

# Interpretation Is an Act of Resistance: Indigenous Organizations Respond to “Zero Tolerance” and “Family Separation”

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## A Dark Place

In a recent meeting among indigenous interpreter-advocates and legal professionals in Austin, Texas, an attorney present described the “countdown” that begins when an indigenous person begins incarceration at an immigrant detention center.<sup>1</sup> As days go by, and their clients cannot communicate with fellow detainees, guards, or legal representation, they go to a “very dark place.” Legal advocates, eager to understand their indigenous clients but without means to do so, have little hope to communicate with their indigenous clients.

Currently there is no human or technological means available for interpreting in indigenous languages in the immigrant detention system or courts. Tens of thousands of adult and child detainees who speak an indigenous language must “get by”<sup>2</sup> in limited Spanish or accept inadequate outsourced interpretation services delivered by telephone or video.<sup>3</sup> This lack of communication and/or forced use of the unintelligible language of the historical oppressor is a form of linguistic solitary confinement. This article, written as the result of a collaboration between the leaders of the organization Frente Indígena de Organizaciones Binacionales (FIOB), the indigenous-women-led nonprofit Comunidades Indígenas en Liderazgo (CIELO), and a language rights practitioner, first discusses the laws and institutions that frame this ongoing human rights violation and then highlights the actions taken by the FIOB and other indigenous-led organizations to dismantle the intolerable conditions to which indigenous detainees are subjected.



Janet Martinez and Lola Maria Juan take part in a decolonization exercise at an interpreter training in July 2018. Photo by Rafael Rodriguez.

Non-English-speaking detainees are de jure subjects of language rights in the United States. Building upon Title VI of the 1964 Civil Rights Act, Executive Order 13166 (2000) purports to require all federally funded agencies to provide those who receive their services with “meaningful access” to information, including legal proceedings. Yet the courts and law enforcement agencies have been equivocal in the realization of language rights. The Department of Homeland Security and Immigrations and Customs Enforcement published “Language Access Plans” on their websites, in 2012 and 2015 respectively; these documents are intended to assess the languages of the detainees and implement translation and interpretation services for them.

Critical public research has revealed, however, that non-English-speaking detainees, even those who speak Spanish, are effectively isolated from their own legal proceedings.<sup>4</sup> Despite language-access planning documents, effective interpretation is not available. The failures are overwhelming and nightmarish: interpretation is delivered mostly by telephone, which misses all visual cues and is subject to technological interruption. Some interpretation is delivered via video, which is even further plagued by faulty connections and inadequate screens; detainees often receive interpretation of only parts of spoken interactions around them in the courtroom or other settings. Hastily recruited indigenous interpreters are rarely screened, trained, or proficient in legal terminology. Most language service providers are incapable of matching indigenous detainees with interpreters who verifiably speak their language.

Legal advocates, though achieving some success in challenging these failings for individual clients, largely ignore the urgency of the need for qualified interpretation in indigenous languages. Overwhelmed by the frequently shifting legal landscape and the sheer numbers of detainees, legal service providers treat the need for interpretation and cultural knowledge on a case-by-case basis, reaching out when a particular client needs help rather than proactively planning and seeking funding. Generally, legal service providers expect interpretation to be offered by volunteers or free of charge, which inadvertently recruits unscreened bilinguals. In Texas, indigenous organizations have only recently made contact with legal service providers. Faced with these circumstances, FIOB's and CIELO's unpaid leaders must spend hours trying to get on the agendas of legal service providers' staff. Legal nonprofits' passivity is similar to the ad hoc and unregulated approach of the detaining institutions, whose neglect of intentional plans for communication has such traumatic consequences.

