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## Translation policy and indigenous languages in Hispanic Latin America

Rosaleen Howard, Raquel de Pedro Ricoy, Luis Andrade Ciudad<sup>1</sup>

### Abstract

This article examines the status of translation policy as it relates to public service interfaces between the dominant Spanish-speaking sectors of society and speakers of some of the many indigenous languages of Latin America. The article focuses on Mexico, Colombia, Ecuador, Bolivia and Paraguay, and Peru is used as a case study based on recent first-hand research. Translation policy is inherently bound up with language policy, where the latter exists. However, there is variation from state to state as to whether language rights legislation has been passed, whether it is implemented through policy, and the extent to which translation policy is part of the legislative framework. The case of Peru illustrates the need for translation and interpreting (T&I) services following conflicts and painful human rights infringements. Across the board, T&I have hitherto been ad hoc practices, giving rise to translation policy de facto. Formalized T&I training initiatives and legislative processes are now underway in Peru, and may give rise to explicit translation policies evolving there and elsewhere in the region in the future.

**Key words:** *language rights; indigenous peoples; translation and interpreting; translation policy; Latin America*

### 1 Introduction

This article will critically examine the nature and role of translation policy in select Latin American countries where many indigenous languages are spoken alongside Spanish. We look at Mexico, which blazed the trail in language rights legislation at the start of the new millennium. We consider Colombia, Ecuador, Peru and Bolivia, insofar as they cover a contiguous area of South America with trans-border indigenous languages, across which useful comparisons can be made. We also look at Paraguay, as it offers a striking example of structural bilingualism that might be expected to shape translation policy in particular ways. Peru is treated as a case study based on recent primary research.<sup>2</sup>

The sixteenth century Spanish conquest of today's Latin America triggered efforts to translate and interpret across the many linguistic divides between agents of the colonial powers and the newly subjugated populations (Valdeón 2014), largely with the aim of religious proselytization. Colonial records give insight into the endeavors of Catholic priests who learned Nahuatl and Maya (Mexico) and Quechua and Aymara (Peru and Bolivia) in order to

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<sup>2</sup> For reasons of space, we do not include Guatemala, with its high percentage of indigenous population, or Lusophone Brazil, in this study.

translate and transmit Christian doctrine (Hanks 2010; Durston 2007). The twentieth century saw the spread of evangelical Protestantism, with the Summer Institute of Linguistics (also known as Wycliffe Bible Translators) treating the translation of the New Testament into indigenous languages as a key task (Spolsky 2004: 49). In the present day, sociolinguistic asymmetries (Mannheim 1991; Howard 2007) mean that while translation and interpreting (henceforth T&I) between Spanish and mainstream foreign languages tend to be institutionally regulated practices, T&I between Spanish and the indigenous languages continue to be conducted ad hoc, as they were in earlier times.

This situation is beginning to change. Due to greater educational inclusion for the indigenous population from the 1980s onwards, and concomitant higher levels of bilingual competency in their native languages and Spanish, translators and interpreters are increasingly mother-tongue speakers of the Amerindian languages into which, or from which, they translate. Typically, today's translator-interpreters received early socialization in their vernacular languages, acquired Spanish from school age onwards, and, in most cases, consider themselves to be insiders of the cultural systems that embed the Amerindian languages. They might also be members of the indigenous organizations that have been struggling for greater social and political recognition from the state since the 1990s. Their motives for translating and interpreting, and the types of document or oral interaction they undertake to mediate, are also different. In contrast with the cultural outsiders who carried out cross-linguistic transmission of religious content during colonial times, insiders now want to work on behalf of their communities to facilitate communication in public service settings and in negotiations with the state over natural resource extraction on community territory. Such negotiations, governed by international conventions and domestic legislation for the protection of indigenous peoples, are known as "prior consultation" and will be discussed in relation to Peru.

Nonetheless, there is still great asymmetry between the institutional frameworks and practices associated with T&I between Spanish and other mainstream languages, and those that apply when translation flows between Spanish and the indigenous languages. In this fast-developing globalized region of the twenty-first century, there is much need for T&I in international trade, higher education and diplomacy, among other spheres. T&I between Spanish and languages such as English, Arabic and Chinese in these settings are professionally supported by such bodies as the *Colegio de Traductores* in Peru and the *Colegio de Traductores, Intérpretes y Peritos de México* in Mexico, to give two examples. Conversely, due to the previously mentioned structural imbalances, T&I between Spanish and the indigenous languages remain informal and present many inherent difficulties. Recent indigenous rights and language rights legislation with implications for translation policy has begun to move the situation forward.

