VOICELESS VOICES IN A SILENT ZONE:
THE ROLE OF THE INDIGENOUS LANGUAGE INTERPRETER IN
OAXACA, MEXICO

by

Monica Morales-Good

B. A., Emporia State University, 2009
M.A., New Mexico State University, 2012

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

in
THE COLLEGE OF GRADUATE STUDIES
(Interdisciplinary Studies)
THE UNIVERSITY OF BRITISH COLUMBIA
(Okanagan)

August 2020

© Monica Morales-Good, 2020
The following individuals certify that they have read, and recommend to the College of Graduate Studies for acceptance, a thesis entitled:

**Voiceless Voices in a Silent Zone: The Role of the Indigenous Language Interpreter in Oaxaca, Mexico.**

submitted by Monica Good in partial fulfillment of the requirements of

the degree of Doctor of Philosophy.

Dr. Allison Hargreaves, Faculty of Creative and Critical Studies

Supervisor

Dr. Jeannette Armstrong, Irving K. Barber School of Arts and Sciences

Supervisory Committee Member

Dr. Christine Schreyer, Irving K. Barber School of Arts and Sciences

Supervisory Committee Member

Dr. Candace Galla, UBC Vancouver, Language and Literacy Education

University Examiner

Dr. Cristina Kleinert, Universidad Veracruzana, Facultad de Idiomas

External Examiner
Abstract

This dissertation documents the challenges faced by Indigenous language speakers when accessing the justice system in the state of Oaxaca, although the situation is the same for Indigenous communities across the Mexican Republic and beyond. Every year thousands of Indigenous speakers are jailed without knowing the charges they are facing due to a language barrier. In Mexico, qualified Indigenous language interpreters are scarce. Further, the State employees refuse to admit the need for language services and the worth of Indigenous language interpreters’ jobs.

I partnered with CEPIADET, a not-for-profit organization that provides legal guidance and interpretation services to Indigenous defendants in the state of Oaxaca. CEPIADET supports many initiatives regarding the recognition of linguistic rights for Indigenous defendants, cultural reclamation, and the revival of Indigenous justice systems. I have worked closely with them on initiatives involving language and cultural revitalization. This research supports initiatives to recognize not only Indigenous language interpreters but also the knowledge they carry within their Indigenous languages. Additionally, this research advances the recognition of Indigenous normative systems as they can enhance the State justice system and reduce a defendant’s pretrial time. This research strives to bridge the gap between the State justice systems and Indigenous defendants, proposing Indigenous interpreters and Indigenous authorities as a bridge to minimize language and cultural gaps.

The results of this research indicate that Indigenous language speakers face considerable barriers when accessing the justice system. As a result of the lack of implementation of language rights, Indigenous defendants face racism, mistreatment, and abuse. The participants pointed out that the intervention of an interpreter would help assure that a case is judged with the minimum law requirements – the defendants’ right to understand the case against them. The participants called for the recognition and incorporation of Indigenous knowledge in the State jurisdiction.

Although this is my dissertation (regarding authorship), this research gathers the voices of Indigenous-language-speaking survivors of the legal system and Indigenous language interpreters to call for the recognition of language rights as part of human rights in the legal setting.
Indigenous speakers are overrepresented in the Mexican jail system due to a language barrier (Weller 2013, 2, Shirk 2010, 205). Mexico’s failure to provide appropriate interpretation services is one of the primary reasons for the imprisonment of Indigenous peoples (Berk-Seligson 2008, 11-6). Without the help of an interpreter, Indigenous peoples struggle to present their ideas in a legal setting that favors Spanish over Indigenous languages. Therefore, navigating the legal setting is complicated for Indigenous peoples because of the negative views tied to language ideologies (Kroskrity 2004, Lippi-Green 2012). Indigenous defendants will admit Spanish proficiency to avoid mistreatment; this, however, has unfavorable results in the observation of Human Rights.

This dissertation calls for the recognition of Indigenous interpreters as an important element in the legal system; as such, their job should be dignified. This dissertation also calls to recognize the work done by Indigenous authorities in the administration of justice.
Preface

This research advanced the design of the first Un-Conference for Indigenous Language Interpreters and Translators, an International meeting held in Oaxaca, Mexico, in August 2019 (Year of Indigenous Languages), organized with funding from the Equity and Inclusion office as well as the Faculty of Creative and Critical Studies, the Catedra Carlos Fuentes, TRACE Innovation Initiative, and UF English. The Un-Conference yielded a peer-reviewed publication, “Intérpretes y Traductores de Lenguas Indígenas: Hacia un ejercicio pleno de los Derechos Lingüísticos.” Chapter five of this dissertation, “Silent Zones,” inspired an article that I submitted for publication entitled “Training and Professionalization of Indigenous Language Translators.”

Ethics approval for this research was granted in May 2017. Dr. Allison Hargreaves was the Principal Investigator. University of British Columbia Okanagan Behaviour Research Ethics Board approved the project H16-01660. All research participants signed consent forms.
# Table of Contents

Abstract .................................................................................................................... iii

Lay Summary .............................................................................................................. iv

Preface ......................................................................................................................... v

Table of Contents ............................................................................................................... vi

List of Tables ................................................................................................................... ix

List of Figures ................................................................................................................ x

Acknowledgements ......................................................................................................... xi

Dedication ....................................................................................................................... xii

## Chapter 1 Introduction ............................................................................................... 1
  1.1 Self-location ........................................................................................................... 3
  1.2 Who Am I? ........................................................................................................... 5
  1.3 Research Questions ............................................................................................... 8
  1.4 Community Context .............................................................................................. 12
  1.5 Defining Terms and Approach ............................................................................ 15
  1.6 Final Note ............................................................................................................. 17

## Chapter 2 Historical Background ............................................................................. 19
  2.1 My Experience as an Interpreter .......................................................................... 19
  2.2 The Interpreter, a Language Conduit ................................................................... 21
  2.3 Interpreting in the Legal Setting ........................................................................... 23
    2.3.1 Differences in Language ................................................................................ 24
  2.4 Language and Cultural Encounter ....................................................................... 26
    2.4.1 Interpreters of the Conquest ......................................................................... 29
    2.4.2 Lenguas and Intermediaries ........................................................................... 31
  2.5 Mexico – An Independent State with Principles of Liberty and Justice? .............. 37
  2.6 An Indigenous Era ................................................................................................. 38
    2.6.1 The Introduction of Boarding Schools ........................................................... 40
    2.6.2 Bilingual and Bi-Cultural Education for Indigenous Students ....................... 42
  2.7 The Zapatista Movement: Its Role in Making the Indigenous Identity Visible ...... 43
  2.8 Mexico’s Multicultural Nature .............................................................................. 47
  2.9 The Need for Interpretation .................................................................................... 49
    2.9.1 The Need for ILL in Mexico ........................................................................... 51

## Chapter 3 Methodological Framework and Research Methods ................................. 55
  3.1 The Preference for One Language Over Another ................................................... 55
  3.2 Language Ideologies and Their Relationship to This Research ............................. 56
3.3 Challenges to Community Research ................................................................. 59
3.4 Community-Based Participatory Action Research ............................................. 61
3.5 Research Structure ............................................................................................. 64
3.6 It Begins with Respect ......................................................................................... 66
3.6.1 Building Connections .................................................................................... 67
3.6.2 Gaining Trust ................................................................................................. 69
3.6.3 Entering Indigenous Communities ................................................................. 72
3.7 Recruitment Criteria ......................................................................................... 73
3.8 Risk of Participation and Informed Consent ....................................................... 73
3.9 A Decolonizing Indigenous Methodology ......................................................... 75
3.10 Methods ........................................................................................................... 77
3.10.1 Archival Research ....................................................................................... 78
3.10.2 Participant Observation and Field Notes ..................................................... 82
3.10.3 Individual Interviews .................................................................................. 93
3.10.4 Focus Groups ............................................................................................... 96
3.10.5 Data Analysis and Interpretation ................................................................. 98

Chapter 4 Voiceless Tongues ............................................................................... 101
4.1 A Note about the Knowledge Shared in This Research ...................................... 102
4.2 Rights to Language ........................................................................................... 105
4.3 Indigenous Speakers’ Voices ............................................................................. 107
4.4 Language and Cultural Discrimination: An Everyday Thing for ILS ................. 108
4.4.1 Abuse and Torture ....................................................................................... 112
4.4.2 Scant Economic Resources ......................................................................... 119
4.5 Lack of Awareness of Indigenous Customs ....................................................... 122
4.6 Paucity of Interpretation Services .................................................................... 127
4.7 Final Reflections ............................................................................................... 134

Chapter 5 Silent Zones ......................................................................................... 138
5.1 The Role of the Indigenous Language Interpreter .............................................. 139
5.2 Common Offenses Faced by ILS: Why are Indigenous People Being Jailed? .. 140
5.3 Who Can Serve as an Interpreter? .................................................................... 143
5.3.1 How Often Are ILI Required? ..................................................................... 145
5.4 What is Stopping Interpretation Services? ....................................................... 148
5.4.1 A Rapid Fix to Language Needs: Interpretation on the Go ......................... 151
5.4.2 Interpretation Programs for ILI .................................................................. 152
5.5 Justice in Language .......................................................................................... 155
5.5.1 Making Language Digestible ....................................................................... 157
5.5.2 Addressing Cultural Differences: Looking at the Right Thing the Wrong Way ................................................................................................................. 159
5.6 *El Tequio* –The Traditional Communal Work .................................................. 161
5.6.1 Creating a Place for Indigenous Knowledge ................................................ 164
5.7 *Usos y Costumbres.* The Recognition of Indigenous Customary Systems ...... 166
5.7.1 Limited Sphere of Action ............................................................................ 169
5.7.2 Indigenous Problem Solving: The Little Things That Go Unnoticed ........ 173
5.8 Final Reflections ............................................................................................... 176
## Chapter 6 A Long Way Ahead of Us

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1 Significance of This Research</td>
<td>179</td>
</tr>
<tr>
<td>6.2 Consistency with Literature Review</td>
<td>179</td>
</tr>
<tr>
<td>6.3 The Paucity of Qualified Indigenous Interpreters</td>
<td>180</td>
</tr>
<tr>
<td>6.3.1 The Right to Understand the Legal Proceedings</td>
<td>183</td>
</tr>
<tr>
<td>6.3.2 Spanish as the National Language</td>
<td>184</td>
</tr>
<tr>
<td>6.3.3 The Importance of Indigenous Languages</td>
<td>187</td>
</tr>
<tr>
<td>6.4 Indigenous Knowledge in Silent Places</td>
<td>190</td>
</tr>
<tr>
<td>6.5 Irregularities in Cases</td>
<td>192</td>
</tr>
<tr>
<td>6.6 Indigenous Jurisdiction</td>
<td>194</td>
</tr>
<tr>
<td>6.7 Perspectives</td>
<td>197</td>
</tr>
<tr>
<td>6.8 The Role ILI Play in Conserving Language and Culture</td>
<td>198</td>
</tr>
</tbody>
</table>

## Chapter 7 Conclusion

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.1 Contribution to Knowledge</td>
<td>203</td>
</tr>
<tr>
<td>7.2 Strengths</td>
<td>204</td>
</tr>
<tr>
<td>7.3 Limitations</td>
<td>206</td>
</tr>
<tr>
<td>7.4 Research Questions</td>
<td>207</td>
</tr>
<tr>
<td>7.5 Future Research Directions</td>
<td>211</td>
</tr>
<tr>
<td>7.6 Final Thoughts</td>
<td>214</td>
</tr>
</tbody>
</table>

## Bibliography

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>215</td>
</tr>
</tbody>
</table>

## Appendices

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix A: Letter of Initial Contact (English and Spanish)</td>
<td>231</td>
</tr>
<tr>
<td>Appendix B: Personal Interview Consents (English and Spanish)</td>
<td>233</td>
</tr>
<tr>
<td>Appendix C: Focus Group Discussion Consent (English and Spanish)</td>
<td>245</td>
</tr>
</tbody>
</table>
## List of Tables

Table 1. Created with information from the Public Security and Secretariat of Prevention and Social Reintegration (2017) ..............................................................................................................141

Table 2. Created with information from the Public Security and Secretariat of Prevention and Social Reintegration ..............................................................................................................142

Table 3. Created with Information from the National Commission for the Development of Indigenous peoples (CDI per its acronym in Spanish) .................................................................148
List of Figures

Fig. 1.1 Indigenous population in México by State ................................................................. 13

Fig. 1.2 Geographical location of communities with which CEPIADET has collaborated ....... 13

Fig. 1.3 Linguistic families in Oaxaca. Created by CEPIADET 2019
http://cepiadet.org/indiya/#/CEPIADET-diversidad................................................................. 14

Fig. 3.1 CEPIADET’s Logo http://www.cepiadet.org/about.html ............................................ 68

Fig. 3.2 CEPIADET’s directory and board members. Taken by the author with permission ..... 68

Fig. 3.3 Public event “Access to information” ........................................................................ 90

Fig. 3.4 Brochures created by INALI and CEPIADET ............................................................. 90

Fig. 3.5 Básilica de la Soledad, Oaxaca City ........................................................................... 90

Fig. 3.6 The author offers a workshop about interpreting in the legal setting ......................... 93

Fig. 4.1 Rosa Tolentino. Picture provided by Gabriel Sanchez Cruz ................................. 110

Fig. 4.2 Case Marcelino Méjia Garcia. Picture provided by Michelle Ibaven ................... 115

Fig. 4.3 Adela García. Provided by CEPIADET ................................................................. 132
Acknowledgements

To CEPIADET’s team for welcoming me into your organization, and into your communities. Thank you, too, for the active participation in the project and for demonstrating Participatory Action Research. I sincerely hope that our friendship and work relationship will last for many years to come. To Tomás López Sarabia, Edith Matías Juan, Abigail Castellanos García, Flavio Vásquez López, Gerardo Martínez Ortega, Gabriel Sánchez Cruz for your passion about providing language interpretation to Indigenous defendants. I look forward to working together in many projects involving language rights for Indigenous Peoples.

To the Indigenous language speaker survivors of the legal system, for allowing me into your homes, and for having the courage to share your experiences. To the Indigenous language interpreters who keep supporting their communities, as well as promoting language reclamation and the acknowledgment of human rights. Without your voices, this research would not have been possible.

To my supervisor, Dr. Allison Hargreaves, and the members of my supervisory committee, Dr. Jeannette Armstrong and Dr. Christine Schreyer, thank you for believing in me, in this project, and for guiding me through difficulties. Special thanks to Dr. Allison Hargreaves, for your unconditional support always, for your mentoring skills, and for helping me find my voice to narrate this project.

To my friends and family, for the many hours you spent proofreading. To my supportive husband, and children who were always with me during my studies and research, for the many hours you sacrificed. To my parents for allowing me to dream. To those who became my family in the Okanagan, for your words of encouragement. Finally, and most importantly, to my ancestors who have guided my path in this research.
Dedication

A todas aquellas voces que no han encontrado ni sociego, ni justicia.
Voiceless Voices in a Silent Zone:
The Role of the Indigenous Language Interpreter in Oaxaca, México.

1. Introduction

Today, in Mexico alone, *thousands* of Indigenous people are in jail, not knowing the charges they face due to a language barrier (Weller 2013, 2; Shirk 2010, 205; Angelelli 2004; 55). The State’s failure to integrate the Indigenous population into the legal sphere and provide appropriate interpretation services has been cited as one of the primary reasons for the imprisonment of Indigenous peoples (Carranza 2009, 199-210; Berk-Seligson 2008, 11-6; García 2002, 82-5). Indigenous people struggle to present their ideas and knowledge clearly in the legal setting (Kleinert 2016, 237-239). This reflects the insufficient help that is available for Indigenous defendants, the inadequate number of interpreters and counsel familiar with Indigenous traditions, and the lack of spaces where Indigenous knowledge can coexist within the national arena while interacting in an adversarial system of trial (also known as an oral or American trial) (Hendrix 1998, 365; Zwier & Barney 2012, 189).

International treaties, such as the American Convention on Human Rights and ILO 169—the latter of which is also known as the Indigenous and Tribal Peoples Convention—secure the defendants’ right of free access to translators or interpreters to ensure a fair trial (Multilateral Treaties). Yet qualified interpreters who speak an Indigenous language are very limited in Mexico, leaving the Indigenous language speakers at a disadvantage, as qualified interpreters in

---

1 Cavise (2007) suggests that the Latin American countries transitioning from the inquisitorial model to the accusatorial or adversarial system could learn from the structural components of the American trial (798). Some of the major features of this system are the presence of a judge, an oral process, shorter pretrial detentions, presumption of innocence, and the right to defense in one’s native language. Before this, Mexico operated an inquisitorial or written system (Hendrix 1998, 365).
their language might not be available within a reasonable distance or may simply not exist (Betancourt 1999, 53-59; Kleinert and Stallaert 2015, 235-254; Sierra 2005, 287-314). This is a problem affecting not only Latin America, but also other regions of the world, such as Canada and the United States (Fiola 2000; Weller 2013; Angelelli 2004). This dissertation attends to Indigenous peoples’ rights to language and culture by promoting better training programs for Indigenous language interpreters. I also address the need to recognize Indigenous knowledges and perspectives in public places, promoting a process of decolonization and linguistic and cultural revitalization.

The breakdown of this dissertation is as follows:

Chapter one – Introduction. In this chapter I locate myself and my research; I also present my research questions and provide an overview of my research and community context.

Chapter two – Historical Background, offers a comprehensive view of the role of the Indigenous language interpreter from colonization to more recent times. This chapter offers historical context to help the reader understand the complexity of the interpreter’s role within the legal system and presents the Indigenous language interpreter as a mediator, language conduit, and informant.

Chapter three – Methodological Framework and Research Methods. In this chapter I explain my decision to follow a Participatory Action Research (PAR) methodology with aspects of Grounded Theory that gives voice to the participants. I elaborate on my personal experience in Oaxaca while conducting community research in a way that will honor my relationship with my community partners. Further, in Chapter three, I expand
on the PAR and Grounded Theory methods utilized in this research, why I chose to implement them and how they benefited this research.

The next three chapters (Chapters four, five, and six) offer more detailed information on the findings. These chapters address each of my research questions, and I purposely include numerous quotations from the participants because it was my intention to provide a space for the participants to voice their experiences, as well as proposing ways to remedy the situation.

My final chapter (Chapter seven) considers the challenges still faced by Indigenous communities in Oaxaca. This chapter offers recommendations to solve the current situation, such as strengthening the Indigenous jurisdiction, the inclusion of Indigenous authorities within the legal cases handled by the State jurisdiction, and recognizing the Indigenous authorities’ capabilities to solve legal cases in accordance with their own normative systems.

1.1 Self-location

The very first step toward decolonization began with myself – decolonizing my scholarly practice and the way I did research and saw academia, indigenizing my thinking and adopting Indigenous methodologies. Before starting my Ph.D., I had obtained my bachelor’s and master’s degrees, structured completely to meet Western standards of education. My academic career at the University of British Columbia-Okanagan made me realize that I needed to decolonize my process of thinking, as well as the way I was addressing and performing research.
Throughout my research and academic career, my first struggle was (and continues to be) to situate myself in my research project and find my voice for narrating it. The voices of Indigenous scholars such as Margaret Kovach, Kathleen Absolon, and Linda Tuhiwai Smith have guided my path through this difficulty. I attribute this to the side effects of colonialism and the imprints of growing up in Mexico, a country always active in nationalism. It is one thing that Mexico recognizes and takes pride in Indigenous cultures. It is quite another thing, however, to acknowledge and honor the rights of Indigenous communities to land, culture, and language.

In finding the right way to locate myself within my research and narrative, Indigenous researchers suggest that we must introduce who we are, who our ancestors are, and why we are doing this research (Absolon 2011; Kovach 2010; Smith 2013). The importance of the researcher’s positionality is stressed by Kathleen Absolon (2016). According to her, the self is central – it responds to questions such as “Who am I?” and “Is there a story behind my research?” (2016, 67). The researcher shows personal location by stating nation, family, and territory. In this way, the audience realizes the source of teaching and knowledge. It provides a context for the audience. This concept of locating goes against the Euro-Western notion that location isn’t important and does not matter (Absolon 2016, 71).

The self is an important and meaningful element of Indigenous research. Some academics might find this extremely difficult to do and may opt for adherence to facts, dates, and statistics. As a scholar myself, I acknowledge that I have struggled to find a way to approach this Indigenous principle, in part due to my colonized way of thinking; however, I recognize now that the use of self is a doorway to reconcile with my family, reclaim Indigenous culture and knowledge, and, most importantly, regain a connection with my Indigenous nation (Absolon 2016, 69).
Margaret Kovach (2010) addresses this concept in a very clear manner in her book *Indigenous Methodologies*. She brings forth self-location, purpose, and cultural grounding as key characteristics of Indigenous research. She proposes self-locating and adding aspects of the researcher’s own experience as a tool of validation. As an example, Kovach cites Susan Strega, who talked about self-location involving anti-oppressive inquiries, saying, “Within the ‘system of domination and subordination,’ where the perspectives of the marginalized are not fully appreciated, those of us who have this experience need to share it, voice it, and give it space” (on Kovach 2010, 110). In this fashion, I take the responsibility of sharing my own experience of language distress and linguistic discrimination to gain deeper understanding of Indigenous language speakers’ past and present experiences and suffering (Rannut 2010, 79).

Following, I share with you my story, in hopes that it will bring the reader closer to my research and provide a path for understanding the Oaxacan Indigenous struggle to gain rights to language and culture.

1.2 Who Am I?

I was born in the northern Mexican state of Coahuila, home of the Coahuiltecan tribe, whose people were absorbed into the population of what was known as the state of Coahuila y Tejas (“Coahuila and Texas”) after fighting Spanish and Apaches. Northeast of the town of Melchor Múzquiz, Coahuila, along the Sabinas River, there is a reservation known as “El nacimiento de la tribu Kikapú” (The Birthplace of the Kickapoo Tribe).

I carry within me different lineages of land and history. Ancestors on my mother’s side migrated from the edges of the Sabinas river. My mother’s father belongs to the lineage of the Spanish colonizers, as missionaries settled in Coahuila to expand the Catholic church. On my father’s side, my paternal grandmother migrated to my home city from what is known as La
Huasteca Potosina, located in Mexico’s center state, San Luis Potosi. Huasteco people speak Tenek, a variant of the Mayan language, and today, they are dispersed between the states of San Luis Potosi, Veracruz, and Hidalgo. They were a dominant culture, although they did not build large architectural structures, as did the Southern Yucatec Maya. My paternal grandfather was native to my hometown; he had grown acculturated and accustomed to Mexican ways of living. I don’t have any memories of my paternal grandmother, but I remember how my maternal grandmother would share stories to instruct me about everything – when certain fruits or vegetables needed to be planted, the prayer we would offer for the Earth to bless our food, and how each item needed to be harvested. I miss her problem-solving skills and ways of seeing the world.

Growing up, I listened to the sounds of Indigenous languages, including Maya and Nahuatl, and was exposed to two sides of Mexico – one that takes pride in the Indigenous heritage and the other side that disadvantages Indigenous communities. On the latter side, Mexicans don’t see Indigenous languages as languages; they consider them dialects, suggesting an inferior status and ignoring the deep relationship that Indigenous languages have with the land and natural world (Hoobler 2006, 441-460; Muñoz 2004, 414-433).

I was brought up in a Spanish-speaking home. My home state, Coahuila, borders the state of Texas in the United States. Therefore, my home city, Monclova, is located in an area that has been Americanized, and where an English-Spanish binary is encouraged at a young age. In my community, parents encourage embracing Western cultures and discourage learning about Mexican traditions. As a side effect of colonialism, this means that if you speak English and Spanish, you are worth more than if you speak Spanish and any Indigenous language, upholding a version of language supremacy (Sledd 1969). My grandparents lived away from their
Indigenous community even before I was born, and I did not embrace their traditional culture and ways of living until later in my life. Consequently, I grew closer to the Americanized life widely promoted in my community.

My interest in interpretation developed around 2001, when my family and I moved permanently to the United States. It almost wasn’t an interest – it was an obligation. My siblings and I had taken English classes in Mexico, so when we arrived in the States, we would interpret for our parents. Despite our many years of taking English classes, we couldn’t avoid a feeling of inadequacy and frustration because of our inability to produce error-free interactions. I can only imagine how hard the situation was for my parents, and how difficult it continues to be, now that all of their kids live away from home, and they are still not fully bilingual.

Living in other countries has broadened my perspective on linguistic discrimination (Rannut 2010). I can see clearly now that society has encouraged a sense of language supremacy that segregates minority language speakers. These language ideologies tend to hurt a fraction of the population, especially those who speak an Indigenous language (Haviland 2003, 764).

In 2010, I was a graduate student at New Mexico State University in Las Cruces, New Mexico in the United States. New Mexico borders the Mexican state of Chihuahua, and it was about a ten-hour drive to my hometown, Monclova. I loved living in Las Cruces because I was able to get the best of both worlds in Mexico and the United States. A lot of people in Las Cruces speak both English and Spanish; however, there is still a big demand for translators and interpreters. I had no proper training until my education at NMSU, where I took interpretation and translation classes. After graduation, I started working at Perales law group as a paralegal. There, I was in charge of document translation, and soon the main attorney offered to pay for my legal interpretation training. This benefited both the office and my own interpretation practice.
That training, in 2012, hosted many Spanish-speaking interpreters and translators, as well as a group of Navajo interpreters. I quickly learned that the questions and concerns were not the same for the English-Spanish interpreters as the English-Navajo ones. While we talked about legal vocabulary, homonyms, cognates, and other topics, they spoke about the descriptive nature of Indigenous languages. This was an eye-opening experience for me, but I did not have the opportunity to learn much about the subject until many years later, when I had the pleasure of meeting Dr. Jeannette Armstrong.

In 2013, I started my doctorate program at UBC Okanagan. I see now that my research would probably not have thrived anywhere else. In Mexico, the colonial imprints of colonization are too strong, especially in comparison to the negligible degree of importance given to the Indigenous languages and communities. In New Mexico, Indigenous studies programs were not as prevalent or available as they are at UBC Okanagan, despite the fact that, as of 2015, 10.5% of New Mexico’s population was Indigenous, including twenty-three Indigenous tribes – nineteen Pueblo communities, three Apache tribes, and the Navajo nation (New Mexico Economic Development).

The events of my life, especially during the last ten years, made me realize that language discrimination is even more acute for Indigenous peoples in all aspects of life, but especially when accessing the justice system without being able to use their mother tongues (Carranza 2009, 199-210; Hamel 1994, 301-313; Rios Zamudio 2011, 180-219).

1.3 Research Questions

My personal research project looked at the experiences of Indigenous language speakers (ILS from now on) while accessing legal services, as well as Indigenous language interpreters
ILI from now on) who provide interpretation in court settings in the State of Oaxaca, Mexico. In Mexico, the right to speak through an interpreter is available to people who do not speak *enough* Spanish per the Federal Code, or to Indigenous language monolinguals in the case of Chiapas, a state that has proven inefficient at ensuring fair treatment of Indigenous defendants (Escobar 2012, 202-4). However, civil organizations have shown that, in practice, the public prosecutor’s office will not require an interpreter if the defendant shows a slight knowledge of the Spanish language (Salazar 2007; Escobar 2012; López Sarabia 2015). Researchers have documented cases where non-certified interpreters aided legal cases; such interpreters may include police staff, volunteers, family members, or other inmates with some command of the Spanish language (CEPIADET 2010, 14-7; Stavenhagen 2003, 16). Given the jargon used in the legal setting, attempting to perform interpretation without experience could result in the omission or modification of important elements. Official interpreters are needed to ensure due process, guarantee transparency in the cases, and restore public trust in the legal system (Dingfelder Stone 2018, 103-158; León 2014, 339; Russell 2008, 51-71).

Oaxaca goes further than other states to ensure that Indigenous defendants’ rights are not overlooked (INEGI). Its state constitution specifies in Article 16 that cases involving an Indigenous defendant require that preference is given to judges and authorities who are Indigenous language speakers, or, in their absence, that the defendants will have an Indigenous interpreter. The constitution also notes that Indigenous customs, practices, and laws should be considered before delivering a sentence (Oaxaca’s Political Constitution).

On paper, these rules seem to ensure that Indigenous peoples’ constitutional rights will be honored. By law, they should always be assisted by an interpreter, even if the defendant has a minor command of the Spanish language. However, the exercise of this fundamental human right
is filtered through bureaucratic layers, often including dominant language bias, linguistic and cultural misconceptions, the use of inadequate interpreters, and notions of anti-Indigenous prejudice. Furthermore, denying defendants their constitutionally guaranteed right to present their cases in their Indigenous language not only deprives them of the opportunity to understand the charges against them, but also strips them of identity, culture, and traditions. Not being able to express ideas and narratives in one’s own language is a significant barrier to due process of law (Berk-Seligson 2008, 9-33).

According to the Mexican National Indigenous Languages Institute (INALI), as of 2017, 664 interpreters were accredited or certified in an Indigenous language throughout the republic. As of 2020, INALI reports 830 interpreters/translators, still not enough to help Mexico’s Indigenous speakers, a population numbering 7,382,785 (6.5% of the total national population, according to INEGI 2015). INALI also developed an ‘express’ solution to the problem by creating an accreditation and certification program for Indigenous interpreters. The accreditation program offers a series of workshops and classes totaling 180 hours, after which the name of the applicant is placed on the list of certified interpreters (INALI). The certification program consists of a competency test for ILI to show their proficiency in the Spanish-Indigenous language binary (CONOCER). However, the programs are still insufficient to relieve the needs of the 8,000 incarcerated Indigenous people across Mexico, at least one-fourth of whom are in Oaxaca (Salazar Luzula 2007, 5).

Therefore, my research sought to achieve three objectives: 1) Answer questions regarding the language barriers faced by the Indigenous communities as they seek help to ensure due process, 2) discover how traditional knowledge and culture are negotiated within the courtroom,
and 3) understand what role the interpreter plays in creating a safe place to encourage the preservation of Indigenous knowledge and culture.

My main research questions were:

1) What are the barriers that prevent Indigenous speakers’ communication in the legal setting?
2) What role do interpreters play in making space for traditional knowledge and practices within the court system?
3) What changes need to happen to address the challenges faced by Indigenous communities when navigating the legal system?

To answer these questions, I followed a Participatory Action Research (PAR) methodology with aspects of Grounded Theory. My methodology informed my research as it helped me gather Indigenous defendants’ and interpreters’ voices, feelings, and views while proposing ways to achieve social change with specific actions (MacDonald 2012, 34-50). This research sought to meet three important aspects of PAR as explained by McIntyre (2007): 1) the active participation of researchers and participants in the co-construction of knowledge, 2) the encouragement of self and critical awareness with the intention to create social change; and 3) the development of working relationships between researchers and participants in the planning, implementation, and dissemination of the research process (McIntyre 2007, ix).

Using PAR in my qualitative research allowed me to consider the broader historical, economic, and social context that shape the experiences of Indigenous language speakers and interpreters. Acquiring new knowledge, through interviews and participant observation, assisted in the promotion of equity in accessing legal services while promoting changes that could improve the general experience of Indigenous peoples in the justice system. Grounded Theory, as a set of methods, was utilized to gather information and ground new knowledge as it was
produced (Glaser & Strauss 2017, 2). My methodological framework and methods are further explained in Chapter three.

1.4 Community Context

Oaxaca is a beautiful state full of color, music, culture, and noise. The state is a gem to the Mexican government, as it is a magnet for tourists from all around the world. My fieldwork was my first experience visiting Oaxaca, and it was enriching in many ways. It all started in May of 2017 with the heat of spring that awakens the rhinoceros beetles that have been buried under the dirt for months, along with the loud noises of the cicadas. I now realize that with their loud sounds, they announce the arrival of the rainy season (a heavy rainy season - especially for someone who grew up in northern Mexico, where rain is considered a rare natural event, longed for and cherished!). With the rain’s burden, these bugs begin their cycle of silence for another year.

This dissertation has a lot to do with Oaxaca’s resounding noises, as well as its silenced ones. While it is true that one can experience the commotion of the markets, parades, many Indigenous languages, as well as dominant languages, one is also able to enjoy the noises of nature, life, and musical diversity. Oaxaca consists of eight regions: La Costa, El Itsmo, La Cañada, La Mixteca, El Papaloapan, La Sierra Norte, La Sierra Sur, and Los Valles Centrales (Barabas 2014, 111-2; Montes García 2005, 25). The state has many different sounds that are not always taken into consideration, and on many occasions, they have been forced into silence. I am referring here to the constitutionally recognized Indigenous languages and linguistic variants (INEGI 2015; CEPIADET 2010).
When I arrived in Oaxaca, coming from a highly politicized state in the north, I was confronted with blasts of fireworks. At the time, they sounded more like the normal gun shootings held in Coahuila, my home state, due to the drug trafficking war. Soon, I learned that the noises were related to the patronal feasts and many other celebrations held throughout the year in Oaxaca. The fireworks explosions became a fixture, followed by the sound of the traditional bands accompanying the *calendas* – colorful religious parades with huge dummies, community members, families, friends, and, of course, mezcal, Oaxaca’s traditional alcoholic drink. This parade marks the beginning of public parties and festivals, and it is an open invitation to everyone to join.

It is very common to hear the voice of the lady selling tamales, the bell of the garbage truck, and the announcement of Gas de Oaxaca – the local gas company delivering the service throughout the city. Contrary to what it might seem, Oaxaca is rather a small state, and its income is derived almost entirely from tourist attractions. This includes the Guelaguetza Festival,
the famous party of the Oaxacan people, where the Indigenous populations from all eight regions come to the Valles Centrales (the capital area) to demonstrate their traditional dances and attire (Montes García 2005, 9-25). Isn’t that ironic? The state obtains its income from the advertisement and manifestation of Indigenous heritage, yet when it comes to honoring their language, culture, and ways of knowing, we step into a very dark area.

The State of Oaxaca provided the perfect locale for my research, as this state is home to a rich collection of distinct Indigenous languages and linguistic variants (Quinto-Cortés et al. 2010, 409-432). Oaxaca has six language families: Otomangue, Yutonahua, Indoeuropea, Mixe-Zoque, Huave, and Chontal (see Figure 1) and approximately 176 linguistic variants (INALI 2008; López Sarabia 2015, 51-2).

Some of the Indigenous languages in Oaxaca, such as Huave, Zapotec, Triqui, and Mixe, for example, experience linguistic vitality and have gained speakers in the last decades. Other languages, however, such as the Chocholteco and Ixcateco, are at risk of extinction (Barabas 2004, 24-5). Linguistic replacement has affected many communities, who have substituted their...
Indigenous languages with Spanish. This is the case of some Zoque and Zapotec speakers. Indigenous communities also see themselves affected by large hydraulic development projects that result in compulsory relocation processes. This was the case of Mazatec and Chinantec communities, who were forcibly removed from their lands and have not been able to restore their traditional linguistic, organizational, and cultural patterns (Barabas 2004, 28-31). These processes of linguistic replacement and territorial relocation add to the difficulty of finding appropriate interpreters who are willing to travel to the city to perform interpretation. 

During my time in Oaxaca, I visited the Valles Centrales, Miahuatlán, and San Miguel Suchixtepec. I also spoke to a participant from the Isthmus of Tehuantepec. The ILI participants spoke Zoque, Mixtec, and variants of Zapotec.

1.5 Defining Terms and Approach

Throughout my dissertation, I use words that have different meanings according to the context in which they are used. While I have done my best at addressing them throughout the dissertation, I wish to disclose the use of certain words. For example, in Mexico, the word “mestizo” refers to a person with Indigenous and Spanish heritage, which applies to almost all of the Mexican population.

This dissertation documents the struggle of Indigenous people to access interpretation services in the Mexican justice system. Therefore, in this dissertation, translation refers to the process of translating written words or texts from one language into another. In written translation, the translator could use different tools and materials (such as dictionaries and specialized publications) deemed necessary to achieve translation for publication of various types and genres of literature (Carroll 1978, 122). Interpretation, on the other hand, is used to
describe the process of facilitating oral communication between different language speakers. In this process, the interpreter listens to short fragments of a conversation in one language and conveys them in another language to someone else. This term is used for both simultaneous and consecutive interpretation in the Mexican justice system (Carroll 1978, 123).

Another term that could cause some confusion is “reconciliation.” In the Canadian context, the term is often tied to the Truth and Reconciliation Commission (TRC), a state-funded program that seeks to restore the relationship between the Crown and the Indigenous peoples. Reconciliation carries weight and baggage, especially referring to issues related to the abuse of Indigenous children in boarding schools, conflicts over natural resources, and the murders of Indigenous women. Therefore, scholars have opposed this program and pointed out that it actually has contradictory results, as it does not build relations, but promotes a sense of the continuation of colonization and assimilation (Coulthard 2014, 105-130; Henderson and Wakeham 2013, 8-10).

The Mexican government has similarly sought a working relationship with the Indigenous communities, especially after the Zapatista movement in 1994. In 2001, for example, the Mexican Constitution recognized Indigenous peoples as part of the nation for the first time, thanks mainly to the pressure exerted by the EZLN.

From that reform arose the General Law on the Linguistic Rights of Indigenous Peoples, the Federal Law for the Prevention and Elimination of Discrimination, and the Law of the National Commission for the Development of Indigenous Peoples, all of them published in 2003 to promote, protect, and develop Mexico’s Indigenous cultures. The National Institute for Indigenous Languages (INALI) was also created (Blanco 2010, 72-3). The appearance of these laws and institutions have caused problems because they make evident the many disadvantages
faced by Indigenous peoples, which other Mexican citizens do not share. Roberto Morris Bermúdez (2007) proposes implementing programs that were created in Indigenous communities which would assure the members of the communities that their languages and cultures are being taken into account. The State’s programs need to develop a more inclusive relationship with the Indigenous communities, especially in matters related to land, language, and culture.

While the TRC was a Canadian state-funded program, reconciliation as a personal and communal process is not. Indigenous peoples have been working toward reconciliation for generations (Simpson 2017). Jane Stewart, who was then Canada’s Federal Indian Affairs Minister, offered a statement in 1998 in which she defined reconciliation as a process and a way “to learn from our past and to find ways to deal with the negative impacts that certain historical decisions continue to have in our society” (Gathering Strength). Thus, reconciliation also refers to a reorientation of our thinking and the relationships we build.

While I recognize that reconciliation couldn’t possibly be achieved without the State’s proper recognition of the wrongdoings amongst Indigenous people and without the active participation of the Indigenous communities, I wish to point out that I use the term reconciliation to refer to the historical process to build relationships between the State and the Indigenous communities. I acknowledge that in Mexico, just as in Canada, we are standing far from a satisfactory conclusion to the reconciliation process. It is a two-sided road in which Indigenous people have invested much time and effort, and, sadly, it has not paid off.

1.6 Final Note

This research project arises from the belief that the work done should visualize and analyze the situation experienced by the ILS who are survivors of the legal system, as well as
their ILI while they are accessing the legal setting. It should also propose new ways to meet their social needs. The Indigenous communities’ participation was essential during this research, as the participants shared their experiences and knowledge in order to suggest how to produce a favorable change for the communities (Minkler 2003, 4). This dissertation aims to look at the role played by the interpreter within the Mexican justice system and advances the concept of the Indigenous language interpreter as a cultural and language keeper.

While this dissertation is written in first-person and based upon my individual experiences and observations, I consider it important to recognize the plural participation and collective voices who informed this research, for without the “we,” I would not have been able to relay the messages hidden in the conversations, gestures, and voiceless voices.
2. Historical Background

This chapter offers historical context to help the reader understand the complexity of the interpreter’s role within the legal system; expands on the convoluted situation for both Indigenous defendants and Indigenous interpreters in the court setting; and amplifies understanding of the historical institutional racism that continues to affect Indigenous communities, not only in Mexico but also in Latin America and throughout the world.

2.1 My Experience as an Interpreter

My siblings and I spoke Spanish at home while growing up. English was spoken when we visited the United States. As I got older, interpretation and translation were part of my everyday living - my parents are still not fully bilingual, despite their many years of living in Texas. The role of the interpreter came to me, as it came to most of my fellow interpreters, as an opportunity to help those in need. In my interpretation practice, I have performed educational, medical, and legal interpretation (English and Spanish), legal being by far the most difficult. Scholars have considered interpreting in the courtroom as the most challenging interpretation discipline (Stone 2018, 54). The legal atmosphere and various roles all within one room cause fear and intimidation in the interpreters. During my interpretation training, my instructor’s first rule was to interpret what was said without adding or subtracting from the original message. This made a huge impression on me to make sure that interpretation was done correctly.

During my interpretation career, I encountered times when the Spanish speaker couldn’t completely understand the conversation due to higher register\(^2\) employed in the legal system. I also experienced cases where the defendant was scared to face the police officer for fear of

\(^2\) Refers to the varieties of a language that a speaker uses in a particular social context (Merriam-Webster).
deportation, or ladies who would not be able to show the lacerations on their bodies because of adherence to cultural notions of modesty. Most common were the instances where the defendants would not maintain eye contact. Their body language spoke to the situation they were recounting or declining to explain because of cultural constraints. I wanted to ask if everything was fine, if they needed a minute, or if there was something preventing them from speaking freely, but I couldn’t ask anything unless I was ordered to do so. I could see that feelings, culture, and knowledge didn’t completely fit within the legal room. I wondered if the aforementioned elements needed to be addressed for a more accurate translation and to help deconstruct the idea created around the figure of the interpreter, but the rule was always to remain unbiased and invisible (Knapp-Potthoff 1987, 181-211; Valero-Garcés 2007, 81-101).

In 2012, I took a court interpretation training class in Albuquerque, New Mexico, with groups of Spanish and Navajo-speaking interpreters. Navajo is widely spoken throughout the United States, but primarily in northern New Mexico, Arizona, and southern Utah. Scholars have commented on the struggle to translate this language to English (Webster 2006, 37-49).

Something happened during that class that broadened my understanding regarding the untranslatability of Indigenous languages. When demonstrating the different translation styles, repetition and clarification as tools were not enough for the speakers of Navajo; they needed to further explain the deep meaning of the Navajo language. This was the first time I heard the words, “Our languages are descriptive.” I don’t think the instructor, an experienced English-Spanish court interpreter from Spain, was prepared for that comment. He asked for elaboration. When the interpreter explained the need to detail and expand on interpretation in order to maintain the meaning, the instructor pointed out that, in such cases, the interpreters would just have to do their best to maintain the message. It was clear to me then that the legal system is not
equipped to prepare Indigenous interpreters appropriately – not in the States, nor in Mexico, nor in Canada. This isn’t new and has happened among different societies throughout history. As such, I now take a glance at the role of the interpreter through the centuries.

2.2 The Interpreter, a Language Conduit

From the Conquest to more recent times, interpreters have orally transferred meaning and facilitated language and cultural communication between interlocutors (speakers) and receivers (hearers) (Stern 2011, 325; De Jongh 1991, 281). They are conduits who help convey messages back and forth between speakers of minority and dominant languages. Indeed, interpreters are much more than individuals who are fully bilingual; they can often recognize customs and traditions of specific communities and have a better grasp of why certain practices take place. The interpreter can also read an individual’s behavior and body language. For example, in the specific case of Mexican and Latin American minorities, many citizens will not maintain eye contact out of respect when facing an authority. For other people, however, the inability or refusal to maintain eye contact is a cause for suspicion. This creates a tension between the two parties, in which case one of them can be disadvantaged (Hall 1959, 146-164).