Yet despite the cruelty of detention and associated impediments, indigenous people from Mexico and Guatemala are a growing presence in the United States. As many as 1.25 million Latin American immigrants who do not speak Spanish are thought to inhabit urban and rural areas in

the United States, including in California, Florida, Illinois, Massachusetts, New York, North Carolina, Ohio, Oregon, Texas, and Washington.<sup>5</sup> Legal aids to detainees report a growing proportion of prisoners in need of interpretation for Mayan languages from Guatemala, as well as, to a lesser extent, indigenous languages from Southern Mexico. In some detention centers, advocates estimate that indigenous people have become the majority of the locked up men, women, and children.<sup>6</sup> Immigrations and Customs Enforcement does not collect language data on indigenous-language-speaking immigrants, but 30,000 indigenous language speakers were estimated to be in the detention system in 2014, before the rising numbers of 2018.<sup>7</sup>

### **An Indigenous-Led Way Out**

Indigenous-led organizations have mobilized to come to the defense of indigenous-language-speaking detainees. The impetus came from Donald Trump and the Department of Homeland Security's "zero tolerance" and family destruction policy implementation at the US-Mexico border in June 2018. On June 20, the national legal service provider Refugee and Immigrant Center for Educational and Legal Services (RAICES) posted a call on Facebook for volunteer indigenous interpreters that quickly spread across social media platforms. After consultation with other indigenous organizations, the Frente Indígena de Organizaciones Binacionales took the lead on a crowd-funded campaign to raise funds to match indigenous interpreters with detainees, which eventually raised close to \$15,000. FIOB, which has been training indigenous interpreters since the late 1990s, has since been working with other indigenous groups to fund trained interpretation at detention centers, while training new interpreters and establishing a baseline set of principles on which indigenous interpretation should rest. These principles challenge both anti-indigenous racism and conventional concepts in interpretation.

Since the summer of 2018, FIOB has led two interpreter trainings focused on immigration, and three more are planned for 2019. These trainings convene 20 to 25 bilingual indigenous-language speakers from Mexico and Guatemala speaking

about 5 to 10 languages or language variants. Training activities include lectures, ceremonies, and informal commentary and analysis that include joking, irony, and moments of silence. Each trainee considers their observations important, and often every trainee will respond to a question posed by a discussion leader, echoing patterns of participation in indigenous-led spaces in Mexico and Guatemala. Topics covered have been best practices and techniques in interpreting; interpreter ethics; anti-indigenous, anti-immigrant racism and decolonization; and a critical and historical review of immigration law. The point of departure is that indigenous detainees deserve accurate interpretation of what they say and what they hear; but not everyone can interpret—being bilingual is not enough to be an interpreter.<sup>8</sup> Trainees consider careers in interpretation while drawing motivation from a spirit of solidarity or *tequio* (donated work in favor of the collective good) in the face of the immigration crisis.<sup>9</sup> Though nonindigenous academics, attorneys, and interpreter-trainers may conduct specific sessions, trainings are indigenous-led.

### Linguistic Justice and Ethics in Interpretation

*Indigenous interpreter ethics.* A key principle of the professional interpreter's code of ethics is impartiality—the interpreter must favor neither side of the conversation in which she interprets. Professional interpreter codes of ethics emphasize the impartial and neutral transmission of the message of the speaker, “without additions, omissions, or paraphrasing.”<sup>10</sup> Yet FIOB trainers understand the profound human rights violations the indigenous detainee faces and argue that there must always be a role for advocacy in their efforts. Recognizing the routine stigmatization detainees suffer both by Latinos and US whites, FIOB sees interpretation for indigenous immigrants as “an act of resistance” in solidarity with Indigenous Peoples broadly speaking. Interpreter training does not accept the impartiality of the interpreter working neutrally between two parties; rather, interpreters must be partial toward justice, even as they render messages correctly in their interpretations.

*Against the normalization of borders.* FIOB resists the normalization of anti-immigrant thought in workshop debates about interpretation. In a conversation about how the word “alien” should be interpreted in court, trainees were invited to think through and speak against this word's attribution of intrinsic, extraterrestrial otherness: “borders are not part of the indigenous worldview.” And to the suggestion that they should simply follow the rules of interpretation, FIOB trainers argue that “we all broke the rules when we came here.” Though they must be careful not to provoke judges, they must also retain the consciousness of their right to be where they are.