In Section 2 of the paper we present some theoretical principles regarding the nature of social policy in general and translation policy in particular. In Section 3 we examine the debates surrounding translation policy for minority languages in the European context, based on the current scholarship, and seek to juxtapose these with incipient translation policies for indigenous languages in Latin America. Section 4 sets out the institutional and legislative

framework within which translation policy begins to be implemented in the countries selected for study. In Section 5 we detail our recent research on the implementation of translation and interpreting policy in Peru. Section 6 provides some concluding remarks.

## 2 Translation policy

Translation policy, as Meylaerts (2011: 165) has observed and as González Núñez (2013b) reminds us, is inseparably bound up with language policy. Language policy and its corollary, language planning, have evolved in many parts of the world for a variety of reasons: as a feature of post colonialism, as a response to the “language problems of developing nations” (Spolsky 2004: 4), and as a way of managing language contact brought about by migratory flows. Whatever the cause, in such settings linguistic diversity and social injustice often go hand in hand (Piller 2016). Communication difficulties arise in interactions between minority language-speaking groups and mainstream language speakers who represent the state and usually control the services to which the former seek access. Solutions to these difficulties range from the use of bilinguals, giving rise to ad hoc translation and interpretation, to the use of accredited translators and interpreters where available. In Latin America, the latter is only just beginning to make an appearance, as we will show.

As Meylaerts reminds us, “a translation policy is to be defined as a set of legal rules that regulate translation in the public domain” (Meylaerts 2011: 165). However, in light of the indigenous language rights activism arising in the postcolonial context of Latin America, the concept of “policy as practice” (Sutton and Levinson 2011: 1) is also salient. Approaches from the field of critical social policy studies allow us to think of policy not only as “the conduct of political and public affairs by a government or an administration” (Meylaerts 2011: 165) from the top down, but also as socially constructed practice from the bottom up, involving a diverse range of actors (Sutton and Levinson 2011). Under such conditions, policy may be seen to start life in practice and take shape implicitly, before being formalized through explicit written directives in response to social demands.<sup>3</sup> Translation and interpreting happen in response to a practical need in multilingual situations where not all actors present have access to the dominant language or lingua franca. Reynoso (2016) has described this pragmatic solution as “social translation”. Thus, translation policy may be found to exist de facto first, before it ever becomes enshrined in language rights legislation. The drafting of the latter, as has been happening in many parts of Latin America in this millennium, provides the stimulus for organic practice to be recognized and responded to, and facilitates the systematization of such practice. This in turn is likely to ensure a more even-handed observance of linguistic human rights (May 2010) than can be provided for through ad hoc arrangements.

In response to a need evidenced by de facto practices, therefore, T&I provision is becoming integral to legislation in favor of indigenous language speakers in Latin America. Here, as

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<sup>3</sup> See Spolsky (2004: 39), Díaz Fouces (2005: 103) and González Núñez (2013b: 476) for discussion of the distinction between implicit and explicit language policy; Schiffman (1996: 13-15) uses the terms “covert” and “overt” with the same sense. As Díaz Fouces observes: “efficient translation management in minorised communities necessarily implies the explicitness of translation norms” (Díaz Fouces 2005: 103).

elsewhere, many of the practices that arise from language policy to implement language-planning initiatives, take the form of translation (bilingual signage, bilingual versions of public service documentation, and so on) and public service interpreting (particularly in courts of law and medical settings). Nonetheless, some foundational studies of language policy and language planning barely address translation policy (Spolsky 2004; Wright 2004; Ricento 2006). Others discuss the importance of translation policy during specific historical periods, such as during the aftermath of the French Revolution (Schiffman 1996), but do not devote any sections specifically to the topic. Furthermore, such works make only brief references to language policy in Latin America. Studies that do provide more attention to this geopolitical region (Hornberger 1996; Baldauf and Kaplan 2007), again, do not take translation policy into consideration. The role that is coming to be played by translation and community interpreting, as an integral component of language policy and planning in multilingual Latin America, is a new field of study, and one to which we hope to make an original contribution.

