. 3, 10/11/12 E.C). Absence of on-job training to build their capacity was also raised as a source of the problem.

In addition, the legal translators expressed that they are not made to participate in the drafting process from the outset. They argued that since they are not involved that way, at times they find it difficult to comprehend the intention of law makers (Inter. 2 and 3, 10/11/12 E.C). Moreover, they said they come across ambiguous language use in the drafts and need explanations from the drafters to understand their intention, but in many cases it is difficult to trace the professionals who drafted the legislations. Hence, they argued that most of the language use problems which are observed in the legislations could have been corrected if they had been made to participate in the drafting process. However, one of the legislative drafters who participated in the interview explained that legal translators are not involved in the drafting process due to two factors:

About 90% of the drafts are initiated in sector offices and finalized there. The drafts are sent to them only for professional comments concerning its compatibility to other laws. Even though we check major language use issues, we do not address every aspect of language use. Due to this, legislative drafters do not have control over the entire drafting process of legislations initiated by sector offices.

The legal translators are graduates of English language who are mainly supposed to do the translation from Amharic into English. As a result, there is a general feeling that their competence in Amharic would not be much different from that of the drafters. Consequently, they are not involved in the 10% of the legislations which are initiated by the AG of the region (Inter. 4, 10/11/12 E.C).

The argument of the legislative drafter does not seem to be convincing because: a) even though the draft legislations may be initiated by sector offices, they are necessarily sent to the AG for comments and fulfilling all legislative requirements. If language use is considered an important element of legislative drafting practices, translators could have been made to check the language at this phase. b) Although the legal translators may have their own limitations, it is still these people who are responsible to handle language related matters, be it in the source language (Amharic) or in the target language (English). This seems to imply problems of perception about and attitude towards legal translators on the part of legislative drafters pertaining to the linguistic competence of the language professionals. This in turn seems to have negatively influenced the contribution language professionals might have made in improving the quality of the legislations of the region. A similar finding was reported by Organization for Security and Co-operation in Europe (OSCE) (2018) in Kosovo, a country with bilingual legislations.

3.9.3. Absence of a mechanism for quality control

Another source of language use problems in the legislations of the states appears to be absence of a mechanism that controls quality of the legislations. The majority of legislations issued by the SNNPRS contain many language use problems which could be managed by establishing a

mechanism for proper quality control. Language use problems are observed in both Amharic and English versions of legislations. Although the participants expressed that language use problems are corrected using the internal readings and discussions made within their work process in the directorate for legislative drafting to maintain quality of the work, there are outstanding language use problems in the legislations. There is no individual or office is responsible to language use problems in the legislations.

3.9.4. Low attention to language services in the organization

Compared to other work processes in the organization, language services has been given less attention. The poor provision of resources such as office, computers, dictionaries, etc. is an indication of the low attention. For example, one of the legal translators who has served for two and half years said he still does not have a lap top, even a desk top computer for his daily work. He does his work by borrowing computers from others,

3.9.5. Failure to adhere to the accepted performance management strategies

Adhering to the strategies an organization adopts is necessary to achieve the desired goals. Although it is explicitly stated in the BPR document of the organization (page 64) that every legislative draft has to be edited before it is sent to the Regional Administration Office for approval, that is not being practiced. Drafts are directly sent to the approving body before they are edited and translated. The editing and translation professionals notice language use problems in the Amharic version only when they begin translating them into English. They can make no change at this stage since the drafts have already been enacted as laws. Similarly, it is stipulated in the BPR document that every proclamation has to be presented in both Amharic and English versions for approval, but the practice is approving only the Amharic version.

In the light of these practical challenges the practice of legal translation is facing in the region, it is imperative to look for feasible solutions. These problems can be mitigated only by establishing a responsible body comprising people with legal qualification and linguistic skills who could take care of language use problems in the legislations (Constantin, 2008). To this end, linguists in respective countries are also invited to develop aspects of gender-neutral language, as well as plain language to help improve the legislative drafting practices of their country (Hauerstein, 2016). For an institution entrusted with the production of legislations, it is critical to have a mechanism that ensures that every legislative draft is properly edited, as part of quality control, for content and language before it is approved. The quality of legal translation also needs the attention of authorities.