When European and Indigenous people encountered each other in the Americas, their interactions were influenced not only by their languages, but cultural ideas. Thus, a process of cultural change began to take place. Interpreters assisted the European entrance into Indigenous territories. Since then, their role has been a complicated one – in terms of ethical views, have they betrayed their people? Were they puppets in European hands? Or have they guarded their culture and beliefs?
This chapter serves as a cultural and historical approach to the interpreter and aims to draw attention to their complicated role in society. I look at Indigenous language interpreters, specifically in Mexico. In a historical frame, Indigenous interpreters are considered intermediaries, interpreters, and cultural brokers; I examine their strengths and vulnerabilities. Most importantly, I discuss how they could forge a space for Indigenous knowledge to persist, and how they embody their vocation as cultural and knowledge keepers. While bringing two worlds into contact with each other, they also actively maintain and safeguard Indigenous cultures and languages.

Interpreters hold an important role. Without their help, people would not be able to fully understand different types of social proceedings, be they medical, educational, or legal. Whether they are interpreting during a court hearing, hospital visit, or community meeting, they hold great power within cultures and languages. Their job is to facilitate communication and create a space where minority language speakers can feel safe and comfortable, knowing that their voices and experiences are being heard (Davidson 2000, 379-380; Yannakakis 2008, 99-130). I see interpreters as the gatekeepers of knowledge, who discern word differentiation between cultures and speech communities, defined by Hymes as communities sharing the conduct and interpretation of speech, as well as rules for interpretation of a linguistic variety (Hymes 2005, 6). They are a channel that brings two cultures to an area of agreement, if only momentarily. Without a doubt, they are probably one of the most important elements in moving forward any legal proceedings involving parties who do not speak the same language.

The role of interpreters, however, is very controversial and far from reaching a stable ground. Cronin (2000) indicates that, “The linguistic and cultural instability that results in the effectiveness of the translator as an Imperial subject (informer or informant) also maximizes the
potential for entropy. It is for this reason that the study of the lives of individual translators is so important” (Cronin 2000, 39). It is exactly because of the imminent need for them combined with their ancestral knowledge and unpredictability that this research analyzes their role within the legal system.

2.3 Interpreting in the Legal Setting

Interpreters have been portrayed as the invisible facilitators between two parties (Valero-Garcés 2007, 81-101). Today, as in the past, speakers from more and less dominant cultures often come into contact via interpretation. The way interpreters cope with their responsibilities varies according to the setting in which the interpretation takes place, and especially according to the rules that the professional associations and institutions establish.

These important individuals have, throughout history, been valued for their invisible, neutral role, yet they are often deprived of the agency necessary to perform the complex linguistic and informational tasks required of them. Thus, understanding how interpreters foster communication between two cultures elucidates the complexity of the role played by the interpreter.

Performing interpretation is not an easy task – at least it has never been for me. There are many aspects to consider in order to execute interpretation as transparently as possible for all those involved in the matter. For me, many other aspects of interpretation need to be considered, maybe not to achieve word-by-word transparency, but to transmit the message as a whole. A message can be affected entirely by the location where the conversation is taking place, intonation, the different cultures involved, and the way the proceedings are being carried out. For
example, it is completely different to read or translate a court order in an office than to perform live interpretation while a statement is taken.

According to Dell Hymes (2005), the spirit of a speech event, which is governed by the rules of the use of speech, will be affected by different aspects of language. These aspects include the setting (time and place of a speech act), speaker, hearer, and audience (the different parties involved in the case), norms of interaction (the rules guiding the speech), and genre (how the speech is expressed, e.g. a poem, song, or tale). Hymes addresses the difficulties of cross-cultural communication and proposes to attend to the aforementioned aspects in order to reach competency in a given language (Hymes 2005, 4-16).

The language of the law is a complicated one, even when the interaction is between fluent speakers of the same language (in this case, Spanish), let alone a less fluent speaker whose community keeps facing the long-lasting effects of colonialism. In such cases, not only do the parties belong to different speech communities, but they are also challenged by cultural and social differences.

### 2.3.1 Differences in Language

In the legal setting, a communicative event involves judicial officers (law speakers) and the relevant parties (defendants and plaintiffs). The public servants and attorneys will most likely be familiar with the courtroom ways of speaking that occur in their everyday community – they are comfortable with the language of the law and perform daily in this speech community. The parties of the case will belong to a different speech community in which the ways of speaking are quite distinct. In this fashion, interpreters need to be familiar with the diverse registers involved in the case (De Jongh 2011, 285).
This is also true for monolingual trials when the words spoken by a person are put in record, but the meaning might change depending on how a sentence is read. For me, it was and continues to be, extremely difficult to interpret for someone from Mexico City because there are enough differences in lexicon that require me to constantly ask for repetition or clarification in order to produce an accurate interpretation. The same happens in English trials. For example, if a person says, “back to where I began,” it is up to the listener to decipher whether they meant it metaphorically or literally. The interpreters should not venture to interpret the intended meaning of a word because this could lead to errors (Stone 2018, 159-64).

The cases become more complex when Hispanic speakers from other countries are involved. I remember once doing an over-the-phone interpretation where I had to interpret “bloodstream.” I interpreted it as “corriente sanguínea,” but my supervisor wanted to say, “torrente sanguínea.” The terms are synonymous, but I was reprimanded for using “corriente” because that is also the word for something “cheap” or “ordinary.” However, I stood by my interpretation. My word choice was questioned until my supervisor took the time to do a little more research into the term and found my choice correct.

Another time, I caught myself almost making a mistake while translating the word “toe.” In Spanish, the word “dedo” is used for finger or toe, but one must specify if you are talking about “dedo de la mano” (finger) or “dedo del pie” (toe). Those are little mistakes that a translation machine might not spot, and that an interpreter might overlook even if they are from the same community. They can make a big difference in the outcome. In such circumstances, the interpreter cannot provide a faithful interpretation without consulting the meaning and truly “interpreting” what was said (Stone 2018, 163). The law speakers and legal practitioners do not always have patience and tolerance when clarification is requested; in fact, for some people,
repetition and clarification could reduce the true value of the statements, as it raises concerns that the neutrality of the different communicative events was compromised (Angelelli 2004, 70-9). A legal practitioner relies heavily on the use and manipulation of language, yet they tend to limit the interpreter’s agency during the hearings, reflecting the negative views toward the interpretation process and those who perform it (Morris 1995, 26).

Besides being a linguistic bridge, the interpreter attempts to dismantle the barriers between two worlds (Stone 2018, 53-102). At times, their role has been regarded with suspicion, as that of a traitor; however, with their power, they have been able to secure certain rights for Indigenous peoples, for example, the inclusion and observance of Indigenous customs (although this practice has changed during the never-ending road toward development) (Hsieh 2010, 170-181; Mairs 2011, 64-81).

As noted, interpreters have been depicted as invisible throughout history. The portrayal of neutrality has been one of the main criteria in their performance. Why is that? Interpreters are a language conduit - the most important part of the courtroom, the medical setting, or the education industry - yet they find themselves deprived of agency when they are fully capable of performing complex linguistic and cultural translation, without which communication could simply not happen.

2.4 Language and Cultural Encounter

During the 16th century, European societies “discovered” the New World. The resulting encounters with the Indigenous residents marked the beginning of interactions between two foreign societies as they tried to understand each other’s languages and ideologies. Throughout this period in Mesoamerica, the interaction occurred in Spanish and Indigenous languages with a
linguistic filter in order to accommodate both cultures. It would be too optimistic to think that the Spanish people instantly learned the Indigenous languages and cultural backgrounds and vice versa, as some of the Spanish chronicles describe.

Bartolome De las Casas (1527) flags as fiction some of the first accounts of the colonizers. Regarding Americo Vespucci’s account in which he describes his expeditions to America, De las Casas mentions that it is hard to believe much of it happened within such a short period of time following his arrival. Besides what was visible to their own eyes, such as the food they ate and the physical appearance of both the Indigenous peoples and newly “discovered” lands, most of the words recorded as chronicles, memories, conversations, and narratives “seem fiction” because of the way their interactions are portrayed (Las Casas 1527-64:1, 433-4). The same can be said for *The Journal of Christopher Columbus*, which recounts the very first encounters with the Indigenous people. Columbus claimed that he was able to figure out direction and quantities out of signs and gestures, writing:

They brought skeins of cotton thread, parrots, darts, and other small things which it would be tedious to recount, and they give all in exchange for anything that may be given to them. I was attentive and took trouble to ascertain if there was gold. I saw that some of them had a small piece fastened in a hole they have in the nose, and *by signs I was able to make out that to the south, or going from the island to the south, there was a king who had great cups full, and who possessed a great quantity*. (Markham 2010, 39, my emphasis)

In his narrative of the first voyage, Columbus also tells how the Spanish presented cinnamon and black pepper to the natives, to which they “responded” that they had plenty of those spices. The Spanish then proceeded to show them pearls and gold, to which the Indigenous peoples replied that they could find them in Haiti (Markham 2010, 67). It is indeed a bit hard to believe that such a conversation could have taken place shortly after the Spanish arrived in Mesoamerica. The use of gestures is an understandable reaction when faced with a situation
where language is not a feasible resource, but certainly not to the extent of grasping directions, titles, or specific details. At this early stage of the conquest, it is surprising and questionable that the Spanish could allegedly understand entire conversations, recommendations, and advice, all without the intervention of an interpreter.

Body language, signals, and gifts served as the first forms of communication; however, it didn't last long. The same Columbus stated more than once that he completely ignored the Indigenous language. In Markham’s volume, Columbus says, “It was impossible to know much of the land in so short a time, owing to the difficulty with the language, which the Admiral could not understand except by guessing, nor could they know what was said to them, in such a few days” (Markham 2010, 163). The colonizers took advantage of guides, slaves, and middlemen who could help them communicate with the Indigenous communities they met. They also needed these men to help them create trust and secure relationships with the Indigenous nobility.

This was not only a clash of languages, but of culture. Although the interpreter’s presence is evident as early as the 1600s, the interpreter's training, if there was any, isn't clearly defined. As stated by Columbus himself, there was a lack of understanding between Spanish men and the Indigenous peoples more than once. He then decided to educate interpreters himself, as they were deemed an absolute necessity. Columbus achieved this by seizing Indigenous women and children, whom he took with him back to Spain to instruct them not only in Spanish language but also in culture. In the volume edited by Markham, Columbus stated:

I afterwards sent to a house on the western side of the river, and seized seven women, old and young, and three children ... But, having women, they have the wish to perform what they are required to do; besides, the women would teach our people their language, which is the same in all these islands, so that those who make voyages in their canoes are understood everywhere. (Markham 2010, 75)
During subsequent trips to America, Columbus was able to break the language and cultural barrier, thanks to the uprooted interpreters who were now familiar with both Spanish and Indigenous cultures and languages (Angelelli 2004, 9).

2.4.1 Interpreters of the Conquest

The Indigenous interpreters were essential as the Indigenous peoples struggled to adopt a newly imposed system at many levels – including religious, governmental, and legal structures – when the Mesoamerican rulers lost their empires. As such, the very first records of the language clash and interpretation practices in the Americas go back to the 16th century, when the Spanish arrived in the Mesoamerican territory known today as Central America. The Conquest chronicles talk about the role of the interpreters, mentioning that a person performed the interpretation service, but many times failing to recognize their jobs or even mention their names (Alonso Y Payás, 2008, 11; León Portilla 1964, 29; Cortés, Díaz del Castillo 1956, 37-47).

Alonso y Payás (2008) identified a group of interpreters as Nahuatlats (people who speak Nahuatl, the main language of the Aztec region conquered by Cortés). The interpreters who accompanied the Spanish officers on their inspection visits or were required during hearings were also commonly known as “lenguas,” (tongues) (Alonso Y Payás 2008, 7). Throughout the Americas, the interpreters had an important role, not only for bridging the language gap, but also for settling the substantial cultural and social differences between the two peoples.

Interpreters officially achieved a professional title and recognition of their efforts during 1563, though the details of their preparation remain vague throughout history. The interpreter’s
role was regulated and clearly indicated by the *Leyes de Indias*\(^3\) (Laws of the Indies) (1974). It was established as an official job, and the interpreter was considered an assistant to the Crown, governor, and judge; as such, those with the position enjoyed the benefits of being an official servant and received an established pay (*Leyes de Indias* 1974; Alonso y Payás 2008, 45). Their compensation was regulated according to different criteria, such as the number of questions to be interpreted, working conditions, availability, and the number of interpreters within the courtroom (Angelelli 2004, 10).

The compilation of *Las Leyes de Indias* fully described the coordination and regulation of interpretation practices. It established the amount to be paid as a salary and travel allowance, if needed. The interpreter was prohibited from accepting presents from any of the parties (Ley III) and negotiating or discussing any matters outside the hearing. During this time, the interpreter worked mostly for government and religious institutions; as such, they swore loyalty to the Spanish Crown (*Las Leyes de Indias* 1774). Hence, to avoid apprehension, mistrust, bias, and corruption (Ley VIII), the Indigenous party was permitted to bring a trusted person to verify the quality of the interpretation, thus protecting the best interest of the Indigenous defendants and preventing interpreters from exploiting their power (*Las Leyes de Indias* 1774).

Indigenous and Spanish peoples were not considered of equal status in the Conquest. This difference of power has characterized the courtroom from its origination until recent days (Angermeyer 2009, 3-4; Berk-Seligson 2008, 9-33; Escalante Betancourt 1999, 53-59). It is worth mentioning that while Indigenous defendants could count on the help of an interpreter

---

\(^3\) A set of laws issued by the Spanish Crown to regulate the social, political, religious, and economic matters in the American and Philippine territories owned by the Spanish empire (*Las Leyes de Indias* 1974).
during the Conquest (Valdeón 2013, 157-179). Interpretation services became scarcer as Mexico moved toward modernization, when the false rhetoric of “one nation, one language” imposed constraints on Indigenous communities as they were, and continue to be, restrained from speaking their languages in public spaces. Though this imbalance of power should not have made a difference before the law or in interpretation coherence and analysis, we are yet to see whether interpretation or lack thereof has aided or hindered Indigenous defendants.

2.4.2 *Lenguas* and Intermediaries

It is important to mention that Indigenous peoples were facing the alteration of their whole world. Not only did they endure the imposition of a new legal and economic system, but they were also experiencing the obliteration of their language and ways of knowing. The intermediaries, *lenguas*, or informers were key during this period.

Mexico has important intermediary figures, such as Malinalli or Malintzin, pejoratively known as Malinche. She was one of the slaves gifted to Cortés by the Tabascan people. When presented to Cortés, she received the name of Marina. She was Cortés’ preferred mistress and also his *lengua* (interpreter). Most importantly, she was the main intermediary between the Spanish people and Indigenous nobility. She was the conqueror’s advisor and protector and maintained a position of power. In Mexico, however, she is mostly known for persuading her own people not to resist the Spanish invaders (Valdeón 2013, 142; Bassnett and Trivedi 2002, 4; Pittaluga 1946, 616).

Malinche is the best example of how Indigenous peoples grappled with cultural change. In order to survive, some of them assimilated, and others escaped to highlands (Bracamonte y
Sosa 2001, 26-36; Phillips 1983, 97-114). In this way, they were able to preserve, to some extent, their languages, culture, and knowledge under Spanish rule.

Doña Marina, or Malinche, continues to be a well-known historical interpreter of the New World even today. The very role of Malinche, Cortés’ interpreter and lover, and mother of all Mexicans (Paz 1993, 30-5), demonstrates the colonizer’s need for someone to help them enforce order and establish a new rule. Without language, negotiation, and the support of Indigenous forces, Cortes’ army would never have managed to overthrow the Aztec empire, which was extensive at that time. Hence, Malinche acted as a mediator among the Maya Chontal, Nahua, and Spanish. Her ability to speak multiple languages and her loyalty to the Spanish people are what earned her the name of “traitor” by Mexicans, who use her name as a label for people who are attracted to foreign values or have lost their patriotism. In her position, Malinche enjoyed many benefits, yet in the end, she was just one more of Cortés’ tools against the Aztec empire (Candelaria 1980, 1-6; Kidwell 1992, 97-107).

Some scholars have worked toward reclaiming the figure of Malinche from a historical and feminist standpoint, such as in Laura Esquivel’s novel Malinche, which seeks to produce Malinche’s vision of the conquest (2007). Malinche was first sold to the Tabascan people by her mother, then gifted to Cortés at quite a young age. Her skills went far beyond interpreting from language to language, as if that weren’t difficult enough, given the differences in culture and language ideologies. She served as an intermediary between the Spanish and the Mexican people. Her familiarity with native customs and knowledge of Indigenous cosmologies and habits made her indispensable to the Spanish conquerors. Her role was not limited to being an
interpreter; she was also a collaborator between Cortés and the lands’ caciques, or native chiefs. Without a doubt, her part in making Cortés’ invasion successful was much more than the one designated to her by the Mexican people, for her function as his mistress is the main reason she is so well-known there (Candelaria 1980, 1-6; Kidwell 1992, 97-107; Valdeon 2013, 173-5). Malinche embodies characteristics such as leadership, intelligence, and adaptability. Looking at the big picture, did she turn against her people? Since her youth, she was made to think that her only job was to obey. She would have brought dishonor and shame to her own people had she done differently. Her own mother sold her into slavery. Given her situation with both cultures, she did the best she could to survive them.

The interpreter’s understanding of Indigenous practices has served as a cultural tool since then. Yanna Yannakakis (2016) refers to their role as “Native Intermediaries” because they could bring both worlds together on a common ground. She vindicates and expands upon the figures of Malinche and Gaspar Antonio Chi (a Maya speaker) as intermediaries who were able to preserve both language and culture after being acculturated by the Spanish colonizers and the Catholic Church, respectively (Yannakakis 2016, 30-63).

The Church nurtured a very close relationship with the Indigenous subjects from the Conquest until Mexican President Benito Juárez sought to separate state and legal matters from the Church’s jurisdiction with Juarez’ Law in 1855 (Schmitt 1984, 365). The Church was in charge of indoctrination and literacy duties; as such, it sought mainly to educate and mold the Indigenous persona – to make it more “human-like” (Sheridan 2000, 179-87). Since the Church oversaw education, the Indigenous students were taught Latin and Spanish and how to write their native languages with the Spanish alphabet. The primary reason behind this decision was to
create a cadre of students who would take all this knowledge back to their communities and teach their fellow Indigenous peoples the principles of the Catholic Church. Following this method, the religious orders were able to groom Indigenous interpreters who could relay messages between Spanish and Indigenous peoples and generate written translation. It is said that the Church generated the best scribes in Mexico, some of whom helped Bernardino de Sahagún with the Florentine Codex (De León Portilla 1964, 11-30).

Gaspar Antonio Chi represents one of the prime archetypes of religious informants, as they were known to Bernardino de Sahagún and Friar Diego de Landa. Chi served as an interpreter and informant to the latter, the bishop of Yucatán and the person responsible for the destruction of most of the Yucatec Mayan codices and culture. As an informant, Chi helped De Landa fight idolatry. During this time, the Church delivered many sentences related to the destruction of ancestral spaces, as well as hangings, lashings, and torture involving Chi’s own people, the Xiu, and their enemy, the Cocom of Yucatán (Bracamonte y Sosa 2001, 58; Yannakakis 2016, 7-8). Did he use his Indigenous knowledge against his culture? Did he turn against his people – the Maya of Yucatán? No, not completely. In fact, his close relationship with the Church and education in languages allowed Chi to help the Mayan people in their lawsuits, and he composed petitions for them. In addition, he expressed his own views of colonization in his writings (Restall 1997, 254).

It is usually the dominant party (the Spanish in this case) that is concerned with interpretation (Angermeyer 2009, 3-4; Berk-Seligson 2008, 10-13). For that reason, Columbus and the Church trained their own interpreters. Sometimes, the interpreter’s task required more than simply translating one language to another. There were instances where more than one
interpreter was needed to break the language barrier. In such cases, the translation chain became complex. Those who were fluent in Spanish and an Indigenous language oversaw the veracity of the interpretation (Valdeón 2013, 167). Researchers have documented that Cortés would employ the skills of more than one interpreter working together; for example, he would speak in Spanish to an interpreter, who would interpret the message into Yucatec Maya, at which time Doña Marina would translate the message from Maya into Nahuatl for the central Mexican tribes (Angelelli 2004, 9; Valdeón 2013, 165-170).

During interpretation, there are negative views about the passage of a message across more than one emissary, as this practice may compromise the integrity of the message’s delivery. Some authors have referred to this phenomenon as the telephone game (Borrows 2001, 7-10). This highlights a valid concern about the accuracy of the words and makes evident the fact that there could be room for mistrusting the interpretation. Historically, King Charles V of Spain passed a law in 1537 to avoid this situation, which required the Indigenous speaker to be accompanied by a Christian acquaintance who could verify that the rendition was made accordingly and in good faith (Angelelli 2004, 10; Leyes de Indias 1974).

Just as in the time of Malinche and Chi, the role of the interpreter is still a source of suspicion from each party involved. For example, when a message travels from one language to another, the words can be modified in order to preserve meaning. Thus, there is always fear regarding how truthfully the translation is being performed.

From historical times, there has been the idea that interpreters are linguistic machines who can immediately move a message across different mediums – that words have one meaning, and translation should therefore be an automatic process (Berk-Seligson 2017, 2, 54, 251). The
interpreter’s role is seen as that of a language decoder. Per theory, good interpreters should remain neutral and true to the messages, and the more invisible they are (by interfering the least possible in the court setting), the more accurately their interpretation is perceived (Angelelli 2004, 24). Nevertheless, the roles of Malinche and Chi were definitely not invisible, nor were they expected to be. They were bridges between the Spanish and Indigenous cultures. Through their language skills, Malinche and Chi made the Indigenous’ concerns and voices heard. Because of their respect for their Indigenous background, they were able to help preserve part of the Indigenous literatures and cities remaining in Mexico.

Intermediaries and interpreters were a key factor in consolidating power and brokering unity by fostering communication between two different worlds. Because of them, certain justice was administered among the Indigenous defendants, and the Crown was able to punish wrongdoing, such as the actions of Diego de Landa, Bishop of Yucatán, who led a violent campaign against idolatry and was involved in the needless deaths of hundreds of Mayans (Bracamonte y Sosa 2001, 58). Chi, again in his position of power, served as an interpreter and translated documents indicting De Landa (his former boss) and the Franciscans of Yucatán. Chi was able to use his cross-cultural knowledge to leverage power and neutralize the Franciscan power in the peninsula (Yannakakis 2016, 7-9).

In an effort to erase the memories of Indigenous peoples, the Church destroyed almost all the existing written files during the colonial era (Diego de Landa 2011, 3). However, it was also because of the interference of the Indigenous intermediaries that some of the Indigenous literatures, sculptures, and knowledge were preserved and survived the colonial regime (León Portilla 2005, 61).
2.5 Mexico – An Independent State with Principles of Liberty and Justice?

Indigenous hands and minds have been the working force of insurgency movements in Mexico from the Conquest (1519-21), Independence (1810), and the Revolution (1910), as well as more recent guerrilla movements in southern Mexico (1994). It is estimated that Indigenous participation comprised about sixty percent of the power that sustained the Mexican Independence movement. Without their presence, Mexico would have not become an independent state. However, Indigenous peoples were the least favored by the movement, as the new policies that arose with the Constitution of 1857 strove toward assimilation, erasing Indigenous knowledge and tradition (Von Wobser 2011, 299-312; León Portilla 2003, 293). From that point forward, Indigenous people have continued to fight for their autonomy and the recognition of their human rights, including the right to their ancestral languages, cultures, and land. More than anything, they seek a dignified life that neither the Independence nor the Revolution (which exploded one hundred years later) provided for them.

Once independence from Spain was declared, the voices of Indigenous people were disabled and lost their power, mainly because there was no legal framework in which they could situate themselves. The Constitution recognized Mexico as an inclusive state where its citizens were Mexicans. As such, they were all subject to the same juridical framework. That could have been used as a steppingstone to modernism and progress toward justice and inclusion. In reality, it signified the abandonment and marginalization of Indigenous groups (Lopez Portilla 2003, 293-6). During the colonial period before independence, Indigenous people were able to establish claims and complaints within their own language (with the help of interpreters) to a certain extent (Valdeón 2013, 157-179; Yannakakis 2016, 4-14; Kleinert 2016, 32-40). However, the 1857 Constitution suppressed the juridical rights of Indigenous peoples and strove toward
assimilation, this meaning that all “Mexicans” should speak Spanish. Nevertheless, Indigenous jurisdiction survived colonization and, in some states, is still in full force and effect. Their lands are, constitutionally, considered ancestral territories, although they are not treated the same in reality (Villegas 2012, 177-205; García 2002, 25-63).

The Independence movement did not take the turn for which many Indigenous peoples and their leader, the Priest Miguel Hidalgo⁴, had hoped (Hamill 1981). While it declared Mexico and other Latin American countries as independent states, it did not provide liberty or equality (León-Portilla 2003, 13-17). The issue of land was far from being resolved. One hundred years after the Independence movement, Villa (from the North) and Zapata (a Nahuatl speaker and interpreter from the South) led a revolutionary movement, but they could not have done it without the help of Indigenous people and laborers. In their respective areas, they encouraged people to fight for their land rights. Even today, Zapata is one of the most iconic archetypes for the working class due to his saying, “The land belongs to those who work it with their own hands.” His aspirations advanced the uprising of the Zapatista Army of National Liberation (EZLN) in the early 1990s, to which I will shortly refer.

2.6 An Indigenous Era

Many years after the revolution exploded, a promising era came along with the six-year term of President Lázaro Cárdenas (1934-1940). For Cárdenas, Indigenous people were not culturally different from the rest of Mexican society. To him, they just needed to move out of the backward state that had characterized them for centuries (López-Hernández 2013, 51). With this

⁴ Miguel Hidalgo y Costilla was the Spanish Roman Catholic priest who led the Mexican Independence movement in 1810 (Hamill 1981).
in mind, Cárdenas created the Department of Indigenous Affairs (DAI per its acronym in Spanish). This department sought to define the Indigenous identity as a different sector from the rest of the country according to cultural, historical, and biological aspects. As a separate part of the country’s population, the Indigenous sector would receive different and more specialized attention than the rest of the country. For the first time ever, a government resolution would require the necessary research regarding integration and acculturation in order to serve the Indigenous population. DAI “would rescue” them from the historical marginalization they had endured. Cárdenas’ policies appeared to be enacted to genuinely help the Indigenous communities, despite the patronizing view of “rescuing” Indigenous peoples (López-Hernández 2013, 51).

During this transition, Indigenous progress was measured according to the Indigenous model rather than Western standards. Indigenous people were educated in Spanish, as well as their Indigenous languages. This was promising, as it should have provided communities with speakers and interpreters to interpose complaints against the State, but it was too good to be true (López-Hernández 2013, 48-69).

Though Cárdenas had good intentions, his policies did not facilitate a decolonization process; instead, they were aimed toward assimilating Indigenous peoples into a Mexican nation. His presidential term showed what seemed to be a sincere concern for the Indigenous communities, and his campaign advertised a New Age where Indigenous people would receive more equal treatment and be offered the same rights given by the Mexican state to all its citizens. However, Cárdenas considered that Mexican Indigenous people – while embodying the true soul of the nation, a true and autochthonous identity – were also deeply backward and atavistic (López-Hernández 2013, 47-74). While his policies strove toward assimilation, and his
presidential term did little to nothing to help the Indigenous communities, Cárdenas’ efforts and the establishment of the DAI contributed to the development of Indigenous people who could bridge language gaps and demand what was constitutionally granted to the communities – this time with more specific knowledge about Indigenous rights and policies.

2.6.1 The Introduction of Boarding Schools

Cárdenas’ six-year term introduced, through boarding schools, an assimilative policy that removed Indigenous children from their communities. The first educational programs carried out with Indigenous children were conducted in Mexico City under the Casa del Estudiante Indígena (The Indigenous Student’s House). Such programs were funded in 1926 and consisted of boarding schools for Indigenous youth (Dawson 2012, 86; López-Hernández 2013, 57). This program was created specifically to help the Indigenous sector, yet the perception of their identity was derogatory. The intent was for graduates to go back to the community and persuade other children to join the school; however, the students often would not return to the community after graduation. In this way, the students lost their language and roots of identity (Dawson 2012, 80-99; López-Hernández 2013, 47-74).

The objective boarding schools were never fully achieved – quite the contrary, their curricula never sought to preserve Indigenous knowledge, but to mold the student according to Western ideals. The very fact that the assimilated students never went back to their communities represents a loss from the Indigenous perspective.

Given that the students weren’t returning to the communities, the project was canceled in 1932. Instead, small boarding schools were instituted across the Mexican provinces so that the Indigenous students would bring their knowledge back to the communities (López-Hernández
Now that the students were being schooled in their provinces rather than in Mexico City, they could be instructed on subjects such as agriculture and local languages more specifically. The goal was still to create bilingual individuals who could take on the job of the Public Education Secretary (SEP per its acronym in Spanish) (López-Hernández 2013, 55; Dawson 2012, 80-90). A version of such schools remains operating in present-day Mexico.

Admission to this program was limited to adolescents between ages fourteen and twenty for males and twelve to eighteen for females who lacked Spanish skills, enjoyed good health, and were considered to be of pure Indigenous ancestry (determined by the habitual use of their Indigenous language) (Dawson 2004, 36). Consequently, they would use their vernacular language as a form of expression and communication. In theory, educating the students within the nucleus of their communities would guarantee that the students would stay connected to their culture, as well as produce leaders who would emerge from within their people and possess the positive aspects of Indigenous culture along with the so-called “progressive values” of education. Many of those students, who were now bilingual and educated, became the interlocutors between the landowners and their Indigenous subjects, allowing them to play a role in demanding education and fair treatment for Indigenous communities (Dawson 2004, 34-67).

The fact that the boarding schools were located within the Indigenous communities made it evident that education had to be addressed differently from region to region, according to the language and the cultural practices of each group, therefore addressing Mexico’s multicultural nature. Indeed, the schools needed support and input from the parents and community members. In its efforts to acculturate the Indigenous students, the SEP made it possible for people to take an active role in education (López-Hernández 2013, 58-60). While the rest of the schools across the country denied Indigenous students the right to wear their traditional apparel and speak their
Indigenous languages, the boarding school was a place in which the students could openly reclaim their right to education and the right to maintain their culture.

Since the SEP had made bilingual education an option, many communities requested the same service. It was hard to find bilingual teachers who were willing to work in Indigenous communities, for the ones prepared during La Casa del Estudiante in Mexico City did not return. The interlocutors played an important role in requesting the State to honor its word in offering this service (Dawson 2012, 80-99; López-Hernández 2013, 50-54).

Today, a model of bilingual education is pursued in some states in Mexico – one in which Indigenous people take an active role in deciding the class content. To make this work, the national curricula is taught to students in their Indigenous languages, the teachers belong to the communities, and the Elders take an active role in instructing children on other matters, such as farming, the relationship with the natural world, and oral traditions (Ojo de agua 2017). This model of education, though it may not be perfect and continues to be measured by national standards shaped by Western priorities, has created Indigenous attorneys, activists, teachers, and excellent interpreters who act as cultural and knowledge keepers.

2.6.2 Bilingual and Bi-Cultural Education for Indigenous Students

“Educating the mind without educating the heart is no education at all.”

—Aristotle

Removing students from their family nucleus would never be the best way to educate because culture and language are best learned at home; however, the Mexican boarding schools provided some positive results. Though the conception of the boarding schools had assimilation, acculturation, and obliteration of Indigenous knowledge, language, and culture as the main
objective, they provided Mexican Indigenous peoples with two significant elements to consider: 1) Bilingual and bicultural education would ultimately become part of the national education agenda (although, in reality, this might not be offered with the level of quality that it should), and 2) it provided Indigenous interlocutors and interpreters, along with the educated and empowered Indigenous individuals, the opportunity to take advantage of this opening.

The stories of these interlocutors and interpreters have not yet been fully addressed and are at times portrayed in a negative way because of their revolutionary formation. They are regarded as opponents to the State because they managed to fight for what was legally offered to them, and they had the audacity to demand that their people, language, and culture be included in the national educational curricula. Sadly, their personal successes did not see a significant transformation for Indigenous communities. Nonetheless, today, we see that the best defenders of Indigeneity—those who act as enforcers of the State, protectors of culture and language, Indigenous interpreters, translators, and interlocutors—are those who rise from the community and have been able to use their language capabilities and cultural education to shape the fate of Indigenous peoples. This conversation is further developed in chapter five, “Silent Zones.”

2.7 The Zapatista Movement: Its Role in Making the Indigenous Identity Visible

The Indigenous situation grew complicated until it became unbearable for them. In 1994, another Indigenous-led army rose up from the Lacandon jungle in the state of Chiapas, Mexico, during a time in which the country welcomed Ernesto Zedillo as their newly appointed president and in the dawning of the NAFTA agreement. This army took its name after one of the most renowned revolutionary legends in Mexico—Emiliano Zapata. The Zapatista Army of National Liberation (EZLN) was made up of Indigenous people, except for Sub commander Marcos, a
former military leader who served as spokesman for the EZLN during the Chiapas conflict (Holloway 1998). Marcos was in charge of the conversations with the Mexican government. The EZLN demanded resolutions for issues affecting most of Mexican society, including lack of adequate housing, health care, and fair-paying jobs. Their main demand, however, was for the official recognition of Indigenous languages and cultures, along with protection of their individual human rights and ancestral territories.

The Zapatista uprising opened a space for Indigenous organizations and activists. This movement gave visibility to the situation shared by many communities in Mexico. In the past, the movement had some public presence, but this emergence was so important for the advancement of a national Indigenous movement in Mexico that the EZLN could be credited with marking its birth. However, through the *sexenios* (six-year terms) before Ernesto Zedillo became president of Mexico, many anthropologists at the National School of Anthropology and History (ENAH) were active critics of the State’s policies of assimilation and integration of Indigenous peoples into a mestizo/Mexican society. In Mexico, the Indigenous movement arose much later than it did in Guatemala or Bolivia (López Bárcenas 2012, 7).

In terms of historical context, the EZLN is indispensable to understanding Indigenous movements in Mexico. They wouldn’t exist otherwise. The resistance was no longer presented as a group of people who needed modernization or education to reach their full potential (under the false rhetoric that indigeneity needed to be overcome to move out of poverty). Instead, the country was now seeing a group of culturally diverse people who came together to reclaim their right to self-determination.

With the appearance of the EZLN, other Indigenous organizations gained strength. The National Indigenous Assembly in Support of Autonomy (ANIPA) and National Indigenous
Congress (CNI) are two examples. Since 1994, these organizations have had the goal of reaching an agreement so that the country could legally recognize their constitutionally appointed rights of self-determination per Article 2 of the Mexican Constitution. Certainly, this is not as straightforward as it may appear. The movement has not reached that goal, especially since the San Andrés Peace Accords between the State and the Zapatistas were never fully implemented and the Congress drastically modified the COCOPA (Commission of Conciliation and Pacification) initiative.

The San Andrés Accords sought the recognition of language and culture but were never fulfilled by the State. Today, the CNI embraces Zapatista ideologies and initiatives. CNI brought together Indigenous groups, despite their diverse interests. The movement also empowered women and Indigenous peoples in the communities of Chiapas, Oaxaca, and Guerrero, among many others, by helping them see that, although they had differences in language and culture, Indigenous communities should be united precisely because of their lifelong campaign for the State to recognize their rights to language. This is an ancestral debt of the Mexican State, so much so that it was made official when the recognition as a multicultural nation was added to the Constitution in 1991 under the six-year term of Carlos Salinas (1988-1994) (De la Peña 2006, 287-8).

Though the EZLN began as a guerrilla movement, the armed conflict only lasted the first twelve days. Despite that strong first encounter, their activities and negotiation since 1994 have been nonmilitary (Romero 1998, 11). The movement characterizes itself as unaggressive. This group doesn't seek to overthrow the ones in power, nor do they want power; they seek to dignify the communities and construct autonomous spaces linked to local identities. In fact, one of the Zapatista responses to the government was to reject all aid and not respond to the violent
provocations of the army and paramilitary groups. Today, the EZLN territory in Chiapas is ruled by Indigenous jurisdiction. They take the role of educating the children, farming the land, and striving toward a connection among the Indigenous communities. This isolation from the State has, to a point, further fragmented the relationship between the State and the Indigenous people. In fact, most Mexicans regard the Zapatista movement in a very negative way (Stephen 2002, 147). Currently, Chiapas and Oaxaca have a high number of Zapatista supporters who are Indigenous speakers, jailed and still awaiting their sentencing. Some have been treated as traitors to the homeland. Many of them do not speak Spanish fluently and have claimed that the Mexican State employed the use of physical and psychological torture to make them accept the charges (Mariscal 2019; Stavenhagen 2003, 13).

Opposing the State’s anti-Indigenous racism, anthropologists Rodolfo Stavenhagen and Guillermo Bonfil, avid defenders of Indigeneity, argued that the underdevelopment of the Indigenous communities (measured by Western perspectives) comes indirectly, or directly, from the mestizos’ economic subordination and because of the State’s greediness and racism, which is used to justify the extraction of natural resources and any wealth that’s left within Indigenous territories (Mattiace 2003, 65).

From my own experience growing up in Mexico, it is this mestizo prejudice that has undermined everything Indigenous, from their cultures and storytelling to their languages. I remember listening to southern Indigenous Elders tell their stories once a year when they made the journey to the northern states to work in the land fields and sell their crafts. Everything was so colorful and made with materials from the land. I didn’t understand the connection with the land as well as I do now, but for me, those yearly visits were just a little heaven of color and culture.
Still, even at that young age, I was exposed to the negative effects of racism and discrimination. When presented with Indigenous work, the Mexican people would express their preference for American-bought goods. This was *malinchismo* at its purest state. The most hurtful comments, though, were always directed toward the Elders’ narratives. For me, they were very poetic – they made my imagination fly and become filled with nostalgia – but others would refer disrespectfully to the Elder as *loco* – a crazy person. Such malicious comments were damaging. A new seed was planted in my heart – a lifelong objective to create space for the Indigenous ways of knowing to persist, even though I had been born in a very racist and discriminatory country where the dark color of my skin has not aided my efforts.

### 2.8 Mexico’s Multicultural Nature

Despite what most people think, Mexican society has never been homogeneous. Even with the government’s multiple attempts to use the false rhetoric of “one language, one nation.” Benedict Anderson (2006) explains that Spanish control and the administrative power created conflicts in the Americas, where communities felt the pressure to “share a common language and a common descent with those against whom they fought” (Anderson 2006, 47). Additionally, written language, in the form of print culture, made trans-Atlantic communication possible (Anderson 2006, 52-3). Spanish became the preferred language to spread political and economic doctrines; however, Mexico never reached a stage where the country was united by language and culture. Contrary to these attempts, Mexico has a multicultural society. Scholars deny the idea of a country defined by a single culture; Salomón Nahmad (1998) stated, “Not uni-cultural, one in which we all have the same language, the same tradition, the same customs, the same habits. No,
that kind of society does not exist” (Nahmad 1998, 14). Such a nation can’t be found anywhere around the globe. So why is the State so invested in denying minorities’ rights?

Indigenous peoples together represent a considerable part of the population in Latin America. Their culture and essence were never erased with colonization and have helped mold Latin American society. Today, Mexico registers 7,382,785 people of three years and older who speak an Indigenous language. This represents 6.5% of the total national population. Mexico also records that 25,694,928 (21.5%) people self-identify as Indigenous. When talking about North America, Mexico has the largest absolute number of Indigenous peoples in the continent (INEGI 2015; Mattiace 2003, 1).

Seventy-two ethnolinguistic groups are dispersed throughout the Mexican republic. The states with the highest percentages of Indigenous populations are Oaxaca (32.2%), Yucatan (28.9%), Chiapas (27.9%), Quintana Roo (16.6%), and Guerrero (15.3%) (INEGI). Many Indigenous people have limited access to transportation and prefer not to leave their communities if it is not absolutely necessary. This does not facilitate a connection between the different Indigenous groups, and the State has not fostered or promoted such relationships; on the contrary, improving this arrangement has been discouraged, as the State prefers to treat each group individually (Hernandez 2010, 4-6).

Indigenous peoples share so many parallels that it would only make sense to work together toward the betterment of their situation. The “Indigenous problem” has always been a political one, a matter of human rights and natural resources. This is a shared commonality amongst all Indigenous territories – not only in Mexico, but throughout the world. Solidarity is needed in order to solve it. It cannot be fixed by concentrating on cultural differences and distinctive Indigenous languages, but by creating space for unity.
The communities have endured domination by non-Indigenous people (foreigners or mestizos) since the time of the Conquest. Since then, they have struggled to achieve recognition of their rights to language and culture, and they have continued to experience the extraction of their natural resources. Ironically, at the same time that the State denied Indigenous people their rights and appropriate access to legal institutions, it allowed some to reclaim their Indigenous jurisdiction, granting traditional organizations some power while utilizing it to control the Indigenous territories (Hernandez 2010, 3; Personal Interview, Gerardo Martínez Ortega, May, 2017; Personal Interview, Alcalde Eusebio Ruiz, July 12, 2017). However, this dissertation centers specifically on the need to modify State practices against Indigenous peoples who are facing the legal system by promoting a decolonizing frame of mind that will create space for the recognition and the revitalization of Indigenous languages and cultures.

One thing that the Zapatismo accomplished was the widespread realization of the different ethnicities’ political struggles based on their position of disadvantage. Oppression, discrimination, and racism has brought Indigenous people together to construct a positive sense of Indigenous identity (Mattiace 2003, 59; Weinberg 2000, 293). Today, it is clear that striving toward Western ideologies, as well as cultural and linguistic supremacy, is harming Indigenous communities.

2.9 The Need for Interpretation

Though my research explores the specific case of the State of Oaxaca in Mexico, this is certainly not the only instance in which interpreters have been used, nor will it be the last. From ancient Egypt, Greece, Spain, and the Americas, interpreters have played an active role in

---

5 Alcalde, Spanish translation of Mayor. Eusebio Ruiz was able to speak from his experience as survivor of the legal system, as well as from his position as Indigenous authority. I recognize his authority by adding his title.
communication, especially at times when one culture tried to impose itself on another. The ancient Greeks held the interpreter in high regard; their word for translator or interpreter is “hermêneus,” coming directly from the name of Hermes, guide to the underworld and god of trade, travelers, sports, and border crossing. Hermes had the ability to travel freely between the mortal and divine world, which made him a messenger between gods and men, an intercessor between mortals and divine beings. Thus, the term “hermêneus” may refer to a mediator, go-between, and deal broker (Gross 2000, 8-24). The understanding we gain from those definitions shed light into the origins of the role of the interpreter as a whole in more recent times.

Today, it is common to hear that an American courtroom has requested a Spanish interpreter; likewise, the need for an English interpreter is frequent in the Mexican legal system. The demand for Indigenous-speaking interpreters has been less documented throughout literature, despite its recurrent need within U.S. courts, particularly in states such as California, Arizona, and Oregon (Davis et al. 2004 1-14; Kearney, 1995, 226-246).