### 3 Translation policy in relation to minority languages: the debates

In this section, we examine some of the current scholarly debates over translation policy for minority languages, and comment on their relevance (or lack thereof) to Latin America. In the scholarly literature to date, the relationship between translation policy and minority languages is largely discussed with regard to legal and administrative language in the European Union (Díaz Fouces 2005; García González 2005; González Núñez 2013a, 2013b). When it comes to indigenous languages in Latin America, neither the terms nor the terminology of the debate are necessarily equivalent. In regional usage, the word “indigenous” rather than “minority” refers to the languages of linguistic stock that predates the arrival of the Europeans in the region.<sup>4</sup> The concept of “minority” is problematic, whether talking about languages or population groups, given that indigenous people may well be a majority in certain regions within a state, and speak an indigenous language, generally in addition to Spanish. In such cases, the indigenous tongues are “minorized”, rather than “minority”, languages, to use Díaz Fouces’s (2005: 96) terms. Take the following two examples: at the national level in Paraguay, 88.2% of the population were Guaraní speakers, of whom 48.9% were bilingual (Gynan 2001: 55) according to 1995 figures. At the regional level in Peru, Quechua was the majority mother tongue in Apurímac (60%), Huancavelica (57%) and Ayacucho (55%), according to the 2007 census (Andrade 2009: 48).

While in law and in fact the status of minority languages and their speakers in the European Union needs to be problematized quite differently from that of Latin America’s indigenous peoples and their languages, from a structural perspective there are certain analogies to be drawn. The Latin American linguistic communities can be considered to be “endoglossic” according to Díaz Fouces’s (2005: 98) definition, insofar as they “speak a minorised language within a state with a dominant language and do not have a state of their own”. Other structural comparisons can be made; European minorities of indigenous origin (speakers of Breton and Scottish Gaelic, for example) and Latin American indigenous groups have suffered

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<sup>4</sup> Indigenous peoples themselves prefer the term “lenguas originarias”, which does not easily translate to English; we use “Amerindian languages” synonymously for the sake of stylistic variation.

similar historical experiences, including linguistic colonization and marginalization in the name of nation building, lowering of the social status of their languages, contraction in domains of use, language shift among new generations, and a halt to their languages' internal development.

The difference in the case of Latin America, we propose, lies in the nature of the relationship between the indigenous (“endoglossic”) communities and the state, and in the structural relations between those social groups who identify as indigenous and those who make up the *mestizo* and white sectors of society. Sharp social divides, founded on colonially shaped racial and ethnic ideologies, persist and are perpetuated by deeply embedded discriminatory attitudes and habits. Given the prevailing political and economic structures rooted in neo-colonialism, the building of equal democratic societies remains an ongoing challenge. Indigenous peoples comprise the least advantaged groups within the system and have been in a constant struggle for representation, first under the colony, and then within the republican state. With such a backdrop, T&I can only be a highly unequal form of exchange.

#### *Bilingualism and translation policy*

The application of T&I policy in relation to minority and indigenous languages has many social and political implications. Not to translate from the dominant languages into the minorized ones “perpetuates bilingual behaviour” as Díaz Fouces puts it (2005: 100-101). In Latin America, reinforced bilingual behavior has led to a widespread language shift to Spanish and has accelerated indigenous language loss over the last five decades. With the expansion of communications infrastructure, urbanization and schooling, many indigenous language speakers are bilingual with Spanish and choose to speak it with the younger generations. Bilingualism, however, often develops through social contact under conditions of duress, and formal teaching of Spanish as a second language may be less than adequate. For both these reasons, ostensibly bilingual speakers may not command some registers of Spanish. Conversely, speakers of the dominant language, for the social and structural reasons mentioned, tend not to learn indigenous languages as a second language, and therefore bilingualism is generally a one-sided affair. As García González (2005: 106) notes, from a theoretical perspective, the need for translation is, among other things, “the consequence of the decision of the dominant group not to speak and in some cases not even to learn the language of the subordinated people”.