The other issue that seeks attention is ensuring the production of bilingual legislations across laws. The very reason legislations are translated into English is to make the laws accessible to foreigners who do not understand Amharic (Inter. 2, and 4, 10/11/12 E.C). If that is the case, no legislation should be left not-translated into English, and the quality of English in which legal translation is made should meet the minimum expected standard if it is to serve the purpose.

3.9.6. Low linguistic competence of editing and translation professionals

Given the practices in the language services in the AG of the state, although language use problems observed in the Amharic version could not be attributed to the editing and translation professionals, those in the English version clearly show the low level of linguistic competence

of the practitioners. The current global trend is making multilingualism flourish more than ever before. Even the changing socio-political situations in Ethiopia is making the country confront the changing reality in which regional states are producing legislations in regional languages. This scenario suggests that the demand for language services in the justice system will be higher in the immediate future, not only for the interest of foreigners but also for that of the citizens of the country from different regions. Thus, the justice system needs to design an enabling organizational structures that can attract competent language professionals who can meet the demands the profession entails.

4. CONCLUSION AND RECOMMENDATIONS

4.1. Conclusion

The current study focused on assessing the status of language use in the attorney general's office of the SNNPRS of Ethiopia, where legislation is translated from Amharic into English. The study indicated that language use problems in the translation of Amharic legislation into English affected the equivalence of texts in the target language, caused confusion in the way "shall" and "may" and their negative forms are translated, and led to the use of gender-based language. Some of the sources of the language use problem were found to be low attention given to the translation activity in the AG of the state, lack of required facilities for legal translators, low linguistic competence of legal translators, and wrong procedures followed in the production of translated versions. Lack of a culture of orienting legal translators who join the organization as new employees about the context-based nature of the work, their roles and duties, the facilities they have, and the absence of on-the-job and short-term training to build their capacity were also found to have their own impact on the translation of legislation. The various typographical, clerical, and spelling errors in the English version of the state's legislation clearly suggest that quality control mechanisms are highly needed in the AG of the state. Editing and translation work requires a working environment that is free of noise and equipped with the necessary facilities like computers, dictionaries (hard and soft copies), and internet connectivity. The poor supply of these facilities indicates the organization's low attention to legal translation.

The procedures that are followed in the production of English-language legislation, as outlined in the BPR document, were found to be one of the sources of language use problems in the Directorate for Legal Study, Drafting, and Awareness Creation of the AG. Because of this procedure, legislative drafts are sent directly for approval before they are edited and translated into English. A lack of a responsible body that maintains the standard set for the practices of the institution was also found to be negatively affecting the quality of the legal translation service.

Although the Ethiopian Justice System developed an LDME in 2008, sadly, it is not being used by legal translators. It seems the manual has not been promoted to the level it deserves. Some of the language use problems observed in legal translation practices could have been resolved if the LDME had been used properly.

4.2. Recommendation

As the quality of legislation requires a high level of competence in the languages in which bilingual legislation is produced, the AG should pay special attention to the issue of language use on the part of both legislative drafters and legal translators. Proper orientation should be provided when new employees join the institution, and relevant short-term and on-the-job

training should be offered to the practitioners in order to help them enhance their capacity for the day-to-day activities.

In the legislation, gender neutrality is reflected in different ways in the two versions of the legislation. While avoiding gender-based pronouns can be used as a strategy to maintain gender neutrality in English, it may not work for Amharic legislation because gender bias in Amharic is embedded in other grammatical categories, too. In both languages, using the plural form should be emphasized as a strategy to avoid gender-based language.

A conducive working environment is a prerequisite in all organizations. The problems language professionals experience in terms of materials like computers and other facilities need to get the attention of the institution. It is not fair to expect employees to deliver quality service without providing them with basic inputs for the work.

The procedural bottleneck indicated in the BPR document should be resolved as quickly as possible so that language professionals may edit and translate the legislation before it is sent for approval.

There should be a responsible body for assessing the quality of drafting and that of editing and translation services and for suggesting solutions to the problems the practices encounter. Violations of procedures and quality standards, as well as inconsistencies that are observed in the production of legislation, should be taken care of by this body. Proper implementation of guidelines and strategies, as well as raising awareness about them, should also be conducted by this body.

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7. CONFLICTS OF INTEREST

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