The lack of recognition of Indigenous languages in the legal system has resulted in incarcerated and wrongly processed Indigenous subjects who did not have full knowledge of the charges against them due to a language barrier. In worse scenarios, Indigenous people were sent to psychiatric clinics for their inability to respond to conceptions of normality as recognized by the State representatives (Garavito, 2012; Hernandez 2010, 7). In Oregon, Adolfo Ruiz Alvarez, an Indigenous Triqui from Oaxaca, was detained and interrogated in English, and consequently in Spanish after the language barrier was identified. Alvarez was then deemed crazy because he spoke another language. He was confined in a psychiatric hospital and drugged for two years before being released in 1992 when, with the help of an interpreter, it was established that Alvarez didn’t suffer from a mental condition but couldn’t communicate because of his lack of
proficiency in Spanish (Varese & Escárcega 2004, 84; Rivera 2004, 30). This speaks to the misconception that all Latin Americans are Mexicans and speak Spanish, a dominant language. Further, this adds to the need for Indigenous interpreters and counselors familiar with Indigenous languages and culture being available to help Indigenous defendants.

The extraction of natural resources, in addition to economic need, and search for a better life, has pushed Indigenous people out of their lands and into displacement and migration. The Indigenous population has grown in the states along the United States-Mexico border, where Indigenous people find themselves needing language services and struggling with the false rhetoric that all migrants come from Mexico and speak Spanish (Rivera, 2019). After the separation of families at the United States border in 2018, an urgent call for Indigenous language interpreters went out across all social media, disproving the idea that all people crossing the border are strictly Spanish speakers (Eagly et al. 2018, 823-4; Rao 2018, 228-31).

The literature in this field has also confirmed that the shortage of Indigenous language interpreters affects other parts of the world. Such is the case in Canada, as documented by CBC (case of Quebec) and by Fiola, who documents the difficulties in certifying interpreters in the Yukon territories (Fiola 2000).

### 2.9.1 The Need for ILI in Mexico

In *Mission to Mexico*, Rodolfo Stavenhagen (2003), United Nations Special Rapporteur, documented the human rights situation of Indigenous peoples, as well as constitutional and legislative reforms in the post-2000 period. He explained that the Indigenous people's situation in Mexican prisons is alarming. This is not only because of the lack of interpreters and defense counsels who are trained in and accustomed to Indigenous traditions, but also because of the
police officers, defense attorney offices, and judges who choose to ignore Indigenous perspectives and law practices (Stavenhagen 2003, 10-13).

A report by the National Human Rights Commission explained that in November 2015, there were 8,412 Indigenous people in the country's prisons. Of these, 7,728 belonged to the common jurisdiction and 684 to the federal jurisdiction. The most recurrent offences in the common jurisdiction were matters related to the exercise of cultural practices, as well as land distribution, animal stock theft, domestic abuse, and drug trafficking, kidnapping, or organized crime at the federal level. According to Stavenhagen, such cases are often plagued with irregularities involving physical and mental abuse toward the Indigenous defendants (Stavenhagen 2003, 11).

In addition, Katya Salazar (2007), executive director of the Due Process of Law Foundation (DPLF), reports that in the case of Indigenous people's strikes for rights recognition, many protest movements are terminated when the State sends presumed suspects to jail for long periods of time, sometimes without evidence. Salazar stated that one of the most serious problems regarding human rights for Indigenous communities in Oaxaca is the tendency for the government to utilize laws and the judicial system to penalize and criminalize Indigenous people who pursue their constitutional rights (Salazar Luzula 2017, 40-41; Betancourt 1999, 59).

In the case of Mexico, my review of the literature also showed there has been minimal work done to address the lack of interpretation services, the urgency for Indigenous interpreters to aid the legal cases against ILS, and the need to implement training programs aimed specifically at ILI (Fenton 1997, 29-34; Weller 2013, 2). Some authors, surveys, and civil organizations indicate that close to 100% of the Indigenous speakers facing the legal system did
not enjoy the privilege of an interpreter (Kleinert 2016, 238; León 2014, 339; Rios Espinoza 2016, 151). It is fair to say that a relatively small fraction of the defendants were provided with even partial interpretation services throughout the litigation process (Escobar 2012, 181-207; Salazar & Cerqueira 2016). Furthermore, the very fact that interpretation is not provided throughout the entire process arguably compromises the proceedings’ juridical value.

Therefore, the need for ILI shouldn't surprise us. What should surprise us is the shockingly small number of interpreters that Mexico has prepared to meet the demand. If we talk only about Nahuatl, the Indigenous language most commonly spoken in Mexico, this language registers 1,725,620 speakers as of 2015, according to the National Institute of Indigenous languages (INALI). Per INALI, as of 2017, there were only sixty interpreters accredited on the Nahuatl-Spanish binary. This means that one Nahuatl interpreter was expected to help approximately 28,760 Indigenous speakers. The situation has improved and, as of July 2020, INALI registers 452 Nahuatl interpreters, which are still insufficient to cover interpretation demand in Central and Southern Mexico.

In the legal system, not allowing the defendants to conduct their cases in their Indigenous tongues represents an important violation to their constitutionally guaranteed rights to exercise their Indigenous culture and understand the charges against them, stated under Article 2 of the recent constitution, which recognizes and protects the Indigenous people’s rights to self-determination and autonomy. Additionally, in 1981, Mexico signed adherence to the American Convention on Human Rights, in which Article 8, Part A secures the right of the accused to be assisted by an interpreter or translator without charge, if they don't speak or understand the primary language of the tribunal or courtroom. This article of the American Convention on Human Rights also discusses other important matters, such as presumption of innocence, guilty
pleas, and coercion (which play an important part in the specific case of Mexico). All those matters are crucial in reference to Indigenous defendants, especially when they are disadvantaged by the State system. In many cases, their status is not treated equally in comparison to the rest of the people involved in the courtroom; Indigenous people's knowledge, experiences, visions, and culture are held in doubt (Borrows 2001, 1-33).

The Mexican government has sought to improve the Indigenous people’s situation with the help of the CDI (National Commission for the Development of Indigenous Peoples), an organization that was created in 2003 to ensure that Indigenous communities and peoples in Mexico can access their constitutional rights. CDI collaborates with state institutions to evaluate current strategies, working to fight against discrimination and create new programs that will ensure equality.

Today, however, Mexico still reports a shortage of Indigenous language interpreters. Each year, many Indigenous people are detained and sometimes criminally sanctioned by judgments that have been described as 'arbitrary or disproportionate' (Estrada Tanck 2018, 3). Without a trained interpreter, the fate of the Indigenous language defendant is uncertain. This dissertation doesn’t claim that all incarcerated Indigenous peoples are innocent, but that they all have the right to language and to understand the case against them (Arias 2018, 249-61). This dissertation argues for appropriate access to language rights for Indigenous defendants and fairer representation for Indigenous people within the legal system, pursuant to the Mexican constitution and international conventions to which the country has signed adherence. I also seek to promote the role of ILI as a knowledge and culture keeper with appropriate expertise to move cases forward, as opposed to a linguistic filter lacking visibility and agency.
3. Methodological Framework and Research Methods

This section describes the methodology utilized during the research to achieve the project’s objective, and resolve the research questions. The chapter addresses the methodological framework used and how it informs my research. I decided to follow a Participatory Action Research (PAR) methodology with aspects of Grounded Theory. PAR advances the idea that people have the right to determine their own development and recognizes the need for people to participate in the process of analyzing their situations (McIntyre 2007). My inclination to use PAR was to create public spaces where participants and researchers could reshape their knowledge and collaborate to produce positive change in the political, social, and economic scenario. The participants’ voices and experiences were key to this research, as the methodology intended to bridge gaps between the institutions and ILS. This methodology also guaranteed that all participants were respected and honored. The research methods (participant observation, archival research, semi-structured interviews and focus groups discussions) provided ways to collect data, impressions, and documents. This chapter concludes with a description of the research methods used for data collection and analysis.

3.1 The Preference for One Language Over Another

In Mexico, there is a noticeable friction between what are considered Mexican and Indigenous communities. This situation negatively affects the Indigenous’ daily lives, including their interactions in markets, doctor visits, educational institutions, and, of course, public spaces. The very notion that there are many identifiable factors that distinguish one community from another (skin color and the wearing of traditional clothing, for example) immediately ties the
usage of an Indigenous language to those less privileged and segregated communities. Sadly, to avoid negative treatment, ILS end up admitting proficiency in Spanish, even if said proficiency is limited and harms their situation.

Therefore, perspectives and ideologies about language affect social life in many different aspects because they influence perceptions of people, groups, events, and activities (Haviland 2003, 764). Such perceptions falsely paint all Indigenous peoples with the same brush and set them in a place of disadvantage in comparison to the Spanish-speaking community.

Societies and communities treat and label themselves and each other in certain ways due to language variety because language ideologies affect the way they perceive one another (Hymes 1984). Being a speaker of a less commonly used language has been regarded negatively throughout history, and it’s still the case today. I have certainly encountered my fair share of linguistic discrimination in the United States, even though I was brought up in a bilingual environment. My mother language is Spanish, and it will always be the language with which I feel more connected. It is my preference to provide meaning for experiences, needs, feelings, and ideas (Imberti 2007; Lyon 1981). In my experience living in the USA, Hispanic people would sometimes refuse to speak Spanish or aid those experiencing linguistic distress, which I assume was mostly because of the negative language ideologies tied to the Spanish language in the United States.

3.2 Language Ideologies and Their Relationship to This Research

This research project was grounded in decolonizing Indigenous methodologies (Smith 2013; Gonzáles and Lincoln 2006; Hernandez Zamora 2010) in order to make language used in
the legal setting more understandable by proposing the integration of Indigenous ways of knowing and solving problems when the ILS is involved in a legal case.

Scholars have explained the relationship between language ideologies and their use within culture and society (Silverstein 1979, 1993; Irvine 1989, 255). For example, Paul V. Kroskrity (2004) refers to language ideologies as a set of beliefs used by all types of speakers as a model to create language evaluations and engage in communicative activity. For Kroskrity, language ideologies are “beliefs about the superiority/inferiority of specific languages” (Kroskrity 2004, 497). Therefore, language ideologies are beliefs, feelings, or perceptions about languages as used in social context. Kroskrity refers to them as plural because they include ideas about gender, class, ethnicity and race, among others (Kroskrity 2004, 503).

Language ideologies also play an important role in matters of inequality, discrimination (Lippi-Green 2012), the imputation of nationality (Irvine and Gal 2000), and group identity (Collins 1998). Therefore, language ideologies play an important role in this research as cultures come in contact through communicative activity in the legal setting.

In Mexico, the State has used the Spanish language as a tool to achieve unity. This has caused the side effect of regarding Indigenous languages as inferior. Gellner (1983) and Benedict Anderson (2006) deem the establishment of a national standard language as one of the main elements in making a transition toward nationalism. Tying language to nationalism has disadvantaged Indigenous people for centuries after colonization, when the new rule tried to erase the different Indigenous ethnicities in order to reach national culture and language. The Indigenous contribution to the Mexican state was barely addressed in the 1991 reformation of the Constitution, as previously documented.
The establishment of a homogeneous language is often encouraged by the upper middle class and educational, medical, and government institutions. Rosina Lippi-Green (2012) refers to this behavior as “the standard language ideology” and explains it as the preference toward a single idealized language imposed and maintained by the dominant institutions (Lippi-Green 2012, 64). This ideology promotes a “language subordination process” used by the dominant institutions to “valorize the standard language and other aspects of ‘mainstream culture’ while devaluing the non-standard and its associated cultural forms” (Kroskrity 2004, 502). Thus, it becomes more complicated for ILS to interact in the legal setting because of their limited command of the Spanish language and the negative views associated with the use of an Indigenous language.

The presence of a dominant national language prevents recognition of multiculturalism and multilingualism in Mexico. It also makes evident the historical processes employed by specific groups to cause less dominant language ideologies to be ignored by most of society. Language is undoubtedly linked to a group or community identity; in the case of Indigenous languages, traditional linguistic culture safeguards the words used in ceremonies, stories, songs, and names. When Indigenous language ideologies come in contact with Spanish ideologies, they come into a place of disadvantage because assumptions are made about what counts in a communicative event. Such assumptions tend to favor documents and images in the official language (Borrows 2001; Collins 1998, 256-69). In this case, the Mexican legal system favors the representation of a dominant language while advancing the process of marginalizing Indigenous languages.

In the Mexican legal setting, without the intervention of ILI, Spanish is presented as the standard language of the Court. For this reason, the use of Spanish improves a participant’s
social standing. This motivates ILS to admit Spanish proficiency, even if it is limited, with the hope that their case will be treated fairly and they can avoid the historical linguistic discrimination that continues to affect the Indigenous population.

3.3 **Challenges to Community Research**

Considering my weaknesses and strengths along with the advice and guidance of my committee, I decided to follow a Participatory Action Research (PAR) methodology. Participatory research involves members of communities answering questions regarding their struggles (Tandon 1988, 7). I was worried about entering the communities and being seen as an outsider. I knew what I wanted to do but hesitated about the best way to proceed. In Mexico, the isolation of Indigenous communities has created a misconception about this separation, and since the Zapatista conflict in Chiapas, the State has advised tourists to stay away from the communities. My main concern, however, was my role as a stranger, for there are different forms in which an Indigenous researcher can be both an insider and an outsider (Smith 2013, 137-40).

Sharing the same ethnicity may be a constructive feature of the research process. Having been born Mexican slightly worked in my favor, but being educated in the Western sense classified me as an outsider. In addition to that, while I admitted my Indigenous identity, I was coming into the communities from the northern states, where matters are resolved differently. Shawn Wilson (2008) states that, “It is not sufficient for researchers just to say that they are Aboriginal and therefore using an Indigenist paradigm” (Wilson 2008, 194). The paradigm should be stated clearly so that research is done correctly. Similarly, I had read and was made aware that research in Indigenous communities ought to be conducted by Indigenous people, preferably researchers who belong to the communities and have a better understanding of their
specific worldviews and struggles (Absolon and Willett 2005; Battiste and Henderson 2000; Smith 2013).

Indigenous scholars are specifically concerned about research dishonoring Indigenous perspectives and not being carried out ethically. They are especially worried about research that will benefit the academic institutions more than the Indigenous communities, supporting the interests of nonindigenous scholars (Semali & Kincheloe 2002, 15; Smith 2013).

To avoid this, UBC’s ethics review requires researchers to take the TCPS 2: CORE (referring to the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans, a Course on Research Ethics). In this training, Module 9 is aimed specifically toward research involving Indigenous people. Although the training is intended for Canadian communities, it is also highly applicable for research within Indigenous territories all around the globe. This module makes a point that research performed in Indigenous communities will reflect principles of respect for individuals, communities, and the natural world, as well as welfare and justice in conformity with traditional knowledge and ways of living. This module explains different protocols to follow while performing research in Indigenous communities. In my personal research I found that it was even better when the information gained was used alongside the knowledge and guidance offered by Indigenous peoples and Elders.

Ultimately, for work following Indigenous methodologies, the researcher must demonstrate that the work being carried out strives toward healing, decolonizing, and participatory practices that will benefit Indigenous communities. It must be dedicated to justice and equity, contributing to Indigenous people’s ability to exercise their rights to language, land, and self-determination. The methods used should allow Indigenous people to build upon
personal narratives and experiences in a participatory way, striving toward empowerment and cultural autonomy. Fundamentally, the research is obligated to serve the community in a constructive way, rather than benefiting the academic institutions (Denzin, Lincoln & Smith 2005, 2-15).

My ethics review process was not as excruciating as I had expected. I had to explain my decisions and my project well, but that helped me as I was getting ready to leave for fieldwork. For example, I provided a potential list of questions to be asked during interviews and focus groups. I also addressed who my participants would be and how I would recruit them to participate in my research. As I look at it now, it was a bit time-consuming, but also necessary in order to fully consider the way in which I would approach ethical and respectful research. It was also helpful to work on it as I was embarking on fieldwork.

The main challenges I faced while conducting research were establishing connections, developing trust, and entering Indigenous communities in an ethical and respectful manner. I will expand on how this was solved in this chapter.

### 3.4 Community-Based Participatory Action Research

Participatory Action Research (PAR) gives voice and agency to Indigenous communities by allowing them to share their experiences. In this methodology, participants are knowledgeable collaborators in the research process, working toward improving their situation in a reciprocal manner. The goal is to look for a space in which to act and produce a favorable change (Minkler and Wallerstein 2003, 4). Indigenous communities, ILS and ILI, were the most important part of my research, and as I worked toward designing my methodology, I knew I would need the help
of Indigenous survivors of the legal system, Indigenous interpreters, and community organizations to address the current situation and pinpoint what steps must be taken in order to create space for change. This was one of the main reasons I chose to pursue a PAR methodology utilizing aspects of Grounded Theory.

The purpose of this PAR research study was to focus on the experiences of ILS and their interpreters while trying to access or provide appropriate interpretation in the court setting in Oaxaca, Mexico. The study sought to elucidate what language barriers are faced by the communities in seeking to ensure due process, how traditional knowledge is negotiated within the courtroom, and to understand the role of the interpreter. My specific sources of information were legal documents, the voices of the interpreters, and survivors of the legal system. The second important component of my research was Grounded Theory, since theory was being generated during interviews, focus groups, and participant observation as community research was being conducted (Glaser & Strauss 2017, 2). I do acknowledge here that, though I analyze and comment upon the information collected during my time in Oaxaca, the stories addressed in this dissertation are not mine to share. They belong to the Indigenous survivors of the legal system and the interpreters (who perform their job sometimes more because of Indigenous beliefs in their moral responsibility to help their brothers and sisters in need, and also because of their obligation to their languages, rather than because of promised or received payment). I have been fortunate enough to earn their trust in sharing their stories with me. Those stories helped me answer the research questions and propose ways to act. My intention has always been to remain dedicated to Indigenous communities and document the processes practiced, the relationships established, and connectedness created (Charmaz 2005, 508; Clarke 2005, 292).
Scholars have pointed out the importance of doing research in a way that honors Indigenous views and gives back to the communities. Also, Indigenous scholars have made it clear that research will only benefit Indigenous communities if the theories that evolve from the research are grounded within Indigenous peoples’ epistemologies (Kovach 2010; Weber-Pillwax 1999). In concert with my research partners (CEPIADET), I decided to adopt methods from a Grounded Theory approach (such as coding, gathering, and analyzing), because doing so with Indigenous communities who have endured cycles of colonization would allow the Indigenous voice to actively participate in the formation of emerging theories.

Grounded Theory scholars have also talked about the challenges of accessing different communities, while including aspects that need to be addressed in order for research to be conducted in a proper manner. Grounded Theory can be a decolonizing tool for Indigenous and non-Indigenous researchers, utilizing Indigenous epistemologies and methodologies because of its commitment to critical, open-ended inquiry. This set of methods offers constructive objectives (as pointed out by Charmaz) (2005, 130-1) and situational analysis (Clarke 2005). For my research in the current social climate, it provided me with a way to contextually study two different worlds in contact, as well as insight into their social structure and social action (Clarke 2005, xxii). Grounded Theory not only supplied me with the necessary tools for fieldwork (including doing interviews and focus groups and encouraging participant observation), but also showed me a way of addressing issues pertaining to voice, discourse, and roles of power (Clarke 2005, xxiii). Those parameters deeply resonated with the way I wanted to conduct my research by allowing the participants’ voices to elucidate their situation. It also created room for comparison among cases involving the survivors of the legal system and their interpreters. This facilitated collaboration while each new theory was grounded in data.
Grounded Theory seeks to analyze social relationships of disadvantaged communities and identities. My research sought to bring together the experiences of Indigenous survivors of the legal system, the knowledge of the Indigenous interpreters, and the legal background. It was definitely not an easy task – nothing involving legal terminology ever is. According to Linda Tuhiwai Smith (2005), Grounded Theory is difficult even before starting research, specifying it is “complicated, and changeable, and it is tricky because it can play tricks on research and on the researcher” (Smith 2005, 85). This social panorama is what we needed to handle as a research team, and somehow, it had to be used to create room for better relationships between the State and Indigenous communities. Mexico’s legal system allows very little room for debate within the public space. It is very rigid, hard to access, and time-consuming. Under such circumstances, with the help of my research partners, CEPIADET’s legal tools, and the experiences of the ILI and ILS, I did turn Grounded Theory into what Smith beautifully puts as “a positive research paradigm that, like life in general, should be simple” (Smith 2005, 85).

3.5 Research Structure

My research project documents the experiences of ILS and their interpreters while trying to access legal services and/or provide appropriate interpretation in the court setting in Oaxaca, Mexico, as well as considering the challenges of providing language services to Indigenous speakers while safeguarding Indigenous knowledge and ways of living. The study sought answers regarding what language barriers are faced by communities in seeking help to ensure due process, how traditional knowledge and culture are negotiated within the courtroom, and what role the interpreter plays in creating a safe place for preserving Indigenous knowledge and culture.
As noted above, my specific sources of information were legal documents, interpreters, and survivors of the legal system. During this research, I employed semi-structured individual and group interviews, as well as document analysis. I conducted data collection and analysis through the use of my own fieldnotes, in which I included reflections and observations. ILS and ILI participated in individual interviews and focus groups. Additionally, the State institutions (specifically the Public Prosecutor and district attorney’s office, INALI, INEGI, and CDI, among others) responded to questions regarding Indigenous communities and the practices followed with Indigenous defendants, resources, and the protocol used to call upon an interpreter.

In the first stage of my project, I completed archival research in the National Platform of Transparency, both for the state of Oaxaca and at the national level. The National Platform of Transparency is a resource open to all Mexican subjects to request public information from the State institutions. In this process, the institutions responded to questions related to the usage and role of interpreters/translators, interpreters' training programs, and the process of interpreter assignment to the cases involving ILS. My research concentrated on post-2015 files, after oral trials were supposed to be fully implemented.

Secondly, following PAR, and with the help of ILI, I conducted qualitative individual and group interviews with two specific groups: Indigenous survivors of the legal system and interpreters. Participatory research encouraged the communities’ participation in pursuit of answering questions regarding their struggles, which, in this case, referred to accessing the justice system (Tandon 1988, 7). This process provided a better view of the problem according to Indigenous communities’ perspectives and allowed space to consider how the results may be applied to address their concerns.
Lastly, I completed the data analysis process in which I transcribed, coded, and analyzed the information utilizing Nvivo. Furthermore, I referred to field notes for impressions and thoughts about the research process during analysis. The second part of this chapter explains with greater details the set of methods employed during this research.

3.6 It Begins with Respect

Some Indigenous authors worry about the work done by outside researchers. They are concerned about research not being carried out in accordance with the local Indigenous knowledge. As an outsider, the researcher could lack knowledge and appreciation of the communities’ cultural, religious, and ethnic characteristics and may be viewed as an intruder (Smith 2005, 530). Some people may consider their experiences personal and private, not a subject for research, particularly in traditional and marginalized communities.

Because of this knowledge, I was nervous about the participants not wanting to share their personal and private experiences with me. While I admitted my Indigenous ancestry and recognized Mexico as my place of birth, that was not enough to gain trust. All I could do was to make sure I was being true to my convictions, encompassing Indigenous knowledge and Indigenous methodologies. As Margaret Kovach (2010) has pointed out, “Researchers have the task of applying conceptual frameworks that demonstrate the theoretical and practical underpinning of their research, and if successful, these frameworks illustrate the thinking behind the doing” (Kovach 2010, 39). Likewise, my aspiration was to conduct my research with respect, honoring my relationships and acknowledging the Indigenous communities I entered. Finally, in order to learn more about how to improve the legal experiences for ILS, I needed to sensitively
ask them (as well as their interpreters) about their experiences and possible ways to help them exercise their language rights.

In this research, all voices were equally important. While promoting participatory and action processes in Indigenous communities, PAR discourages the presence of hierarchical roles (Brydon et al. 2003, 24; Gaventa 1998, 19). My intention was for my research to flow as smoothly as possible while also developing long-lasting relationships. For that reason, I tried to make the participants aware of the value of their experiences and the importance of sharing their personal knowledge.

Gaining trust is not easy, especially because the research conducted within Indigenous communities is not properly done sometimes. I had been made aware of that by other colleagues during conferences, and I wanted to be careful about the relationships I would develop. It was essential for me to acknowledge and respect the Indigenous territories I was entering. Most importantly, I needed to be appreciative and sensitive about the stories with which I was going to be entrusted. I considered it my personal obligation to Indigenous communities to perform my research in a positive way and with a good heart by respectfully entering the communities and acknowledging the feelings evoked by the stories they shared with me.

3.6.1 Building Connections

“Community-action approaches assume that people know and can reflect on their own lives, have questions and priorities of their own, have skills and sensitivities which can enhance (or undermine) any community-based projects.” (Smith 2013, 127).
My research sought to promote decolonization by suggesting the inclusion of Indigenous knowledge and culture in the legal setting, and by encouraging the participation of Indigenous communities. In order to move forward, the most effective way to ensure that my research was done in accordance with Oaxacan Indigenous knowledge was to build and maintain good relationships (Smith 2005; Wilson 2008).

The communities’ participation was essential throughout the entire research process. For that reason, early in 2017, I established contact with CEPIADET. The Center provides legal services and representation, helps offset the need for Indigenous language services across the republic, and promotes the strengthening of Indigenous communities and territories, as well as their cultural traditions and languages. Every member of CEPIADET’s staff belongs to a specific Indigenous community (Mixtec, Zapotec, Triqui, Chocoltec, and Mixe, to mention a few) and thus, they can address the communities’ concerns to the best of their abilities.
As time drew closer to enter my fieldwork, my first and foremost goal was to establish a partnership. Early in January 2017, I arranged for CEPIADET to allow me to work with them as the research was being carried out. My initial contact was with Edith Matías Juan, who is in charge of the coordination of research projects. She took time to explain the Center’s initiatives, the work they do, and their efforts to strengthen Indigenous communities. I asked Edith for the opportunity to work with CEPIADET and learn from them through participant observation. At the time, she asked for a written request (attached to this dissertation, along with all supporting documents) that was reviewed and later accepted by the Center’s director, Tomás López Sarabia. In this letter, I expressed my intention to work alongside the organization in a reciprocal manner.

My specific interest and years of experience in interpretation and translation in the United States was of interest to the Center. Therefore, as CEPIADET supported this research, I helped them with small translation services, participated in ILI training classes, and attended focus groups on topics regarding Indigenous communities’ self-governance and security. My letter of interest served as an agreement once Tomás accepted it, and a long-lasting research partnership was established.

3.6.2 Gaining Trust

My official collaboration with CEPIADET began in May 2017 and went until the end of July 2017, although our unofficial partnership has continued to this day. I had contacted the organization’s team months before my trip, and though I was excited about conducting my research, I knew it would be hard to gain their trust within my work. I began by showing up at the organization’s office as much as possible and helping with everything with which they would
entrust me. I attended their meetings with other local and national organizations, which allowed me to learn from other projects on which they were working. I participated in focus groups, helped translate documents, and supported their continuous search for funding. I learned about cases they had been working on for a long time. Since legal representation is one of the services offered by CEPIADET, I noticed their difficulty in acquiring enough money to pay interpreters coming from communities in Chiapas who speak Zoque, Tzotzil, Tzeltal, and Guatemalan, who attend to the various Mayan (Mam) requests.

I needed their help and guidance much more than they needed me. In many ways, it was they who gave me all the tools of PAR and made sure that my community-based research was done properly and in accordance with Indigenous research methodologies (Absolon 2011; Battiste 2011; Kovach 2010; Smith 2005).

Though I was there as much as I could be, I didn’t gain their trust easily. In many instances, I felt the pressure of being an outsider. I started by showing up every day, opening my computer, and just working on whatever I had on my agenda for that day, whether it was finding funding opportunities, translating grant applications that were applicable to the Center’s research lines, or just using that time to work on my own research. Some days, I would come in and leave, with the only interaction having been saying “hello” and “goodbye.” I began to feel the burden of the project not moving, so then I started forcing myself to become involved in more informal conversation and being an active participant. I remember a conversation with CEPIADET’s associate Abigail Castellanos Garcia about traditional clothing.

I complimented Abbey’s blouse by saying, “Your blouse is beautiful! Where can I get one?” She responded, “It was gifted to me by my community.” This was an opportunity to learn about ancient techniques of embroidery and the relationship with the community. I learned then
that those who purchased the clothing always bought from the artisans themselves, instead of buying from intermediaries, so that the money would actually reach community members.

Some valuable information came out of those conversations. For example, I found out the best places to buy mezcal (an alcoholic beverage made from agave, traditional in Oaxaca) and tlayudas (one of Oaxaca’s traditional dishes). I learned that most of the traditional clothing worn by the women in the Center was bought from ILI who came to the city to perform interpretation. Thus, their trips killed two birds with one stone – they worked for the day, doing interpretation, and sold the goods made in their communities. Soon, I was advised that, if I was interested in purchasing some for myself, an ILI from a certain community was coming to town with blouses or crafts to sell.

It took a while for them to figure out that I wasn’t going anywhere. It was then that they allowed me to have a more active voice and participate in their activities, including community meetings and training for interpreters, as well as shadowing interpreters at hearings and interpretation classes. Indeed, a relationship of trust was not easily established, but with patience and time, a strong, enduring connection was formed. Today, I continue to work alongside them on the design and implementation of better training programs for Indigenous interpreters. During 2019, UNESCO’s International Year of Indigenous Languages, we worked together on setting up a conference for ILI, hoping to give back to the community by supporting a process of language reclamation and revitalization.
3.6.3 Entering Indigenous Communities

During the interviews with ILS, I was accompanied by interpreters who belonged to their communities to ensure transparency, allowing me to develop the very heart of my research. I chose to use an interpreter for a couple of reasons. First, I wanted to ensure that the participants provided informed consent, free of pressure. Second, I hoped to ensure that my entrance into Indigenous communities was occurring according to local protocol while addressing UBC Okanagan ethics considerations. I was also accompanied by Indigenous authorities, such as in San Miguel Suchixtepec, where the Alcalde (the mayor) took me through town and arranged for the interviews to proceed after making sure that the participants had agreed to participate voluntarily.

I would not have been allowed to perform research in Indigenous communities without the company of a local or an authority figure. I am deeply grateful to those interpreters and community members who took time to show me their communities, local customs, and ways of living and knowing. Any researcher entering their territories should appropriately follow these customary courtesies of asking for permission and local accompaniment (Agredo 2006; Weber-Pillwax 1999, 41-4). I was very fortunate that the guidance and support I received from CEPIADET and ILI prevented me from facing any barriers of disinterest or negative reactions from community members, who were therefore unconcerned about sharing their personal information.

What I did experience was some suspicion about the research itself and the way it would be disseminated. However, as a team, the interpreters and I were very careful about explaining the details to ILS participants. Some of them expressed shame about their limited proficiency in
Spanish. To avoid this, we limited the jargon and reminded ILS that the interpreter was there in case they preferred to speak in their Indigenous languages. We also reminded all participants that they were free to leave the research, ask us to stop recording, or withdraw from participating at any time.

3.7 Recruitment Criteria

The recruitment criteria for the participants was also important. I consulted with CEPIADET’s team regarding this aspect. As a team, we decided that interpreters could be male or female, had to have fluency in an Indigenous language and Spanish, and needed to be of legal age, which is eighteen in Mexico. Preference was given to interpreters who had already participated in a legal process. ILS survivors of the legal system could be male or female, had to self-identify as Indigenous and belong to a specific Indigenous community, and needed to be over the age of eighteen. In this case, it was decided to extend participation to survivors of the legal system or close relatives who also had endured the process and been affected by the aftermath.

3.8 Risk of Participation and Informed Consent

ILI and ILS were key to the research. The participants received a recruitment letter explaining the research and interview process before it took place. They had the option of doing a one-on-one interview or joining a focus group discussion. The participants were allowed to withdraw at any given point or refuse to answer any questions that made them feel uncomfortable. I had planned to hold two focus group discussions. However, because of the
distance between Indigenous communities, I was only able to hold one focus group discussion with ILI.

With the help of CEPIADET, I refined my two different interview scripts – one for ILI and one for ILS - paying close attention to language and potential emotional risk. The questions for ILI were designed to not place any burden on the participants, since we were talking about their everyday work activities. The ILS survivor’s interview, on the other hand, was the one which would most likely trigger some emotional reaction. As a result, I planned to conduct the interview as close to a regular conversation style as possible.

In my research, I obtained informed oral consent from my participants. Dr. Susana Caxaj helped me frame the oral consent in a way that would allow me to successfully document it (in accordance with the ethics board) without intimidating the participants.

I addressed my specific reasons to ask for oral rather than written consent in my ethics application. For example, while promoting participatory and action processes in the community, my methodology was designed to discourage the presence of hierarchical roles (Brydon et al. 2003, 24; Gaventa 1988, 19). As such, my decision to request oral consent was appropriate for several reasons.

First, oral consent serves to honor many Indigenous communities’ preferences toward oral knowledge transmission. For them, a verbal agreement is just as important, if not more so, than a written one (Wolfgang 2011, 447-64; Sierra 2005, 52-72). Second, the research involved two different sets of participants. While ILI possessed a higher level of education and most of them retained legal knowledge, ILS were not always fully capable of reading a lengthy document, as their command of Spanish was good enough to carry a conversation, but not sufficiently advanced to follow complex terminology. Finally, and most importantly, I wanted to
avoid setting hierarchical levels, and, despite having the best intentions, a lengthy written consent would have potentially intimidated the participants or been viewed as a coercive strategy. However, I provided a letter of information describing the consent, which was discussed with the participants at the beginning of the interview and left with them in case they had any further questions about the research.

3.9 A Decolonizing Indigenous Methodology

This research project involved different research methods. When I started this work, I only felt sure about the information I could collect during my literature review and public files, but even then, I wasn’t certain about being able to access Mexican public information. My research partners were with me every step of the way. Because of CEPIADET’s experience with research work in Indigenous communities, I requested their help and guidance while developing and enacting my methodology. This was a great benefit to me. I refer to it as a decolonizing Indigenous methodology because of the various principles behind it:

1) The need to include the communities in a positive and appreciative research, potentially leading to the creation of better training programs for the interpreters.

2) The strong belief that language is inherently tied to culture, knowledge, and territories (Armstrong 1997; Hernandez 1998; Hall 1959).

3) The need to decolonize the legal room and the legal language.

4) Recognizing the ILI as an important body to decolonize the institutions and legal spaces.

5) The need to learn from ILS’s experiences, the Indigenous jurisdictions and their problem-solving skills in order to create room for social change.
All of this would ultimately lead to the revitalization of Indigenous cultures and languages, promoting a better relationship between the Indigenous communities and State institutions.

The most important principle in this methodology is my partnership with Indigenous communities. During my visits, I was able to recognize the way community work is carried out. Everyone in the communities, from the little children to the Elders, works together for the common good. Solidarity and participation are encouraged and expected to help those in need and less privileged. Therefore, learning firsthand from Indigenous methodologies, knowledge, and ways of living informed this research and led me in new directions toward decolonizing the legal system. I had hoped to achieve this by asking questions about the Indigenous jurisdiction and how the governmental institutions could benefit from including Indigenous knowledge when proceeding with legal cases. The participants’ voices were the most relevant aspect in this research.

The notion of Indigenous language being tied to land and ways of knowing; the difficult relationship with translation honoring the messages embedded within Indigenous languages; and the need to foster language revitalization has been thoroughly documented by Indigenous scholars and researchers, such as Jeannette Armstrong (Canada) and Natalio Hernandez (México). Armstrong (1998) explains the deep relationship of Indigenous language and land. For her, the land speaks to us constantly. She emphasizes that the land gave language to us, tailoring it according to the knowledge found in each region of the world (Armstrong 1998, 175-176). Natalio Hernandez advocates for diversity and intercultural dialogue as he continuously strives toward the recognition of the Indigenous languages in Mexico.
Finally, there is also a need to simplify the language of the law to enable most speech communities to interact with the legal institutions in a more effective way. Professional associations such as Clarity (an international association that promotes the use of plain legal language in at least thirty countries), have proposed this change; nonetheless, ILI still play an outstanding role in breaking language barriers, not only between two languages, but also between two different speech communities. Thus, the need to recognize and dignify the work of the ILI is intrinsically tied to the goal of decolonizing the system.

The methodology used in this research was intended to bridge gaps between two worlds that have been in contact with each other for centuries but have not yet fully come to terms regarding Indigenous autonomy and self-determination, despite various social movements. Indigenous interpreters play an important part in establishing new relationships and a plan for restoration because they arise from the community, possess ancestral knowledge shared by generations, and understand difficulties from both a place of oppression and the legal standpoint. Therefore, this decolonizing methodology was grounded in Indigenous worldviews and ways of knowing, as I attempted to build long-lasting relationships giving voice to those whose voices have not yet found an audience.

3.10 Methods

An important aspect of PAR and Grounded Theory is the decentering of the dominant roles so that the experiences, perspectives, and voices of the marginalized communities could become the point of reference (Reimer Kirkham & Anderson 2002). The goal was to look for a space to act and produce a favorable change for Indigenous communities. However, this change needed to emerge from their own experiences within the legal setting (Minkler and Wallerstein
2003, 4). As noted above, my first and foremost goal was to create relationships of trust, which I was able to achieve by working alongside CEPIADET and employing participant observation before conducting individual and group discussions. In this section, I will explain the main research methods utilized in my research project, which include: archival research, participant observation, individual and focus group interviews, field notes, and data collection and analysis. Their importance and implementation will be spelled out below.

3.10.1 Archival Research

With archival research, I documented State efforts to address the need for Indigenous language interpretation services. When I arrived in Oaxaca, I was still waiting (and hoping, I might add) for ethics approval. Therefore, during the first stage of my project, I completed archival research online through the National Platform of Transparency, specifically for the State of Oaxaca. However, federal documents and information were also requested from the legal institutions.

When talking about archival research, Denzin (1978) separates the types into public and private records that have been organized by researchers according to the expressed need to perform examinations (Denzin 1978, 219). Historically, public records tend to be in a written format, usually arranged in a systematic manner, and somewhat easy to access. In addition to the accessibility of public records, archival research as a method is often inexpensive and preferred by some researchers because of the typical standardized filing format (alphabetically and chronologically), which makes it easier to locate pieces and create a research file (Berg 2004, 190-3). Indeed, official public records are usually intended for a small audience. Archival
research may include examining a vast number of documents, such as court orders and transcripts, information about particular cases, censuses, police reports, a number of different statistics, and many others. Naturally, not all questions can be solved through archival data alone. In the case of this research project, the data collected served to analyze the lack of interpretation services for ILS and what the State has done to improve it.

I concentrated on post-2015 files because of the timeline of Mexico’s transition from the inquisitorial (written) system to the accusatorial (oral) system. During 2008, Mexico’s government passed a series of federal constitutional reforms that required all states to implement oral adversarial criminal trials. This reform gave all Mexican states until 2016 to fully implement this system (Cavise 2007, 802-814; Ferreira 2012; Zwier & Barney 2012, 190-225). At the time of this research, most states had implemented the change to some degree, Oaxaca being one of the first in 2013. During my visit in 2017, the legal institutions were operating under what is known as a “mix system,” consisting of blending methods from both legal procedures. It is safe to say that, to date, Mexico has not fully implemented this transition, so my research was limited to files between 2015-2017 (Personal Interview, Ana Bel Rodriguez, February 2, 2018, Gerardo Martínez Ortega, May 18, 2017).

Additionally, I submitted a series of archival research questions to legal institutions that deal with Indigenous defendants at some point in their cases, such as public defenders, police stations, and the attorney general’s office. The information was collected electronically through Mexico’s National Platform of Transparency and helped elucidate the participation of interpreters in the courtroom and throughout the legal process from the point of arrest (at which point the defendants have a constitutional right to be made aware of the charges they’re facing)
to the sentencing and appeal. The archival research questions were intended to collect specific information from the State institutions regarding legal cases, the participation of ILI, the apprehension and sentencing of ILS, the most common Indigenous languages requested for interpretation, the number of Indigenous inmates, the most recurrent offences, and charges amongst the Indigenous population.

The information collected produced responses to my first research question related to the barriers preventing ILS’s communication in the legal setting. They also provided further information regarding the usage and role of interpreters and translators, the accessibility of interpreters’ training programs, interpreters’ wages, and the process of assigning interpreters to the cases, along with other information that will be discussed in the following chapters.

Although this information is open to everyone as public records, it must be requested through a web platform through the National Platform of Transparency. In this website, the user must follow a series of steps to survey the public sector at the state and federal level, and all the questions need to be asked in a specific legal language with which I was unfamiliar, despite my legal education in Mexico. CEPIADET’s staff took the time to guide me throughout my archival legal research and explained the exact steps to take in order to request specific information from the State institutions.

The main objective of Mexico’s transparency law is to provide what is necessary from the federal level to guarantee the right of access to public information in possession of any authority, entity, or legislative body, including the executive and judicial branches of the Mexican government, political parties, and any institution that receives federal public resources under the terms detailed in the Constitution of Mexico (the Federal Law of Transparency and
Access to Public Information). The spirit of this law is to make information accessible and transparent in a fast and easy way. It also encourages transparent management through the dissemination of public information that will be verifiable, intelligible, relevant, and comprehensive. For the specific case of this research, the record holders responded through the online platform system by providing general information about the Indigenous population in the legal system, although no specific information about a particular legal case was provided.

Using the National Platform of Transparency, all Mexican subjects can create a profile. Following the registration process, any Mexican can request information from the agencies and institutions registered with the government. All state and federal agencies are obligated to present the information requested from the solicitants. Lastly, they offer delivery by either electronic or regular mail. If a person chooses to request a printed copy of the information to be mailed, then they must pay in advance for the material requested, typically either pages or CDs. All information provided for this research was delivered electronically.

My experience using the platform to perform archival research was somewhat easy, mainly because CEPIADET’s team had already used the system to request information and were able to train me on the requesting process. While the system is easy to use, there is also a need to decolonize the requesting processes and the language involved within the petitions. For example, it is not enough to state, “I am hereby requesting the number of Indigenous language speakers arrested and imprisoned during 2015, 2016, and 2017.” The process involves using legal language in order to access the information. This request, for example, needed to be worded as follows: “Based on Article 6 of the Constitution of the United Mexican States that recognizes my right to information, I request the information or documents that comprise the number of...
Indigenous Language Speakers arrested and imprisoned during the period of time from January 2015 through May 2017.” While the Mexican State has done its share to make information accessible to the population, it is still falling short at decolonizing the process so that most Mexicans, who do not belong to a legal speech community, can access public records in a timely manner. As for my experience, although I have a legal background as a law student in Mexico, I had no idea that the information needed to be requested in this format. CEPIADET’s legal team guided me through this process.

Although most requests relevant to this dissertation were submitted rather quickly, the response process took several weeks, and some institutions asked for an extension. This procedure was also a learning process for me, and the institutions were helpful on their end; for example, I requested the most common charges against Indigenous defendants from the district attorney’s office. Their response was that they were not in possession of such information and that I should contact the Public Prosecutor. Similarly, when I requested information from the wrong institution, they were helpful enough to point me in the direction of the right one. During this process, I only encountered one problem in which I was given an incorrect file. Most of the time, users can file a complaint within fifteen days after receiving erroneous information. Unfortunately, that response was given to me while I was making my return to Canada, and I had to create a new request and wait a few more weeks for the correct file.