In Latin America, therefore, the prevalence of bilingualism among indigenous sectors may not facilitate more fluent communication with Spanish speaking officialdom, but rather have the opposite effect. Actual level of Spanish comprehension is not tested and apparent Spanish competence may mask an underlying lack of comprehension of formal linguistic registers. This point is borne out in other postcolonial contexts such as Nigeria (García González 2005) and Australia (Cooke 2002). Seeming bilingualism may result in a real need for T&I in public services not being recognized.<sup>5</sup> On the other hand, as our project partners informed us, the

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<sup>5</sup> García González (2005: 112-113) also makes the point that in Nigeria there is often a real need for interpretation, due to lack of mutual comprehension, whereas in Western Europe users of minority

stigma often attached to indigenous languages can lead to speakers being reluctant to avail themselves of the provision to which they are entitled, for fear of being considered inferior.

However, a policy to translate from majority into minority and indigenous languages can play an important part in social cohesion, from an identity-related perspective (Díaz Fouces 2005: 100-101). Though translation may not be strictly “necessary” because (due to structural bilingualism) speakers of the target language understand the source, translation into a minorized target language “is an activity with significant institutional, political and ideological implications” (Woodsworth [1996] cited by García González [2005: 108]).

#### *Translation policy and language planning*

Other factors have to do with status planning and corpus planning for the languages themselves. Díaz Fouces’s (2005: 99) approach, “to study the social role played by translation as a potential support to minorized language communities and linguistic diversity”, is pertinent to Latin America. Also relevant are his comments on the prestige criterion involved: “translation is an effective tool to change users’ perception of the symbolic and practical value of their own language” (Díaz Fouces 2005: 102). García González (2005: 110-111) notes how such translation is “an activity that has to be fostered and activated, as a mechanism to promote language itself” and “an essential tool in the process of language recovery or preservation”. Both authors highlight the effect of translation on language standardization and normalization of minorized target languages (Díaz Fouces 2005: 99-100; García González 2005: 111). These points are borne out in the case of Latin America’s indigenous languages, for which alphabetic script and literacy practices are in their infancy. Translation, when conducted by native speakers with linguistics training working from a cultural activism perspective, can have beneficial effects, raising the status of the language on the one hand and contributing to the development of its corpus on the other (Landaburu 1997; Jamióy 1997; Zalabata 1997).<sup>6</sup>

#### *Translation policy and indigenous rights*

With regard to translation policy for minority languages, Díaz Fouces (2005) argues that respect for language rights is intrinsically bound up with the observance of rights in other areas of life. Translation policy as a part of rights-based language policy is a means of ensuring that other fundamental rights (to a fair trial, to healthcare, to non-discrimination, and so on) are observed (González Núñez 2013a, 2013b). In his study of Northern Ireland, González Núñez (2013b) highlights the role that translation policy can play in a post-conflict society, not only by promoting minority languages as symbols of identity, but also by building on “the premise that communication through language barriers can help foster good relations among communities” (González Núñez 2013b: 486). Latin American indigenous people have made their languages a focal point of their political struggle and their demand for language rights is inseparable from the call for fundamental human rights. Jamióy (1997), a Kamëntsa speaker,

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languages are nearly always competent bilinguals. In Latin America there is great variability between these two extremes.

<sup>6</sup> For discussion of corpus development aspects of the topic see Pitarch (2008: 159) and Howard et al. (forthcoming).

having worked with others on the translation of the 1992 Colombian Constitution into a range of indigenous languages, describes how the process had positive repercussions for human rights observance, from the perspective of the indigenous people. The case of Peru (Section 5) exemplifies how translation policy becomes explicitly formulated as a means to address post-conflict situations and mitigate potential conflict in the future.

#### 4 Language policy and translation policy in Hispanic Latin America

Across Latin America, an estimated 420 Amerindian languages belonging to 99 language families are spoken in addition to Spanish and Portuguese (Sichra 2009). Yet overtly formulated language policy and policy-based language planning is a relatively new phenomenon, driven by the tenets of the International Labor Organization's Indigenous and Tribal People's Convention 169 (1989). This phenomenon correlates with constitutional reforms that began in the early 1990s and recognized, for the first time, the pluricultural and multilingual nature of the populations within each state's jurisdiction. Whereas in that decade language policy focused on the needs of indigenous children in the primary education sector, in the new millennium governments have been paying increasing attention to the rights of indigenous language speakers across society as a whole. New legislation has been passed and institutional structures set up to take responsibility for designing and administering the resulting policies. Table 1 lists the administrative bodies in question for the six countries under discussion here.