*Language revitalization.* Indigenous trainers look deeply into language. For many technical terms in English, there may be no equivalent in a Mesoamerican language. Trainees are offered two solutions to this dilemma. FIOB-trained interpreters develop short phrases that communicate the essence of a term or phrase, while resisting borrowing of Spanish terms into their communication. Experienced interpreters also relate how they visit elders to learn advanced vocabulary. The experienced interpreters' success stories show that indigenous interpreters are up to the task and transmit courage and optimism. FIOB is currently developing a crowd-sourcing app to help indigenous interpreters develop glossaries of legal terms in their languages.

*Decolonization.* By tracking language and interpretation across contexts in which indigenous people struggle, the trainings unpack why indigenous people tend to conceal their indigenous language fluency to government officials, fearing retribution or shaming. Trainees then rethink and act out against their own experiences of internalized racism. They also discuss their own use of the term “dialect,” while trainers argue that in common usage, the term both reproduces and conceals the attribution of inferiority to indigenous languages. Trainers and FIOB leaders occasionally challenge the trainees, modeling how to confront the authority of those people whose ideas may undermine indigenous knowledge.

### *Indigenous leadership in knowledge production.*

Collaboration with academics in this endeavor is tentative. An example is finding language matches between indigenous interpreters and detainee. Many indigenous languages of Latin America/Abiyala are in fact a language group, with 4 (Mam) or, for Zapotec, up to dozens of different languages sharing the same language name.<sup>11</sup> Indigenous language interpreting as practiced by FIOB and its partner organizations creates language matches by identifying the hometown of the speaker, and then pooling indigenous-interpreter knowledge to identify an interpreter who will be able to communicate. The final step is an interpreter-client conversation in which communication is verified. Though it would seem that linguists of indigenous languages would be a good fit for developing tools and maps to support this system (or other aspects of the program), academics' and missionaries' ongoing appropriation or misrepresentation of indigenous knowledge are fresh memories, and indigenous leadership in knowledge production is the norm.

### **Conclusion: How to Support**

FIOB's and CIELO's leaders train interpreters and match interpreters with indigenous language speakers in the health and legal systems. Currently they are planning a call center. On social media they publish both the joyful—hometown parties in LA or Oaxaca, a pop-up in LA selling *tlayudas* (a Oaxacan grilled torilla delicacy)—and the criminal, such as the neglected murders of indigenous women in the United States and Canada. These actions create visibility, support indigenous rights, and create income for members of indigenous immigrant communities. Tools that support indigenous interpretation are needed rather than research on FIOB and its sister organizations. Researchers currently contribute through affidavits, articles useful to legal argumentation, funding initiatives, or documentation of the mechanisms of failure for indigenous detainees. More work is needed to amplify this silenced issue. Supporting indigenous-led interpreting is a hopeful action toward breaking people out of the “dark place” to which indigenous people are being consigned.

### **Notes**

Vivian Newdick (PhD, Anthropology, 2012) is language access consultant and certified health care interpreter for Spanish. She currently works for the City of Austin and coordinates interpretation in Texas for the Frente Indígena de Organizaciones Binacionales/Indigenous Front of Binational Organizations (FIOB). Odilia Romero is from the Zapotec community of Zoogocho in the northern mountains of the state of Oaxaca, Mexico. Odilia is the first Zapotec woman to serve as the General Binational Coordinator of the FIOB. Ms. Romero also cofounded CIELO (Comunidades Indígenas en Liderazgo) a nonprofit organization that works on indigenous women's leadership, reproductive rights and political involvement. She is a trained medical interpreter in Zapotec. In her years of organizational experience and civic involvement, she started the movement for revitalization of Zapotec from the Northern Highlands, Dixha Dxhon Dixha Ban, served on the board of the Southern California Public Library, and currently holds a seat on the finance committee of the multi-ethnic Mexican migrant coalition, Red Mexicana de Líderes Migrantes. She has been an invited speaker at Johns Hopkins University, University of Southern California, and University of California at Los Angeles. Ms. Romero has published on the challenges of organizing in indigenous communities, developing women's leadership, and preparing a new generation of youth. The authors would like to thank Dr. Luis Cárcamo-Huechante for the opportunity to publish and for his editorial support.