3.10.2 Participant Observation and Field Notes

During my collaboration with CEPIADET, one of my key research methods included participant observation. Kathleen Musante (2010) describes participant observation as a research method in which the researcher “takes part in the daily activities, rituals, interactions, and events
of a group of people as one of the means of learning the explicit and tacit aspects of their life routines and their culture” (Musante 2010, 1). Participant observation is a research method practiced in ethnographic research (Boellstorff 2010; Malinowski 1994). This method allows the researcher to take part in regular and unusual activities, including chatting and being present in a community rather than simply interviewing, all while documenting information through observation and recording field notes (Musante 2010, 4).

Participant observation allowed me to see the current political situation and the context in which Indigenous communities reclaimed their rights to language interpretation in the specific case of Oaxaca. This method also shed light onto what had been done by the State and communities to address the lack of interpretation services, and what still needed to be accomplished (research question number three). Participant observation as a tool for inquiry made me more appreciative of the experiences and comments shared by the participants during casual conversations, interviews, and focus group discussions, as well as the work done by the Center.

Scholars also encourage the researcher to learn the language of the community and other forms of communication, such as gestural, spatial, and task-embedded forms of communication (Denzin 1978, 293; Musante 2010, 5). That was not a feasible option for me because of the vast number of Indigenous languages spoken in Oaxaca. I opted for having an interpreter accompany me for the interviews with ILS participants. I did, however, pay close attention to nonverbal communication – the smiling, laughing, crying, nervous tone of voice, and gestures for rejecting a question. Musante talks about this tacit knowledge, explaining that it allows us to understand nonverbal communication in the most obvious ways so that we can anticipate and understand
responses. This form of communication shapes the way in which we interact with others, and in a more fundamental way, it shapes the way we interpret what we observe (Musante 2010, 20). These ways of knowing are as important as the answers during the interviews and conversations.

In participant observation, it is also important to pursue active involvement in schedules, routines, and daily activities, as well as extraordinary events with people who take an active role in addressing the situation and are participants in the current context. Musante and DeWalt (2010) describe different levels of participation. The passive participant plays a non-interactive role and remains a quiet spectator. The moderate participant seldom interacts with people, performing structured observation but limiting their involvement. The active participant seeks every opportunity to take a role in hopes of learning cultural rules and conduct; this participant becomes a member of the community during research, aiming to reach complete participation and active membership. In conjunction, the roles of active participant and full member represent the classic participant observer (Musante 2010, 28-32). My participation started as passive until I forced myself to be an active participant as I successfully took part in activities while learning from cultural practices.

It’s easy to become overly accustomed to everyday conversations and the social panorama, so the researcher's impressions and activities need to be included in the form of field notes, which are an essential tool for successful participant observation. I recorded my field notes in Spanish (translation to English was done as needed) and in chronological order, detailing events, participants’ attitudes, and conversations.

Musante explains that our brain tends to be a poor tool for recording everyday and casual events, which is why field notes are ultimately the best way to organize information and
participant observation. That way, observations become data as they are recorded for future analysis. In this fashion, field notes serve both as data and tools for evaluation. It is crucial that the researcher find time and accommodation to write down some notes and reflections (Musante 2010, 138-54).

During my working collaboration with CEPIADET, I observed and participated in workshops, classes, and public events. In the beginning, I quietly observed cultural protocol to make sure I didn’t offend anyone. Then, as I felt more comfortable with CEPIADET’s team, I was able to take an active role, as I knew they would point out my mistakes. The events described below were not scheduled or achieved easily. I started planning field work during January 2017, and I was lucky enough to reach CEPIADET’s project coordinator, Edith Matias Juan, that same month. During our first conversation, I spoke with her for a while about the Center’s line of research, current projects, and funding. Finally, before hanging up, I hesitantly asked about the possibility of collaborating with them. When I arrived in Oaxaca, Edith had arranged for me to observe some events. Other participant observation opportunities arose during my collaboration time with the Center.

On June 5th and 6th, 2017, I accompanied CEPIADET’s team to workshops related to violence within Indigenous communities. These workshops were offered by the State and involved several grassroots organizations and some community members. The main objective was to address the population’s safety. On the first day, the group talked about the most frequently recurring offences among Indigenous communities, which included: 1) drug
production\(^6\), 2) homicide and domestic violence, 3) arms trafficking\(^7\), and 4) human trafficking.\(^8\)

Due to the severity of some of those offences, most cases are judged at the federal level and fall
directly under the category of preventive prison or pretrial detention; therefore, the defendants
are to remain jailed until the case is cleared.

Those workshops on violence offered an insight into what some of the most recurrent
offences amongst Indigenous-speaking communities might be. However, to clarify, I also
requested this information from State agencies. Regarding Indigenous knowledge and
perspective, the community members expressed concern about political reforms that, in the spirit
of helping the population, have also brought some negative side effects. For example, mention
was made of the police forces within Indigenous communities. The participants expressed that
while they serve their purpose in keeping the towns safe and under surveillance, Indigenous
youth participation in keeping communities safe has decreased considerably. A participant
pointed out, “Young people are excluded from community participation, and they no longer have
a responsibility or a community position in the role of the *topil* (a man who serves as a sheriff or
junior officer in an Indigenous town). This role of the *topil* was absorbed by State reforms”
(Morales-Good field notes on Security Workshop June 5, 2017). The participants offered some
solutions, such as promoting safety within the communities by promoting community work, thus

\(^6\) It is worth mentioning here that some of the Indigenous communities in Oaxaca produce poppy flowers and
hallucinogenic mushrooms for personal use. However, the presence of the drug cartels has corrupted this production.
\(^7\) Arm trafficking and possession has had a negative impact within the communities, as weapons exclusively for
army use are trafficked and sold amongst the communities.
\(^8\) Sadly, because of Oaxaca’s proximity with Mexico’s southern border, human trafficking is a rather common
offence between Chiapas and Oaxaca.
opening spaces for dialogue between the State, Indigenous authorities, and youth. This community work should aim to address issues related to culture, gender equity, and inclusion.

I left those workshops with a better idea of what the main problems affecting the youth in the communities are, recording in my notes that:

The segregation and isolation in which the Indigenous towns are located does not facilitate a process of dialogue. First, because it is expensive for the population to travel to the city, and second, because of the State’s unwillingness to recognize Indigenous knowledge and practices that have been implemented since ancestral times which require the active participation of the community members. Indeed, dialogue is needed with a decolonized mind frame and setting. (Morales-Good field notes June 7, 2017)

After that, I observed two CEPIADET focus group discussions regarding a more extensive project called Gobernanza Comunitaria (Communitarian Governance), carried out by the Center in conjunction with other local grassroots organizations, including Sikanda (Kanda International Solidarity), Propuesta A.C.10, Propuesta A.C.10, Ideas Comunitarias11, and Diversidades12 along with the European Union. In the Gobernanza Comunitaria project, the research partners sought to strengthen relationships within Indigenous communities, particularly within the regions of Mixteca and Valles Centrales, including a wide range of themes such as the promotion of human and social rights, youth training processes, gender equality, and community work, among others.

9 Kanda means “movement.” The organization was established in 2009 in Oaxaca and supports and implements programs that help the population fight poverty and promote human and social rights. (https://www.sikanda.org/who-is-sikanda/)
10 Propuesta (Proposal) is a non-profit organization that promotes the communities’ sustainable development by encouraging alternative methods of education that favor the conservation of natural resources in the rural territories. (www.propuestaoaxaca.com)
11 Communitarian Ideas presently works in Oaxaca but has also carried out work in Mexico City and other suburban areas. They work with the community and especially with the youth to promote sustainable use of natural resources to improve their income and living situation. (https://ideascomunitarias.org.mx/home/)
12 Diversity and Non-Discrimination is an organization whose line of work is related to prevention and eradication of violence and discrimination resulting from social inequalities.
The main line of work was to help communities locate social problems and explain them within their community context (including language and aspects of interculturalism) so that they can effectively communicate with the State institutions.

This project was designed to provide Indigenous communities with the tools to exercise their culture and ways of knowing, promote Indigenous active participation in Oaxaca’s social sphere, and enhance the community’s jurisdiction. CEPIADET was specifically in charge of the delivery of this project, including teaching and monitoring the project’s goals and incorporating interculturalism, which refers to an immense combination of aspects that come into play when different ethnicities interact (Grimson 2001).

The program covered two specific Indigenous languages: the Zapotec language, spoken in Valles Centrales, and the Mixtec language, spoken in the region known as La Mixteca. Consequently, ILI were hired to help deliver this project and facilitate effective communication, including traditional knowledge. I didn’t get to see the implementation of the project; however, my use of participant observation during their focus group discussions provided me with insight into some of the communities’ internal issues (gender and domestic violence, alcohol abuse, and land use and distribution). CEPIADET hoped to cover different ideologies of life, beliefs, systems of justice, access to education, and health with the inclusion of interculturalism. Furthermore, it was important to understand certain aspects such as pain, burden, and death from each community’s spiritual concept. As explained by the different partners, “The project shall be understood from, and within, the language of the participants,” thus promoting the idea that Indigenous languages are equally as important as Spanish (Morales-Good, field notes on Gobernanza Comunitaria June 21, 2017).
On June 28th, 2019, I accompanied the team to a State-sponsored event in which the State encouraged Oaxacans' access to information through their national platform to obtain specific data and public records (See Figures 3.1, 3.2, 3.3 below). The Center's role in this event was to promote access to information in Indigenous languages. This was a highly promoted event and gave the impression that the State was going out of its way to grant Oaxaca's population the right of being informed. Tomás López Sarabia, CEPIADET's director, made it very clear that day that “the right to enquiry is not a special right, it is a specific right that the communities have, due to a historical process of dispossession and discrimination. The population is within its right to know about policies and changes that affect their ways of living and their territories” (Tomás, quoted in Morales-Good field notes June 8, 2017).

In collaboration with INAI (Mexico's National Institute of Transparency, which provides access to information and protection of personal data), the Center's team of interpreters and translators helped design the brochures for this campaign, including translating them into six Indigenous languages: Zapotec, Mixe, Mixtec, Triqui, Mazatec and Chinantec. During the event, the interpreters' team filled out applications requesting information mainly related to some of the most basic services, like access to education, medical services, and legal matters. The ILS would talk about a problem and, with the help of the ILI, the application was filled out in Mixtec or Zapotec. While I was there, I was able to learn one of the most important concerns of the Indigenous communities, which continues to be access to basic services. I was content with the event and the way the State had gone about including the Indigenous-speaking communities until I learned that we needed to collect a specific number of applications, since a lack of them would indicate that no interpretation services were needed, and the interpreters would not receive their
pay for the day. That was disheartening, unfair, and outrageous, so I started looking for ILS who would help us with the applications. In Oaxaca City, most people would prefer to use Spanish, but we managed to submit eight applications, more than the five requested. Evidently, there is an urgency to dignify the role of the ILI on par with any other profession!

Because of the many benefits of participant observation, I was able to locate participants for my interviews and learn about the work of the Center, including the legal cases with which
they were involved. It was because of participant observation that I was able to access most of the ILS survivors of the legal system discussed in this dissertation. I was also given the opportunity to shadow interpreters during hearings. This was a bit more complicated because of the nature of the cases; for example, I was never allowed to attend any hearings involving rape, sexual abuse, or private matters because of Mexican ethics and confidentiality concerns. One case that I shadowed was in Miahuatlán, a little community south of Oaxaca. It is roughly a two-hour drive, unless there are labor strikes around the city. There were several that day, so it took twice as long to get there.

The ILI whom I was accompanying that day was Florian Pacheco Pérez, a young attorney who had canceled his job activities for that day in order to assist with the hearing. When we got there, we learned that the hearing had been postponed because the plaintiff hadn’t shown up. Just like that, we were dismissed, and Florian was not paid for his time on the road, or even a traveling allowance. Plus, he had already lost a day’s worth of pay to help with this case. He said he was hoping that the money for his traveling would be reimbursed the next month, but there was no guarantee. At that time, Florian was a full-time defense attorney and one of the most frequently requested Zapotec interpreters. He explained that this was because his people “were problematic” (regarding land and natural resources), and he had made a personal commitment to help his community by providing interpretation services.

My last participation with CEPIADET was during their annual interpreters’ update session in July 2017. Their annual update is a week-long class for ILI who make up
CEPIADET’s roll of practical interpreters\(^{13}\), though some of the attendees (such as Florian) had already been certified by INALI and just wanted to strengthen their skills. The Center asked me to join them. In addition, they asked me to offer a workshop on legal interpretation and ethical issues due to my past experiences in this field. In the group, we had mainly ILI from Oaxaca and one ILI from Chiapas, who spoke Tzotzil. For this workshop, I made use of my previous interpretation experience, as well as information provided by the state of New Mexico during the interpretation class that I had taken there. I had the honor of working with CEPIADET’s interpreters’ coordinator, Flavio Vásquez López. When I brought up my experience gained in the U.S.A., Flavio grounded the interpreters’ ideas with Indigenous knowledge tied to the land. This was an enriching and beneficial experience for me as ILI discussed what had triggered their desire to become interpreters, which of their cases were hardest to interpret, and why.

We also talked about issues regarding the interpreter’s transparency and the inclusion of Indigenous knowledge within interpretation (Angelelli 2004). As hard as it sounds, it was difficult for them to own the idea that as they perform interpretation in the legal space, they are the experts of their language and culture.

\(^{13}\) Interpreters who are not certified or accredited by INALI but have had some training by CEPIADET or other civil organizations and experience performing interpretation.
Fig. 3.6 The author offers a workshop about interpreting in the legal setting. 
Photo provided by CEPIADET

Overall, the process of participant observation broadened my perspective of Indigenous language, different cultures interacting in the State of Oaxaca, and their struggle to cope with Mexico’s failure to recognize their ancestral lands and languages. Bernard (2006) suggests that participant observation “puts you where the action is and lets you collect data … any kind of data you want, narratives or numbers” (Bernard 2006, 343). This method of research allowed me to learn about the situation from people’s stories, community knowledge and practices, and collaborations.

3.10.3 Individual Interviews

This research also included individual semi-structured interviews with ILI and ILS survivors of the legal system – or, in their absence, someone from their family who had experienced the case in close proximity and had been affected by the repercussions of the process. Although I had drafted and distributed a recruitment letter, most of the participants in
this research were contacted through my contacts that developed during my participant observation with CEPIADET.

I used a semi-structured interview guide with general questions that were changed or restructured according to the vulnerability of the participant. This type of interview offered the participants the opportunity to incorporate flexibility in their thoughts and interests as opposed to a structured interview where the specialized questions direct informants’ responses (Chilisa 2011, 205).

In qualitative research, individual interviews are one of the most popular methods of data collection (Sandelowski 2002; Nunkoosing 2005). Participatory research involves community members who answer questions regarding their situation and then actively propose solutions that will benefit their communities (Tandon 1988, 7). Individual interviews are often chosen by researchers who wish to collect detailed accounts of the participant’s experiences, beliefs, thoughts, and firsthand knowledge regarding a specific phenomenon (Fielding 1994; Speziale & Carpenter 2003, Loiselle et al.2007). As I was utilizing PAR and Grounded Theory, I applied this method with the assumption that if the questions were formulated in the right manner, then the participants’ experiences would reflect their current reality and experiences (Macdonald 2012). In the case of this specific research, individual interviews were used to understand the expert knowledge of the individuals, whether it included specific descriptions of systems and processes in language interpretation, or their experiences dealing with the legal system (Harrell & Bradley 2009, 24).

I decided to pursue a decolonized approach to the interview method (Chilisa 204-225). I began with decolonizing the language I was using to create the questions, avoiding jargon and
using common language for casual conversations. Another decolonized approach was the decision to offer the participants the opportunity to use their name or keep it anonymous. In her essay, “Decolonizing the Interview Method,” Chilisa (2012) makes a point that sometimes the participants want their name to be tied to their narratives because a community might not have the skills to document their stories in writing, so sharing their stories is the best way to preserve their knowledge for generations to come. Indigenous paradigms also encourage using the names of the participants in the research, if it is permitted. Chilisa stated, “This ensures that the researcher is accountable to the participants, and the participants are in turn accountable to their communities. From a post-colonial Indigenous perspective, information or stories told by participants lose their power if the storyteller is not known” (Chilisa 2012, 207).

The individual interviews with the interpreters took place either in CEPIADET’s office or a public space, while the interviews with the survivors occurred within their communities in Oaxaca. They ranged from thirty minutes to one hour. The last interview was done over the phone due to the participant’s location in the Isthmus of Tehuantepec. Dr. Susana Caxaj had warned me about the risks of performing a phone interview as opposed to doing it face-to-face. Researchers oppose the phone interviews because of the lack of non-verbal cues researchers can use to guide the conversation, decide if a question needs to be modified, or get a feel for the direction the interview is taking. However, researchers admit that telephone interviews might be the only viable method for data collection under certain circumstances; therefore, this method can highlight important information about the population’s location (Berg 2004, 82).

\[^{15}\text{In this fashion, the participants were asked if they wanted to use their name. This decision was honored throughout the project; as such, some participants’ information remains confidential by their own choice.}\]
My last interview was with Rosa, who belongs to a Zapotec community located in the region known as Isthmus of Tehuantepec, an eight-hour drive from Oaxaca City. I contacted her shortly after the earthquakes hit Oaxaca during 2017 (Belinger & Castillo 2017; Villegas, Malkin, & Semple 2017). I had met one of her interpreters during my time with CEPIADET. When I spoke to Rosa, she mentioned that she wanted the world to know what her family had gone through because of an unfair system. Her husband, Adan de la Cruz, an Indigenous Zapotec, was arrested and accused of two kidnappings. To date, Adan has spent more than seven years in prison just waiting for his sentence. After his case is ruled, he will still have to face his sentence time in jail.

The participants were made aware that they were under no obligation to participate in the research. I made sure to honor their feelings and integrity by reminding them that they could withdraw at any given point. They were also given the option to refuse to answer any questions that might make them feel uncomfortable. Throughout the individual interview, I made sure they understood that they were under no obligation to continue or participate in the research.

Altogether, I collected seven individual interviews with interpreters and five interviews with survivors, one of whom was an Indigenous authority and elder. Additionally, I interviewed some of CEPIADET’s staff and two defense attorneys.

3.10.4 Focus Groups

In addition to individual interviews, my supervisory committee helped me decide to include focus group discussions. The benefit of group discussions is to acquire a wider perspective related to participants’ views and experiences, thereby collectively producing
knowledge and research (Harrell and Bradley 2009, 88; Kitzinger 1994, 104). The implementation of this type of interview also provides information about the social context that shapes ideas and decisions (Kitzinger 1994, 105). However, focus group discussions, though useful, can be disastrous if the participants can’t find a common ground (Stewart and Perm 2014, 18). To avoid this, I asked questions about the specific practice of legal translation, interpretation programs, the setting under which they were performing, and cultural references. Because of the cultural diversity in Oaxaca, we gained a richer perspective about how Indigenous knowledge can be included in the legal setting.

Scholars Morgan and Spanish (1984) bring attention to some of the strengths of focus group discussions. For example, they offer the chance to observe the participants’ reactions and interactions toward a particular phenomenon. The participants’ choices over what they wish to disclose in the group is sometimes easily overlooked. Focus group discussions offer the opportunity for all involved to appreciate the information shared. Questions and answers can shift rapidly in conversation; so, although the interviewer often takes a quiet role, questions are an important factor in leading the discussion. Finally, the interaction can evoke feelings and ideas that do not arise from an individual level, such as the attempt to resolve incompatibilities (Morgan & Spanish 1984, 260-2). For the specific case of this research, my hope was to bring the participants together to propose changes to their current situation and offer suggestions on what could be done to improve their participation within the legal system.

During my time in Oaxaca, I was able to organize one focus group with ILI. This process provided a better view of the lack of interpretation services and the negative effects it has on Indigenous-speaking communities. It also created space to consider how the results may be
applied to address community concerns. This collaborative process proposed possible answers to the following questions: What needs to happen to address this situation? How can we create space for Indigenous knowledge to coexist with the legal setting?

Sadly, because of the distance between the ILS’s Indigenous communities and Oaxaca City, I was unable to bring them together for a focus group specifically tailored to explore their experiences. At the time, I felt disappointed in myself because we had failed to supply a space for the survivors to jointly provide feedback and possible solutions that would comply with Indigenous knowledge, traditions, and epistemologies autochthonous to their lands. I emailed Dr. Susana Caxaj for her advice on what I could do to resolve this setback. Her recommendation was to do a follow-up conversation with the participants, but not until the transcription had been done. This way, we could confirm ideas and review or add information as necessary (Personal correspondence with Dr. Susana Caxaj, July 6, 2017). Fortunately, we made sure to include in the interview and focus groups ILI who were also native to Indigenous communities where the ILS survivors lived. This way, we made sure Indigenous knowledge and culture were included throughout the process.

3.10.5 Data Analysis and Interpretation

All interviews, and the focus group discussions with ILI, were digitally recorded and transcribed verbatim in Spanish. I hired CEPIADET’s transcriptionist, Gaby León, who is also a Mixtec interpreter, to do the transcription work; this data was kept safely stored in my computer. I personally translated the interviews into English as needed after receiving the transcripts and comparing them with the audio recordings to confirm their quality. I read them a couple of times to familiarize myself with the content shared during the interviews (Braun and Clarke 2006).
Lastly, I used NVivo data analysis software, a qualitative data analysis software intended to help researchers organize and analyze data, to reread and evaluate the transcripts using thematic analysis as explained by Gest et al. 2011. I also referred to my field notes for thoughts and impressions collected during the interview analysis.

I found thematic analysis to be highly useful to my research. Scholars maintain that this method has shown favorable results in examining the perspective of different research participants with thematic coding (Kovach 2010, 53). Applied correctly, it can elucidate differences and similarities and highlight unforeseen insights (Nowell et al. 2017, 2). Thematic analysis can be used to identify common patterns in the participants’ narratives about their experiences, views, and perspectives. It can be used to examine patterns within personal or social data collected by qualitative methods, such as interviews and focus groups. Its flexibility in different methods of application makes it attractive to researchers new to the field of qualitative research (Brau and Clark 2012). In this research, thematic analysis was used in conjunction with other qualitative methods to analyze interviews, focus groups, written responses to surveys, and field notes.

To successfully implement thematic analysis, I read the raw data verbatim, then coded for significant words, sentences, or paragraphs for further evaluation. I did a final round of analysis once all documents were completely coded. Along with this step, I listened to the original audio again to note the tone used by the participant, whether it was pensive, emphatic, sad, etc. The second step was to classify the codes into categories and establish possible themes. Finally, I reviewed the data once again to compare and contrast themes (Guest et al. 2011, 5-11). I used the same codes across all interviews to ensure consistency. When the interviews were coded, I
separated comments from ILS and ILI. I also analyzed the documents provided by the
institutions using thematic analysis and NVivo.

My working relationship with CEPIADET has continued as I’ve drafted my dissertation. During this time, I contacted Tomás López Sarabia for permission to use the Center’s images. I kept in touch with Gerardo Martínez Ortega, CEPIADET’s defense attorney, and contacted him with follow-up questions regarding some of the cases and the usage of interpretation services. CEPIADET has also reviewed my writing to ensure that the narratives respectfully included and honored the participants’ voices.
4. Voiceless Tongues

Sometimes I wish I spoke Spanish as well as you do, so that
I wouldn’t need an interpreter to tell them the truth.

Josefa Nuñez Zamora, 2017

I begin this chapter by acknowledging the voices of ILI and ILS survivors of the legal
system, voices that serve as a living testimony of a colonial process still very much alive in
Indigenous communities. Their participation through individual interviews and focus group
discussions was essential to this research.

In Mexico, as in other places of the world, Indigenous communities have been forced
into a place of silence. They have inhabited this place for so long that stepping outside of it is
uncomfortable because it makes evident the vulnerable space Indigenous peoples occupy in
relation to Mexico’s political institutions. Often, we hear about the State’s initiatives to revitalize
and strengthen Indigenous communities. This has been more notable in recent times, for after
years of colonization, Indigenous communities are now actively participating in the social and
political sphere in search of self-determination and cultural and linguistic rights (Alfred 2005,
60; Battiste 2011, 192-207; Coulthard 2007, 437-460).

This chapter uses the ILS’s words to elaborate on how Indigenous languages and
perspectives still need to be honored by the Mexican State, despite its official recognition of its
own multiculturalism and the policies created to support it. Above all, the State has missed the
mark on ensuring linguistic rights and due process for Indigenous citizens. The very fact that the
State has not provided ILS with all the necessary tools needed when accessing the legal system
goes against the notion of properly respecting multiculturalism. Not providing Indigenous people with appropriate language services excludes Indigenous culture, voices, and ways of knowing from the legal system.

In this chapter, I will respond to the following research question: What are the barriers that prevent Indigenous speakers from communicating effectively in the legal setting? To address this, I will be quoting the words of the ILS survivors of the legal system. ILS cases will be discussed, along with other cases carried out by CEPIADET. Their experiences, including what they say and don’t say, are essential to understanding the resistance of Indigenous people in the Mexican communities. The quotations from participants are included in full, but some minor editing was made during the translation process to honor the messages.

4.1 A Note About the Knowledge Shared in This Research

Before continuing, I want to make a note about the experiences provided for this research. I recognize my obligation to present these stories in a respectful manner and with a good heart. Even today, these stories still trigger emotions and overwhelming feelings amongst the participants. The aftermath of the legal cases had negative effects not only in the defendants’ lives, but also in their families, communities, and territories.

The semi-structured interviews and group discussions in this research gathered important information about what ILI and ILS survivors of the legal system experienced during the legal trials, the State’s deficiency in providing all necessary tools for Indigenous defendants, and the necessity to include Indigenous knowledge and culture within the legal system. The comments of ILI, ILS, and CEPIADET’s legal team, along with the information and documents provided by
the Mexican State at the local and federal levels, are important to better understand the problems from each of these angles.

Through obtaining consent before interviewing, I confirmed that most of the participants in this research approved the use of their name, with some exceptions. If the participants orally requested that their names not be used, their name was changed for the recorded interview to respect their wishes. (Spanish names were assigned randomly to protect the participants’ identities.) In order to honor the wishes and agency of all the other participants, I used their names to acknowledge and recognize their contribution to this research project. A total of five ILS were interviewed\(^\text{16}\) (three women, two men), seven ILI\(^\text{17}\) (four men and three women), three CEPIADET team members\(^\text{18}\), and two defense attorneys.\(^\text{19}\) A total of seventeen community members participated in the data collection process.

In this chapter, I include a great number of quotes from the ILS because this story of resistance and endurance is theirs to tell. The next chapter is supported by ILI, people who have served as a linguistic and cultural bridge. As an Indigenous scholar, I have been committed to providing a space for those voices that have not been heard over the years. Again, I take the opportunity to thank CEPIADET’s team for guiding me in this process, as well as ILI who accepted me into their communities and provided an opportunity for me to learn from the land. I also thank the Indigenous authorities who supported the research, welcomed me into their communities, and arranged for the interviews to proceed.

\(^{16}\) Josefa Nuñez Zamora, Rosa Ramírez Tolentino, Adela García Carrizosa, Eusebio Ruíz Hernández, Antonio Cruz García (pseudonyms are italicized).

\(^{17}\) Benedicto Salinas Hernández, Florian Pacheco Pérez, Orbelín Díaz Avila, Gabriel Sanchez, Gaby León, Reina Osorio, Carmela Ramírez Santiago.

\(^{18}\) Edith Matías Juan, Tomás López Sarabia, Flavio Vásquez López.

\(^{19}\) Gerardo Martínez Ortega, Ana Bel Rodríguez.
The opportunity to gain knowledge through interviews and participant observation complemented the research in ways that allowed me to see the political scenario and understand Indigenous perspectives. Oaxaca, with its different dilemmas, provided the perfect setting for this research, for there we find problems of discrimination and racism against Indigenous peoples, even though 65% of the population recognize themselves as Indigenous (Stavenhagen 2003, 11; Salazar Luzula 2007, 5; INEGI intercensal 2015). In addition, its proximity with Chiapas and Guatemala makes this state a common pathway for migration (Quinto Cortés et al. 2010, 409-411; participant observation Violence Workshop June 5, 2017). Despite these challenges, Oaxaca has made considerable advances regarding Indigenous education and linguistic rights (Favela 2010, 63-72). Finally, language is one of the most important aspects of social cohesion, and this state has the richest collection of Indigenous languages and linguistic variants in Mexico (INALI 2008). Therefore, Oaxaca offers many different sources of knowledge that I could have easily overlooked without participant observation.

The conversations, the walks through the city, the strikes during the Guelaguetza festival in July – all served as reminders that Indigenous people continue to fight for recognition of their ways of knowing. This was made evident during the Zapatista movement, but little by little, the recognition gained has fallen into oblivion. Ultimately, this research serves as a reminder that Indigenous communities continue to fight for their right to language and culture, proper education, and recognition of their territories. In Oaxaca, many years after the Zapatista uprising, this fight is still very much alive. In this place of resistance, Indigenous communities bet on survival rather than on disappearing.
4.2 Rights to Language

In Mexico, the rights to language, autonomy, and culture are protected by the national Constitution, which states, “All persons shall enjoy the human rights recognized in this constitution and in the international treaties to which the Mexican State is a party, as well as the guarantees for their protection…” (Mexican Constitution, Article 1). Article 2 of the Constitution talks about the multicultural composition of the nation, articulating, “Originally based on Indigenous peoples, which are descendants of populations that lived in the current territory of the country at the beginning of colonization, and that preserve their own social, economic, cultural and political institutions, or part of them” (my emphasis). Section B of Article 2 recognizes the State’s responsibility to establish the necessary policies to guarantee Indigenous rights. It states that in order to promote equal opportunities for Indigenous people and decrease discriminatory practices, the State will “determine the necessary policies to guarantee the validity of the rights of Indigenous people and the integral development of their peoples and communities, which should be designed and operated jointly with them” (Article 2, my emphasis). It is worth mentioning that the cultural component of Article 2 of the Constitution was just added in 2001 after a constitutional reformation was passed. As a result, Mexico has recognized its multicultural composition and the presence of Indigenous communities in the national scenario, at least on paper.

This long overdue reform that recognizes cultural and linguistic diversity came as a result of many projects presented to the government, as well as the Indigenous uprisings and mobilization in the states, like Chiapas and Oaxaca. Perhaps the greatest pressure was created by the San Andres Accords, negotiated by the EZLN and President Zedillo (1994-2000), but which were never upheld until President Vicente Fox took office in 2000 and promoted the
constitutional reformation which finally recognized Indigenous peoples’ agency to a certain degree (Morris Bermúdez 2007, 61).

Language and culture are also protected by an equally important piece of legislation known as the General Law on Linguistic Rights of Indigenous Peoples, published in 2003 under the six-year term of President Fox. This law recognizes and protects the individual and collective linguistic rights of Indigenous people, and the State assumes its obligation to promote the use and practice of Indigenous languages. Information key to this dissertation is addressed under Articles 4, 7, and 11:

ARTICLE 4 - The Indigenous languages recognized in the terms of this Law and Spanish are national languages due to their historical origin and shall have the same validity, guaranteeing human rights at all times to non-discrimination and access to justice in conformity with the Political Constitution of the United Mexican States and the international treaties on the subject of which the Mexican State is a party.

ARTICLE 7 - Indigenous languages shall be valid, as well as Spanish, for any matter or procedure of a public nature, as well as for full access to administration, services and public information. The State must guarantee the exercise of the rights provided in this Article.

ARTICLE 11 - The federal education authorities and the federal entities shall guarantee that the Indigenous population has access to mandatory, bilingual, and intercultural education, and shall adopt the necessary measures so that the educational system ensures respect for dignity and identity of people, as well as the practice and use of their Indigenous language. Likewise, at the intermediate and higher levels, interculturality, multilingualism, and respect for diversity and linguistic rights will be encouraged. (Ley General de Derechos Lingüísticos)

Internationally, Mexico signed adherence to the Indigenous and Tribal Peoples Convention (ILO), one of the major binding international conventions concerning Indigenous peoples in 1990 (Muñoz 2004, 414-33), and to the American Convention on Human Rights in 1981 (Multilateral Treaties), both of which defend the principle that all people should enjoy fundamental civil rights at the same capacity. They also grant defendants the right of free access to a translator or interpreter to ensure a fair trial. On paper, the country seems to be up-to-date regarding the recognition of Indigenous people’s rights. In reality, the constitutional
acknowledgement of cultural and linguistic diversity did not generate the equity and legal conditions to allow the advancement of legislative initiatives and policies that would promote the use of Indigenous languages in all aspects of public life.

4.3 Indigenous Speakers’ Voices

“Remembering is easy for anyone who has memory. Forgetting is difficult for those who have a heart.”

Gabriel García Márquez

During our interviews together, I asked ILS questions about their cases, the moments of arrest, interpreter allocations, communication issues, levels of education, and their experiences with racism and discrimination. They also responded to questions regarding the amount of money spent during their cases, their community position, the community’s way of solving cases, and if they would have liked to see a different outcome. The questions were tailored to each specific case, and dependent on the participants’ emotions, in order to ensure that they were comfortable with continuing the interview and didn’t feel compelled to answer anything. However, I followed a semi-structured interview with all participants (see Appendix B).

The following sections describe the overarching themes identified as the most common barriers preventing Indigenous speakers from effectively communicating in the legal setting. They include language and cultural discrimination (such as abuse, torture, and ILS’s scant economic resources to invest in the case), the State’s ignorance or lack of awareness of Indigenous knowledge and culture, and the paucity of interpretation services.
4.4 Language and Cultural Discrimination: An Everyday Thing for ILS

The very first question I asked ILS survivors of the legal system was if they were able to describe their experience accessing the legal system and the type of case they had. Josefa Nuñez Zamora experienced a case involving a family member who was arrested for possessing a firearm meant exclusively for army use; Rosa Ramirez Tolentino’s husband has been jailed, and is awaiting sentencing on, a kidnapping case; Eusebio Ruíz Hernández was accused of human trafficking; and I documented a second case of firearm possession through the experience of Antonio Cruz García.

The interview questions focused on the treatment these individuals received from the legal institutions. ILS mentioned discrimination and racism as a common practice among the public servants. They also mentioned abnormalities in the way their cases were treated.

In response to the questions about whether they thought they were treated fairly and experienced discrimination, the participants discussed some irregularities in their cases, as well as the different treatment they received compared to other detainees.

Eusebio Ruíz explained that his case had irregularities from the beginning, when he was first detained. He said that as he stopped to get gas, he was detained by judicial agents who checked his truck and then asked him to make a trip to Huatulco to transport people.

They took my truck and took me to a place known as Chacalapa, in the town of Pochutla. The agents opened a house where they had people and put them in my truck. I was then taken to Huatulco where they blamed me for human trafficking. I said I didn’t do it. I explained that my job was to transport livestock from Rio Grande to La Pastoria. They kept me for three days, and then I was moved to the Isthmus of Tehuantepec, where they kept me for three years and five months. Had they found me with the people in my truck, I wouldn’t deny the fact, but I was detained at the gas station. (Personal Interview, Alcalde Eusebio Ruiz, July 12, 2017)
Antonio also mentions strange incidents during his detention:

I went to my ranch that day. I was planting pine trees. I don't know who told on me. The state police came, and they took me to Miahuatlán. While they drove me, we passed by my house, and I asked them to let me inform my family, but they didn't let me. In Miahuatlán, I called my house so that my family knew where I was. From there, they took me to Oaxaca. That night, they took me to Santa Maria (Etla). From there, they assigned me a public defender. There, I saw that there were other people who also carried weapons, and they were released, but they [the public servants] left me there. (Personal Interview, Antonio Cruz García, July 21, 2017)

Josefa explains that she was not permitted to talk to her husband for days, elaborating, “I went there [to the public prosecutor’s office] on Friday, I spent the day there, then Saturday and Sunday. I was there all the time asking for details on what happened, and they wouldn’t let me see him” (Personal Interview, Josefa Nuñez Zamora, July 19, 2017).

The detention of presumed suspects before an order of imprisonment is issued, pretrial detention for periods exceeding the statutory limit, physical and psychological abuse, and the denial of due process – all of these are prevailing practices within the Mexican jail system (Personal Interview, Gerardo Martínez Ortega, May 2017, Personal Interview Ana Bel Rodríguez February 2, 2018). Rosa talks about the kidnapping charges faced by her husband, Adan, who is in pretrial detention until his case is ruled. She mentioned that Adan was initially detained without an arrest warrant. She explained, “I asked them, ‘Why do you want to take him without an order of apprehension?’” She paused emphatically, then continued, “They never

---

20 Pretrial prison is the most burdensome precautionary measure in Mexico, and it is addressed under Article 19 of the Constitution. The problem with this measure is that it is not always followed as it should be. Per the Constitution, for example, Article 19 states that no authority can hold a suspect for longer than sixty-two hours without indictment. According to its reformulation in 2011, Article 19 establishes that the Public Prosecutor can (and will) request that the judge order pretrial prison when other precautionary measures are not sufficient to guarantee the appearance of the accused in the trial. This is supposed to assure the case’s progress or protect the victim, witnesses, and/or community (Personal Interview, Gerardo Martínez, May 18, 2017, Ana Bel Rodríguez, January 2018). In reality, however, the judge will order pretrial prison officially when the case involves the following offences: “organized crime, intentional homicide, rape, kidnapping, human trafficking, crimes committed with violent means, such as weapons and explosives, as well as serious crimes determined by law against the security of the nation, the free development of personality and health” (Mexican Constitution, my emphasis).
showed the order to us. They said they had an order of apprehension, but no paper was presented to us” (Personal Interview, Rosa Ramirez Tolentino, November 7, 2017).

In Mexico, besides being arrested without a warrant, it is also common to be detained for being in the wrong place at the wrong time. When I asked Gerardo, CEPIADET’s defense attorney, if this was a common practice, he immediately said, “Yes!” My response was, “Just for being in the wrong place?” He then explained that this was the case of Marcelino:

In the traditional (inquisitorial) system, we (CEPIADET) have a case that we are still fighting. It started in 2009, and to this date, we are still trying to finish the process. This case came to be precisely because the person was in the wrong place. He was seized, and the policemen who detained him claimed that “they saw a tall person running.” A tall person! If that statement is seen from my logic, that person would be taller than me, but if the person is of my height, then he is not a tall person. Then you realize that they are confusing him, but he is the one they caught. In this way, they are arresting a lot of Indigenous people, and many of them are still imprisoned. (Personal Interview, Gerardo Martínez Ortega, May 18, 2017)

This is, sadly, a very common practice, and a lot of Indigenous people are finding themselves falling into the gaps of the legal system because of it. For the Mexican police, as explained by Gerardo, “It is better to have someone than to have no one so that the authorities
can say that the case was solved” (Personal Interview, Gerardo Martínez Ortega, May 18, 2017). Indeed, the police officers may not have arrested the person responsible for the crimes, but they would rather have the prisons filled with people who don’t know how to navigate the system, have limited command of Spanish, and don’t possess the economic resources to fight back. Judging from my experience in Oaxaca, it is common to see police officers checking ILS who come from their communities to sell their crafts and weavings. They are targeted for not having the necessary city permits to sell their goods.

The interview participants talked about the racism of the public servants, evident from their refusal to provide interpretation services to either the detainees or their families from the moment of arrest, along with mistreatment and lack of communication. Racism and discrimination were common answers, when the participants were asked to describe the biggest challenges for Indigenous speakers facing trial. For example, Benedicto stated, “There is discrimination on the part of the justice servants towards the Indigenous people. They would say, ‘You did it! You are acting like you committed the crime’ ” (Personal Interview, Benedicto Salinas, July 4, 2017).

Some defendants claim fluency in Spanish to avoid discrimination and mistreatment. Others accept charges, such as Eusebio, who said, “They [the public servants] told me that they were going to investigate, and if I was found guilty, I would have to remain jailed for fifteen years. So I said, ‘Nothing can be done now. I am already here’ ” (Personal Interview, Alcalde Eusebio Ruiz, July 12, 2017).

There are a lot of irregularities and prejudice that pervade cases in which ILS are involved, as indicated by this participant’s statement:

There’s a lot of prejudice that influences the justice servant’s decisions and has nothing to do with the investigation, so they are not thinking objectively. They say, “All the
Indigenous kill, they commit crimes, they are drunks, they are conflictive, they fight because of their lands.” Oaxaca holds a big diversity regarding Indigenous communities. There is clearly a lack of agreement between the Indigenous communities and the State. It is a problem related to racism and criminalization of the poor. In Mexico, then, the person who doesn’t have money can’t access justice, isn’t that right? (Personal Interview, Edith Matías Juan, May 31, 2017)

When involved in a legal case, ILS face a lot of difficulties. For one thing, they have to leave their communities if the community authorities are not able to rule their cases. Often, the prison facilities are far away from their communities, which imposes an extra cost on their families if they want to visit. Most importantly, in many cases, “Indigenous peoples are accepting charges for crimes and offences based on physical and psychological torture” (Personal Interview, Gerardo Martinez Ortega, May 18, 2017).

4.4.1 Abuse and Torture

The inconsistency in the cases involving Indigenous people is clear from the time of arrest, through custody under the public prosecutor’s office, sentencing, and jail time. Stavenhagen reports in his Mission to Mexico that most of the trials involving Indigenous people are full of irregularities. This is not only because of the lack of interpreters and defense counsels who are trained and accustomed to Indigenous traditions, but also because of the police officers, defense attorney offices, and judges who choose to ignore Indigenous perspectives and law practices. He further explains that the Indigenous peoples’ situations in Mexican prisons is alarming. Many arrest cases from the Oaxaca shore have involved torture or psychological pressure to accept charges. In fact, it is at the hands of the Public Prosecutor, under the incommunicado detention, that most of the irregularities and torture to accept charges occur (Lutz 1990, 11).
A recurrent and most disturbing topic is, without a doubt, the abuse and torture suffered by Indigenous detainees. This has been thoroughly documented by Rodolfo Stavenhagen, Katya Salazar (DPLF), and the State authorities through the Human Rights Commission of the State of Oaxaca, which in 2004 documented cases of extreme and demeaning torture on the suspects (Stavenhagen 2007; Salazar 2007, 14; CEDH 2004).

More recently, in 2012, the Committee of Integral Defense of Human Rights, Gobixha A.C., published a report about the human rights situation in Oaxaca. It stated that torture is, sadly, frequently used by the officers, especially when the defendant is at the hands of the Public Prosecutor. This practice often involves physical\(^{21}\), sexual\(^{22}\), and psychological abuse\(^{23}\) (CODIGODH 2013, 13; Stavenhagen 2007; Salazar 2007, 14).

In Chiapas and Oaxaca, there are countless cases where Indigenous defendants were tortured to accept charges. Since the Zapatista movement, Tzotzil and Tzeltal Indigenous from Chiapas have been a constant target for police officers (CODIGODH 2013, 8; Chiapas Paralelo 2019). Some of the cases analyzed in this dissertation included torture. Sadly, possessing lower command of Spanish and scant economic resources make Indigenous individuals easy prey for these types of cases. CEPIADET’s associate, Edith Matías Juan, explains that this is one of the main reasons behind the high number of Indigenous people jailed. She says, “We have prisons full of first-time offenders – people who commit a crime due to economic necessity who, due to their lack of resources, cannot pay or corrupt the system. They can’t enter the game of corruption” (Personal Interview, Edith Matias Juan May 31, 2017).

\(^{21}\) All sorts of blows, deprivation of essential needs (such as water, food and sleep), stretching, electrical shocks, suffocation, burns, cuts, wounds, forced positions, etc.

\(^{22}\) Forced nudity, threats, verbal abuse, sexual mockery, genital touching, penetration.