Table 1. Institutional bodies for delivery of language policy

Mexico	<i>Instituto Nacional de Lenguas Indígenas (INALI)</i>
Colombia	<i>Ministerio de Cultura</i>
Ecuador	<i>Secretaría Nacional de Política Lingüística</i>
Peru	<i>Dirección de Lenguas Indígenas (DLI)</i>
Bolivia	<i>Instituto Plurinacional de Estudio de Lenguas y Culturas (IPELC)</i>
Paraguay	<i>Secretaría de Políticas Lingüísticas/Sãmbyhyha Paraguái Ñe'ẽnghéra</i>

Once created, these bodies took the lead in drafting languages rights legislation. Regarding this process, it is important to note that international consultation within Latin America and with European regions with experience in legislating for linguistic minorities contributed to policy planning. Mexico was in the vanguard with its 2003 Language Rights Act. Following suit, delegates from other countries such as Bolivia and Peru, travelled to Mexico to seek advice on policy design, while also taking a lead from Catalonia, whose example had initially guided Mexico. More recently, both Ecuador and Peru have sought consultation with the



Basque region,<sup>7</sup> and Mexico has sent advisory delegates to Paraguay.<sup>8</sup> Table 2 summarizes the resultant legislation for the six countries.

Table 2. Language rights legislation in six Latin American nation states

Mexico	<i>Ley General de Derechos Lingüísticos de los Pueblos Indígenas</i>	2003
Colombia	<i>Ley de Lenguas Nativas</i> (Law 1381)	2010
Ecuador	<i>Ley Orgánica de Derechos Lingüísticos de los Pueblos y Nacionalidades</i> (draft)	in process
Peru	<i>Ley de Lenguas</i> <sup>9</sup> (Law 29735)	2011
Bolivia	<i>Ley General de Derechos y Políticas Lingüísticas</i> (Law 269)	2012
Paraguay	<i>Ley de Lenguas</i> (Law 4251)	2010

These legislations have given rise to T&I policy in varying measures; they all contain the tenet that interpreting services must be provided in courts of law and public service settings.<sup>10</sup>

In Mexico, the *INALI* has overseen the creation of a National Register of Interpreters and Translators in Indigenous Languages (*PANITLI*). The *PANITLI* website identifies a need for T&I services for indigenous peoples on the grounds that the Mexican justice system fails them in a number of ways, including due to a “lack of interpreters and counsels who speak the language and know the indigenous culture, to provide an adequate defence in a court of law”.<sup>11</sup> Members of Mexico’s *Instituto Superior de Intérpretes y Traductores* Ester Jansenson and Esther Sada (2010: 434) go further, outlining the need for T&I provision in Mexico not only in the law courts, but also in the health and agrarian labor sectors; they also stress the need for knowledge of the indigenous cultures alongside inter-linguistic mediation. Despite the tenets of Mexican T&I policy as represented on the *INALI* website, in these authors’ assessment there is a long way to go in terms of training coverage, professional certification and assuring T&I provision in reality (Jansenson and Sada 2010: 436).<sup>12</sup>

In Colombia, T&I issues are covered by Articles 7, 8 and 9 of Law 1381, which recognize the

<sup>7</sup> A news item on the *Azkue Fundazioa* website describes the presentation of the *Ley Orgánica de Derechos Lingüísticos de los Pueblos y Nacionalidades* to Ecuador’s National Assembly (January 2016) and mentions technical assistance with drafting the Bill from Basque NGO *Garabide* <http://www.azkuefundazioa.eus/es/casa-del-euskera/noticias-idiomas-minoritarios/se-presenta-en-ecuador-proyecto-de-ley-sobre-derechos-linguisticos>, accessed 24 July 2016.

<sup>8</sup> See “Mexico to Help Paraguay Train Indigenous Language Interpreters”, *Latin American Herald Tribune*, Caracas, Nov. 11, 2015, <http://www.laht.com/article.asp?CategoryId=12394&ArticleId=2398714> accessed 24 July 2016.

<sup>9</sup> The formal title of the Peruvian Languages Act glosses as “Law that regulates the use, preservation, development, recovery, promotion and dissemination of the native languages of Peru”.

