
Language is a medium of communication for people just as much as it could also be a collective identity for a nation or group of people. It is mainly through a language, among others, that a person asserts an identity. For businesses, language is a tool for concluding contracts, thus establishing responsibilities and benefits, says **YOHANNES WOLDEGEBRIEL**, director for the Arbitration Institute of the Addis Ababa Chamber of Commerce and Sectoral Association (AACCSA).

Putting Language to Work

In a multilingual country like Ethiopia, where we have more than 80 national and ethnic groups with their own distinct language and dialects, practical consideration always demands for a legal selection and regulation of a working language at federal and state levels.

Federal and state legislatures have adopted the official working language of government offices, including courts and law enforcement agencies. As a result, public service personnel, such as judges and prosecutors, must administer the legislative decision in the working language, irrespective of the interest of citizens or residents' clients or customers. They are required to conduct government businesses, dispense justice, prepare any official document, hold a hearing or provide verification and many other public services in a language determined by law.

Although the legislative decision on the working language to be used by local courts and other government offices supposedly represents the interest of the majority of the people residing in a given place, undeniably, there are groups of the population that could suffer inconveniences and costs due to such a decision. Often, limited attempts are made to assign an interpreter, most notably by courts, to offset the language barrier in the administration of justice.

However, even though this could alleviate some problems, parties or even lawyers and other professionals, that are unaware of the court's official language, would incur costs for the translation of documents, statements of claims, statements of defenses, and submissions. Obviously, translation from one language to another is not only costly, but sometimes less gratifying to all parties involved.

Business persons and organizations enter into various kinds of contracts with their customers around the globe, crossing over any state borders, political, language, ethnicity, social origin or any other barrier. Between business persons and their customers the meeting of minds, the most popular catch phrase of business contracts, whether through body or sign language, is the edifice for all commercial transactions that eventually culminates into a valid and enforceable contract.

Parties enter into business contracts, with their free will and consent, virtually on all important matters, including current or future dispute resolutions and not necessarily on account of language, economic, cultural or social similarity. The purpose of doing business in general and concluding business contracts in particular is nothing but to guarantee the survival or sustainability of the business and ultimately, the acquisition of unimpeded profit.

It is therefore desirable that parties to business contracts should decide upon suitable dispute resolution mechanisms that may unfold during the lifetime of the contract and the applicable language, in order to avoid the risk of submitting to local courts that are always under legal compulsion of applying the official language, that could exacerbate their inconveniences and inflate their costs.

Indeed, arbitration provides an alternative to court litigation. Parties' resort to arbitration because of their prudent decision, ahead of time, to insert in their contract arbitration, or another out-of-court dispute settlement clause, or consent to submit to such fora before or after any dispute arises. Unlike

court litigation, arbitration provides an added advantage to freely determine the language of the arbitration proceeding that is preferred by the parties to the dispute.

Consequently, arbitration help parties to avoid and do away with all obstacles and pitfalls associated with a mandatory enforcement of the official working language courts are duty bound to comply with, regardless of the interest or choice of the parties. In as much as business activities cannot be restricted to certain territory or people, so do business persons find themselves with a disputing customer or partner, at any of the courts in Ethiopia or elsewhere, working with an unfamiliar language in order to lodge their claim or defend a case.

For instance, the revised arbitration rule of the Addis Ababa Chamber of Commerce and Sectoral Association offers parties in commercial disputes to agree on the language of the arbitration. Where there is no such agreement, the rule provides, the arbitrators can determine the language of the arbitration "due regard being given to all relevant circumstances, including the language of the contract."

Arbitration is a private dispute resolution method and parties have substantial involvement and participation in the whole process. The arbitrators are also concerned as to how best to solve the dispute in a manner acceptable to the disputing parties. As a result, choice of language of arbitration is made to meet the needs of the parties; and not merely to comply with the mandatory legal prescription of a sovereign authority on the official language of courts and other public offices.

In order to meet binding legal requirements, local courts often demand the translation of each and every document submitted to one and sometimes, two or even more languages, from the original language of the contract. This situation imposes extra financial burden to disputing parties that has cost implications.

The foregoing explanation, however, should not be understood to mean that parties to an arbitration agreement or other kinds of amicable settlement of disputes necessarily avoid inconveniences or costs resulting from unfamiliar court litigations. This is true only if they are strictly faithful and committed to the whole process and the outcome of their agreement to out- of-court settlement.

Thus, parties in an arbitration proceeding, for example, must honour their agreement to submit to and accept the award of the arbitrators as final and binding so long as it is rendered in accordance with the law and free from any vices. This is because unless parties to an arbitration agreement accept and voluntarily enforce the arbitrators' decision, the intervention of the court will be unavoidable.

The court, to which the enforcement of the award or any interim order is sought, necessarily require the translation of all relevant documents in accordance with the applicable federal or state official/working language requirements. Parties would continue to suffer from the inconvenience and costs occasioned by using a language unknown to one or both of the parties.

The driving force for and perhaps the overriding goal of doing business is to acquire and maximize profits by reducing costs. It is highly probable to allow extra business consideration not related to his/her long or short term gains when concluding business contracts. Therefore, in this period of global crisis, it is time to look into and employ all available means to save costs, including costs of litigation by resorting to arbitration and other less costly modes of dispute settlement.

The Arbitration Institute of the Addis Ababa Chamber of Commerce and Sectoral Association helps in handling such commercial dispute resolution through arbitration or other peaceful methods of dispute settlement. It provides the opportunity to assist parties in a dispute in reducing litigation costs. It makes any language used as a medium of communication to resolve disputes help facilitate business and maximize profit.