\(^{23}\) Deprivation of normal sensory stimulation, isolation, threats of death (either to them or to members of their families), mock executions, humiliations, insults.
Chiapas Parelelo, a left-wing newspaper, documented in February 2019, that in Chiapas there are many Indigenous persons, illegally detained and tortured, who fill the prison facilities, many of them still awaiting sentencing. According to the World Organization Against Torture (2019), the Mexican government was scheduled, in 2019, to respond to the torture and mistreatment practices employed by State agents and security forces, by proposing public policies to eliminate them and initiating actions to repair the damage caused (Chiapas Paralelo 2019; OMCT 2019).

Unfortunately, multiple Indigenous speakers end up accepting charges due to the abuse from the public servants and their own limited Spanish skills. Often, the Indigenous defendants are not made aware of the charges they face or the crimes they are accused of committing. One of the participants recounted his experience by lamenting, “I never said that I committed the crime because I did not. I didn't say anything. The judge looked at me and saw that I didn't know how to speak [Spanish], and then he said, ‘What are these Indians going to know?’ Even though I don’t speak much Spanish, I could understand that.” (Personal Interview, Alcalde Eusebio Ruiz, July 12, 2017).

In Oaxaca, the situation is not better than in Chiapas. CEPIADET worked on the case of Marcelino Mejía, Mixtec speaker, indigenous to the region of Pinotepa Nacional, Oaxaca. Marcelino was detained in 2009, accused of qualified homicide and charged with thirty years in prison. Gerardo Martínez Ortega, CEPIADET’s defense attorney (who is also Marcelino’s attorney) stated:

The State investigation agents were the ones who found and detained Marcelino, supposedly running. They arrested him and got him involved in the matter. They took him to the public prosecutor's office, and that's where the issue of torturing and hitting him arose. They gave electric shocks to his testicles and began to threaten to harm his family if he did not accept responsibility for the charges.
After all the blows he received, he finally agreed to sign a blank sheet of paper. It was then that his confession was composed [by the Public Prosecutor], and it is that confession that was used by Pinotepa’s mixed court\textsuperscript{24} to sentence Marcelino to thirty years of jail time for qualified homicide. (Personal Interview, Gerardo Martínez Ortega, May 18, 2017)

Ten years have passed since his arrest, and Marcelino is still waiting for his case to be ruled justly.

Fig.4.2 Case of Marcelino Méjia García. Still shot of the documentary, “When I Shut my Eyes” of CINECOLMENA. Picture provided by Michelle Ibaven.

Marcelino Mejía García is a Mixtec speaker indigenous to the region of Santa María Jicaltepec, Pinotepa, Oaxaca. He was arrested on May 30, 2009, and prosecuted for qualified homicide. The confession, obtained through acts of torture and without the assistance of an interpreter, was the main evidence to condemn him to thirty years in prison.

In 2015, a Collegiate Court ordered the reversal of the entire procedure so that he could be asked to which ethnic group he belongs, the acts of torture could be investigated, and psychological and medical studies be carried out in accordance with the Istanbul Protocol. After more than three years, it has not been possible to perform the studies; meanwhile, Marcelino has already served almost ten years in prison.

\textsuperscript{24} A court handling inquisitorial and accusatorial cases. These courts deal with the lag of cases from the old inquisitorial system by utilizing methods of both systems, inquisitorial for the instruction (because that’s the way the case was first recorded) and accusatorial for the judgement (Jaimes 2016, 126, Jaramillo Díaz 2013, 145-8, Personal Interview, Ana Bel Rodríguez, January 2018).
Another case involving torture is that of Adan de la Cruz, indigenous to the region of the Isthmus of Tehuantepec, speaker of Zapotec of the Isthmus. We learned about his case through the voice of his wife, Rosa Tolentino, and Adan’s interpreter, Gabriel Sánchez.

Rosa has been fighting for justice for her husband, Adan, for over nine years. Adan is accused of kidnapping, and to date, he is still awaiting sentencing. As with Marcelino, Adan had a limited command of the Spanish language and was tortured to confess to the charges, as explained by Rosa. During the arrest of her husband, she explains, “Then they [the police officers] began to beat him, they had their weapons – they beat him. He had to go with them against his will. They forced him to get in the truck with violence” (Personal Interview, Rosa Tolentino, November 7, 2017).

Citing the Constitution and the charges her husband faces, Rosa cried, “Illegal deprivation of freedom – that was his crime – isn’t that what they first did to him?” (Personal Interview, Rosa Tolentino, November 7, 2017). Rosa has done a lot of legal research and educated herself to be able to follow and understand her husband’s case. She is an example of endurance. She is not deterred by her lack of Spanish proficiency and has pushed herself to support their daughters.

Her husband was taken to Mexico City, where his first statement was fabricated by the Public Prosecutor, according to Rosa.

He was held in arraigo\(^25\) (confinement) in a hotel in the Doctores neighborhood of Mexico City. He was there for thirty days. There, he took the blame for a kidnapping, and yet another one [for a total of two kidnappings]. They finally sent him here to Juchitán, and here, they dictated the formal imprisonment because they went by the statement that they had fabricated. My husband flatly denies having declared in those terms. (Personal Interview, Rosa Tolentino, November 7, 2017)

\(^{25}\) In Mexico, a person is placed in “arraigo” (home arrest) to secure the suspect’s attendance at the hearings, while the Public Prosecutor performs an investigation in order to obtain the necessary probative material to prove the crime and the probable responsibility of the suspect (Pliego 2008, 287).
Rosa said that their attorney requested the Istanbul Protocol, but they have been waiting for two years, and it is still not proceeding. Additionally, if the defense attorneys see that interpretation is not provided by the public servants, they can, as another defense strategy, request a linguistic test to demonstrate that the defendant possesses limited Spanish skills. This test is administered by INALI and CDI and requires the expertise of linguists and anthropologists to determine the level of the binary Spanish-Indigenous language ability (Personal Interview, Tomás López Sarabia, May 11, 2019). Both Marcelino and Adan have been waiting for a linguistic test that will demonstrate that they are, in fact, Indigenous speakers. Ideally, the linguistic competency test should have been done at the very beginning of the case to ensure due process and honor the defendant’s human rights. However, Article 7 of the General Law of Linguistics Rights guarantees the right to an interpreter upon the defendant’s request. So, realistically, the defendant should be provided with an interpreter just by requesting one, without having to undergo a linguistic test (Personal Interview, Tomás López Sarabia, May 11, 2019; Gerardo Martínez Ortega, May 18, 2017).

Along with these two cases, other participants also admitted being subjected to torture, racism, and discrimination during their arrest and trial time. For example, as described above, Alcalde Eusebio Ruiz explains that he was detained by judicial agents who forced him to make a trip in which he transported illegal immigrants. Another participant, Antonio Cruz, revealed that he, too, was detained without an order of apprehension and without being given the opportunity

---

26 The manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment is most commonly known as the Istanbul Protocol. Its main purpose is to facilitate the fight against torture by providing clear guidelines that ensure better and more effective assessment of physical and psychological damage. It is supported by the United Nations and the Medical Association. Mental health is one of the primary aspects of the assessment due to the long-lasting impact of torture that tend to last longer than the physical effects (United Nations 2004).
to speak to Indigenous authorities in his community. These examples stand as a testimony that the cases involving Indigenous peoples’ arrests, as stated by Katia Salazar (2007) and Rodolfo Stavenhagen (2003), are usually filled with irregularities, especially in those territories where Indigenous peoples are in a constant fight for autonomy, land, and educational rights.

Additionally, the State will protect its own interests at the expense of Indigenous people. For instance, the lucrative tourism industry in Oaxaca means that the State is especially motivated to stop protests, mobilization, and resistance movements that could potentially turn away tourists and their investments. Sadly, while trying to achieve autonomy, land rights, and appropriate education, Indigenous people find themselves arrested and falling into the gaps of the legal process (Norget 1997, 96-127). Human rights defenders have documented that during 2006, torture was practiced by various police forces against activists and supporters of social movements (CODIGODH 8).

Katya Salazar, executive director of the Due Process of Law Foundation (DPLF), reports that many Indigenous protest movements are terminated when the State sends presumed suspects to jail for long periods of time, sometimes without evidence. She stated that one of the most serious problems regarding human rights for Indigenous communities in Oaxaca is the tendency for the government to utilize laws and the judicial system to penalize and criminalize Indigenous people who pursue their constitutional rights, defend their territories, and seek cultural autonomy (Salazar Luzula 2007, 40-41; Betancourt 1999, 59).
4.4.2 Scant Economic Resources

Another barrier preventing Indigenous speakers’ effective communication in the legal system is the lack of economic resources. The legal process is very costly; therefore, a lot of people are facing long sentences because they are unable to hire adequate counsel, and State appointed attorneys aren’t as invested in the cases as they should be. Researchers have found that many of the people in Mexican jails remain incarcerated because they don’t have the economic means to navigate a corrupt and expensive system. Per the Mexican saying “el que no transa, no avanza” – one who doesn’t compromise, doesn’t move forward – incarcerated Mexicans are expected and encouraged to buy their way out or offer money to move the case forward, even if they end up being sentenced (Dehesa 2002, 25; Tapia-Tovar and Zalpa 2011, 21-65; Oropesa 2011). Thus, Indigenous people are at a serious disadvantage not only because of their limited command of Spanish, but also because of their scant economic resources, in addition to the state defender’s apathy and the need to wait for language services.

For Indigenous people, fighting a case in the State’s legal system is especially complicated. Many of them would prefer to be judged in the community27, even if the punishment is more severe, physically and emotionally (Personal Interview, Carmela Ramirez Santiago, July 10, 2017). Judging ILS outside of their community involves a lot of negative practices that I should mention.

As stated before, the prison facilities are quite far from the communities. Therefore, the defendants receive few visits and have little emotional support from their family (CNDH).

---

27 Indigenous communities can exercise their jurisdiction to rule cases as long as both parties agree, and the process observes the correct application of Human Rights (Personal Interview, Tomás López Sarabia, June 8, 2017; Ana Bel Rodríguez January 2018). This is also further explained in the next chapter.
The ILS survivors of the legal system and their families were asked about the expenses incurred to visit their loved ones. They spoke about the money invested to visit the defendants. For example, Rosa Tolentino stated, “It costs me six hundred pesos to go see him. I leave here at nine a.m. and come back at five p.m. We take food and medicines to him” (Personal Interview, Rosa Tolentino, November 7, 2017).

Josefa Nuñez Zamora had to deal with similar expenses, elaborating, “I have to travel on Saturdays, Sundays, or weekdays. Whenever he has a hearing, I have to be there. To get there, I pay between five and six hundred pesos, and if you don’t know the city you are going to, where are you going to stay?” (Personal Interview, Josefa Nuñez Zamora, July 19, 2017).

Eusebio Ruíz also experienced financial difficulty. He explained, “After my bail, I had to sign every month, I had to go to Miahuatlán every month until I was free” (Personal Interview, Alcalde Eusebio Ruíz, July 12, 2017).

Five to six hundred pesos for a trip in a society where the average daily wage is $102.68 pesos, plus having to take medicines and other essentials, is not affordable (Secretaría del Trabajo y Previsión Social/ Secretariat of Labor and Social Welfare, 2019). Some others simply don’t receive many visits because their families can’t pay for the trip, as was the case of Marcelino and Adela, whose children have grown up without knowing them because they hardly had any contact with them. “Tell my daughters that I love them both,” lamented Adela (Personal Interview, Adela García Carrizosa, July 23, 2017).

Indigenous defendants and their families also experience health issues as a result of their imprisonment. Eusebio Ruíz spoke about his wife’s illness as a result of the imprisonment: “My wife got sick. She had to travel a lot to see me from here to the Isthmus. She would leave here at
three a.m., arriving in Oaxaca at eight a.m., and from there to the Isthmus. Sickness overtook her. She has diabetes” (Personal Interview, Alcalde Eusebio Ruiz, July 12, 2017).

Josefa Nuñez Zamora revealed her and her husband’s conditions, saying, “I was always worrying about him, thinking, what if his blood sugar and blood pressure goes high? I would take him medicines. I also got sick.” She later added, “Here, the problems are solved by the community, no? How come it wasn’t in his case?” (Personal Interview, Josefa Nuñez Zamora, July 19, 2017).

Rosa’s physical condition suffered as well. As she described it, “I feel tired, deceived, disheartened, but I keep going for my daughters. I also got sick with diabetes because of this matter” (Personal Interview, Rosa Ramirez Tolentino, November 7, 2017).

Finally, we must address the sacrifices made by the defendant’s family to support their household while they remain jailed. Josefa, for example, explains that she “had to start working and taking care of the land to put food on the table. At the time, I had to take my youngest daughter out of school to help with the house” (Personal Interview, Josefa Nuñez Zamora, July 19, 2017). Her daughter was an elementary school student at the time, and per Josefa, her daughter couldn’t reintegrate in the school system. The school won’t allow her to enroll again due to the delay in her education and the number of children the school allows in the classroom.

Rosa makes the traditional totopos of the Isthmus of Tehuantepec (an autochthonous type of tortilla) for a living. She calculates that they have spent about 150,000 pesos on her husband’s case. I spoke to her shortly after the 8.6-magnitude earthquake that hit the Isthmus in 2017. She stated, “We were very careful with our money, but in this process, we have lost most of our savings, and now the earthquake left us homeless. We are living in the streets. God watches over
us, and something good will come out of this” (Personal Interview, Rosa Ramirez Tolentino, November 7, 2017).

Indigenous communities look after the wellbeing of their citizens and seek the recognition of their cultures and normative systems in regard to justice administration. The non-recognition of Indigenous customary law is tied to the denial of Indigenous cultures and identity. In many countries, the application of the national law hinders the recognition of customary law (Estrada Tank 2018, 9). In Mexico, which constitutionally recognized its multiculturalism in 2001, the first step to guarantee due process and protect human rights is to strengthen the Indigenous authorities so that they can exercise their ancestral practices in conjunction with the national system, safeguarding the human rights of the citizens.

4.5 Lack of Awareness of Indigenous Customs

Another barrier for ILS in the legal setting is the public servant’s lack of awareness about Indigenous traditions, customs, territories, and jurisdiction. The defendants also shared their frustration with the State’s inadequate or nonexistent collaboration with Indigenous authorities. Josefa Nuñez Zamora expressed that the communities’ authorities know their populations better than anyone and that they should be the ones acting as experts or handling the cases:

> The community’s authorities should intervene first. They know the person’s behavior. They [the police officers] should not just grab a person like an animal and take him or her straight to jail. The community’s authorities know their people and know who a good or bad person is. But here, in our community, there is hardly anyone who is considered bad. We all serve the community; we are humble people. (Personal Interview, Josefa Nuñez Zamora, July 19, 2017)

It is important to mention that many cases involving Indigenous people are also directly or indirectly related to **usos y costumbres** (literally translated to “uses and customs,” a term referring to Indigenous customary law) and tend to be misinterpreted by the justice system.
servants (CEPIADET 2010, 14). INALI notes that Mexican jails contain many Indigenous people serving sentences for crimes, based on the misinterpretation of the cultural practices, ceremonies, and ancestral elements related to their communities (INALI response June 5, 2017).

For example, there’s the case of Antonio Cruz, who was detained in his town and accused of carrying a firearm that is for the exclusive use of the Army, P.A.F.U.E.E.A.F.A., per its acronym in Spanish. Antonio mentioned that he didn’t have the gun with him at the moment of arrest, but he was taken to the public prosecutor’s office. Antonio explained, “In my community, we are allowed to have a firearm. I didn’t know mine was for army use only” (Personal Interview, Antonio Cruz García, July 21, 2017). He was held for a year and a half until an interpreter helped him explain that he had no knowledge of the firearm being classified as high caliber.

In Oaxacan Indigenous communities, men are allowed to carry firearms. Sometimes, these firearms are bought without much knowledge from middlemen who come to the communities to sell them. The police will target Indigenous customers because they know of the firearms sales, and in Mexico, police officers must reach a detainee quota (Personal Interview, Gerardo Martínez Ortega, May 18, 2017).

Another recurrent case is the human trafficking issue. As mentioned before, Oaxaca is the pathway for many Central American migrations. Border crossing isn’t exactly an offence from the Indigenous view, and Indigenous authorities encourage community members to help migrants on their way. Human traffickers take advantage of this view by forcing ILS to transport immigrants. That was the case with Alcalde Eusebio Ruiz, a Zapotec speaker, who worked in livestock transportation but was charged with human trafficking, as described earlier. It’s also similar to a well-known legal case that happened in the community of Santiago Quiavicusas,
where a taxi driver faced charges of human trafficking. As shocking as it might seem, a lot of Indigenous peoples are involved in these types of cases, especially those who live and work close to the towns along the migrants’ path. They end up facing severe sentences as a result of the accusation of human trafficking.

The Public Prosecutor and judges are often unaware, or purposely ignorant, of Indigenous legal customs. This is especially true in judgements for cases involving environmental and health issues. Examples include the consumption or sale of animals in danger of extinction; health offences, mostly related to the possession or misuse of drugs (in Oaxaca, the Indigenous communities use mushrooms and opium poppies in their traditional ceremonies); or breaches of federal laws governing weapons, telecommunications, and immigration. Rodolfo Stavenhagen (2003) documented that such convictions are often taken out of proportion (Stavenhagen 2003, 11; Personal Interview, Edith Matías Juan, May 31, 2017; Benedicto Salinas July 4, 2017; Reina Osorio Santiago July 29, 2017).

Regarding these cases involving the culture and customs of Indigenous communities, the participants brought up the following examples in which Indigenous people have been prosecuted for their ancient practices:

We existed long before the State was here, and from our heritage, we have certain practices, like burying our dead on our own lands so that they flourish like trees. These are practices that we have done before colonization. The State cannot come in an imposing manner to tell us what is correct or not. In their eyes, many things are wrong, but to our eyes, they are correct. For example, the problem of the iguana – they think that it is in danger of extinction. Well, it is true that it is, but that is not a problem that our people have caused. (Personal Interview, Benedicto Salinas, July 4, 2017)

The consumption of iguanas, deer, and turtle eggs is common, more generally in the coastal area. Edith talks about a case involving a species in danger of extinction that was documented by CEPIADET.
A precedent is the case of Jorge Santiago, for example. He is an Indigenous person who lives by the edge of the ocean. He has always consumed turtle eggs. They are part of their diet and are also part of their subsistence. It is true that he collected turtle eggs to sell, and that is considered an environmental crime. Then he was arrested because he had some turtle eggs, and he was imprisoned. Later he said, “What was my crime, what did I do? I do this every week. I go, then I pick them up (the turtle eggs) and take them to sell. It is the way I maintain my family, and not only me, but many people here (in San Mateo del Mar). Here, this is a means of subsistence. (Personal Interview, Edith Matías Juan, May 31, 2017)

Similarly, Reina speaks about a case she witnessed while working with the National Commission for the Development of Indigenous peoples (CDI).

Once we received a case just like that, involving the communities’ customs. The person was not assigned an interpreter – there was no interpreter who spoke the linguistic variant needed. A man was arrested for hunting two rabbits. Then they [the police officers] took him away. There were charges of carrying a weapon for the exclusive use of the army, in addition to environmental crimes. But assessing the case of the man, he and his son declared that it was part of the culture there, that it is not a crime for them to hunt, but that it is their way of subsisting, and it is edible. (Personal Interview, Reina Osorio Santiago, July 29, 2017)

Gerardo explains the situation experienced by two communities occupying the same space.

We (CEPIADET) have knowledge of a case that has to do with the harvesting of palm seeds in a certain region of Oaxaca known as the Papaloapan. In San Lucas Ojitlán, people plant maize according to their community ways. Some seasons might bring rain and hail that would harm the crops. Then the crops are destroyed, and people are left unable to feed their families. An alternative they found was to collect palm seeds to replace corn – that was the practice they had. Then the construction of a dam displaced many people, who went to live in other areas that were not their community. In a different place, they came together with other ethnic groups, and they continued to exercise their ancestral practices, but they were no longer people of Chinantla. They were now in a Mazatec zone ... When those people saw a person collecting palm seeds, and storing them, they thought that the practice was related to marketing. The individual was accused and detained, and I think he is still in prison. So, there are also situations when people are accused of exercising a practice that has to do with their culture. (Personal Interview, Gerardo Martínez Ortega, May 18, 2017)

There are cases when the ILS is not committing a crime with the intention of hurting someone or the nation’s well-being. In many cases, the defendants are trying to provide for their
families, and they do so by collecting and selling natural resources. This has been an ancestral practice, and some of the territories where this happens offer limited forms of employment.

Tied with the local customs issues, another important aspect sometimes overlooked by the State is the scant economic resources in areas where these types of offences are happening, and where such practices are a matter of survival. One is then left wondering, what’s worse—to collect natural resources or to suffer financial difficulties? Florian Pacheco Pérez, speaking from his experience as a qualified interpreter and defense attorney, explains:

In our laws, there are many actions that are typified as crimes. However, in our communities, it is a totally normal action. There have been times when people ask me, “But why am I here? Why did they bring me here? I just killed an iguana. My family has to eat. This is something that my father did and so did my grandfather. We only kill to feed our families.” (Personal Interview, Florian Pacheco Pérez, July 4, 2017)

In such communities, the employment sources are limited, and people live off the environmental resources. Gerardo Martínez Ortega, CEPIADET’s defense attorney, provides an explanation from the legal standpoint:

The most recurrent issue seen in these types of legal cases is the collection of natural resources, which are used as a means of subsistence, or to feed the family. Legally, there is a rule that prohibits the collection of such products. Technically, we have called it, and the law recognizes it, as the exercise of a right that is exempt of responsibility, so that the person who commits such acts should be free because he or she did not do it with the willful desire to commit that crime, but because it is part of his practices. These cultural issues are a normal part of the matters in which many Indigenous people are involved. (Personal Interview, Gerardo Martínez Ortega, May 18, 2017)

There is clearly a disconnect between the State and Indigenous people when it comes to understanding Indigenous norms, especially in the territories where the people subsist exclusively from the land. The participants talked about the importance of consulting with Indigenous authorities regarding the outcomes of the legal cases. For instance, as the mayor of San Miguel Suchixtepec, Eusebio Ruíz remarked, “We try to protect and care for the animals and
resources as much as we can. We are local. We see what is happening to the territories, but the State doesn’t see it that way” (Personal Interview, Alcalde Eusebio Ruíz, July 12, 2017).

Rosa Ramírez similarly commented, “Indigenous people have a different way of seeing the world. The public servants see things black or white and often favor the State’s way of doing things” (Personal Interview, Rosa Ramírez Tolentino, November 7, 2017). When talking about offences involving animals and natural resources, Benedicto Salinas provides more details about the natural world and the Indigenous knowledge:

If you leave it [the natural world and animal conservation issues] in the hands of Indigenous communities, you can be sure that these animals do not become extinct because there is a close relationship between nature and man. When we are born, we are assigned an animal – the one that will be with us, the one that will lead us. [When a baby is born] they throw ashes outside of the house, and they wait to see what footprints they find. If they find traces of a lizard, it means that your nahual28 is a lizard. We do not see animals only as edible because there is a close relationship between nature and man. That is why Indigenous people are the ones who know best about animal preservation. (Personal Interview, Benedicto Salinas, July 4, 2017)

All of those aspects play an important role in sentencing Indigenous defendants, and that is why it is so important to have an interpreter who not only knows the ILS’s language, but is also knowledgeable about their culture.

4.6 Paucity of Interpretation Services

“Como parte del proceso de pacificación y reconciliación nacional, estamos obligados a hacer accesible el goce y disfrute de los derechos políticos para las personas privadas de libertad.”

---

28 Nahual is a Mexican term that comes from the Nahuatl “naualli” and refers to the animal counterpart of a person. Each person is born with a relationship to a nahual. Rigoberta Menchú refers to the nahual as the double nature of each living being. People often have an animal for nahual that links the person to nature. This relationship, however, works both ways; animals also have a human counterpart. Therefore, to hurt an animal is to hurt its counterpart and the other way around (Carey-Webb 1996, 82).
"As part of the process of pacification and national reconciliation, we are obliged to make political rights accessible for the benefit and enjoyment of people deprived of liberty."

Senadora Nestora Salgado

Of all the barriers mentioned above, the most considerable one regarding human rights violations is the lack of interpretation services. Indigenous people often do not have an interpreter consistently during the entire case, not even at the moment of arrest to help with the initial statement, which is the moment when an ILI’s intervention is most needed due to the language barrier. In my experience as an interpreter in the United States, when the public servants don’t have an interpreter in house, they call over-the-phone interpretation to take the initial statement; this is not always possible in Mexico. However, it would be ideal for the public servants to wait until an ILI has been located to take the initial statement in the defendant’s Indigenous language. Many times, during the detention period, the Public Prosecutor produces a file against the Indigenous suspect. The Public Prosecutor, as stated by Gerardo, “continues acting as the accuser. It is the entity that, in order to apparently respond to a criminal act, is able to act in such a way that there will be someone to be accused, even if that person was not responsible. And in the spirit of finding someone — regularly, these are Indigenous persons” (Personal Interview, Gerardo Martínez Ortega, May 18, 2017). Therefore, it is at the arresting stage that Indigenous defendants’ human rights are the most vulnerable.

Before embarking on this research, I began to notice news articles addressing the number of Indigenous people jailed in Mexico, many of them waiting for sentencing mainly because of the lack of Indigenous language interpretation services. The headlines read, “Not speaking Spanish has become a 'crime' for Indigenous people” and “Not speaking Spanish is a problem endured by Indigenous people in Mexico, which has caused 8,502 people to be unjustly
imprisoned” (Univision October 13, 2013). Other headlines stated, “Of almost ten thousand Indigenous people in prison, only fifteen percent have had the assistance of a translator” (La Jornada, March 2016) and “Indigenous before the Mexican justice: Without interpreters, without defense” (Aristegui noticias June 2016).

This information was later confirmed by Mexico’s National Commission for Human Rights (CNDH per its acronym in Spanish), which, in its 2018 annual report, stated:

According to the information provided by the Decentralized Administrative Agency for Prevention and Social Re-adaptation of the National Security Commission of the Ministry of the Interior, until November of 2015, the internal Indigenous population in the penitentiary centers of the country was 8,412 people. Of these, 7,728 belong to the common jurisdiction and 684 to the federal jurisdiction, and as for gender, 286 are women and 8,126 are men.

Of the aforementioned internal population listed in the national Centers of Social Reintegration (CERESO per its acronym in Spanish), the Indigenous peoples or communities that register a population of more than 100 people are the following: 1,849 Nahuatl, 639 Zapotec, 527 Mixtec, 499 Tzotzil, 491 Tzeltal, 412 Otomi, 403 Maya, 361 Mazatec, 356 Totonac, 334 Tarahumara, 219 Chol, 216 Tepehuano, 212 Chinantec, 196 Cora, 179 Huasteco, 173 Mixe, 172 May, 158 Tlapaneco, 152 Mazahua and 116 Huichol. (CNDH my translation)

As noted earlier, Mexico is one of the most culturally diverse countries in the Americas. The states with the highest Indigenous populations are: Oaxaca (32.8%), Yucatan (28.9%) and Chiapas (28%) (INEGI 2015). The vast linguistic diversity in Oaxaca, however, makes it more challenging for the State to appropriately provide interpretation services for Indigenous defendants. This state is home to fifteen constitutionally recognized Indigenous tribes and eleven Indo-American linguistic families, from which approximately 166 linguistic variables are derived (CNLI-INALI; CEPIADET 2010).

In Mexico, the use of an Indigenous language is one of the primary indicators of indigeneity (INEGI 2015, Quinto Cortés et al. 2010, 410). The National Commission for the Development of Indigenous peoples (CDI per its acronym in Spanish) considers Indigenous
municipalities those that are governed by their Indigenous traditions and customs (*usos y costumbres*) and where more than 40% of the population speak an Indigenous language (INEGI 2015). In total, 494 municipalities in Mexico fit that description; 245 of those are in Oaxaca (INEGI 2015). Of the twenty Indigenous communities, previously mentioned by CNDH, five of them belong to the State of Oaxaca. They include Zapotec, Mixtec, Mazatec, Chinantec and Mixe. That means that roughly 1,912 of the total Indigenous people jailed belong to an Oaxacan community.

Additionally, Asi Legal registers that 60% of the Indigenous inmates in 2017 did not have an interpreter for their legal cases (Asi legal 2017). During a legal process, and especially throughout communicative events, the role of an interpreter becomes essential to ensure that all parties are understanding each other and that the defendant is not being disadvantaged. Mexico’s National Code of Federal Criminal Procedures protects the right to an interpreter under its Article 45, which states that an interpreter or translator should be provided when people do not speak or understand the Spanish language, and the defendants will be permitted to make use of their mother language. The interpreter should also assist the defendant during the interviews held with the defense attorney. In the specific case of Indigenous people, this Article explains, “an interpreter who has knowledge of their language and culture will be appointed, *even when they speak Spanish, if they so request*” (National Code of Federal Criminal Procedures, my emphasis). This clause is what makes the interpreter appointment process difficult. Defense attorney Ana Bel Rodriguez stated:

The interpreter does not only have to know the language, but also the culture, to be able to make a good interpretation. This makes it difficult to find interpreters with these characteristics who are not a witness or part of the trial. So, what they [the public servants] do is judge them like that, without interpreters. (Personal Interview, Ana Bel Rodriguez, February 2, 2018)
The Mexican legal system has judged numerous ILS without an ILI. In many cases, this has been done to speed up the process. When we asked the Indigenous speakers if they had an interpreter at the moment of arrest or during the trial, the majority of the responses were negative.

“Never,” replied Josefa Nuñez (Personal Interview, Josefa Nuñez Zamora, July 19, 2017). Eusebio said the same, elaborating, “None. I was only offered a public defender, but I never saw one, really” (Personal Interview, Alcalde Eusebio Ruíz July 12, 2017).

Antonio Cruz agreed, saying, “There was no interpreter from the beginning… I was just there like I was blind and voiceless” (Personal Interview, Antonio Cruz García, July 21, 2017).

“No, not even an attorney,” said Adela García. “The judge just made the paperwork. He wrote a lot of things that I didn’t [say]. … He then told me to sign” (Personal Interview, Adela García Carrizosa, July 23, 2017).

Furthermore, some ILS expressed that the public servants requested them to provide their own interpreter for the case. When asked who requested the interpreter, Rosa responded:

The courthouse requested it. They asked me to find an interpreter, and when I finally found someone to help me, the public servants didn’t let him perform. They said, “The interpreter has to be affiliated with the courthouse.” Then they found an interpreter themselves, but she would never arrive because she didn’t receive her travel allowance. Then they would postpone the hearings, and the case was delayed for months. Then we were finally advised of CEPIADET, where we found Gabriel. (Personal Interview, Rosa Tolentino, September 2017)

Similarly, Josefa also reported being advised by her attorney to find an interpreter so that the case would move faster:

My attorney told us to find one [an ILI]. The courthouse requested that I get a specific interpreter, but they found one themselves because I told them that I didn’t know where to find him. I didn’t know where he lived or his address. So, they ended up finding an interpreter who could speak with my husband. (Josefa Nuñez Zamora, July 19, 2017)
The participants confirmed that Indigenous prisoners commonly cannot count on the presence of an interpreter to help them through the legal process. Many ILS are accepting charges and spending long periods of time in jail without having full knowledge of the accusations. Clearly, this was the case for the participants noted in this dissertation who waited months, or even years, before they could tell the judge what had happened with the help of an interpreter.

In this chapter, we have documented the cases of Marcelino, Eusebio Ruiz, Antonio Cruz, and Adan de la Cruz. CEPIADET has followed the case of Adela García, which is also plagued with irregularities. She was also arrested and convicted without knowing the charges faced and was not given the opportunity to tell her side of the story with the help of an interpreter.

![Fig. 4.3 Adela García Carrizosa. Provided by CEPIADET](image)

Indigenous Mazatec native to the region of Soyaltitla, Mazatlán Villa de Flores, Oaxaca. She was detained on May 25, 2009, and accused of culpable homicide. Four years later, and with the support of an interpreter, she was able to understand the accusations she was facing. She was sentenced to twenty years of prison. Later, the Indigenous Justice Room (Sala de Justicia Indígena) absolved her, and she achieved liberty after nine years in prison.
Adela is Indigenous, specifically Mazatec. She was accused of committing culpable homicide\textsuperscript{29} toward her brother-in-law and sentenced to twenty years in prison. She didn’t have an interpreter from the very beginning of her case, resulting in an initial statement that was far from reality. When we asked what happened, she expressed, “They wrote many things and told me to sign” (Personal Interview, Adela García Carrizosa, July 23, 2017). She found out what her crime was with the help of an interpreter after four years in prison. Adela was accused, as stated in her sentence, of “not doing enough to stop her husband from murdering his brother” (Adela’s Sentence).

Gerardo helped her case to be moved to the Indigenous Justice Room, where she was absolved after nine years of imprisonment. After reviewing her case, the Indigenous Justice Room’s judge found several irregularities. For example, she was not informed of her offences or made aware of the Miranda rights, her rights to not self-incriminate or be sentenced without an interpreter were violated, and her sentence itself was an irregularity. She was released after nine years; however, the aftermath of the process is still haunting her. She has had to rebuild her relationship with her daughters, who had lost contact with her because of the distance from the community to the jail. Per information from CEPIADET’s associate, Abigail Castellanos, Adela is also presently sick as a result of her imprisonment and the poor health service provided in the jail system.

Adela’s case was full of human rights violations from the beginning. In similar cases, when an ILS is judged without an interpreter and the authority reviewing the case detects that something is missing or certain rights were infringed, the authority must order an appeal for reversal. Gerardo explains that, “The reversal goes back to the point when a certain right was

\textsuperscript{29} The crime of killing someone or causing their death with or without the intention to kill, depending on the local jurisdiction (US Legal).
violated or when something was not done. In the specific case of the interpreters, the reversal goes back to the moment when the ILI should have been there, especially when the person is informed of the charges and has the right to produce his first statement” (Personal Interview, Gerardo Martínez Ortega, April 15, 2019).

Some Indigenous defendants did not have an interpreter or were not aware of that constitutional right. It is common that the ILS doesn’t have an interpreter at the moment of arrest. Benedicto Salinas, attorney and interpreter, states that the presence of an ILI “should be from the moment of arrest, but that is rarely the case” (Personal Interview, Benedicto Salinas, July 4, 2017). When ILS are in the hands of the Public Prosecutor (as in the case of Adela, for example), the violation of their rights can begin there. Gerardo explained, “there are cases in which, although you want the reversal, it can’t be done because there is no material way of doing it. Then the impact of the absence of the interpreter is analyzed, and they solve the case. It was done this way with Adela” (Personal Interview, Gerardo Martínez Ortega, April 15, 2019).

Regrettably, many cases do not involve ILI in the proceedings until they are revised and reversed. Per the information provided for this research, the state attorney general's office ordered the reversal of proceedings due to a lack of interpretation in a total of 126 cases during 2015, 2016, and 2017 (Fiscalía General 2017). Given this situation, one can’t help but wonder how many ILS’s cases have gone without revision, reversal, interpreters, and due process of law.

4.7 Final Reflections

Although Mexico’s legal system presumes innocence until there is proof to the contrary, defendants are always treated as guilty until their innocence is proven (Nadaraj 2019; Lutz 1990, 10-11). This is why Mexico’s Indigenous population is overrepresented in the prison system,
especially in the southern, Indigenous dominant states, such as Oaxaca, Guerrero, and Chiapas. Some cases show undeniable evidence of the defendants’ innocence, yet countless prisoners are jailed for many years before their cases are tried. The defendants remain locked up, waiting for sentencing, long past Mexico’s two-year investigation period, making a conviction the most probable outcome despite the lack of evidence (Nadarajah 2019; Personal Interview, Ana Bel Rodríguez, February 2, 2018; Gerardo Martínez Ortega, May 18, 2017; Tomás López Sarabia, June 8, 2017). Colonial stigma keeps damaging Indigenous people. Rodolfo Stavenhagen of the UN (2006), Katya Salazar from the Due Process of Law Foundation (2007), and scholar Dorothy Estrada Tanck (2018), have documented the discrimination and exclusion suffered by Indigenous people when facing the legal system, as well as the constant violations to their individual and collective human rights.

Certainly, the State’s refusal to recognize Indigenous jurisdiction diminishes the communities’ authority to solve cases related to matters involving their environment, knowledge, and land. This creates friction between the State and communities. Sadly, Indigenous people are overlooked in a legal system that prefers the written law over the Indigenous practices.

The execution of justice must also uphold Indigenous people’s linguistic rights, which requires the inclusion of interpreters to ensure fair trials and guarantee that the defendants’ stories are being heard in the communicative events performed in the legal system (Personal Interview, Tomás López Sarabia, June 8, 2017; Ley General de Derechos Lingüísticos).

People may think that if the defendant is able to understand some Spanish, there’s a chance that they might be able to go through with the proceedings. This is not the case, however. Since the post-2000 constitutional changes, research on due process has dealt mainly with transparency of the cases where less educated Mexicans are disadvantaged by unfair accusations.
and sentences. According to INEGI (National Institute of Statistics and Geography), the average grade of education attained by the population aged fifteen and over (as of 2010) is 8.6. Thus, most Mexicans are not familiar with legal language, nor are they acquainted with the legal proceedings and courses of action. Research also discusses the lack of trained personnel, the absence of court-appointed attorneys, and the judges’ roles within the cases (Dehesa 2002, 25; Hernandez 2011, 95; Shirk 2010, 205). Less research addresses the situation of Indigenous people who do not speak or understand the language of the law or have limited proficiency in Spanish, as is the case for many Indigenous defendants in Mexico and Latin America (Kleinert and Stallaert 2016, 235-254; Berk-Seligson 2008, 9-33).

The language of the law is a complicated one. It is full of terminology and codes that are difficult to understand, even for a fluent Spanish speaker. Furthermore, the legal setting brings two completely different languages, cultures, worldviews, and speech communities into one communicative event that can greatly disadvantage one of the sides if due process is not prioritized.

The legal process is full of these communicative events from the moment of arrest to sentencing. It is critical to assure that ILS’ voices and narratives are heard. The setting and location must be taken into consideration along with the speech communities and physical and linguistic circumstances of the speaker and hearer. Each of these components plays an active role in how the message is transmitted and comprehended. This is why the ILI plays an indispensable role in acknowledging all of these factors to deliver a faithful message while also carefully following the norms of interpretation and translation style (Angelelli 2004,12-22; Valero-Garcés 2007; Witter-Merithew 1999).
The presence of the ILI could help reduce the barriers experienced by the ILS when involved in a case in the legal setting. The interpreters also play an active role in safeguarding the traditional knowledge and culture embedded within the Indigenous languages. Their presence gives the ILS the certainty that their story is being heard, and at the same time, they try to make the legal jargon more digestible for the ILS, who doesn’t belong to the legal speech community. With their cultural knowledge, they can discern the connotations of certain words and how they are used. Culturally, they understand what ILS are trying to say with their gestures, sight, and silence. The next chapter presents the ILI as a culture and language keeper as they create a safe place for traditional knowledge, language, and practices to interact with the legal system.
5. Silent Zones

Reflecting on my own experience as an English-Spanish interpreter, I have had moments when the communicative events have turned into very difficult scenarios. I vividly remember an interpretation I performed between an immigration officer and an illegal immigrant. Along the U.S.-Mexico border, it is quite common to find houses where human traffickers hide people, and this was one of those cases. I was there to ensure that the Spanish speaker understood what was being requested of him. The interview began as usual. I asked about the immigrant’s name and age, where he was from, when and where he crossed the border, who was with him, and where they were then.

When the officer left the room to check the rest of the property, I remained quiet, as I always did when there was no communication occurring. This was one of our rules – to only interpret what is being said and nothing else. Then the Spanish speaker saw an opportunity to speak, maybe because he felt comforted by someone who spoke the same language. He said, “Ma’am, I have been locked up here for days. I have not eaten anything, and now they want to send me back. If there is someone who can help me, that would be you.”

As soon as I heard that, my heart dropped, but while I was still trying to process the new information, the immigration officer returned, saying, “Interpreter, I don’t need you anymore.” Just like that, the communicative event ended without me being able to say or do anything. I never knew the whole story because we were not allowed to follow up on the interpretations we performed. However, the words “if there is someone who can help me” still resonate in the back of my mind. It helps me understand the way both ILI and ILS feel during communicative events
and the ILS’s need for someone who can understand not only their language, but all aspects of their message, including their silence (Hall 1959, 31-93).

The last chapter expanded on the barriers ILS face when dealing with legal cases. This chapter attempts to solve my second research question: What role do the Indigenous language interpreters play in making space for traditional knowledge and practices in the legal system? For that reason, I refer to the voices of ILI during personal interviews and focus groups in this chapter.

5.1 The Role of the Indigenous Language Interpreter

ILI were asked questions regarding their Indigenous language and the complexities they encountered while interpreting. Some ILI had held (or were holding at the time) a position with their community’s Indigenous jurisdiction. In that capacity, they were able to speak about the benefits of including Indigenous knowledge in the legal setting and the need to recognize and empower Indigenous jurisdictions. The interviews with them produced a better understanding of the crucial role played by the interpreter in providing due process and safeguarding Indigenous languages.

Their responses revealed that interpreters, as fluent speakers of two different speech communities, can break cultural and linguistic barriers, understand the aspects of the Indigenous culture (including those not always voiced), and pick up on the tacit elements of language. At the same time, the ILI is able to help safeguard language and culture.

As a result of their position as a language conduit, the major findings illustrate that an ILI can (a) move messages effectively and simplify complex language, (b) understands the
defendant’s culture and make visible all essential aspects related to the case, and (c) creates a safe place for Indigenous language and culture while encouraging the preservation and participation of the Indigenous justice system in legal matters.

During this research, I investigated the charges faced by the ILS defendants, the interpretation service provided by the State of Oaxaca, and the allotted funds to cover this service. In this chapter, I discuss the need of ILI to ensure due process of law, after which I consider the inclusion of the Indigenous jurisdiction to help solve cases (while recognizing the work done by Indigenous communities that tends to go unnoticed by the State authorities).

5.2 Common Offenses Faced by ILS: Why are Indigenous People Being Jailed?

As I started this project, one of the first questions to address was the nature of the offences committed by ILS. For the purpose of this research, Oaxaca’s Agency for Prevention and Social Re-adaptation, under the umbrella of the Secretariat of Public Security, responded to a series of my questions regarding Indigenous defendants from January 2015 – January 2017. During this time period, 405 Indigenous language speakers were incarcerated. The most common languages requested for interpretation were Zapotec (179), Mixtec (54), Mazatec (50), Mixe (36), and Chinantec (32) (Secretaría de Seguridad Pública 2017).