<sup>10</sup> The right of indigenous people to use of their own languages and/or have access to T&I services in Spanish dominant public service settings is instated as follows: Mexico: General Law on Language Rights, Article 10; Colombia: Native Languages Law no. 1381, Article 21; Ecuador: draft Organic Law on Language Rights, Articles 9 and 32; Peru: Languages Act no. 29735, Articles 4 and 20; Bolivia: Law on Language Rights no. 269, Articles 5, 20.3, and 24.2; Paraguay: Languages Act no. 4251, Articles 9-13 inclusive.

<sup>11</sup> <http://panitli.inali.gob.mx/>, accessed 23 July 2016.

<sup>12</sup> The introduction of undergraduate T&I programs at some of Mexico’s intercultural universities aims to improve this situation (Jansenson and Sada 2010: 432). These authors also propose a curriculum for T&I training at the *Instituto Superior de Intérpretes y Traductores*.

right to interpretation in legal, public administration and health service settings, respectively, while Article 21 provides for T&I training and the teaching of indigenous languages to non-indigenous people, for both of which the Ministries of Culture and Education are jointly responsible. (The language-teaching proposal is also prominent in the Bolivian law, as will be seen later in this section.) According to our information, although its importance is recognized, T&I training has not yet been implemented in Colombia, with emphasis instead placed on indigenous language teacher training and language revitalization (Tulio Rojas, *Universidad del Cauca*, Colombia, p. c. July 2016).

Colombia nonetheless provides us with an important example of how T&I practice may precede policy. At the time of the 1992 constitutional reform, the government commissioned the indigenous languages linguistics program at the *Universidad de los Andes* to coordinate the translation of the rewritten state charter into a range of indigenous languages. The collaborative translation between indigenous linguists and community members that ensued triggered an empowering process of reflection on the meanings of the state edict in contrast with indigenous understandings of law and moral values (Landaburu 1997).

In Ecuador, a draft language rights bill is making only slow progress towards approval by parliament. Article 9 of the proposed bill stipulates the right of indigenous language speakers to T&I services in legal settings, and Article 32 provides for “translator” (sic) training. As Berk-Seligson (2008: 9) highlights, there is need for T&I support in the judicial sphere in Ecuador, and her findings suggest that in the absence of the law, here too, practice precedes policy: “there is tacit agreement on one *de facto* language policy, namely, the use of untrained, *ad hoc* interpreters in judicial settings”. We find further evidence of this in the successful series of seminars on translation and interpreting in indigenous languages for use in judicial contexts led by the School of Linguistics at the Catholic University of Ecuador (PUCE) between 2012 and 2013. These seminars focused on constructing glossaries of legal terms between Spanish and Shuar, Kichwa and Chapala (Marleen Haboud, PUCE, p. c. August 2016).

Bolivia’s Law 269 establishes that indigenous language speakers have the right to use their mother tongues in public service settings (see Articles 6.2, 23) and Article 5.3 states that speakers have the right to “have things explained to them” in their own languages. Article 24.1 mentions the right to a translator (sic) in courts of law specifically. This is complemented by Article 24.3, which stipulates that people working in courts in regions where indigenous languages predominate should be speakers of the relevant indigenous language in addition to Spanish. It might be inferred that, in the case of Bolivia, a degree of competence in the indigenous languages on the part of bilingual staff is taken to obviate the need for interpretation *stricto sensu*.

Indeed, Bolivian law makes it an obligation of personnel in the law courts and public administration who do not already speak the indigenous language of the region where they serve to learn it within three years of taking up their posts. From this we surmise that in Bolivia there is an aspiration to bilingualism as a means to solve communication difficulties arising in public service settings as an alternative to T&I provision; the latter has not yet been

rolled out in any systematic way.<sup>13</sup> In this respect we find some similarity with Paraguay.

The 1992 Constitution of Paraguay declares Spanish and Guaraní to be co-official languages of the Republic, while other indigenous and minority languages are designated part of its cultural heritage (Article 140). As in Peru, the legislation governing how official status should be upheld in practice took nearly twenty years to be passed. Articles 9 to 13 of Law 4251 emphasize the right to use both official languages in public service settings, to receive all government information in bilingual form, and to not be discriminated against on the grounds of language. Article 9.5 makes clear that bilingual usage is not tantamount to translation but rather the contrary: “[all citizens have the right] to use the two official languages in a court of law and have their words transcribed in their chosen language rather than mediated through translation. The user of the other language has the right to be assisted in court by people who know his/her language”. Due to the high levels of bilingualism in Paraguayan society, there appears to be little explicit provision for T&I under the law. This situation nonetheless begs the question of how speakers of Paraguay’s other indigenous languages fare, given their effective exclusion from the official Spanish-Guaraní bilingual spectrum that is so strongly supported by the law.