- <sup>1</sup> In this article we intentionally use “detained” and “incarcerated” interchangeably. We believe that from the perspective of the detainee, the experience of physical unfreedom is similar enough across legal frameworks to justify the flexible use of terms.
- <sup>2</sup> “Getting by” refers to the documented underuse of qualified interpreters by physicians who instead communicate in limited Spanish and with the use of hand gestures, to the detriment of health outcomes. See Lisa C. Diamond et al., “Getting By: Underuse of Interpreters by Resident Physicians,” *Journal of General Internal Medicine* 24, no. 2 (2009): 256–262, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2628994/>.
- <sup>3</sup> Telephonic and video interpretations are sourced from “language service providers.” The global market for translation and interpreting services and technology is currently over \$40 billion and expected to continue to grow. There is little research, regulation, or accountability associated with these companies' activities.
- <sup>4</sup> See Laura Abel, “Language Access in Immigration Courts,” Brennan Center for Social Justice, 2011, [https://www.brennancenter.org/sites/default/files/legacy/Justice/LangAccess/Language\\_Access\\_in\\_Immigration\\_Courts.pdf](https://www.brennancenter.org/sites/default/files/legacy/Justice/LangAccess/Language_Access_in_Immigration_Courts.pdf); and Blake Gentry, “Exclusion of Indigenous Language Speaking Immigrants (ILSI) In the US Immigration System, a Technical Review,” Ama Consultants, May 26, 2015, [http://www.amaconsultants.org/uploads/Exclusion\\_of\\_Indigenous%20Languages\\_in\\_US\\_Immigration\\_System\\_19\\_June2015version\\_i.pdf](http://www.amaconsultants.org/uploads/Exclusion_of_Indigenous%20Languages_in_US_Immigration_System_19_June2015version_i.pdf). See also memos published by the American Immigration Lawyers Association on August 8, 2017 (AILA Doc. No. 17080930), and March 2, 2017 (AILA Doc. No. 17030300), in which interpretation in Spanish is observed to be inadequate at Georgia's Atlanta and Stewart immigration courts: <https://www.aila.org/File/DownloadEmbeddedFile/72696>; <https://www.aila.org/File/DownloadEmbeddedFile/70965>.
- <sup>5</sup> See Shannon Speed, “States of Violence: Indigenous Woman Migrants in the Era of Neoliberal Multicriminalism,” *Critique of Anthropology* 36, no. 3 (2016), citing *Hispanic Economics*: <http://www.hispaniceconomics.com/overviewofushispanics/mexicannativeamericans.html>.

- <sup>6</sup> Personal communication with legal advocacy teams in Central Texas.
- <sup>7</sup> See Gentry, "Exclusion of Indigenous Language Speaking Immigrants."
- <sup>8</sup> Maria Luz Garcia has documented the unethical interpretation for an Ixil speaker, which led to a wrongful conviction. Eventually the Ixil speaker won his freedom, supported by Dr. Garcia's activism and documentation of the erroneous interpretation. Professor Garcia has made this documentation available to indigenous interpretation advocates (Maria Luz Garcia, personal communication).
- <sup>9</sup> Working in the United States, hourly rates for interpreters range from \$12 to more than \$80 per hour, depending on training, experience, the contracting interpreter agency, and the context of interpretation.
- <sup>10</sup> National Association of Judicial Interpreters and Translators, "Code of Ethics and Professional Responsibilities," <https://najit.org/wp-content/uploads/2016/09/NAJITCodeofEthicsFINAL.pdf> (accessed December 13, 2018).
- <sup>11</sup> The Zapotec languages belong to the Oto-Manguean language family, and across the Zapotec-speaking region, dozens of mutually unintelligible or partially intelligible village varieties are spoken; even arriving at an exact number is a matter of controversy. //