Per information I was provided by the Secretariat of Public Security and Secretariat of Prevention and Social Reintegration, the crimes for which Indigenous individuals were arrested between January 2015 and January 2017 were the following:
<table>
<thead>
<tr>
<th>DELITO</th>
<th>OFFENCE</th>
<th>DELITO</th>
<th>OFFENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Abigeato agravado</td>
<td>aggravated cattle theft</td>
<td>16) Tentativa de homicidio</td>
<td>attempted homicide</td>
</tr>
<tr>
<td>2) Abuso sexual</td>
<td>sexual abuse</td>
<td>17) Homicidio</td>
<td>homicide</td>
</tr>
<tr>
<td>3) Allanamiento de morada</td>
<td>breaking and entering</td>
<td>18) Lesiones</td>
<td>injuries</td>
</tr>
<tr>
<td>4) Asalto</td>
<td>mugging</td>
<td>19) P.a.f.u.e.e.a.f.a.</td>
<td>possession of firearm for exclusive use of army and armed forces</td>
</tr>
<tr>
<td>5) C.I.s narcomenudeo comercio</td>
<td>drug trade commerce</td>
<td>20) Parricidio</td>
<td>parricide (the act of killing one’s parents)</td>
</tr>
<tr>
<td>6) C.I.s. narcomenudeo posesión</td>
<td>drug trade possession</td>
<td>21) Peculado</td>
<td>peculation (the misappropriation of public funds or property)</td>
</tr>
<tr>
<td>7) C.I.s. posesión con fines de comercio</td>
<td>drug trade possession for business purposes</td>
<td>22) Privación ilegal de la libertad</td>
<td>illegal deprivation of freedom</td>
</tr>
<tr>
<td>8) Contra la biodiversidad</td>
<td>against biodiversity</td>
<td>23) Equiparado al robo</td>
<td>related to theft</td>
</tr>
<tr>
<td>9) Daños</td>
<td>damages</td>
<td>24) Robo</td>
<td>theft</td>
</tr>
<tr>
<td>10) Delincuencia organizada</td>
<td>organized crime</td>
<td>25) Secuestro</td>
<td>kidnapping</td>
</tr>
<tr>
<td>11) Despojo</td>
<td>removal of property</td>
<td>26) Equiparado a la violación</td>
<td>related to rape</td>
</tr>
<tr>
<td>12) Equiparado a la retención</td>
<td>related to retention of property</td>
<td>27) Tentativa de violación</td>
<td>attempted rape</td>
</tr>
<tr>
<td>13) Extorsion</td>
<td>extortion</td>
<td>28) Violación</td>
<td>rape</td>
</tr>
<tr>
<td>14) Fraude</td>
<td>fraud</td>
<td>29) Violencia intrafamiliar</td>
<td>domestic violence</td>
</tr>
<tr>
<td>15) Feminicidio</td>
<td>femicide</td>
<td>30) Violación a la ley de migración</td>
<td>violation of the migration law</td>
</tr>
</tbody>
</table>

Table 1. Created with information from the Public Security and Secretariat of Prevention and Social Reintegration (2017)
The most common offences during that same time period were:

<table>
<thead>
<tr>
<th>DELITO / OFFENCE</th>
<th>CANTIDAD / QUANTITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homicidio / Homicide</td>
<td>128</td>
</tr>
<tr>
<td>Robo / Theft</td>
<td>50</td>
</tr>
<tr>
<td>Violación / Rape</td>
<td>47</td>
</tr>
<tr>
<td>Lesiones / Injuries</td>
<td>26</td>
</tr>
<tr>
<td>Secuestro / Kidnapping</td>
<td>17</td>
</tr>
<tr>
<td>Abuso sexual / Sexual abuse</td>
<td>16</td>
</tr>
</tbody>
</table>

Table 2. Created with information from the Public Security and Secretariat of Prevention and Social Reintegration

Most of those offences shown above will warrant pretrial prison. When asked about the recurrent offences faced by ILS, most of CEPIADET’s staff and some interpreters mentioned that many Indigenous people face charges of theft, cattle theft, and injuries. The interpreters also mentioned that ILS are often first-time offenders who don’t have the necessary tools to play the corrupt game of the system and will most likely have to face their case in prison, as they don’t have the economic resources to hire an attorney or move the case forward (Personal Interview, Edith Matías Juan, May 31, 2017; Gaby León, June 7, 2017; Florian Pacheco Pérez, July 4, 2017).

Additionally, ILS are also associated with offences are related to traditional Indigenous practices. Examples include offences against biodiversity, possession of a firearm, drug possession, especially in territories where poppy, peyote, and hallucinogenic mushrooms are used in traditional ceremonies. A lot of those cases are taken out of context and Indigenous people find themselves facing federal level offences. It must be noted that some cases could be
resolved by Indigenous authorities, but the State keeps limiting their jurisdiction (Garcia 2002, 29-36; Personal Interview, Gerardo Martínez Ortega, May 18, 2017; Tomás López Sarabia, June 8, 2017; Flavio Vásquez López, July 21, 2017).

5.3 Who Can Serve as an Interpreter?

Considering the number of ILS jailed, I asked the district attorney’s office who was attending the proceedings and performing the critical job of the interpreter. Through the National Platform of Transparency, I was provided responses. I also asked ILI themselves who can serve as an interpreter.

The Center Zone replied, “Support can be requested from a family member of the victim or the accused. Interpretation support can also be requested from the authority of the home village where the victim or accused resides or resided.” Regional Control stated that the parameters “are found in the National Code of Federal Criminal Procedures.” Offences against Women affirmed that “there should be a practical or technical interpreter.” Action Against Corruption explained that if an interpreter is not available, the authorities then “request the office to assign a new date and time for the proceedings to take place.” The Deputy Attorney General in the Costa region explained that it “necessarily must be a person who speaks the same Indigenous language and the same variant. In no way can the interpreter be a person who is a party or witness within the specific case. If a person is not available, a telephone call is made to the

---

30 This report included information from the following offices: Center Zone, Regional Control, Offences against Women because of Gender Issues, Action against Corruption, Cuenca region, Trial Control in the Mixteca region, Deputy Attorney General Costa region, and the Senior Official of the Institution.
municipal authorities to help with the designation of an Indigenous speaker to interpret.” Finally, the Senior Official stated that “no one is allowed to interpret other than the interpreter provided by CDI” (General District Attorney Oaxaca, 2017).

There are some inconsistent responses about who is allowed to interpret. CEPIADET has documented that the legal institutions sometimes make use of their bilingual staff to alleviate the need for interpretation (CEPIADET 2010, 47).

Through the testimony of the interpreters, we learned how some of the institutions are handling the interpretation services on the ground. Orbelín Díaz, Zoque, interpreter from Chiapas, mentioned that teachers in his community were allowed to perform the service before INALI trained interpreters. (Bilingual skills are required to teach in the community) (Personal Interview, Orbelín Díaz, May 23, 2017). Florian Pacheco Pérez says, “They take any person to serve as an interpreter without knowing if the person is trained, or if the person has the techniques and tools to ensure that no rights are violated” (Personal Interview, Florian Pacheco Pérez, July 4, 2017).

Gaby León, a Mixtec speaker, explained the three different levels of interpretation this way: “There are practical interpreters, because not everyone has the same opportunity to be accredited. There are accredited, certified, and practical interpreters. First, they search for an accredited interpreter. If there is none, they look for a certified one. And lastly, if they can’t find any, they will go for the practical one, a person who has had the practice but not the theory or
Despite the definition under Article 45 of the National Code of Federal Criminal Procedures, there are no clear parameters to secure the intervention of a qualified interpreter in the procedures for two main reasons: 1) the difficulty of locating the specific interpreter because of the number of INALI’s certified or accredited interpreters and 2) the budget allocated to cover this service, which will be discussed later in this chapter.

5.3.1 How Often Are ILI Required?

I also asked the district attorney’s office how often interpretation services are required and who can serve as an interpreter if a trained one isn’t available. They provided a comprehensive report that included the information and official numbers for all the district attorneys and public prosecutors’ offices in Oaxaca. In the period between January 2015 and January 2017, a total of 1,092 cases were assisted by interpreters, excluding the Mixteca region, which the record stated, “doesn’t keep a specific record” (Fiscalía General del Estado de Oaxaca, 2017).

The accreditation is given when the interpreter has finished the course offered by INALI with 100% attendance, elaborated a number of file cards that changes from state to state, and passed the final examination that requires an interpretation simulation of a hearing. This is the most rigorous level.

The certification is a shorter process in which they are able to enter the National Indigenous interpreter roll, known as PALITLI, after a test given by CONOCER (National Council for Standardization and Certification of Labor Competences). The certification process, however, is not as transparent as the accreditation, as it isn’t followed by an academic institution or public university. This is offered by the State institution. (Kleinert 55, Personal Interview, Gabriel Sánchez, July 22, 2017).

The practical interpreter does not have any professional training but has provided interpretation and attended some unofficial training through CEPIADET.
The responses for “frequency of interpretation services” varied. The Center Zone responded, “When it is determined that a person doesn’t speak Spanish.” This information was “unknown” to the Regional Control office. “One of every fifty files,” responded the Offences Against Women office. The Action Against Corruption office said, “Cannot respond to that question.” According to the deputy attorney general’s office, it’s “One to three times per month.” The Costa region declared, “Fifty to sixty times a month.”

Flavio comments that CEPIADDET receives 20 to 32 requests for interpretation per month between the federal and state jurisdictions. The district attorney’s office stated that over 1,000 cases were assisted by an interpreter between 2015 and 2017 (Fiscalía General del Estado de Oaxaca, 2017).

ILI were also asked how often they attended hearings. Benedicto, a Zapotec speaker, said that it varies. During 2017, he averaged about eight interpretations per month, but in 2016, he was only requested twice each month for a total of 22 interpretations that year (Personal Interview, Benedicto Salinas, July 4, 2017). Gabriel Sánchez stated that he is called regularly about four or five times a month. He also mentioned that his linguistic variant (Zapotec of the Isthmus) is one of the most requested (Personal Interview, Gabriel Sánchez, July 22, 2017). Orbelín, interpreter of Zoque (Chiapas), replied that he is called once or twice a month (Personal Interview, Orbelín Díaz, May 23, 2017). Reina, Zapotec of Cuatlanes speaker, is requested between three and five times a month (Personal Interview, Reina Osorio Santiago, July 29, 2017). Another interpreter, Gaby León noted fluctuations, sometimes receiving requests twice a month, then seeing a month or two go by before getting another one (Personal Interview, Gaby León, June 7, 2017). At the time of the interview in July, Florian had already received between
50 and 60 interpretation requests so far that year (Personal Interview, Florian Pacheco Pérez, July 4, 2017). It is therefore safe to say that in a period of a month, the language services for the legal institutions in the State of Oaxaca are in high demand, but the interpreters are not being requested as frequently. Now I must ask, if these interpreters are not being called, who is attending the proceedings and providing interpretation service?

The court is responsible for providing this service and ensuring due process. Therefore, a lot of hearings will be postponed if the public servants aren’t able to locate an interpreter. This creates a conflict between the ILI and the ILS, who then loses trust in the interpreter. Flavio Vásquez, CEPIADET’s interpreters’ coordinator explained this dynamic:

A lot of times, we cannot send an interpreter because there are no payments. The Federal Judiciary Council has been clear on that. As long as there is no payment, no one can be sent. When the payments are late, the interpreter does not arrive on time, then the date of the hearing changes, and if the travel allowance does not arrive, the interpreter does not attend again. Then the defendant loses confidence, thinks that the interpreter is at fault, when jurisdictional bodies do not do their job of managing payments on time, and that delays the process. (Personal Interview, Flavio Vásquez López, July 21, 2017)

Flavio went on to say that the State has sufficient interpreters but does not prioritize its budget. He elaborated, “It becomes more comfortable for the institutions to use their own employees or find someone who can do it for free” (Personal Interview, Flavio Vásquez López, July 21, 2017). The district attorney’s office stated that 1,092 cases were aided by interpreters. However, according to the responses of the interpreters, they are not being called on a regular basis, even if they speak a frequently used language, as is the case of Benedicto and Gaby. Therefore, interpreters can’t rely solely on their interpretation earnings and opt to stop attending hearings.
5.4 What is Stopping Interpretation Services?

The main factors deterring interpretation were identified as the dearth of economic resources to pay for the service and the paucity of both trained interpreters and interpretation programs. I asked the National Commission for the Development of Indigenous Peoples (CDI, the institution in charge of locating and compensating ILI) for their official budget. CDI provided me with the following information up January 2018:

<table>
<thead>
<tr>
<th>Tipo de apoyo a Enero 2018/ Type of support up to January 2018: Intérpretes-Traductores en lenguas Indígenas/ Indigenous Language Interpreters and Translators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Año / Year</td>
</tr>
<tr>
<td>2015</td>
</tr>
<tr>
<td>2016</td>
</tr>
<tr>
<td>2017</td>
</tr>
<tr>
<td>Enero 2018/ January 2018</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Table 3. Created with Information from the National Commission for the Development of Indigenous peoples (CDI per its acronym in Spanish). I requested this information in February 2018.

The above represents CDI’s budget at the national level. Per Flavio, the current honorarium for interpretation services performed at the national level “is paid at $1800 MXP per proceeding, paid after the proceeding has taken place, after the institutions have sent the agreement to Mexico City” (Personal Interview, Flavio Vásquez López, July 21, 2017). This
means that between 2015 and January 2017, the State would have been able to afford a total of roughly 2,636 interpretations at the national level.

At the State level, though, the situation changes. During the Unconference for Indigenous Interpreters and Translators held in Oaxaca in August 2019, the judge of the eleventh district of the State of Oaxaca, José Luis Evaristo Villegas, spoke about the professionalization of Indigenous language interpreters as a strategy to guarantee human rights. He spoke about the inadequate funding to cover this service and the interpreters’ loss of interest in the profession because of late payments, as well as the lack of concern shown by the public servants in their linguistic job. The judge himself stated, “We have interpreters who choose not to show up to the hearings because of the honorarium and because the payment is not always guaranteed until after the interpretation has been done” (Judge José Luis Evaristo Villegas, Keynote speaker Unconference for Indigenous language interpreters and translators, August 9, 2019).

The judge went on to explain his limitations as a public servant, as he acknowledges the responsibility bestowed on the interpreters:

The court says that the interpreter should have profound, not superficial, knowledge of Indigenous language and culture. This is another responsibility that the court is putting on the interpreters’ shoulders. On the other hand, the court doesn't tell us the period of time we should be aided by the interpreter. It does not tell us, either, the amount to be paid for their honorarium; we do not have a rule to establish the [interpreter’s] incentive of fees, nor do we have a rule to know the period of time in which such fees should be covered. We do not have an interpreter’s roll or a previously established budget, nor do we have a public policy to cover these matters, but what we do have are all the requirements to be followed during a hearing. (Judge Evaristo Villegas, Keynote speaker Unconference for Indigenous language interpreters and translators, August 9, 2019)

Tomás Lopez Sarabia, CEPIADET’s director, suggests that, despite what it seems, the State has enough funding to cover language services. However, he makes it clear that the State is not prioritizing the needs of ILS. In terms of budget, he stated:
In the State of Oaxaca, we would need approximately forty-two million pesos to take care of interpreters and translators in the ordinary jurisdiction in criminal matters. This seems like a lot of money, but it only represents 3.03% of the total budget of the state attorney general’s office and the Judicial Power of the State of Oaxaca. This also seems like a lot when you put it in millions; however, it’s been documented that the State spends a bit more than 250 million pesos on official publicity, so it seems that the State has prioritized publicity over guaranteeing due process for Indigenous peoples in states such as Oaxaca. (Personal Interview, Tomás Lopez Sarabia, June 8, 2017)

I also asked the Judicial Power of the State of Oaxaca for their budget and interpretation requests. They provided information indicating that they had a total of 345 requests for interpretation from May to December 2015, while the total requests increased to 1,034 in 2016. The most frequently requested Indigenous languages were Zapotec, Mixtec, Chinantec, and Mazatec, in that order. This same institution stated that, “The budget allocated to cover the expenses of interpreters and translators in 2015 and 2016 was $7,500 MXN per month.” When asked about the frequency of interpretation, it was expressed that, for the purpose of transparency, interpreters are requested an average of four times per week (Poder Judicial del Estado de Oaxaca, 2017).

The payment varies according to the level of the case. Federal cases pay $1800 MXN, plus travel allowance, but at the State level, the rate is between $400 and $500 MXN and excludes travel allowance. This means that if an ILI has to travel for a case at the State level from Oaxaca City to the Isthmus, Mixteca, or Costa, for example, they might end up paying out of pocket and not even earning the national minimum payment of $102.68 MXN ($7.22 CAD) per day. In reality, then, the State doesn’t have the numbers (or doesn’t prioritize its funding) to cover the interpretation service needed in Oaxaca (Judicial Power of the State of Oaxaca, June 2017).
The State lacks the policies to ensure the interpreters’ honorarium and doesn’t acknowledge the value of the ILI. This shows that the Judicial Power of the State of Oaxaca would exhaust its monthly budget of $7,500 MXN in about a week and a half, depending on the types of cases being covered. This institution also expressed that they had requested a 100% increase in their budget, and the amount of $40,000 had been authorized, but it’s still insufficient for covering their interpretation demands. Hence, their best option is to find inexpensive or even free interpretation services. However, this could have certain implications for both sides of a case - the victim’s and the defendant’s.

5.4.1 A Rapid Fix to Language Needs: Interpretation on the Go

Because of the lack of Indigenous interpreters and imminent implementation of the oral system in 2008, legal authorities found a solution in using volunteers to cover this service. They also made use of their staff who spoke an Indigenous language, which may include police officers or, worse, other inmates (CEPIADET 2010, 14-7; Stavenhagen 2003, 16; Personal Interview, Florian Pacheco Pérez, July 4, 2017). The problem with this approach is that the help of a person who speaks just enough Spanish to get by may not be entirely beneficial and could, in fact, be a disadvantage for the defendant. The language of the law is complicated even for an interpreter who possesses a legal background, but it is much more so for people who don’t have knowledge of the legal system and proceedings. In that case, a volunteer interpreter is attempting to convey the language of an unfamiliar speech community, which could result in the omission or modification of important elements. A person undertakes a huge responsibility by performing interpretation of an unfamiliar language because mistakes can easily be made.
In Mexico, the introduction of the accusatorial system of trial procedure forced both the State and community to work together toward providing due process and the recognition of individual human rights for the defendants (Shirk 2010, 205; Cavise 2007, 785). This process made the Mexican authorities aware of the many different languages that needed to be covered, by law, to provide due process to Indigenous people.

In fact, CEPIADET was created when a group of young attorneys noticed the difficulties Indigenous people endured while trying to access the justice system. Edith explained that CEPIADET’s staff “promoted themselves as volunteer interpreters, but the public servants were still not using the interpretation services … Then CEPIADET was formed in 2005 as they were looking for an alternative to be able to secure the right to an interpreter for Indigenous people” (Personal Interview, Edith Matías Juan, May 31, 2017). Since its conception, the Center has provided training sessions for ILI, both to prepare beginners and update veterans. It also is an aid in locating interpreters of a specific linguistic variant, provides legal advice for Indigenous defendants, and seeks to raise awareness of the importance of interpretation services among the State institutions.

5.4.2 Interpretation Programs for ILI

There are systematic, economic, and political matters that deter interpretation services. It must be recognized, however, that interpretation programs were established as the accusatorial system was implemented and with the formation of the General Law of Linguistic Rights. In 2002, Dato’ Param Coomaraswamy from the United Nations’ Commission on Human Rights denounced “the difficulties to access the justice system experienced by the members of Indigenous communities, the absence of interpreters, and the judicial system’s lack of sensibility
for their [the communities’] legal traditions,” (UN 2002, 5) and also recommended that Mexico should “apply the accords about Indigenous rights and cultures signed by the government and the EZLN and to acknowledge the Indigenous traditions and norms … In the event that Indigenous defendants who do not speak Spanish have to be brought to trial, the presence and assistance of a competent interpreter must be guaranteed” (UN 2002, 8).

The CDI and INALI then started a training program for interpreters to address the serious human rights violations faced by ILS. In 2006, they launched the Model of Accreditation and Certification in the Field of Indigenous Languages (MACLI per its acronym in Spanish) to ameliorate the situation for ILS. This was a five-year program that operated between 2008 and 2012, and it was intended to be implemented alongside the accusatorial system (which was supposed to be fully operational by 2012) (INALI 2012, Personal Interview, Edith Matías Juan, May 18, 2017).

The first accreditation program started in and progressed through 2012. Scholar Cristina Kleinert explains that before this program, there were no official interpreters in Mexico. Yes, interpretation was happening all along, but before the accreditation and certification programs the interpreters were not recognized. There was no established regulation on how to locate them, adjudicate a case with them, or monetarily compensate them (Kleinert 2016, 56).

However, there was a downside to the program. Despite the State’s best intentions to support ILS, they were not considering the linguistic need in the legal system. According to Edith:

They were not prioritizing the most needed linguistic variants. Yes, they were training in the [regional variant known as] Mixteca. They were training Mixte interpreters of a specific variant, Triqui and Chocholteco, as the languages of the region. The same thing
happened in the Isthmus. They were training, let’s say, four interpreters of Huave, that in a month were never needed. Meanwhile, there were no interpreters of Chatino or other languages that were required in the justice system. (Personal Interview, Edith Matías Juan, May 31, 2017).

As of 2017, INALI has 79 accredited or certified interpreters in the State of Oaxaca.

Flavio further explained the criteria followed by the Supreme Court of Justice of the Nation:

It states that the interpreters must be accredited. Unfortunately, in Oaxaca, only 12% are accredited. In raw numbers, there are six accredited interpreters in Oaxaca, which are three of Zapotec in the Coastal Plain and three of Chinantec that belong to the Basin of the Papaloapam, so what the court asks is not within the standards of what Oaxaca can offer. Then they follow the next criteria, which is to find a certified interpreter. This interpreter has had some training offered by CEPIADET, INALI, or CDI, and they have a certificate. If they still can’t find one, they request a practical interpreter, who make up the majority of our register. But if they do not find a practical interpreter either, the jurisdictional bodies must send a request to the community, and the community then discloses who the person is who can act as the interpreter (Personal Interview, Flavio Vásquez López, July 21, 2017).

Although INALI and CDI had shown good intentions in training and certifying interpreters who could relieve the need for Indigenous language interpretation, they failed to recognize Mexico’s vast diversity, which is widely recognized in the Constitution but certainly not by the above-named institutions – which have neither the funds nor the linguistic abilities to alleviate the situation. Per INALI, as of 2017, a total of 664 interpreters were accredited or certified. When asked about the documents and information regarding the training of ILI from 2015 through 2017, INALI disclosed that “during 2015, 2016, and 2017, Indigenous language interpreter/translator training processes have not been carried out” (INALI response, June 5, 2017). According to Edith Matías Juan, INALI stopped the training programs because of lack of funding (Personal Interview, Edith Matías Juan, May 31, 2017). In 2018, however, INALI extended a contract to the College for Integral Intercultural Education of Oaxaca (CSEIIO per its acronym in Spanish) to assist with language qualification processes. Under this contract CSEIIO
has been able to promote oral interpretation and text translation in the Spanish-Indigenous languages, as well as providing social services to the Indigenous population (Gobierno de México 2018). It is worth noting that CEPIADET has collaborated with CSEIIO, but with an already limited budget there is only so much that can be done to train ILI (Personal communication Abigail Castellanos García May 27, 2020).

The insufficient budget reveals that training ILI, helping the ILS defendants, and creating a space for Indigenous ways of knowing are not priorities for the Mexican government, which continues to act at the expense of Indigenous people. The State will make sure to cover the bare minimum – just enough, but not enough. To date, INALI registers 664 ILI and 175 Indigenous language defense attorneys (INALI response, June 5, 2017). The Indigenous communities will have to continue to cover the gaps and continue to cope with lower paying jobs and social and economic lag.

5.5 Justice in Language

The role of the interpreter is much more than a linguistic channel. The general definition of professional interpretation is based on the belief that there is a true and objective meaning, defending the idea that interpretation is about transferring the same message in a different language. This limited view of the practice prevents us from examining the complexity of the interaction that should be considered as all parties speak or remain silent (including the interpreter). Each person in a courtroom brings a set of dispositions, perceptions, beliefs, and cultural backgrounds that inform the interpretation (Angelelli 2004, 41-5).
The interpretation practices, language ideologies, and hierarchical roles in the courtroom have sometimes discouraged the interpreter from addressing a silent language that uses body language and gestures to convey certain meanings. The silent language contains extremely important elements to consider in order to better understand a person’s culture and perform a more accurate interpretation (Hall 1959, 33-94).

ILI spoke about the difficulties that ILS must confront in the legal setting:

Gerardo, Tomás, and Edith mentioned that Indigenous defendants will admit Spanish proficiency, even if this is limited, to avoid the persistent effects of colonialism, racism, and mistreatment, and with the hope of expediting their cases. As Gerado stated:

It is because of the historical discrimination suffered by Indigenous peoples that they do not recognize themselves as such, so when they are asked if they are Indigenous ... many people say they are not. They don’t recognize their Indigenous affiliation and language proficiency so that they are not treated badly, believing that by not recognizing themselves as Indigenous, their case will eventually go better. Then the authority takes advantage of the fact that by not admitting Indigenous affiliation, then the person does not need special attention (Personal Interview, Gerardo Martínez Ortega, May 18, 2017).

The long-lasting consequences of colonialism tied to language discrimination prevent ILS from requesting interpretation services. Florian Pacheco Pérez explained that ILS are sometimes talked into declining language services. “Their attorney will ask them to admit Spanish proficiency so that they can move the case faster,” he said (Personal Interview, Florian Pacheco Pérez, July 4, 2017).

However, the presence of ILI from the beginning can help secure language services throughout the case. Flavio Vásquez López explained that, “ILI are very sympathetic. They are very conscious of their role and go [to the audiences and hearings], even if their payment is delayed, because they know that some people will decline the right to have an interpreter”
Interestingly, it is through interpretation that ILI are strengthening their languages and culture in their communities and legal spaces. Their presence gives ILS the peace of mind of knowing that someone will be able to understand their language and make them be heard in the legal setting. In their role, ILI can push for Indigenous linguistic and human rights to be honored.

### 5.5.1 Making Language Digestible

Translating the Mexican legal language is difficult, full of words that have more than one meaning and need to be translated in context. This was addressed during the focus group discussion, where the interpreters mentioned that the use of legal jargon that is sometimes difficult to interpret. Gerardo gives the example of the word “auto,” which refers to a degree or resolution in the Mexican legal language, but someone else without legal knowledge might interpret that word as “motor vehicle.” As explained by Gerardo, “The law manages many technical words that you won’t know how to interpret [if you are not part of the speech community]. You have to have some basic legal knowledge to do a good job” (Personal Interview, Gerardo Martínez Ortega, May 18, 2017).

Hosted in Oaxaca in 2019 by the University of British Columbia Okanagan [UBCO], CEPIADET, la Universidad Veracruzana [UV], the University of Texas, El Paso [UTEP], the University of Florida, and CEPIADET, the Unconference for Indigenous Language Interpreters and Translators welcomed many interpreters and translators from Mexico, USA, Guatemala, and Perú. In this conference, Guadalupe Olguin, an ILI known as Lupita, spoke about the need for interpretation in the state of Chihuahua (Tarahumaran territory) and simplifying legal language:
The language of the judge is very complex. As interpreters, we must gather enough courage to ask, “Your Honor, can you please reformulate the question? Or can you make the sentence simpler? Because we can’t understand you.” We have the right to have clear hearings. One feels very small next to them because there is no communication… For me, language is very important, but I noticed that we [ILI] weren’t considered, we were put aside, we were ignored. Even I did it! That’s why I find translators are very important (Guadalupe Olguin Presentation, Unconference, August 9, 2019).

Since difficulties with word choice, complicated legal jargon, and cross-cultural miscommunication are also issues in language translation, it is essential to secure appropriate services in a timely manner (Barrett, Cruz, García, 2016). During the focus group discussion, Flavio Vásquez López, CEPIADET’s Interpreters’ Coordinator, explained that the Institution sometimes tries to find an interpreter immediately without being able to guarantee their payment. He explained, “They want to have another inmate who speaks the language of the defendant or obligate the family to find and pay an interpreter when that should not be the case. It is the State’s obligation, the court’s, to guarantee that right to Indigenous people, to search for the interpreter, and to find a way to pay them” (Focus group discussion, July 20, 2017). Other times, the State requests interpretation services from the Indigenous authorities when they are unable to locate interpreters. Flavio stated:

The District Attorney requires the interpretation service directly from the municipal authorities. They force them, warning them of a fine. That scares the authorities, so they would say, “Yes, we have an interpreter who can go, but who guarantees the payment of the interpreter?” Many courts and prosecutors obligate the authorities to appoint an interpreter but can’t assure that ILI will be paid (Focus group discussion, July 20, 2017).

The court is not prepared to simplify its language so that other citizens are able to navigate the system. The presence of ILI is key to ensure that ILS are understanding the proceedings and charges they face; however, the institutions are also falling short in budgeting their resources. For this reason, the legal institutions have looked for ways to provide
interpretation services with minimal investment by using their bilingual staff or other inmates as
interpreters or by sending legal requests to Indigenous authorities to provide this service.

5.5.2 Addressing Cultural Differences:
Looking at the Right Thing the Wrong Way

In their role as culture and language brokers, ILI are able to perceive certain aspects of
language that might go unnoticed by other participants in the legal system or even mean
something completely different from what they assume (Hall 1959, 31-62; Katan 1999, 28-31).
When ILI were asked to describe cultural differences they encountered and how they dealt with
them, they spoke about body language as an aspect that can often be misinterpreted (Katan 1999,
302). Benedicto Salinas, for example, talked about a time when the defendant couldn’t look the
judge in the eyes. It was read completely differently by each participant involved in the hearing.
Benedicto relayed the memory thus:

The judge said, “Look me in the eye!” The prisoner kept his eyes on the ground. That
exasperated the judge, who saw the attitude as a challenge.

“Look me in the eye,” he expressed again, this time with a sense of powerlessness, since
he couldn’t stop the act of rebellion that the defendant manifested with a low gaze. Then
the interpreter, who was helping the Indigenous speaker, fearfully expressed, “Sir, in our
communities, when we face an authority during an accusation, we never look up. This
doesn’t mean the acceptance of an imputation but rather corresponds to the fact that we
don’t look the authority in the eye as a sign of respect.” (Personal Interview, Benedicto
Salinas, July 4, 2017)

This story definitely highlights one of the main reasons to secure interpretation services.
Specifically, the interpreter can bring two communities to a common ground, reduce racial and
discriminatory practices, and understand and make sure that ILS’s tacit cultural knowledge and
body language are taken into account. Benedicto further explained this situation from an

Indigenous standpoint, since this corresponds to communities’ practices:

When we are before an authority, we can’t look at them straight in the eye because this
shows a lack of respect. The same happens when we are before our elders or our parents.
When our folks are being processed, they often do that, and bow their heads because they
are before a higher authority. That bothers the public servants. They would say, “Look
me in the eye, because if you don’t, that means that you did something. Have the courage
to hold my gaze.” But they can’t because they are facing an authority who merits respect.
Sometimes they can’t even answer the questions and simply reply, “Yes,” in the sense of
understanding what they are being told – not in the sense of accepting the accusations.
(Personal Interview, Benedicto Salinas, July 4, 2017)

In legal spaces where hierarchical levels were historically stabilized, which persist even
today, it is essential to understand both sides, especially when one has been placed at a
disadvantage because of racial conceptions of language and culture (United Nations 1989, 5).

Sadly, in a global scenario, political and legal structures do not always correspond to the
multicultural and multilingual nature of their population. This contributes to further
discrimination and exclusion of Indigenous people when communities seek to participate in the
national arena by including their spirituality and ways of knowing (United Nations 1989, 12).

It is essential, therefore, that ILI know the language and culture indigenous to ILS. To
Indigenous people, language is a place of resistance, and it is through language that they can
express their position of power or oppression. Knowing that someone speaks the same
Indigenous language and can move the messages clearly among different speech communities
gives ILS the comfort of knowing that someone might be able to explain their situation.
5.6 *El Tequio*—The Traditional Communal Work

The institutions do not only take advantage of their bilingual staff, but of Indigenous authorities by requiring them to assign an interpreter when they are unable to locate one. Additionally, they take advantage of the principle of “*tequio*” (communal work). This belief encourages the members of the community to provide service and help those in need.

The *tequio* is a personal responsibility and many ILI will take the provision of interpretation as part of their *tequio*. Flavio mentioned, “Sometimes, they [ILI] go because of the affinity they find with the defendant who belongs to their same culture. In many cases, they go without charging. Then the court staff gets comfortable with the free job. The job of the interpreter or translator is worth the same as the job of an attorney, an engineer, or a mechanic would be. Their job needs to be dignified” (Personal Interview, Flavio Vásquez López, July 21, 2017). In this way, many ILI will accept the responsibility on short notice and without travel allowance or payment.

When I asked what happens if the institutions or CEPIADET can’t locate an interpreter, ILI responded that the public servants will request interpretation services from the Indigenous authorities, knowing that they will likely provide the service for free because of the intimidation imposed on them. Florian speaks thus about the service in the community:

In communities, this is seen as service. There is no salary associated with it because it is a service to the community. We are asked by the commissioner or the authorities who invite the youth or other community members [who have a little more understanding of law] to serve as an interpreter. It's a service! I know I will never be compensated. (Personal Interview, Florian Pacheco Pérez, July 4, 2017)
Benedicto mentions that “the public servants force Indigenous authorities, they intimidate them and make them believe that if they don’t provide the name of an interpreter, the authorities will be in trouble with the State” (Personal Interview, Benedicto Salinas, July 4, 2017).

Following the principle of tequío, interpreters will attend proceedings to aid their community fellows. Carmela Ramírez Santiago, who goes by Carmen and was a practical interpreter from CEPIADET, stated that due to a lack of interpreters in her language, “they [CEPIADET] looked for me urgently, to aid due process; and, with the intention of helping, I agreed” (Personal Interview, Carmela Ramírez Santiago, July 10, 2017).

Gabriel Sánchez, an ILI who speaks Zapotec from the Isthmus, encourages a process of solidarity regarding showing up for the hearings:

We [the participants in a case] are not in an asymmetrical position. We are in a position of inequality, culturally and linguistically. In some cases, I have seen my role as a useful tool. The ILS sees you when you start talking in Zapotec, and they think, “This person will understand me.” This creates an idea that the interpreter will [legally] help the defendant and creates more expectations of the interpreter. The ILS sees the ILI as someone who will help them. You can see it in their eyes. If they are guilty or not, I am not there to judge that. What I suggest is something called “solidarity.” Some people tell me, “The interpreter should only fulfil its verbal function,” and I don’t go against that, but from the very moment that I attend a hearing without charging, what am I doing? I am showing solidarity for that person. (Personal Interview, Gabriel Sánchez, July 22, 2017)

In accordance with that philosophy, Gabriel has assisted with Rosa’s case without any payment. He has offered Rosa his linguistic services for free, following that principle of tequío, because that is the best way, he can help her without having to invest money that neither he nor Rosa possess. The problem with Gabriel’s approach is not that ILI show solidarity toward ILS and attend hearings even if their payment is delayed. The problem is the State’s lack of interest in honoring or recognizing the ILI’s monetary value or role in moving the cases forward.
Not all interpreters are able to donate their time and skills, and they shouldn’t be expected to do so. I witnessed how financially difficult it is for interpreters when I accompanied Florian for a proceeding in Miahuatlán. We traveled for hours only to find out that the hearing had been canceled. Florian, a defense attorney, lost a day of work, and if he was going to be reimbursed for anything, it would only be for his travel. The State budget isn’t allocated wisely. Flavio explained that “they are currently paying 400 to 500 pesos [$28 to $35 CAD] for travel allowance in the federal cases. This is not enough if an interpreter lives in the Mixteca area and must travel to some trial court of Salina Cruz. That amount can’t cover transportation, meals, or any of the lodging expenses.” Therefore, many interpreters choose not to attend the hearings (Personal Interview, Flavio Vásquez López, July 21, 2017).

There are other cases when ILI must wait for payment, but there is no way of telling how long it will take. During the focus group, the participants talked about how much time they’d had to wait to receive compensation. During his interview, Gabriel stated, “The Judicial Power of the Federation owes me, to date, the infuriating amount of 99,000 MXP. Believe it, they owe me almost 100,000 pesos since 2015” (Personal Interview, Gabriel Sánchez, July 22, 2017).

Gaby’s variant of Mixtec is also used in Guerrero, so her services are requested between the two states. She had to wait months for the State to pay her a little over 9,000 pesos, roughly $630 CAD. When I last spoke to her, she said that she had finally received a lump sum to cover back pay (Personal communication, February 16, 2019).

Some payments have come through, but there is still a lag, and some ILI may opt to only attend those institutions that process payments on time. Meanwhile, the defendants are still waiting as their hearings are cancelled and postponed.
During the ethics class I prepared for ILI during my time with CEPIADET, I asked them why they were interested in this job. The participants expressed that they wanted to do this job to “help [their communities]” and “support those less privileged” (Participant Observation, ILI training July 2017). One of the main traits that distinguish this type of interpretation from others is that ILI see this job as more than a lucrative activity. For them, it is a service to others, although this should not take priority over the expectation of economic improvement and employment. Sadly, many ILI have chosen to stop interpreting because they can’t afford to live without decent payment for their service, nor can they compete against interpreters who perform the job at cheaper rates or for free.

5.6.1 Creating a Place for Indigenous Knowledge

Amidst budget and policy, many ILI will still aid the legal cases because of their moral responsibility to their culture, language, and communities. When I asked ILI how they created a safe place for Indigenous knowledge and culture to coexist with the legal system, they talked about the interviews they conduct with ILS before a proceeding and how they check to see if they understand each other. Benedicto said, “Prior to the interpretation, we have a small interview with the defendants to see the intelligibility between them and us. Then, if we communicate effectively, we try to explain what stage of the process is occurring and explain what the hearing will be about” (Personal Interview, Benedicto Salinas, July 4, 2017). It is during this interview process that ILI can tell if their linguistic variant is the same as the ILS’s. Taking on the responsibility of performing interpretation without speaking the same variant would be harmful to the case; it is not the same to bring an interpreter who speaks Zapotec of the
Sierra Sur when what you need is an interpreter who speaks Zapotec of the Central Valleys, as explained by Florian (Personal Interview, Florian Pacheco Pérez, July 4, 2017).

Regarding the creation of a safe place for the Indigenous knowledge, I vividly remember a conversation with Florian during one of our long trips to Miahuatlán. He asked me:

Do you think it is important that the interpreter has expertise in the type of interpretation being performed? For example, a medical interpreter may not be fully capable of performing legal interpretation. I responded, “Yes, I think that is the key to interpretation, the same way I believe that the best interpreter is the one who can understand the cultural aspects related to the communities.” Florian then asked me to elaborate, and I responded that there are certain cultural practices that the interpreter would understand if familiar with the communities’ practices. He then agreed with me and explained that the communities have their own ways of doing things; it is related to the local knowledge. That same knowledge sometimes appears foreign to others, but it is basically because they are not seeing eye-to-eye. (Morales-Good field notes June 8, 2017)

I asked the participants what role interpreters play in making space for traditional knowledge and practices in the court system, as well as how we can create a safe place for Indigenous knowledge to interact with State legislation.

Eusebio Ruíz responded, “For me, the State glosses over the law, and for us [Indigenous authorities], when we judge something, if it is stated in the articles of the law, it is not something we can embellish or omit. It is as the law states. They [the State] don’t apply it this way. They either leave you there to rot [in jail] or they save you” (Personal Interview, Eusebio Ruíz, July 12, 2017).

Benedicto talked about the legal curricula, saying, “In the legal training, if the curricula at the university level would include classes on multiculturalism and legal pluralism about our identity, it would help a lot. As it is right now, we don’t have those classes” (Personal Interview, Benedicto Salinas, July 4, 2017).
Orbelín Díaz explained, “The State has its own specific regulations. The Indigenous communities exercise what for many years has been known as usos y costumbres (usages and customs). It would be good for them to merge because the usages and customs of the communities observe the written law” (Personal Interview, Orbelín Díaz, May 23, 2017).

During the focus group discussion, ILI spoke about the importance of maintaining ties with their communities. Florian said, “It is important to know how people are living. It is not enough to listen to the person; one must go to the communities to observe and listen, to relate the facts with the situation that the person is living” (Focus group discussion, Florian Pacheco Pérez, June 2017). Benedicto reminded me that interpreters stand between two cultures. He explained:

I am undergoing a learning process about the matter and interpretation techniques. We also need to go back to the communities to absorb our community’s knowledge. Sometimes, we must come to the city to go to school, and we acquire different practices, and we distance ourselves from the communities. In the job that we do [as interpreters], we have one foot in each culture. We have to be thinking about what the judge is saying, and at the same time, we are imagining how the same process would be in our communities. How would it be handled in our community? (Focus group discussion, Benedicto Salinas June 2017).

In their role as keepers of culture, ILI can recognize the significance of the communities’ justice systems. During the focus group, the interpreters talked about the need to be present in their communities and return to their traditional ways in order to reinforce their ties, improve their interpretation practice, and learn from Indigenous problem-solving.

5.7 Usos y Costumbres. The Recognition of Indigenous Customary Systems

When the participants were asked about the possible benefits of including Indigenous languages in the legal system, Tomás defended the principle that communities, following their normative system and Indigenous knowledge, and should be able to decide whether they are able
to solve a case within their jurisdiction in accordance with constitutional standards and without endangering human rights. He stated:

Communities are still subject to doing what the State tells them they have to do. This belittles their capacity to solve conflicts and moves them to the State jurisdiction, which also doesn’t have the capacity to solve the conflicts because of the high incidences of impunity in Mexico. So, people end up not resolving conflicts in their communities because of the deterioration of the social fabric... Ideally, the State should strengthen the communities so that they can resolve their conflicts instead of telling them what to do, because they already know how to solve their cases, but to instruct them regarding human rights. The community should decide if they have enough knowledge and capacity to solve a case through their normative systems. (Personal Interview, Tomás López Sarabia, June 8, 2017)

In a state such as Oaxaca with a high percentage of Indigenous citizens in its population, the State will often use the language of the law to undermine Indigenous knowledge and limit the Indigenous people’s claim to greater autonomy (Anaya Muñoz 2005, 588). The negative misconceptions about the communities’ problem-solving capacities prevent the State from letting Indigenous authorities resolve their own cases. Gerardo Martínez Ortega stated, “The State should return certain matters to the communities, but they have a hard time seeing that if they do that, the communities are not going to commit a series of aberrations. In some cases, it has already been shown that this does not happen, and that the communities are the most respectful of human rights” (Personal Interview, Gerardo Martínez Ortega, May 18, 2017).

Florian explained that some cases are better solved in the community:

Because we understand each other, we belong to the same culture and we know the vision of the people involved in the matter. The State doesn’t recognize that knowledge. They want to solve everything by proposing reformations because they don’t understand the community context. We have always chosen to live together and avoid conflicts. (Personal Interview, Florian Pacheco Pérez, July 4, 2017)

The preference of Western models of justice that boost cultural and linguistic racism limits and deters Indigenous jurisdiction, as it challenges their problem-solving skills on the basis
of their indigeneity. The State of Oaxaca is composed of 570 municipalities (INEGI 2015). Per the State Electoral and Citizen Participation Institute, of those 570 municipalities, 417 exercise and administer their own normative Indigenous systems (customary law), a benefit emphasized under the reformation of Article 2 of the Mexican constitution – with its own limitations:

[Indigenous people can] apply their own legal systems to regulate and solve their internal conflicts, subjected to the general principles of this Constitution, respecting the fundamental rights, the human rights, and, above all, the dignity and safety of women. The law shall establish the way in which judges and courts will validate the aforementioned regulations. (Article 2.II my emphasis)

Oaxaca moved toward the recognition of an Indigenous customary system before this reformation in 1990, when President Heladio Ramírez promoted the reformation of Oaxaca’s state constitution to acknowledge its multicultural composition (Periódico Oficial del Estado de Oaxaca, October 29, 1990). To date, approximately 70% of the state’s authorities are elected following Indigenous normative systems. The most relevant implementation was, without a doubt, the creation of the Law of the Rights of Indigenous Peoples and Communities of Oaxaca. This law is made up of 63 articles that define Indigenous autonomy, as well as territories and justice systems. This law also recognizes Indigenous normative systems and determines the limitations of Indigenous jurisdiction (Anaya Muñoz 2005, 585-9).