We will now look at the situation in Peru as a case study.

## 5 Translation and interpreting policy and practice in Peru

The Peruvian Constitution of 1993 declares official status for Spanish and “Quechua, Aymara and the other aboriginal languages in the zones where they predominate, according to the law” (Article 48) and states, “All Peruvians have the right to use their own language before any authority through an interpreter” (Article 19). As in the case of Paraguay, the “law” mentioned, which would pave the way for policy, took nearly twenty years to be passed. T&I training and provision for indigenous language speakers in public service settings are a central feature of this law.

### *T&I as post-conflict policy and practice in Peru*

Two key periods of Peru’s recent history played a role in bringing about the law: firstly, the aftermath of the political violence of the 1980s and 1990s, when the state was at odds with the Shining Path terrorist group, and, secondly, the outbreak of conflict in the northeastern department of Amazonas due to protests in 2009 over the industrial use of indigenous lands in Bagua. During the Truth and Reconciliation Commission (*CVR*) (a public enquiry into the effects of the internal war), interpreters who, though experienced, had no credentials or formal training were used to translate many of the victims’ painful testimonies.<sup>14</sup> Yet, as documented by the *CVR* report (2003) itself, 75% of those who died during the conflict

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<sup>13</sup> This said, the State University of San Simón in Cochabamba (UMSS) is planning an interpreter training diploma course for Quechua in judicial settings (Howard, visit to UMSS, March 2015); as also the indigenous *Universidad Andina* in Quito, Ecuador (Berk-Seligson 2008: 28-29); a similar initiative for Maya speakers is being pursued at the intercultural university in San Cristóbal, Chiapas, Mexico (Ligia Peláez, *Universidad Intercultural de San Cristóbal*, p. c. 2015).

<sup>14</sup> Eduardo González Cueva, International Center for Transitional Justice. Former *CVR* Coordinator of public hearings and victim and witness protection (p. c., August 2016).

between armed forces, police, and terrorist groups, were mother tongue speakers of Quechua or another indigenous language.

The need for legislation was brought to a head by the confrontation near the city of Bagua between local populations (including the Awajún, Shawi and Wampis people) and the state police in 2009. The confrontation was triggered by protests over a government attempt to facilitate private commercial use of communal lands (Cavero 2011) and resulted in fatalities on both sides. The government responded by expediting two laws that would make language rights a part of indigenous rights under international law: the Languages Act (see Table 2) and the 2011 Right to Prior Consultation Act (Law 29785), whose Article 16 specifies the right to an interpreter in prior consultation processes (see Section 1). These Acts acknowledge the relationship between language rights and human rights when it comes to minority or indigenous populations, as previously cited authors also argue.<sup>15</sup>

#### *T&I training and implementation under Peruvian law*

The Peruvian Languages Act (Table 2) was accompanied by the creation of new institutional structures to implement the principle of language rights for indigenous peoples and the right to T&I provision in particular (Table 1). In 2012, the Ministry of Culture's newly created Indigenous Languages Division launched a series of courses to train bilingual speakers of the country's estimated forty-seven indigenous languages to become translators and interpreters, both in prior consultation and public service settings. Between 2012 and 2016, 307 translator-interpreters, representing thirty-six languages, were trained in a succession of nine basic courses in Lima and the department of Cuzco. After fulfilling training requirements, trainees are registered in the National Register of Indigenous Language Translators and Interpreters (a database similar to the one in Mexico) administered by the Ministry.

Trainees are recruited through calls to indigenous organizations, regional federations, and regional government offices, and through social media. Candidates need to be fluent speakers of an indigenous language and demonstrate indigenous cultural affiliation. The selection process includes an interview (often by mobile phone) and an evaluation of language competency. Selection criteria for Amazonian and Andean candidates may differ in that Amazonians may not have the same educational credentials as the Andeans, but they may compensate with higher levels of vernacular language and cultural knowledge.

The course curriculum comprises a review of Spanish writing skills, translation and interpreting techniques, indigenous rights and prior consultation law, and cultural diversity modules, among others. Follow-up in-service training in a public service institution is also required. In addition to the basic courses, three specialist courses have been offered to date, one for the health sector and two for legal settings.