The recognition of Indigenous rights presents a political and ethical dilemma, especially regarding policy. The advancement of State protocol to observe the needs of ILS causes a contradiction between human and Indigenous rights to access a justice system that tends to ignore the Indigenous perspectives.

The main problem is the ambiguity of the article and the question of who gets to decide whether or not a conflict between customary and human rights exists. The negative effects of
colonization and cultural racism prevent the State from recognizing the communities’ capacities to make this decision. However, can a state that has historically denied and violated the rights of Indigenous peoples be trusted with securing individual and collective human rights or deciding if such rights are endangered at the hands of the Indigenous authorities?

The participants expressed the need to take into consideration the Indigenous authorities’ expertise, especially in matters related to Indigenous communities. This could reduce wait times and cultural and linguistic misinterpretations while strengthening Indigenous justice systems.

5.7.1 Limited Sphere of Action

The exercise of Indigenous customary law doesn’t mean that the State leaves all decision-making to Indigenous communities. In Oaxaca, as in Puebla, the state government has an important influence on communal institutions and applies a strong control over political and legal actions. Contrary to the political scenario of other states, such as Guerrero, Chiapas, and Michoacán, where the State hegemony has been undermined, the Indigenous jurisdictions in Puebla, Mexico City, and Oaxaca are still under the control of the State (Sierra 2005, 76-88).

Indigenous jurisdictions in different regions of Mexico function differently depending on the views that communities hold regarding customs, spirituality, and ethnic collectivities. Some communities find themselves so deteriorated regarding both practices and languages that they are no longer able to apply their normative systems (Personal Interview, Tomás López Sarabia, June 8, 2017; Benedicto Salinas, July 4, 2017).

In some communities, Indigenous authorities are treated as auxiliary help; the mayor or president have a limited sphere of action. This was confirmed during an interview with Alcalde
Eusebio Ruiz, who spoke of the imposition of the State’s demands concerning the community’s safety. He stated that the judge asked to see him in person, resulting in this interaction:

He [the judge] asked me if I knew a certain person, and I said I did, but I couldn't guarantee his location. “If you send your officers to my office to locate this person, I couldn’t promise his arrest, because he is a problematic person… He never shows up for the assembly reunion or when he is called for service. Sometimes we see him around, but if you want to send someone to arrest him, I can’t commit to it; I can’t hand him over. Because what if I said I could, and you send your people over and they can’t find him? You would want to take me.” I can’t risk the security of my people over the State’s wishes. (Personal Interview, Alcalde Eusebio Ruiz, July 19, 2017)

Benedicto explained that this interaction between State and Indigenous authorities has a lot to do with the strength of the municipal authority. It is worth mentioning that Benedicto is a young Indigenous attorney who has held political positions in the municipality of San Miguel Suchixtepec. At the time of the interview, he was the legal representative for the community and fought a case of land appropriation, where a former local authority had claimed the rights to the community’s private territories. He further explained the administration process and recognition of authorities:

When a new administration starts, the authorities are brought to the City of Oaxaca to be trained, supposedly. Then they are told that they are authorities, and “the municipal law states that you can resolve cases of cattle raiding, for example—problems of that nature. You cannot solve cases of homicide, obviously. You cannot solve [those problems] because it is forbidden by law, and if you do, then there will be problems with the Commission of Human Rights and with the Public Prosecutor. Then proceedings will be taken against you.” And so, they are told. Then those authorities, when they return to the town, say, “I do not want any problems.” So, it will depend a lot on the municipal strength, especially the assembly that ultimately is the one that resolves the matters. (Personal Interview, Benedicto Salinas, July 4, 2017)

CEPIADET’s job is not only to provide interpretation and translation services; the Center also performs academic research, provides ILI with training, offers bilingual defense advice, and develops workshops for Indigenous authorities and communities in hopes of creating a more
equitable justice system. As explained by Flavio, “We don’t like the derogatory terms used to refer to our authorities. They are not ‘assistants.’ There shouldn't be hierarchical levels. They take on the same job that a judge or a District Attorney does” (Personal Interview, Flavio Vásquez López, July 29, 2017).

Flavio further explained that the legal work carried out by the communities is overlooked by the State jurisdiction:

If all the problems attended by Indigenous mayors or the representatives went to the Public Prosecutor, it would collapse. They could not solve them. If right now we go to a public prosecutor’s office, we could see how full of cases they are. The work done by the Indigenous authorities is very important because not everything is reaching the public sector. We, as an organization, strive towards an intercultural dialogue in our state. There are very strong communities that can solve their matters, but the law does not allow them. We insist that the Indigenous authorities can do their job well, and that their work should be respected, as should their social organizations. It is the way that they have been solving problems since ancient times. (Personal Interview, Flavio Vásquez López, July 29, 2017)

Ultimately, what the Center has tried to develop, while still training more ILI, is an attempt to stress the concept of legal pluralism — to make people aware that there is more than one way and that there is diversity in language, culture, and food (CEPIADET 2010; Garcia 2002, 285-309). Diversity, however, also applies to the way matters are resolved, and the communities deserve the credit they have earned for all the work they have been doing since ancestral times. The Indigenous communities are providing a service to the State, but this is not recognized due to hegemonic roles and language ideologies. Gabriel added to this discussion:

If State justice was more sensitive, more humble, in recognizing the contribution of these communities, it would be excellent. This would materialize what we are calling legal pluralism by respecting a community’s way of solving conflicts. Further, if a matter is moved to the State, why not coordinate with the community’s justice? Request the council of elders and the assembly to take part in solving the matter. The decision of an assembly should be as the law calls res judicata. But there is this problem of cultural and linguistic racism — institutional racism that generates pejorative judgements, such as,
“How come some lousy Indians are going to solve matters? Leave it to me here.” The State should have the sensitivity to say, “Ah, it was solved! I want to learn from this.” (Personal Interview, Gabriel Sánchez, July 22, 2017)

In some states such as Oaxaca and Puebla, the Indigenous jurisdiction is quite limited by the State. The principal Indigenous authorities, the presidente auxiliar (assistant president) and the judge, have limited political power and are deterred from exercising their usos y costumbres (Sierra 2005, 79). Gerardo further explained that the State sees Indigenous authorities as mere assistants, thus limiting their decision-making and contradicting both the Law of the Rights of Indigenous Peoples and Communities of Oaxaca and the national Constitution.

When the Superior Court of Justice and the attorney general’s office train the [Indigenous] authorities, they are very tough and legalistic with them. They would say something along the lines of, “You are assistants to us, and as such, you cannot do beyond what is established by law.” Then if one reviews the law they are referring to, one notices that said law limits the competence of the authorities. They [the Indigenous authorities] are limited to only handling insignificant matters. This causes a sense of reduction and further fractures their [the Indigenous] justice system because the State warns the Indigenous authorities not to judge other issues or they are going to get into trouble, and this stops the local authorities from exercising their common law. (Personal Interview, Gerardo Martínez Ortega, May 18, 2017)

CEPIADET has acted against this by developing training programs for ILI and upholding legal rights. One such program is called “Dialogue Among Justices.” Edith Matías Juan explained:

[The Center] has at times led many efforts — on the one hand to sensitize public servants about mutual respect and about certain already existing rights of Indigenous people. On the other hand, we try to enhance the capacities of the Indigenous authorities and lawyers to demand these rights. Even though we are not a large organization, we try to strengthen the communities with what we have on hand. (Personal Interview, Edith Matías Juan, May 31, 2017)

The State recognizes the shortage of ILI and the funds to cover interpretation practices. It also recognizes the Indigenous justice system but limits their ability to solve cases. The Indigenous authorities are saving the State a lot of money and headaches by solving the cases
internally and taking care of their natural resources, even with the State limitations. That support, however, is yet to be acknowledged.

5.7.2 Indigenous Problem Solving: The Little Things That Go Unnoticed

Scholars have recognized the importance of reviving and recognizing Indigenous justice systems (Sieder 2002; Sierra 2005; Rios Zamudio 2011; Collier 1999; Estrada Tanck 2018). The evidence of the judicial system’s inability to cope with linguistic and cultural diversity serves as a reference to explain the disproportionate number of ILS in the legal system. As stated by ILI who participated in the focus group discussion, Indigenous communities in the southern Mexican states have encouraged the revitalization process of their justice practices to the point that some cases are better solved under Indigenous jurisdiction (Morales-Good field notes July 22, 2017).

I asked ILI questions related to their communities’ way of solving problems, specifically inquiring about whether legal matters were solved in the communities. Florian responded, “Yes, a lot of cases are solved by Indigenous authorities, mostly related to land distribution, domestic violence, against health — and the authorities in my community solved a case of corruption” (Personal Interview, Florian Pacheco Pérez, July 4, 2017). Carmen mentioned that her community has solved problems involving “domestic violence, theft, and cases related to the community’s environmental resources” (Personal Interview, Carmela Ramírez Santiago, July 10, 2017). Benedicto mentioned that the Indigenous authorities in his community have solved problems related to “cattle raiding, theft, and domestic violence. Years ago, they [his community] solved a case of homicide, a corruption case involving a municipal authority, and a case involving environmental damages (Personal Interview, Benedicto Salinas, July 4, 2017).
Tomás López Sarabia stated that his community has even solved more serious cases, such as culpable homicide (Personal Interview, Tomás López Sarabia, June 8, 2017).

Indigenous projects encourage the participation of all members of the community. During the ethics class that I provided for CEPIADET’s practical interpreters in June 2017, the participants and I spoke about the communities’ problem-solving methods. One person spoke about a time when one of his sons and his friends had vandalized a community wall. The authorities decided to make the youth repair the wall and clean the streets around the town’s center for a period of time. He remembered a conversation in which his son complained, “How can you be okay with me cleaning the streets?” He responded, “How can you be okay with vandalizing the community and expecting no consequences? You’d better be doing a good job cleaning the streets, because I don’t want to hear otherwise” (Participant Observation, June 29, 2017).

Carmen, ILI of Mixtec Bajo, talked about her role as the first Indigenous woman to be elected as the town administrator of the Zaachila municipality. She said, “My community is historically known as difficult and sexist. People didn’t accept me easily. I had a hard time fulfilling my role as administrator.” She spoke about matters that her town solved, involving, for example, the stealing and trafficking of the community’s wood. She also spoke of the community’s vision of solving the problem and atoning the individual, explaining, “In accordance with our worldview, if a person commits an offence, it is important to purify him. What is the purification process? Well, the flogging, because it purifies his body; the words used, because they purify his soul. That community judgement was in place before colonial times” (Personal Interview, Carmela Ramírez Santiago, July 10, 2017).
In some communities, depending on the offence, the defendant could request that Indigenous authorities solve the case, as long as both parties are in agreement, and it doesn’t violate federal law (Sieder 2002, 96; Personal Interview, Ana Bel Rodríguez, February 2, 201; Carmela Ramírez Santiago, July 10, 2017). This reduces the expense of having to take the case to the Public Prosecutor (who is often located far from the communities), as well as the amount of time that it takes the State to solve the case. It also reduces cultural misinterpretation and the need for language services that the State is lacking. Carmen spoke about a time when a person who was foreign to the community talked two citizens into stealing their pipelines to sell them. When the authorities found them, they had to refer the case to the State. After all the pipes were recovered, she explained that the citizens “begged not to be sent to the State. ‘Judge me here! I prefer to be here rather than be taken to the State!’ When they were publicly exposed to the community in assembly, people told them many things because of their anger. They were then forced to replace the pipe under surveillance until the work was completed” (Personal Interview, Carmela Ramírez Santiago, July 10, 2017).

It must be recognized that if communities are solving their internal cases, then those cases do not produce any additional work or cost to the State institutions. Tomás explained:

Through the communities solving their cases, those matters are not posing any extra financial burden, which will allow the State to lower costs and take care of more serious matters, such as drug trafficking and organized crime. There are communities that have solved cases of culpable homicide. I think that an assessment of the contribution that these regulatory systems have in a legal State… as weak as the Mexican, has not been made. (Personal Interview, Tomás López Sarabia, May 11, 2019)

Indeed, there are many lessons to be learned from customary law. The exercise of Indigenous justice systems shrinks cultural gaps. Indigenous authorities know their citizens well,
reducing linguistic misunderstandings and misappropriations. This exercise also contributes to the preservation and revival of ancient practices and the community's wellbeing.

5.8 Final Reflections

The recognition of Indigenous authorities should include honoring Indigenous autonomy and self-governance within the sphere of a multicultural state, as many are in Latin America. However, this remains highly contentious, as the State is not willing to relinquish control (Personal Interview, Tomás López Sarabia, June 8, 2017). Indigenous peoples’ rights to exercise their customary law is outlined under the ILO convention 169, which Mexico ratified in 1990; the UN draft declaration on the Rights of Indigenous Peoples; and the Organization of American States’ draft declaration on the Rights of Indigenous People (Sieder 2002, 185). While international policies continue to recognize Indigenous rights, the Mexican State continues to limit Indigenous decision-making.

In Mexico, as in Latin America, Indigenous communities are allowed, per the Constitution, to resolve all matters related to their land and resources. Attorney Ana Bel Rodriguez explained that the communities can solve a case if both parties agree and it doesn’t involve a federal matter (Personal Interview, Ana Bel Rodriguez, February 2, 2018). The State should work in conjunction with the Indigenous authorities, rather than limiting their decision-making and problem-solving skills.

Indigenous customary law can also be exercised by communities as long as it doesn’t conflict with internationally recognized human rights (Sieder 2002, 185; Personal Interview, Tomás López Sarabia, June 8, 2017). This means that the communities should not compromise
the human rights of individual members; human rights, however, are to be applied both individually and collectively (Donnelly 1999; Sieder 2002, 185; Personal Interview, Tomás López Sarabia, June 8, 2017).

Given the presence of cultural racism, it is difficult to think that the State would recognize the Indigenous authorities’ capacities to solve cases. Much more education is needed in order to achieve that relationship and better understand the benefits of customary law (Morales Good 2018, 123-31).

The justice exercised by Indigenous authorities mostly strives to be conciliatory and restorative rather than punitive, although their resolution methods may also have a punitive component. Generally, Indigenous authorities seek to settle the conflict between the parties in a manner that satisfies both and reestablishes the lost social harmony (Collier 2000, 96-7; Estrada Tank 2018, 10; Sieder 2002, 106). Indigenous authorities prefer the application of penalties that involve periods of detention, labor, and communal work, as the families’ sustenance in the community comes directly from agricultural work (Rios Zamudio 2011, 295-96; Morales Good 2018, 123-34).

ILI spoke about their role in the justice system. They are capable of dismantling misconceptions about culture, making difficult language more digestible for all parties in the cases, and creating space for Indigenous knowledge. ILI discussed some cases related to Indigenous communities’ practices and suggested looking at Indigenous justice systems as a possible tool to solve cases involving ILS. However, this requires the joint efforts of the State and communities to strengthen Indigenous justice systems while acknowledging the internal work done by Indigenous authorities.
6. A Long Way Ahead of Us

“Indigenous knowledge is a rich social resource for any justice-related attempt to bring about social change.” (Semali and Kincheloe 2002, 15)

This research explored the need for Indigenous language interpretation services in the legal setting, specifically for the state of Oaxaca, Mexico. The findings reflected that without ILI, ILS experience greater language and cultural discrimination, irregularities in their cases, physical and psychological pressure to accept charges, and pretrial detention for longer periods of time before their cases are ruled.

This research also explored the difficulties of ILI as they try to perform interpretation. The participants shared their experiences with discrimination and the State’s apathy toward dignifying the job performed by Indigenous people to support the justice system. They also communicated ideas on how to better address the problem and emphasized the importance of including Indigenous knowledge in the justice system in order to promote language preservation and revitalization of Indigenous problem-solving for legal matters.

In this chapter, I attempt to respond to the question: What has been done to alleviate the problem? Further, I seek to respond to my last research question: What changes need to happen to address the challenges faced by the Indigenous community when navigating the legal system? For this purpose, I interpret and discuss the results in light of the existing literature review, in addition to promoting a direction for future research.
6.1 Significance of This Research

The literature review on this subject showed many issues related to Indigenous language interpretation practices in the Mexican legal system, ranging from lack of interpretation to the role of interpreters in different contexts, and from ethical issues to the participation of Indigenous jurisdiction within the legal system, among many others.

While the Mexican state has provided opportunities to train ILI, scholars Cristina Kleinert and Christiane Stallaert (2015) have thoroughly documented the training programs for ILI in Mexico, along with their deficiencies. They found a countrywide scarcity of qualified interpreters who are competent enough to aid the Indigenous defendants, as well as several gaps in ILI training programs.

Scholars have also discussed the need to revitalize Indigenous cultures, languages, and justice systems (Sierra 2005; Sieder 200; García 2008). Less research has been done on the role of the ILI as a means of guarding Indigenous culture while also ensuring due process. This project was important because it addresses the situation borne by Indigenous speakers and their interpreters while accessing the legal setting. I build upon their experiences and perspectives to propose better ways to provide language services and due process to Indigenous defendants, while also offering ways to remedy the situation by decolonizing the courtroom and incorporating Indigenous knowledge.

6.2 Consistency with Literature Review

Indigenous people across Mexico and Latin America face significant barriers to accessing justice. The ILS participants in this research disclosed having faced discrimination because of
their language, ethnicity, and economic status. This was consistent with the available published literature reviews that advocate for appropriate language services for Indigenous defendants and the appropriate observance of human rights (Berk-Seligson 2008; Sieder and Sierra 2010; Sarabia 2015).

Indigenous peoples face significant challenges when interacting with the State institutions due to language ideologies tied to their Indigenous nature, as well as the long-lasting effects of colonialism. The central challenge in accessing justice for Indigenous defendants is the paucity of qualified interpreters and the shortage of State funding to pay for such services. The case of Oaxaca is particularly important because of its vast number of Indigenous languages and communities ruled by Indigenous jurisdiction that could potentially offset the need for interpretation and translation services (Berk-Seligson 2008; Kleinert & Stallaert 2015).

6.3 The Paucity of Qualified Indigenous Interpreters

Despite the state’s efforts to train ILI, during this research, the participants mentioned the lack of interpretation services as the main obstacle to due process. The presence of ILI in legal cases is beneficial for both the ILS defendants and the public servants, as they are allowing the proceeding to move forward. Josefa Nuñez, an ILS, stated, “The interpreter helped me say things I couldn’t” (Personal Interview, Josefa Nuñez Zamora, July 19, 2017), and Antonio Cruz, another ILS, agreed as he said, “With the help of an interpreter, I was able to say what I did and didn’t [do]” (Personal Interview, Antonio Cruz García, July 21, 2017).

Scholar Cristina Kleinert (2016) has thoroughly addressed the lack of ILI, as well as the urgency to create better training programs for them. In her doctoral dissertation, Kleinert
documents the professional training programs for ILI in the state of Puebla, Mexico, suggesting that interpreters’ languages and cultural identities are important enough that the government should strengthen their small networks and train public servants in being considerate of interculturality and Mexico’s vast language diversity. Finally, she proposes expanding the length and the scope of ILI’s training programs so that health and educational programs can also be established (Kleinert 2016, 320-9).

The participants identified that the main challenge faced by ILS while accessing the legal system is their inability to present and defend their cases in their own languages. Court and legal interpreting have been the object of a considerable amount of study and research especially because of the difference in register, hierarchical dynamics, body language, and tacit knowledge (Angelelli 2004; Yannakakis 2008, 517-48; McIntire 1995, 99-109; Valero-Garcés 2007, 81-101).

The Mexican Constitution and international conventions on human rights guarantee the intervention of an interpreter so that the ILS can fully present the case and participate in the proceedings. The ideal scenario would be that they are judged within their communities by their own authorities and in their own language. Given that this is not always a possibility, the most important element that the State could secure for Indigenous defendants is, indeed, the intervention of an ILI; however, as we have seen in previous chapters, the Mexican government doesn’t have the infrastructure or policies to assure this service or reliably to provide an Indigenous defense attorney.

The State of Oaxaca suffers from a lack of both defenders who are knowledgeable of the language and culture and qualified Indigenous language interpreters. As previously documented,
the Mexican state has a limited number of bilingual defenders at a national level who can serve certain Indigenous groups, but the rest of the Indigenous communities do not have defenders at all. If we consider that as insufficient, we see that the issue for interpreters is even worse in local settings, where resources are not prioritized to guarantee their payment (Monsivais 2019).

Therefore, the importance of the interpreter’s work is disrespected or downplayed, and the public servants find an opportunity to negotiate their compensation or find someone else who could do the job for less money. The CDI, however, has a protocol that addresses interpreters’ payment, and they have set an amount that should be paid (Personal Interview, Gerardo Martínez Ortega, May 18, 2017; Tomás Lopez Sarabia June 8, 2017; Flavio Vásquez July 21, 2017). There is a need to address the monetary, linguistic, and cultural value of an Indigenous language interpreter and invest in better training programs. CEPIADET works hard to train and keep their interpreters up to date; however, as a civil organization, they can only do so much.

The State’s apathy toward training ILI, recognizing their value, and dignifying the work they do continues to be the main challenge. The ILI participants in this research expressed that INALI is the national agency in charge of accrediting and certifying ILI, but it stopped its training programs as of 2012, offering five update and training classes lasting ninety-six hours and a small interpretation workshop rather than certification programs (Kleinert 2019, 89). Edith Matías Juan also stated that INALI’s certification program failed to recognize the Indigenous language most needed in the justice system, elaborating, “They were certifying popular languages like Maya, Nahuatl, Huave. Meanwhile, the most requested languages were those not certified” (Personal Interview, Edith Matias Juan, May 31, 2017). Therefore, CEPIADET created its own roll of interpreters. As of 2019, it includes 130 practical interpreters covering most of the
Indigenous languages in the State of Oaxaca. The Center also helps locate interpreters with expertise in other Indigenous languages spoken in Chiapas and Guatemala.

6.3.1 The Right to Understand the Legal Proceedings

The participants also touched on the need to understand the proceedings. It is important to note that ILI help in breaking language barriers and making the legal language more comprehensible for the defendants. Admittedly, the interpretation setting also comes with certain expectations of empowerment and disempowerment, racist notions of language ideologies, and negative perceptions toward the person who requires the interpretation as being linguistically impaired and unable to communicate (McIntire and Sanderson 1995, 99-100). Those aspects of interpretation tend to discourage ILS from requesting interpretation services.

Scholars have promoted the use of common language in the legal setting, calling for the right to understand the proceedings and justice system (Arias 2018). Scholars and civil associations defend the principle that it is a mistake to think that law, politics, medicine, and economics should use jargon and complicated language that is not always accessible for the majority of the population, asserting that they should instead use plain and clear language to facilitate access to information (Arias 2018, 252-55).

ILI are able to make legal language comprehensible by asking ILS if they understood the message and requesting the public servants to reframe or simplify the language used in the legal setting (Hager 1959). This might not always be easy, especially in spaces involving hierarchical levels, such as the Mexican courtroom.
6.3.2 Spanish as the National Language

Participants in this research described how Spanish tends to be treated as the de facto language in the justice system and proceedings. Indigenous defendants will admit proficiency in Spanish language to avoid mistreatment and racial issues, hoping that their case will move faster, but increasing the likelihood that they’ll be convicted. This problem is rooted in language ideologies involving language supremacy (Berk-Seligson 2008), which play a crucial role in accounting for linguistic performance (Silverstein 1979; Kroskrity 2004; Irvine and Gal 2000; Collins 1998). Language ideologies have an impact on the relationship between Indigenous defendants and the judge’s decision making; if ILS admit to being fluent in Spanish, despite their limited command of the language, the public servants assume they have no problem communicating in the courtroom. This demonstrates the importance of the public servants’ ideologies in this context, since ILS might be more likely to accept the help of an interpreter if their language ideologies didn’t result in discrimination toward indigeneity.

Another ideology espoused by the Mexican government for centuries is that of national unity through language. Despite officially recognizing the multicultural composition of the nation, language ideologies keep damaging Indigenous communities and their justice systems. Although the Mexican justice system claims to pursue justice for all the people of Mexico, it limits the ability of Indigenous communities to exercise their rights to autonomy and self-governance, particularly in the administration of traditional justice. Based purely on language ideologies, the negative perception toward the capacities of Indigenous authorities prevents the State from requesting their help as experts. These ideologies also keep public servants from being humble enough to decline legal competency to judge cases related to Indigenous
jurisdiction (Salazar Luzula 2007, 6; Sieder and Sierra 2010; Sierra 2005; Martínez Ortega and Hernández Andrés 2015).

Oaxaca does have a precedent case where the state judge declined the court’s competency to adjudicate the Indigenous defendant according to the minimum requirements established by the Constitution — the provision of an interpreter who understands the interpreter’s language and culture.

In September 2012, an Indigenous taxi driver native to the Zapotec community of Santiago Quiavicuzas transported a group of people for a payment that he never received. His vehicle was detained by immigration officers, who identified the passengers as Guatemalans entering Mexican territory illegally. The driver was detained and charged with a “violation of immigration law” with the legal hypothesis that he was transporting people, avoiding immigration checkpoints, and securing remuneration. He was sentenced to eight years without the right to parole or probation or to the substitutes of the imposed imprisonment. He was also fined with five thousand days of wages, roughly equivalent to $323,800.00 MXP (22,322.36 CAD), in addition to the suppression of his political and civil rights and the confiscation of the vehicle. He had five days to file an appeal (Muñiz-Díaz 2017, 61-3; Martínez Ortega 2015; Morales-Good, 2018, 115-124).

When the Indigenous defendant presented his appeal, the State officials noticed that he was a self-described Indigenous Zapotec and made the necessary arrangements to provide a defender with knowledge of Zapotec language and culture. Tomás explained that “the judge declared the Mexican State incompetent to cover the ILS’ minimum rights to access the justice system. That is, the right to an ILI with knowledge of language and culture of the defendant’s
language” (Personal Interview, Tomás López Sarabia, May 11, 2019). The State was not in a position to guarantee its obligations regarding human rights. The judge decided to handle the case and assigned it to the Santiago Quiavicusas Indigenous jurisdiction. CEPIADET’s staff referred to the importance of this case as historical, as it was the very first in which a Mexican judge admitted the State’s flaws to adjudicate a case and requested Indigenous expertise (Personal Interview, Edith Matías May 31, 2017; Gerardo Martínez May 18, 2017; Tomás López Sarabia, June 8, 2017; Morales Good 2018, 115-24). Tomás added that this case sent the clear message that it’s possible to have a better relationship between judges and Indigenous authorities. There is room for intercultural dialogue, but that dialogue is never going to be possible if equality is not actively pursued and communities are barred from solving certain conflicts.

In Mexico, language ideologies have negatively impacted Indigenous defendants and greatly limited the power of Indigenous jurisdictions. The idea of language supremacy has encouraged systemic cultural racism that diminishes Indigenous people’s autonomy and ability to exercise their rights. Today, it is still common to hear that someone is demoted because of the notion that an Indigenous person “does not understand many things due to Indigenous language and culture” (SinEmbargo 2019), or that the Indigenous jurisdiction is not capable of solving a case and that the State must therefore take action (Caso Quiavicusas). To Mexican institutions, being Indigenous still indicates inferiority under a colonial lens, and it is for that reason that people don’t acknowledge their ancestry or are afraid to speak in their native tongue, claiming that “they understand it, but can’t speak it” (Personal Interview, Gerardo Martínez, May 31, 2017; Reina Osorio Santiago, July 29, 2017).
The strongest obstacle to Indigenous people accepting their identities is a society that privileges foreign worldviews and belittles native ways of knowing (Figueroa 2011, 122-43). It causes Indigenous people to develop a sense of exclusion and consciousness of racism that reinforces the notion of their inferiority. It is nothing more than racism that denies people their language and cultural integrity while validating language ideologies that support national or “superior” languages (Bender 1999, 333; Kearney 1995, 226-243; Naranjo 2011, 1-24).

If we somehow manage to defeat the concept of language superiority, which continues to persuade people to believe that speaking an Indigenous language is equivalent to social inferiority, Indigenous people will be a step closer to decolonization and self-determination. This feat is not impossible, but it requires political will, and it should be a collective effort between the State and Indigenous communities. It can no longer be one-directional; Indigenous people must control their knowledge and the way it is distributed. They should also oversee and safeguard their customs, rules, and ancestral practices, and it should be they who dictate the way that knowledge is shared and disseminated for the benefit of the communities (Battiste 2011, 499-503).

### 6.3.3 The Importance of Indigenous Languages

Colonial languages cannot always describe the Indigenous reality. Thus, the ILI must move messages between the different communities of speech, being extra careful to include all relevant aspects of the culture, language, and territory (Hall 1959, 31-106; Palmater 2016, 28; Battiste 2011, 203). To accomplish this, continuous contact with the community is essential, as
Indigenous knowledge is tied to the ecological environment, including local animals and plants, and it protects information about their preservation (Battiste 2011, 499).

Culture is itself a language and a way of communication (Hall 1959, 93-8). Scholars have considered that language would not exist without culture (Jiang 2000, 328-34; Nida 1998, 29-33). Language reflects communities’ cultural components and symbolizes the people who speak it. It carries important information about a speaker’s historical and cultural background, reflecting their ways of knowing, living, and thinking. For Indigenous communities, language represents a place of resistance, as it speaks to their struggles in a monolingually dominant society. Brown (2000) describes this relationship as follows: “A language is a part of a culture and a culture is a part of a language; the two are intricately interwoven so that one cannot separate the two without losing the significance of either language or culture” (Brown 2000, 165). As such, language and culture need to be understood as two parts of a whole. In terms of communication, Jiang (2000) makes a comparison between language and swimming. In this scenario, language represents the act of swimming, and culture represents the water. Without swimming skills, communication would be limited, as it could only take place in shallow water. Without culture, however, there would be no communication at all (Jiang 2000, 328-29).

Language is defined as “a systematic means of communicating ideas or feelings by the use of conventionalized signs, sounds, gestures, or marks having understood meanings” (Merriam-Webster). This notion of languages, however, prevents people from fully recognizing the deep relationship between Indigenous languages and the land. Indigenous languages are more than a means of communication or words put together to deliver a message (Battiste 2002).
ILI who participated in this research spoke about the significance of preserving Indigenous languages because of their relationship with the natural world and the role they play in guarding the knowledge embedded in words used during ceremonies; Benedicto mentioned during our focus group discussion that, “It is important to keep close ties with our communities and to revitalize our languages – the day we lose our languages, we will lose ourselves” (Focus group discussion, July 20, 2017). Indigenous languages possess a strong relationship with culture, land, and, indeed, all aspects of life; therefore, Indigenous languages, knowledge, and practices cannot be separated from Indigenous identity and need to be considered throughout legal proceedings (Berk-Seligson 2008, 9-33; Betancourt 1999, 53-9; Brown 2000, 165; Cabedo 2004, 63-93; Hale 2014, 321-31).

Indigenous scholar Marie Battiste (2002) explains that the names given to specific territories, lands, and bodies of water hold within them important information regarding how the land should be used, the path followed by the waterways, the historical knowledge regarding its traditional use, and rules about how to protect these spaces for current and future generations (Battiste 2002). The names of children, for example, create a connection to ancestors and their roles in the nations (Alia 1994). It’s also essential to mention that Indigenous identity is closely interwoven with culture, community, language, land, family, memory, and history; therefore, the refusal or denial of any of these components could ultimately result in traumatic effects on a person’s identity and sense of self (Palmater 2016, 28). In the specific case of this research, denial of the right to use an Indigenous language has resulted in Indigenous speakers’ devaluation of their ways of knowing and the loss of their freedom.
In a multicultural country that recognizes and takes pride in its Indigenous foundation, there shouldn’t be room for comments like, “I wish I spoke Spanish,” “I only speak Zapotec,” or “I wish I could tell the truth without the need of an interpreter.” Nevertheless, it is very much the harsh reality for Indigenous speakers who admit Spanish proficiency and renounce their right to an interpreter in order to avoid the negative effects of linguistic racism and in hopes of receiving fair treatment (Participant observation June 29, 2017).

A powerful barrier to seeking and achieving decolonization in the courtroom continues to be ignorance of the knowledge embedded within the Indigenous languages, as well as the lack of recognition and respect toward Indigenous knowledge and jurisdiction. To include said knowledge in the legal spaces, it is imperative to dignify the service performed by ILI, not only in the legal system, but also in medical and educational settings. Additionally, the State could benefit from understanding and implementing Indigenous customary law. In encouraging better interaction between Indigenous communities within State legislation, it is essential to recognize the Indigenous authorities’ right to exercise jurisdiction. At the core, it is not only a question of training more people who can serve as Indigenous interpreters, but also a matter of bringing Indigenous knowledge and practices into the justice system.

6.4 Indigenous Knowledge in Silent Places

The participants also discussed the need to address Indigenous culture in the legal setting to avoid detention and punishment over traditional practices. They further emphasized the urgency to recognize language and cultural diversity, as Indigenous languages speak to the burdens borne by ILS. Some of the cultural practices the participants described were the
production and consumption of mushrooms and poppy flowers in traditional ceremonies, the consumption of natural resources as a form of subsistence, and the possession of firearms.

Scholars have pointed out that such cases are better solved by the Indigenous jurisdiction, even when they involve federal matters, such as cases of offences against health (Sieder 2002; Sieder & Sierra 2010; Gabbert 2011; Maldonado y Terven 2008; Sierra 2005).

Rodolfo Stavenhagen (2003), anthropologist and avid defender of Indigenous cultures, documented that the public servants neglect or choose to ignore Indigenous perspectives and law practices in many cases (Stavenhagen 2003, 10-13). In the legal setting, ILI are able to address those cultural aspects during their interpretation. Anthropologists have made a point that languages are shaped by culture (Katan 1999, 99). For example, Bronislaw Malinowski (1994) uses the terms “context of situation” and “context of culture” to explain that the true meaning of language can only be understood when the interlocutors have a clear understanding of what is happening in a certain environment or event and how it may be affected by an individual’s background, upbringing, beliefs, and values (Malinowski 1994, 18). In this sense, the only person with knowledge of Indigenous languages and culture and the ability to move messages effectively between the two communities of speech in the courtroom is the interpreter, not the judge or defense attorney. In their role as a mediator, ILI can see and voice the cultural context for all the parties involved. Without their help, there could be a lot of mistakes that may harm the defendant in the end.

To ensure that the cultural aspects of translation are being considered, the Mexican Constitution requires that the interpreter not only be a fluent speaker of the language, but also familiar with the defendant’s culture, thus following a Bi-Bi (Bilingual and Bicultural) model of
interpretation. This term was first coined in 1983 and was further developed by anthropologists and linguists (Kleinert 2016, 136; Witter-Merithew 1999, 4). This model, first used to translate for hearing impaired people, gives more agency to the interpreter and discourages the notion that they are a machine or invisible language channel.

In the Bi-Bi model, the interpreter is perceived as a mediator of both language and culture, a person who has the ethical responsibility of transmitting the messages while retaining the initial semantic intent of the speaker. As explained by Witter-Merithew (1999), “Achieving semantic equivalence requires recognition that a message is always influenced by the speaker’s background, cultural orientation, identity, and life experiences. Additionally, creating equivalence requires recognition of the audience's background, cultural orientation, identity, and life experiences” (Witter-Merithew 1999, 4). The interpreter therefore possesses a bilingual and bicultural competence that allows a message to pass between two different speech communities. In this fashion, ILI can ensure that human rights are being honored, make cultural issues visible, and protect the integrity of the defendants.

6.5 Irregularities in Cases

The ILS participants noted irregularities in the way their cases were handled by the public servants. Such irregularities included the absence of an arrest warrant and proper documentation at the time of arrest, the lack of consistent interpretation services throughout the case, pretrial detention for longer periods of time, and the pressure to accept charges, among others. Scholars and human rights advocates have documented the aforementioned practices in the Mexican legal setting (Salazar Luzula 2007; Stavenhagen 2003; Lynn 1999; United Nations 2012).
Katia Salazar Luzula, director of Due Process of Law Foundation (DPLF), recorded that at least a quarter of the total Indigenous inmates in the jail system belong to Oaxaca. She mentioned that arbitrary detention is quite common, as well as the long waiting periods during the investigation phase (which is supposed to be 72 hours in Mexico), and also the completion time, (which is given two years) (Salazar-Luzula 2007, 5). DPLF and the United Nations have documented the abuse and torture endured by Indigenous defendants to accept charges. Commonly, the documentation related to the ILS defendants’ statements is also full of irregularities (Salazar Luzula 2007; Stavenhagen 2003).

The torture practices were also recorded by the State of Oaxaca through the State Commission of Human Rights in 2012, which recognized the usage of extreme torture methods on Indigenous defendants. Such methods include causing asphyxiation with plastic bags, submerging the defendant’s head in water, delivering all sorts of blows to various parts of the body, giving electrical shocks to the genital area, firing gun shots, fracturing bones, and, in the worst cases, even homicide (CNHD 2012).

The aforementioned torture is tied to the construction of Indigenous suspects. “Construction” is a legal term meaning that detainees will often undergo torture until accepting criminal charges, or be forced to sign documents created with false information, thus framing them as the primary suspects in a given case. This was also discussed by the participants in this research. ILS and ILI spoke about cases in which Indigenous defendants were detained and processed for criminal activity that they didn’t commit. In this dissertation, we talked about the cases of Eusebio Ruiz, who faced a human trafficking case; Adan de la Cruz, who is still fighting a case of kidnapping; Marcelino Mejía, incarcerated for homicide; and Adela García, accused of
culpable homicide. Florian also spoke about the cases in his community, San Agustin Loxicha, which is tied to the Zapatista territories. According to scholar Stephen Lynn (1999), the construction of Indigenous suspects is a common practice in the Mexican system, especially due to racial discrimination and the defendants’ limited command of the Spanish language. The primary targets of this strategy are rural Indigenous communities in Chiapas and Oaxaca (Lynn 1999, 834-42).

Furthermore, as Indigenous people demand their rights to language, culture, and autonomy, they are more likely to be detained. Indigenous protests regarding the protection of their territories and cultures are often suppressed by the public servants, especially in Oaxaca, where most of the income is derived from the lucrative tourist industry. Thus, the public servants will stop protests and create suspects at the expense of Indigenous people. The State utilizes laws and the judiciary system to punish and criminalize social protests and Indigenous movements. Scholars have shown that the State will apply emergency laws and/or the prosecution of protesters as perpetrators of common crimes to quash social movements (Salazar Luzula 2007, 13-14; Lynn 1999, 824-34).

### 6.6 Indigenous Jurisdiction

The participants proposed looking at the Indigenous justice system for possible solutions for how to better address the inclusion of Indigenous languages and culture in the legal system, citing its many benefits. They also called for collaboration between the State and Indigenous communities. The revival of Indigenous jurisdiction has also been addressed in literature.
Scholars have detailed the revitalization of Indigenous justice systems in Mexico (Collier 1999; Gabbert 2011; Maldonado & Terven 2009; Rios-Zamudio 2011; Sierra 2005; Sieder 2002).

After 1990, the southern Mexican states, which contain high numbers of Indigenous populations, recognized their multicultural compositions and granted Indigenous peoples the right to develop and strengthen their justice systems. This includes Campeche, Quintana Roo, Chiapas, and Oaxaca (Gabbert 2011, 447). Indigenous normative systems are not new, though. Indigenous communities have elected their representatives and solved their internal problems for centuries. However, after a constitutional reform in 2015, Oaxaca, among other states, established the Sala de Justicia Indígena (Indigenous Justice Room), following the recommendations of the UN relator James Anaya (Martinez Ortega 2016).

The participants further discussed some of the benefits of including Indigenous knowledge in the legal setting. There would be fewer related mistakes or misconceptions in the proceedings because the defendant’s culture would be part of them (Personal Interview, Florian Pacheco Pérez, July 4, 2017). This inclusion could also reduce the defendants’ need to be judged outside their community, depriving them of support from their family (Personal Interview, Orbelín Díaz, May 23, 2017). Scholars have also compared the State and Indigenous philosophies of justice implementation in order to shed some light onto the positive ideas that Indigenous jurisdictions could bring to the State. Scholar Jane F. Collier (1999) explores the differences between the State system and Juzgados de paz y conciliación Indígenas (Indigenous courts of peace and conciliation) in the community of Zinacatán, Chiapas.

In her essay Models of Indigenous Justice in Chiapas, México, Collier explains that Indigenous judges are fixing problems; they sit in a room together with the parties involved.
There are no hierarchies. Zinanteco judges strive to resolve the issue and any hard feelings between the parties. Indigenous judges encourage the active participation of everyone affected by the dilemma by asking what they want to do about it and collaborating to look for the best solution. In most cases, the parties will continue until the issue is solved and their hearts are calmed (Collier 1999, 96). If one of the parties remains angry, the case persists until both sides agree on a solution, as opposed to the traditional state system, in which the judgment is given and must be enforced. Through participant observation, I was able to see for myself how Indigenous communities solve their problems during my visit to Oaxaca and my talks with Indigenous authorities.

Participants also mentioned ILS’s preference to be judged in their communities of origin, along with the State’s limitations on it. In Mexico, Indigenous communities can resolve their internal matters as long as it doesn’t involve a federal crime and individual and collective human rights are still observed.

Scholars have tried to answer how Indigenous law works and why it’s more effective than that of the State government. There has been some contention about whether the Indigenous law is carried out under due process and if it provides enough protection to the people accused of wrongdoing. Another controversy that flags cases for human rights is the severity, interpretation of sanction, and punishments applied by the Indigenous authorities. This is because some communities assign labor-intensive and corporal punishments, as explained by participants who held the role of an Indigenous authority during this research.

The Indigenous system strives to solve issues locally. The penalties range from monetary fines to communal work and periods of detention, although some judges are against detention
because it imposes a double penalty on the family, and many families’ sustenance comes directly from agricultural work. For people in communities, missing a day of work represents the loss of a day’s worth of food for their family (Rios-Zamudio 2011, 295-96).

Participants expressed that Indigenous communities are the most concerned about individual and collective human rights, and they follow laws strictly. Some cases are better solved by utilizing Indigenous ways of knowing, such as with the cases of Adela and the community in Santiago Quiavicusas (Personal Interview, Alcalde Eusebio Ruíz, July 12, 2017; Carmela Ramírez Santiago, July 10, 2017; Gerardo Martínez Ortega, May 18, 2017; Flavio Vásquez López, July 21, 2017).

CEPIADET’s staff spoke about the need for the State and communities to collaborate in a reciprocal manner. Tomás suggested that if the State recognizes the Indigenous authorities’ effectiveness to rule minor cases related to the citizens in their communities, the State could better allocate its resources to solve the ones that fall under federal jurisdiction (Personal Interview, Tomás López Sarabia, June 8, 2017; Morales-Good field notes July 2017). However, there is still a long way to go to reach a place where the State can promote and offer a fairer and more honest relationship with Indigenous communities.