Full implementation of the law depended on the passing of legislative guidelines drawn up in consultation with seven national indigenous federations over several months; the *Reglamento de la Ley de Lenguas* was officially enacted on 22 July 2016. In addition to detailing how T&I

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<sup>15</sup> Also see Patrick (2006: 51-52) on this relationship. De Pedro et al. (forthcoming) discuss interpreting in prior consultation settings in Peru.

provision should be carried out, the *Reglamento* pledges progressive incorporation of bilingual public servants in areas of the country where indigenous languages predominate. This measure, as we saw for Bolivia, currently presents an alternative route to T&I; it remains to be seen whether it might become complementary to T&I in Peru in the future.

T&I training in Peru has proven a success in creating a body of accredited indigenous translators and interpreters who can offer their skills in public service settings such as courts of law and the national civil registry, and in prior consultation processes. Furthermore, it has also raised awareness of language rights among public employees and society at large, and has increased the sense of self-worth of the indigenous trainees (see Andrade et al. [forthcoming]).

However, despite the legislative guidelines, successful implementation is not fully assured; a number of issues remain under discussion in the Indigenous Languages Division. For example, T&I services for such a high number of languages across the country is likely to come under strain at a time when the movement of indigenous people from rural to urban areas is on the rise. The *Reglamento* does not specify who has to cover the cost of T&I provision in public services or what the mechanisms are for requesting such services and reporting any infringement of linguistic rights. Language teaching and acquisition of the indigenous or the Spanish languages is desirable, but should be handled in such a way as to avoid deepening the sociolinguistic status gap. Another solution to providing bilingual public services, preferred by many indigenous peoples themselves, could be to train bilinguals to a level that would qualify them to work as civil servants. A needs assessment would also help to focus the limited resources available on the areas and sectors where they are most needed. These options all present opportunities and challenges, the discussion of which is beyond the scope of this paper.

## 6 Concluding remarks

Judging by the countries examined here, as well as the evidence from our Peruvian case study, it seems that translation policy for speakers of indigenous languages in Latin America tends to come about as an ad hoc practice based on contingency, in situations where levels of bilingualism allow for such spontaneous mediation to take place. Eventually, translation policy may come to be explicitly articulated in language rights legislation, and implemented through T&I training and professional practice. The way in which translation practice and eventual policy are intrinsically related to the need to defend indigenous rights and, in some cases, make reparations for victims of human rights abuse, is common across the region. Translation policy takes on complex legal, political and economic dimensions when considering the rights of indigenous language speakers in Latin America.

In comparing the six countries, we can postulate a continuum for translation policy for speakers of indigenous languages. At one extreme, Ecuador amply demonstrates the need for T&I provision, currently held back by a stymied legislative process. Then, in Colombia, the focus of language policy resides in indigenous language revitalization, with less attention given to translation policy either in theory or practice. Paraguay offers a different scenario, in which societal bilingualism is well embedded in its institutions and a need for formal T&I provision is not prominently articulated in the legislation. The Bolivian priority lies in indigenous second-language training of Spanish-speaking public employees, rather than T&I

provision as such, although initiatives for legal interpreter training have been discussed. Across the board, in our view, it becomes clear that indigenous second-language training and T&I training are best taken as complementary components of language and translation policy, rather than either/or approaches. Moving towards the other end, Mexico has a vigorous state-level language policy that embeds translation policy; however, T&I practice on the ground is sporadic across certain states and for certain languages. Peru, at the very end, is in the vanguard with an explicit translation policy and T&I provision embedded in the law and implemented.

The cases reviewed reveal a pattern whereby, as far as the interface between Spanish and indigenous languages is concerned, T&I practice precedes policy. It is also clear that although official language status is a necessary condition, it is not sufficient for setting in motion the initiatives that might lead to effective translation policy. The case of Peru illustrates well the intrinsic relationship between T&I for indigenous languages, language rights, and the defense of the political rights of indigenous peoples. This close relationship, tragically highlighted by the events at Bagua in 2009, explains the origin of Peru's T&I training initiative and the renewed institutional arrangements for implementing legislation on prior consultation and language rights. When it comes to Latin America's indigenous languages and their communities of speakers, such complex interconnections need to be taken into account when considering translation policy.

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