6.7 Perspectives

The State’s judges and public servants need to be trained in Indigenous cultures and practices, especially with a multicultural framework that will explain or help them understand the Indigenous worldview. The legal system could benefit from this, especially in a state such as Oaxaca, where almost 65% of the population is Indigenous. People who come from an
Indigenous community understand the world in a different way. Involving Indigenous people in the justice setting would help the two cultures with the legal process and create space for productive dialogue (Personal Interview, Benedicto Salinas, July 4, 2017; Florian Pacheco Pérez, July 4, 2017; Orbelín Díaz, May 23, 2017).

There are many advantages to consider in bringing the State and the Indigenous system together. First, the cultural gap will be significantly reduced, since Indigenous authorities are fully aware of their communities’ cultural characteristics. Secondly, the language barrier wouldn’t be an issue. Finally, Indigenous authorities and assemblies encourage a participatory process to problem solving.

By working with the State, communities will benefit from learning what cases can be solved under the Indigenous jurisdiction and how they can be judged without compromising individual and collective human rights. The Indigenous authorities know how to manage the cases in their communities, as they have been solving them for generations, but they need to be trained in new policies and practices from State servants who are humble enough to recognize their contribution to the country’s justice system (Personal Interview, Tomás López Sarabia, May 11, 2019; Morales-Good field notes July 2017).

6.8 The Role ILI Play in Conserving Language and Culture

In legal spaces, where Indigenous voices tend to be silenced and the experience of Indigenous authorities is hardly requested, the Indigenous interpreter continues to be the broker who is able to secure a space for language and culture and make those voices heard. However, they can’t continue if the State is not willing to come to terms. It is important to the participants
that the State’s system take responsibility for securing the intervention of ILI in trials and
 guaranteeing a fair payment for the language services they provide, thus ensuring due process of
 law and the observance of individual and collective human rights.

Indigenous cultures and languages are irreplaceable resources that require protection
from both the community and the State (Battiste 2011, 202). The countries of Nicaragua, Bolivia,
Colombia, Mexico, Ecuador, Panamá, Perú, and Venezuela have made constitutional reforms
that address their country’s multicultural compositions (Anaya-Muñoz 2005, 416). Nevertheless,
in many other countries, this recognition is still missing.

Legislative protection is required to preserve the ancestral languages of Indigenous
communities. This is one of the main reasons I dare to call the interpreters cultural and language
keepers — because of their deep understanding of the beautiful complexity of Indigenous
languages, as well as their knowledge and experience in attending to both communities. While
providing interpretation services, ILI in this research also maintain a close relationship with their
communities. They learn from the way Indigenous authorities solve cases. In this fashion, ILI are
not only contributing to the preservation of Indigenous languages, but are also supporting
Indigenous legal practices and knowledge.

ILI stands between two worlds. In this position, however, ILI can support Indigenous
knowledge and create spaces that are for safe cultural interaction. They ensure that due process is
being followed, and they are capable of protecting Indigenous knowledge and languages by
making sure that the Indigenous voice is being heard and not undermined, as has been the case
for centuries. This, however, should not be the sole responsibility of the ILI. The State has to
take action by creating policies that don’t limit the Indigenous knowledges and justice systems
— policies that reject cultural racism and linguistic discrimination, honoring the Indigenous perspectives not only on paper, but also in practice.
7. Conclusion

The main goal throughout this research project was to document the difficulties faced by the Indigenous population while trying to access the justice system and the role played by the Indigenous language interpreters in ensuring due process of law while also creating space for the Indigenous cultures and ways of knowing in the legal system.

A participatory methodology ensured that all participants received mutual benefit while also building relationships based on trust, respect, and reciprocity. In my personal research, I have found those principles more pertinent than Western methodologies developed by dominant academics.

I have consistently approached my collaboration with CEPIADET through a reciprocal, community driven approach that ensures the Center benefits equally and continually from the collaboration. As a result of this collaboration project, Tomás López Sarabia proposed a symposium to bring together Indigenous interpreters and translators. The symposium was framed through the participatory framework of an unconference, which consisted of roundtables based on the interests of the participants with the goal of promoting conversation and collaboration. Therefore, the unconference created a space for Indigenous language interpreters and translators to build community and establish coalitions that will make visible the impact of Indigenous language interpretation in the justice system. Additionally, Tomás expressed the need to frame the ILI as a language and cultural keeper, which is what I have done in this dissertation.

This research was equally important for ILI because of their outstanding role in moving the cases forward. Their service and experience needs to be recognized as they have stepped up to provide language services in a society that isn’t recognizing their worth or providing training
opportunities. Nevertheless, ILI continue providing interpretation services based on their communities’ principles of solidarity and *tequio*. Most importantly, the research provided an opportunity for ILS to voice their experiences - those that were once silenced by a language barrier.

As for myself, this research broadened my perspective of court interpretation. As mentioned before, one of my questions during my time as an interpreter was if cultural and tacit elements ought to be addressed to produce a better translation. My principal interest came from the desire to create a safe place for Indigenous knowledge to coexist in the legal system.

In conclusion, my research found that the most substantial barriers deterring due process for the ILS are the inability to conduct legal processes in their mother tongue, and the negative language ideologies tied to the use of an Indigenous language. As a result, ILS are most probable to experience racism and discrimination in the form of abuse, physical and psychological torture, irregularities in their cases, and longer trial periods.

Indigenous interpreters play an important role in securing language rights and creating space for Indigenous knowledge in the court setting. With proper training, ILI can address cultural aspects of language that might be misinterpreted by others in the courtroom. In their role, ILI pursue language and cultural revitalization.

My research found that the greatest challenge to provide due process for Indigenous defendants is the lack of recognition of Indigenous knowledge and culture. Better training programs are still needed to address Mexico’s multicultural population; such programs shouldn’t be limited to ILI – justice servants and Indigenous authorities also need to be included to develop conversations about the protection of language and human rights.
7.1 Contribution to Knowledge

This research demonstrated guidelines for research involving Indigenous peoples. Shawn Wilson (2008) suggests that one of the strengths that Indigenous scholars (and communities) bring with them is the ability to work between two worldviews. This is especially important when working with dominant systems that are not bicultural, such as the legal system. Wilson stated: “as a part of their white privilege, there is no requirement for them to be able to see other ways of being and doing, or even to recognize that they exist. Oftentimes then, ideas coming from a different worldview are outside their entire mindset and way of thinking” (Wilson 2008, 44). This research employed a decolonizing methodology along with qualitative inquiry approach and methods to respond to my research questions.

The main contribution to knowledge is the inclusion of Indigenous knowledge in the legal setting. To achieve this, the research found two main venues:

1. Ensuring the presence of an ILI throughout the legal proceedings. This will provide ILS with the minimum conditions to understand the case against them.

2. Including Indigenous knowledge in the form of ILI or requesting expert opinion from Indigenous authorities.

As documented in Chapter six, Mexico presents a deficit of adequately trained Indigenous interpreters. A study presenting the experiences of all those interpreters providing language services under the principle of tequío has not been done. Furthermore, this research addresses the many ways that legal proceedings benefit from providing language services. In their role, ILI make legal language digestible by requesting rewording and clarification. They can also address tacit and body language, and, as explained by Edith Matías Juan, in their role as
interpreters and with their legal knowledge, they can also ensure that human rights are being
honored, and the proceedings are fair (Personal Interview, Edith Matías Juan, May 18, 2017).

Chapters four, five, and six are enriched with the experiences and voices of the
participants, collected through inquiry approach. Participants spoke about their experiences and
called for action. The participants in this research proposed using a process of collaboration
between State authorities and Indigenous authorities. This isn’t new, it is something that has been
happening all along, but that the State has failed to recognize. CEPIADET’s interpreters’
coordinator Flavio Vásquez called for proper recognition for Indigenous authorities (Personal
Interview, Flavio Vásquez López, July 21, 2017). Tomás López Sarabia (CEPIADET’s director)
called for research addressing the ways that Indigenous contribute to keeping the State budget
down (Personal Interview, Tomás López Sarabia, May 11, 2019).

ILS described the difficulties experienced while interacting with the legal institutions,
and the aftermath of problems related to their cases. As documented in this research, ILS try to
avoid discrimination by denying Indigenous identity and proficiency of Indigenous languages.
This is not a problem exclusive to Oaxacan communities –other Indigenous peoples face the
same problem all over Latin America. Providing appropriate training to ILI and fostering a better
relationship between the State and Indigenous authorities will therefore encourage a process of
language and cultural revitalization (Coronel-Molina & McCarty 2016; Fenelon & Thomas,
2008; Tsunoda 2006).

7.2 **Strengths**

A major strength of this research was its goal to create space for Indigenous survivors of
the legal system to voice their experiences about the treatment received while interacting with
the institutions. Margaret Kovach (2010) suggests that in qualitative research participants should be chosen for what they can contribute to the study, rather than selecting randomly (Kovach 2010, 51). Narratives are vessels for passing along teachings; Kovach also mentions that stories “teach of consequences, good and bad, of living life in a certain way” (95). The collection of these stories requires gaining trust, though. This research provided an opening for narratives by using participant observation, conversations, interviews, and focus groups as qualitative methods of inquiry. ILS disclosed their struggles when interacting with the legal institutions and the repercussions this caused in their everyday lives. Therefore, this research grounds the new knowledge of the experiences of Indigenous peoples in Oaxacan communities while giving priority to Indigenous voices.

Another strength was the recognition of Indigenous knowledge in the legal process. While the Mexican constitution recognizes Indigenous normative systems in its legal reforms, the public servants continue to undermine Indigenous jurisdiction methods. Indigenous knowledge and culture are important elements to consider during the legal trial because of their undeniable ties to Indigenous languages. In her report to the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, Erica Irene Daes (special rapporteur and chairperson of the Working Group on Indigenous Populations) mentions that “legal reforms are vital to a fair legal order because Indigenous peoples cannot survive or exercise their fundamental human rights as distinct nations, societies, and peoples without the ability to conserve, revive, develop and teach the wisdom they have inherited from their ancestors” (qtd. in Battiste 2008, 500). In addition to Daes, Rodolfo Stavenhagen (2005) and James Anaya (2004) have recommended that a fair and effective justice system is crucial in fostering reconciliation, peace, stability and development among Indigenous communities (Stavenhagen 2005, 106).
CEPIADET staff emphasize that such reforms should ensure respect for Indigenous peoples’ customary law, respect for their languages and culture, and encourage greater participation of Indigenous peoples in the reform process. Moreover, the Center encourages collaboration through their program “Dialogue Among Justices” in which the Center actively promotes space for Indigenous knowledge to interact with the State system.

Finally, this research also shares with ILI an understanding of the importance of revitalizing Indigenous culture and languages through interpretation practice. As explained by interpreters Benedicto and Florian, ILI should keep close ties with their communities as they can learn from the Indigenous authorities’ problem-solving skills, as well as the State’s techniques regarding judgement. Comments from the ILI who participated in this study call for collaboration between the State and Indigenous communities; in addition, they also call for the recognition of their contribution in moving the cases forward.

7.3 Limitations

When I embarked on this research journey, I was hoping that there would be more opportunities for collaboration and interviews with the ILS; however, my position as an outsider, the distance between Oaxaca City and Indigenous communities, and the nature of the cases involving ILS prevented me from reaching more participants. My original intention was to conduct focus group discussions with the two different sets of participants (ILI and ILS), but, as mentioned in Chapter three, the distance between communities was an important factor in deterring that interaction. Also, my role as an outsider could not always be alleviated by the presence of an ILI or Indigenous authorities because of their multiple commitments and their responsibility to their communities. As mentioned before, Dr. Susana Caxaj proposed doing
follow up conversations with ILS who I was unable to reach face to face. While I was disappointed that I could not bring ILS together for a focus group discussion, I encouraged participation during my follow up phone calls with ILS after the interviews were transcribed and during the data analysis process.

The greater limitation to achieving Indigenous peoples’ access to a fair justice system continues to be the side effects of colonialism in the forms of language ideologies, racism and discrimination. These side effects also affected this research. The conclusions of this study, although they are unique to the Oaxacan people, would be applicable to other Indigenous communities in Mexico and Latin America.

7.4 Research Questions

This research sought to answer three main research questions. I revisit them here in light of the findings. The first research question was: What are the barriers that prevent Indigenous speakers’ communication in the legal setting? The research found that the negative effects of colonialism (including systemic discrimination and abuse) persist due to a lack of knowledge of Indigenous cultures and the scarcity of qualified interpreters. These issues were identified as the root causes preventing Indigenous speakers’ communication in the legal setting, which is consistent with the literature review (Kleinert 2016, 246-312; Stavenhagen 2003, 102-13; Salazar Luzula 2007, 5-19; Tanck 2018, 1-40; Rios Espinoza 2016, 13-9; Rannut 2010; Shirk 2010, 205; Berk-Seligson 2008). Additionally, the scant economic resources and negative language ideologies take a toll on Indigenous defendants, who, in hopes of receiving fair treatment, deny their proficiency of an Indigenous language. Therefore, the presence of an ILI is indispensable.
during trial, not only because they are able to bridge language gaps, but also because they possess a deep understanding of Indigenous cultures.

My second research question explored the role of the ILI in making space for traditional knowledge and practices within the court system. Indigenous interpreters are able to move messages effectively and simplify complex language by requesting clarification, repetition, check and double-check (Angelelli 2004, 81; Stone 2018, 168-70; Mikkelson 1998, 43). Though this, as mentioned by Lupita, might require some courage (Guadalupe Olguin Presentation, Unconference, August 9, 2019). Furthermore, legal jargon, word choice, and cross-cultural misunderstandings are also issues that require the intervention of an interpreter (Barrett, Cruz, García, 2016)

The ILI understands the defendant’s culture and makes visible all essential aspects related to the case, including non-verbal communication and those aspects of language and culture that are only understood by a native speaker (Hall 1959, 42-62; Katan 1999, 99-114). David Katan (1999) cites Malinowski to explain that language can only be understood when situation and culture are clear to the interlocutors. Further, immediate environment, traditions, and beliefs are also encoded in language (Katan 1999, 90-101). Finally, but equally importantly, the silent language also requires consideration; non-verbal expressions of emotions can be read differently, depending on the culture (Katan 1999, 302; Hall 1959). For instance, as elucidated by Benedicto in Chapter five, the ILS’s silence and low gaze doesn’t mean the acceptance of an imputation but corresponds to the cultural standard that when facing an authority figure, the ILS doesn’t look the person in the eye as a sign of respect.
In addition to creating a safe place for Indigenous language and culture, interpreters encourage the preservation and participation of the Indigenous justice system in legal matters (Anaya Muñoz 2005, 588). Participants expressed that Indigenous authorities’ expertise should be acknowledged. Indigenous authorities should also be recognized for the work they do, as the community’s problems aren’t reaching the public prosecutor’s office.

The participants, as well as some scholars, have proposed a possible collaboration between Indigenous authorities and State institutions to allow Indigenous people to renegotiate spaces of power and reconstitute themselves to develop a more equitable and respectful relationship with the State and national society (Sierra 2008, 287-314; Sierra 2005, 52; Sieder 2002, 184-207; Gabbert 2011, 443-63).

My last research question dealt with what kind of changes need to happen to address the challenges faced by ILS when navigating the legal system. This research recognizes that the Mexican state has provided interpretation programs through INALI and CDI, and that INALI officially registers 664 ILIs and 175 Indigenous language defense attorneys (Kleinert 2019, 89; Response INALI, June 5, 2017). The greatest challenge, however, continues to be the non-recognition of Indigenous knowledge, Indigenous service to the Mexican institutions (provided by ILI and Indigenous authorities), and Indigenous justice systems. It is not enough to recognize these contributions on paper – it needs to happen in practice. ILI need to be properly recognized and remunerated for the work they do.

Today, many ILI continue to act in accordance with their Indigenous standards and help the defendants by virtue of the principle of “solidarity.” However, they can’t afford to support their families while they are gifting their talents to a State that doesn’t prioritize them. It is
certainly not enough to recognize Mexico’s indigenous ancestry. Good intentions alone do not decolonize. The State’s indifference toward fully recognizing Indigenous worldviews and providing a path for their autonomy and self-determination continues to fracture communities, pushing them into silent zones and limiting their authority when it comes to exercising their normative systems. The participants in this research also called for respect and recognition of their Indigenous authorities and ancestral practices.

Indeed, constitutional recognition isn’t enough, as Indigenous rights continue to be violated in practice. Communication among the multiple cultures inhabiting the same country is still needed. Additional education about Indigenous perspectives is vital in the context of cultural and linguistic diversity, especially with a decolonized lens that includes Indigenous knowledge. As Erika Daes stated, “You cannot be the doctor if you are the disease” (Daes on Battiste 2011, 4). As documented in this research, the Mexican State doesn’t have enough interpreters who are appropriately trained in the most frequently requested languages, nor is it willing to prioritize the economic resources to offset the need for Indigenous language interpretation services. A possible option to move the cases forward would be to seek the Indigenous authorities’ expertise or simply allow the Indigenous authorities to solve cases within their communities. Scholars have documented the reconstruction of the justice system and the recognition of Indigenous customary law (derecho consuetudinario) in Latin America (Anaya-Muñoz 2005; Sierra 2001; Sieder 2002; García 2002). This research has shown many ways, but especially through the cases of Adela García and the community of Santiago Quiavicusas, that Indigenous authorities are fully capable of solving complex legal matters. Further ILI and CEPIADET’s staff call for the State to appropriately train Indigenous authorities regarding the observance of human rights, while also acknowledging Indigenous authorities’ contribution to society.
7.5 Future Research Directions

In this section I consider possible directions for future research based on these research findings. One direction for future research could be to improve the ILS’s interactions, not only in the legal setting, but also in the educational and medical sector (Hornberger 1995; Hernandez-Zamora 2010). During my collaboration with CEPIADET, I noticed ILS having difficulties in accessing medical and educational services in their language. Although the Center has not offered training for medical interpreters, Edith Matías Juan and Abigail Castellanos mentioned the need to address such interpretation (Participant observation 2017). Cristina Kleinert (2015) refers to public service interpretation to address language services offered in the health and justice sectors (Kleinert 2015, 242). Scholar Claudia Angelelli (2004) researches the medical interpreter role, and scholar Holly Mikkelson (2014) considers the interpreter’s participation pivotal to facilitate communication and equal access to legal, healthcare, education, and social services for certain groups of people representing cultural or linguistic minorities (Mikkelson 2014, 19). Indeed, as mentioned by scholar Carmen Valero-Garcés (2014), in Latin America translation and interpretation is still developing with very limited research being carried out in combinations that include Indigenous languages (Jansenson 2010; Valero-Garcés 2014, 216). Very limited research had been done on this subject by Berk-Seligson (2008) in Ecuador and Kleinert (2016) in Mexico. In most other Latin American countries interpretation and translation in the public sector is still in the developing process (Valero-Garcés 2014, 217). Besides fighting the legislation portion that would recognize the need for interpreters and translation, cultural and linguistic diversity will still have to overcome everyday neglect and discrimination.
Another direction for future research could be proposing new ways for Indigenous peoples and institutions to collaborate in cultural and language revitalization. The Mexican government has shown some interest in revitalizing Indigenous cultures and language through the formation of the National Institute of Indigenous Languages (INALI) and the passage of the General Law of Linguistic Rights of Indigenous Peoples. However, linguistic and cultural revitalization is still behind regarding education as mentioned by Gregorio Hernandez-Zamora (2010); in his book, *Decolonizing Literacy: Mexican Lives in the Area of Global Capitalism*, Hernandez-Zamora encourages educational frameworks that will help to “reconstruct and reinvent cultural roots, local economies, native wisdom, and students’ potential as learners, thinkers, and creators” (Hernandez-Zamora 2010, 199). In the Mexican state of Oaxaca, Indigenous languages such as Cocholtec and Ixcateco, Zoque, Amuzgo, and Chontal are at risk of disappearing as predicted by Michael Krauss’ (1992), who anticipated that half of the world’s languages would disappear during this century. The loss of Indigenous languages will signify the loss of Indigenous knowledge embedded in such languages (Battiste 2002). Miguel León-Portilla (2010), Mexican anthropologist and historian, beautifully exposes the consequences of language loss:

When a language dies,
Everything there is in the world,
Seas and rivers,
Animals and plants,
Neither are thought nor pronounced
With sights or sounds
Which no longer exist.

Indigenous scholars have encouraged a process of linguistic and cultural revitalization (Battiste 2000, 2005; Hernandez 1998; León-Portilla 2010; Cuevas Cob 2008; Worley 2013).
However, negative language ideologies discourage social systems from developing strategies that include Indigenous languages in the social sphere.

Lastly, another future direction would involve creating more spaces where Indigenous and State jurisdictions can collaborate and provide feedback regarding the legal processes in which Indigenous speakers are involved. Scholars have documented the revival of Indigenous justice systems (Gabbert 2011; Maldonado & Terven 2008; Sieder & Sierra, 2010; García 2002). Further, scholars have documented the efficiency of Indigenous jurisdiction (Muñiz-Díaz 2017, 61-3; Martinez Ortega 2015; Morales-Good 2018, 115-124). Nonetheless, there is still a lack of research showing collaboration between the State and the Indigenous jurisdiction. The participants in this research called for such collaboration to take place, and CEPIADET encourages spaces for collaboration through a program called Dialogue Among Justices. However, as stated by interpreter Gabriel Sánchez, “If State justice was more sensitive, more humble, in recognizing the contribution of these communities, legal pluralism would materialize by respecting a community’s way of solving conflicts” (Personal Interview, Gabriel Sánchez, July 22, 2017). Unfortunately, we still have a long way to go before customary law and legal pluralism, as explained by García (2002), will reach a place of acceptance in Mexico.

In conclusion, and based on this research consideration, future research could focus on:

1) Exploring ways to improve ILS interaction in the legal institutions.

2) Proposing new ways for Indigenous peoples and institutions to collaborate in cultural and language revitalization.

3) Creating more spaces where Indigenous and State jurisdiction can collaborate and provide feedback regarding the legal processes in which Indigenous speakers are involved.
7.6 Final Thoughts

I realize that in answering the research questions, this dissertation has opened more questions that require further research involving Indigenous knowledge in the Mexican legal system. However, with the support and voices of the participants, I call for the recognition of ILI not only as a linguistic asset in the courtroom, but also as culture and language keepers. I also call to dignify their work and worth with appropriate salaries paid in a timely manner. They shouldn’t have to wait for their payment, as no one else in the courtroom does.

Finally, I assert that the State should work with the Indigenous authorities to maximize resources. The job performed by the Indigenous authorities should be recognized and appreciated, as it is helping the State shape a better nation through Indigenous knowledge and practices that Indigenous authorities are passing on to new generations. Indigenous knowledge will continue its legacy despite the neglect and opposition of a colonial State. Indigenous interpreters and Indigenous authorities are at the front line, giving voice to those who have fallen into the silent zones and demanding a safe place in the legal institutions, where Indigenous speakers can interact and pursue the due process of law.
Bibliography


Columbus, Christopher. *The Journal of Christopher Columbus (During His First Voyage, 1492-93) and Documents Relating the Voyages of John Cabot and Gaspar Corte Real*. Vol. 86. Hakluyt Society, 1893.


Director de IVEA-Veracruz cesa a funcionaria: ‘No entiende por su origen indígena.’. *Sin Embargo*. (2019).


INALI. Catálogo de las lenguas indígenas nacionales. 2020.


Kleinert, Cristina V. "Formación e iniciación profesional de intérpretes de lenguas nacionales mexicanas para la justicia: el caso del Puebla." (2016).


——."1.1 LOS DERECHOS HUMANOS EN LAS AMÉRICAS: NUEVOS DESAFÍOS." (2007).


Appendices

Appendix A: Letter of Initial Contact (English and Spanish)

Letter of Initial Contact
Principal Investigator: Allison Hargreaves, PhD
Research Study: Voiceless Tongues and Deaf Ears in a Silent Zone: The Role of the Indigenous Interpreter in Oaxaca, Mexico

Dear Sir/Madam:

I am writing this letter to invite you to participate in a research study that is being carried out here in Oaxaca by The University of British Columbia – Okanagan. This study explores Indigenous peoples’ access to appropriate court-appointed interpreters to ensure due process, and possible ways to create better and more accessible training programs for Indigenous interpreters.

Today, in Mexico alone, many Indigenous people are in jail, not knowing the charges they face due to a language barrier. Failing to provide appropriate interpretation has been cited as one of the primary reasons for the imprisonment of Indigenous peoples. Despite the government efforts to provide interpretation, the attempts are still not sufficient to relieve the needs of many incarcerated Indigenous people across Mexico, of which a considerable fraction are located in Oaxaca. This may reflect insufficient available help for Indigenous defendants and a lack of interpreters and counsel familiar with Indigenous traditions. Our goal in this project is to collect information to help us create better interpretation programs.

You are a potential participant for this study because you are an Indigenous interpreter, a person who has survived the legal system, a spouse, family member, or close friend of an Indigenous person who has encountered a legal trial, and 19 years or older.

Taking part in this study involves an interview or focus group with the researcher about your experience in the legal system (you can also do both), either by needing interpretation or by providing it. The estimated duration of the interview is between one and two hours.

If you choose to participate, you may refuse to answer any questions and/or withdraw from the study at any time. Your identity and all information you provide will be kept strictly confidential at all times.

If you are interested in participating in the study or if you would like additional information, please contact Monica Morales-Good, at: m.good@alumni.ubc.ca

Sincerely,

Monica Morales-Good
PhD Candidate
The University of British Columbia Okanagan
Carta de contacto inicial

**Investigador principal:** Allison Hargreaves, PhD.
**Co-solicitante: Monica Morales-Good**
**Estudio de investigación:** Voces sin sonido y oídos sordos en una zona de silencio.
El papel del intérprete Indígena en Oaxaca, México

Estimado Señor / Señora:

Le escribo para invitarle a participar en un estudio de investigación que se está llevando a cabo aquí en Oaxaca por la Universidad de Columbia Británica -Okanagan. Este estudio explora el acceso de los pueblos indígenas a los intérpretes designados por el estado para garantizar el debido proceso, así como las posibles formas de crear mejores y más accesibles programas de capacitación para los intérpretes indígenas.

Hoy en día, solo en México, muchos indígenas están encarcelados sin saber los cargos que enfrentan debido a la barrera del idioma. Se refiere a la falta de interpretación apropiciada como una de las principales razones del encarcelamiento de las personas indígenas. A pesar de los esfuerzos del gobierno para proporcionar interpretación, los intentos no son suficientes para aliviar las necesidades de muchos indígenas encarcelados en México, de los cuales una fracción considerable se encuentra en Oaxaca. Esto puede reflejar la ayuda insuficiente para los acusados indígenas y la falta de intérpretes y asesores familiarizados con las tradiciones indígenas. Nuestro objetivo en este proyecto es recopilar información para ayudarnos a crear mejores programas de interpretación.

Usted es considerado como participante potencial para este estudio porque usted es un intérprete indígena, una persona que ha sobrevivido al sistema legal, un cónyuge, un miembro de la familia o un amigo íntimo de un indígena que ha enfrentado un juicio legal y tiene 19 años o más.

 Participar en este estudio implica una entrevista o un grupo de enfoque con el investigador sobre su experiencia en el sistema legal (también tiene la opción de unirse a las dos), ya sea por necesidad de interpretación o por proporcionarla. La duración estimada de la entrevista es entre una y dos horas.

Si decide participar, puede rehusarse a contestar cualquier pregunta y / o retirarse del estudio en cualquier momento. Su identidad y toda la información que proporcione se mantendrá estrictamente confidencial en todo momento.

Si está interesado en participar en el estudio o si desea información adicional, póngase en contacto con Monica Morales-Good: m.good@alumni.ubc.ca

Sinceramente,

Monica Morales-Good
Candidato a Doctorado por la Universidad de British Columbia
Appendix B: Personal Interview Consents (English and Spanish versions)

Letter of Information and Consent Script (ILS)
Voiceless Tongues and Deaf Ears in a Silent Zone:
The Role of the Indigenous Interpreter in Oaxaca, Mexico

Principal Investigator:

Allison Hargreaves
Associate Professor, North American Indigenous Literatures
Faculty of Creative and Critical Studies
The University of British Columbia, Okanagan Campus
CCS 348, 1148 Research Road
Kelowna, BC V1V 1V7
T: 250.807.8446
E: allison.hargreaves@ubc.ca

Co-Investigator(s):

Monica Morales-Good
Ph.D. Candidate
Faculty of Creative and Critical Studies

The research is part of the student’s fieldwork to be included in her dissertation. The participants will be made aware of the use of the information collected. Only the Principal Investigator and the Student will have access to all information collected during field research.

Who is conducting this study?

The study is being conducted by Monica Morales-Good.

Purpose of the Study:

This letter will provide you with information about this research study so you can make an informed decision as to whether you would like to participate. My name is Monica Morales-Good. I am a doctoral student at the University of British Columbia Okanagan. My research project addresses the difficulties Indigenous peoples face when accessing the legal system and will identify possible ways to create better training programs for interpreters. **This research is being conducted as part of my dissertation and the final product will be publically available on the internet via cIRcLe.**
What will I be asked to do?

Participants will be asked to do an individual interview with the co-investigator, and a focus group session, they can also do both if they wish. In these interviews you will be invited to participate in a discussion to share your experiences and opinions. The estimated duration of the interview is between one and two hours.

How will I be supported?

It is possible that some questions may make you feel sad or uncomfortable. If this were to happen, please tell the interviewer and she can discuss these feelings with you or stop the interview if you would like. These meetings will provide an opportunity for you to provide feedback about the research process and, with other participants, to reflect on challenges that you have faced.

This study may help you feel supported by providing a space where you can talk about your experiences freely and have the opportunity for others to truly listen to your thoughts and opinions. These conversations and reflections may also help you develop a greater understanding of your community.

What if I feel unsafe?

Many precautions will be taken to ensure that you feel as safe as possible. First, you may choose to participate only privately, either by having a one-on-one session with the researcher, or by conducting interviews over the phone. You can withdraw from the study at any time. You are under no obligation to continue your participation if you do not wish to do so.

Do I have to participate?

No. Participation in this study is purely voluntary and your decision alone to make. You may refuse to participate, refuse to answer any question or withdraw from the study at any time with no effect on your future (care/academic status/employment etc.).

How will my privacy be protected?

If you withdraw from the study, any information collected so far can be removed if you want. Otherwise, all research data collected will be kept on data-encrypted USBs (electronic data storage devices) in a locked cabinet to protect your privacy. This data will be destroyed five years after publication. Any publication or presentation arising from this study will not include your name or any identifying information unless you give your explicit permission.

Stories and information that you share will not have any identifying information or your name unless you wish it to be documented in this way. No information shared in research meetings will be shared with anyone outside of the research team without your explicit permission. We encourage participants not to discuss the content of the research to people outside the group.
**How will I know what happened?**

Participants and interested community members will be invited to participate in public meetings to receive updates on how the research is coming along. A written summary of the research findings can also be shared with you if you choose.

**Are there any costs to participating?**

We recognize that transportation needs often pose a barrier to individuals’ participation. A stipend will be offered to help you with traveling expenses. Please let us know if you require assistance. A small stipend will be offered for each interview (100 MXP).

**Do you have any questions or concerns?**

If you have any concerns or complaints about your rights as a research participant and/or your experiences while participating in this study, contact the Research Participant Complaint Line in the UBC Office of Research Services at 1-877-822-8598 or the UBC Okanagan Research Services Office at 250-807-8832. It is also possible to contact the Research Participant Complaint Line by email (RSIL@ors.ubc.ca). If you have any other questions about this study please contact Monica (study researcher), m.good@alumni.ubc.ca

**Consent Script with Letter of Information**

*Letter of Information to be read aloud followed by this consent script:

You are being asked to participate in a research study entitled: Voiceless Tongues and Deaf Ears in a Silent Zone: The Role of the Indigenous Interpreter in Oaxaca, Mexico.

(1) Have you been given enough information to feel comfortable participating in the study?
(2) Has the study been fully explained to you?
(3) Have all questions been answered to your satisfaction?
(4) Do you want to use your name or do you prefer for your name to remain confidential?
(5) Would you like to participate in this research?

Please state, “I agree” or “I do not agree”

Could you please state your full name?

[The research team member will document the date and time in the audio-recording at this time. If the individual answers ‘no’ to the initial question, they will not be asked any more questions. If participants answer ‘no’ to any of the subsequent questions, the researcher will provide necessary elaboration or explanation.]
Voces sin sonido y oídos sordos en una zona de silencio.
El papel del intérprete Indígena en Oaxaca, México

**Investigador Principal:**

Allison Hargreaves  
Assistant Professor, North American Indigenous Literatures  
Faculty of Creative and Critical Studies  
The University of British Columbia, Okanagan Campus  
CCS 348, 1148 Research Road  
Kelowna, BC V1V 1V7  
T: 250.807.8446  
E: allison.hargreaves@ubc.ca

**Co-solicitante:**

Monica Morales-Good  
Ph.D. Candidate Faculty of Creative and Critical Studies

La investigación es parte del trabajo de campo del estudiante para ser incluido en su disertación. Los participantes serán informados del uso de la información recopilada. Sólo el Investigador Principal y el Estudiante tendrán acceso a toda la información recopilada durante el trabajo de campo.

**¿Quién financia este estudio?**

El estudio es realizado por Monica Good.

**Propósito del estudio:**

Esta carta le proporcionará información sobre este estudio de investigación para que pueda tomar una decisión informada sobre si desea participar. Mi nombre es Monica Good. Soy estudiante de doctorado en la Universidad de British Columbia Okanagan. Mi proyecto de investigación aborda las dificultades indígenas al acceder al sistema legal y las posibles maneras de crear mejores programas de capacitación para intérpretes incluyendo el lenguaje y las prácticas indígenas en el ámbito legal. Esta investigación se lleva acabo como parte de mi disertación doctoral y el resultado final estará disponible en internet via cIRcle.

**¿Qué se me pedirá hacer?**

Se pedirá a los participantes que se reúnan individualmente con el co-investigador, o en un grupo de enfoque. En estas entrevistas se le invitará a participar en una discusión para compartir sus experiencias y opiniones. Estas entrevistas pueden durar entre una y dos horas.
¿Qué apoyo voy a recibir?

Es posible que algunas preguntas le hagan sentir triste o incómodo. Si esto sucediera, por favor digaselo al entrevistador y ella puede discutir estos sentimientos con usted o detener la entrevista si así lo desea. El entrevistador también podría aconsejarle a los servicios apropiados que pueden proporcionarle el apoyo que necesita. También puede participar en reuniones de alcance si usted y otros compañeros participantes desean hacerlo. Estas reuniones proveerán una oportunidad para que usted pueda reflexionar sobre el proceso de investigación y, con otros participantes, reflexionar sobre los desafíos que ha enfrentado.

Este estudio puede ayudarle a sentirse apoyado proporcionándole un espacio donde usted puede hablar de sus experiencias libremente y tener la oportunidad para que otros escuchen sus pensamientos y opiniones. Estas conversaciones y reflexiones también pueden ayudarle a desarrollar una mayor comprensión de su comunidad.

¿Qué pasa si me siento en peligro?

Se tomarán muchas precauciones para asegurarse de que se sienta lo más seguro posible. En primer lugar, puede optar por participar en privado, ya sea teniendo una sesión de uno-a-uno con el investigador, o mediante la realización de entrevistas por teléfono. Puede retirarse del estudio en cualquier momento. Usted no está obligado a continuar participando si no desea hacerlo.

¿Tengo que participar?

No. La participación en este estudio es puramente voluntaria y sólo usted puede tomar esa decisión. Usted puede negarse a participar, rehusarse a contestar cualquier pregunta o retirarse del estudio en cualquier momento sin ningún efecto a su futuro (cuidado / estado académico / empleo, etc.).

¿Cómo será protegida mi privacidad?

Si se retira del estudio, cualquier información recolectada hasta el momento puede ser eliminada si así lo desea. De lo contrario, todos los datos de investigación recopilados se mantendrán en USB de datos codificado (dispositivos de almacenamiento de datos electrónicos) en un gabinete cerrado para proteger su privacidad. Estos datos serán destruidos cinco años después de su publicación. Cualquier publicación o presentación que surja de este estudio no incluirá su nombre o cualquier información de identificación a menos que usted dé su permiso explícito.

Las historias y la información que comparte no tendrán ninguna información de identificación ni su nombre a menos que desee que se documente de esta manera. Ninguna información compartida en las reuniones de investigación será compartida con nadie fuera del equipo de investigación sin su permiso explícito. Alentamos a los participantes a no discutir el contenido de la investigación con personas ajenas al grupo.
¿Cómo sabré que pasó con el estudio?

Se invitará a los participantes ya los miembros de la comunidad interesados a participar en reuniones públicas para recibir información actualizada sobre la marcha de la investigación. Un resumen escrito de los resultados de la investigación también se puede compartir con usted si lo desea.

¿Hay algún costo para participar?

Reconocemos que las necesidades de transporte a menudo representan una barrera para la participación de los individuos. Podemos ayudarle minimizar estos costos al ayudarle con los gastos de viaje. Por favor, háganos saber si necesita ayuda. También recibirá un pago de $50 MPX por cada entrevista o grupo de enfoque.

¿Tiene preguntas o inquietudes?

Si tiene alguna inquietud o queja sobre sus derechos como participante en la investigación y/o sus experiencias mientras participa en este estudio, comuníquese con la línea de quejas del participante de investigación en la Oficina de Servicios de Investigación de UBC al 1-877-822-8598 o en la Oficina de Servicios de Investigación UBC Okanagan al 250-807-8832. También es posible ponerse en contacto con la línea de quejas de los participantes de investigación por correo electrónico (RSIL@ors.ubc.ca). Si tiene alguna otra pregunta sobre este estudio, póngase en contacto con Monica (investigadora del estudio), m.good@alumni.ubc.ca

**Guía de consentimiento con carta de información**

Si los participantes desean, se les proporcionará una copia escrita de este guión para conservar
* Ésta carta de información se leerá en voz alta seguida de éste guión de consentimiento

Se le pide que participe en un estudio titulado: Voces sin sonido y oídos sordos en una zona de silencio. El papel del intérprete Indígena en Oaxaca, México

(1) ¿Se le ha dado suficiente información para sentirse cómodo participando en el estudio?

(2) ¿Se le ha explicado completamente el estudio?

(3) ¿Se han respondido todas las preguntas a su satisfacción?

¿Te gustaría participar? Indique "sí" o "no".

¿Podría indicar su nombre completo?

[Un miembro del equipo de investigación documentará la fecha en la grabación de audio en este momento. Si el individuo responde "no" a la pregunta inicial, no se les hará más preguntas. Si los
participantes contestan "no" a alguna de las preguntas subsiguientes, el investigador proporcionará la elaboración o explicación necesaria.

Letter of Information and Consent Script (ILI)
Voiceless Tongues and Deaf Ears in a Silent Zone:
The Role of the Indigenous Interpreter in Oaxaca, Mexico

Principal Investigator:

Allison Hargreaves
Associate Professor, North American Indigenous Literatures
Faculty of Creative and Critical Studies
The University of British Columbia, Okanagan Campus
CCS 348, 1148 Research Road
Kelowna, BC V1V 1V7
T: 250.807.8446
E: allison.hargreaves@ubc.ca

Co-Investigator(s):

Monica Morales-Good
Ph.D. Candidate
Faculty of Creative and Critical Studies

The research is part of the student’s fieldwork to be included in her dissertation. The participants will be made aware of the use of the information collected. Only the Principal Investigator and the Student will have access to all information collected during field research.

Who is conducting this study?

The study is being conducted by Monica Morales-Good.

Purpose of the Study:

This letter will provide you with information about this research study so you can make an informed decision as to whether you would like to participate. My name is Monica Morales-Good. I am a doctoral student at the University of British Columbia Okanagan. My research project addresses the difficulties Indigenous peoples face when accessing the legal system and will identify possible ways to create better training programs for interpreters. This research is being conducted as part of my dissertation and the final product will be publically available on the internet via cIRcLe.

What will I be asked to do?

Participants will be asked to do an individual interview with the co-investigator, and a focus group session, they can also do both if they wish. In these interviews you will be invited to participate in a discussion to
share your experiences and opinions in providing interpretation. **The estimated duration of the interview is between one and two hours.**

**How will I be supported?**

It is possible that some questions may make you feel sad or uncomfortable. If this were to happen, please tell the interviewer and she can discuss these feelings with you or stop the interview if you would like. These meetings will provide an opportunity for you to provide feedback about the research process and, with other participants, to reflect on challenges that you have faced.

This study may help you feel supported by providing a space where you can talk about your experiences freely and have the opportunity for others to truly listen to your thoughts and opinions. These conversations and reflections may also help you develop a greater understanding of your community.

**What if I feel unsafe?**

Many precautions will be taken to ensure that you feel as safe as possible. First, you may choose to participate only privately, either by having a one-on-one session with the researcher, or by conducting interviews over the phone. You can withdraw from the study at any time. You are under no obligation to continue your participation if you do not wish to do so.

**Do I have to participate?**

No. Participation in this study is purely voluntary and your decision alone to make. You may refuse to participate, refuse to answer any question or withdraw from the study at any time with no effect on your future (care/academic status/employment etc.).

**How will my privacy be protected?**

If you withdraw from the study, any information collected so far can be removed if you want. Otherwise, all research data collected will be kept on data-encrypted USBs (electronic data storage devices) in a locked cabinet to protect your privacy. This data will be destroyed five years after publication. Any publication or presentation arising from this study will not include your name or any identifying information unless you give your explicit permission.

Stories and information that you share will not have any identifying information or your name unless you wish it to be documented in this way. No information shared in research meetings will be shared with anyone outside of the research team without your explicit permission. We encourage participants not to discuss the content of the research to people outside the group.

**How will I know what happened?**

Participants and interested community members will be invited to participate in public meetings to receive updates on how the research is coming along. A written summary of the research findings can also be shared with you if you choose.
Are there any costs to participating?

We recognize that transportation needs often pose a barrier to individuals’ participation. A stipend will be offered to help you with traveling expenses. Please let us know if you require assistance. A small stipend will be offered for each interview (50 MXP). The presence of an interpreter may be necessary during an interview with an Indigenous survivor. The interpreter will be offered a 50 MXP stipend.

Do you have any questions or concerns?

If you have any concerns or complaints about your rights as a research participant and/or your experiences while participating in this study, contact the Research Participant Complaint Line in the UBC Office of Research Services at 1-877-822-8598 or the UBC Okanagan Research Services Office at 250-807-8832. It is also possible to contact the Research Participant Complaint Line by email (RSIL@ors.ubc.ca). If you have any other questions about this study please contact Monica (study researcher), m.good@alumni.ubc.ca

Consent Script with Letter of Information

*Letter of Information to be read aloud followed by this consent script:

You are being asked to participate in a research study entitled: Voiceless Tongues and Deaf Ears in a Silent Zone: The Role of the Indigenous Interpreter in Oaxaca, Mexico.

(1) Have you been given enough information to feel comfortable participating in the study?
(2) Has the study been fully explained to you?
(3) Have all questions been answered to your satisfaction?
(4) Do you want to use your name or do you prefer for your name to remain confidential?
(5) Would you like to participate in this research?

Please state, “I agree” or “I do not agree”

Could you please state your full name?

[The research team member will document the date and time in the audio-recording at this time. If the individual answers ‘no’ to the initial question, they will not be asked any more questions. If participants answer ‘no’ to any of the subsequent questions, the researcher will provide necessary elaboration or explanation.]
Voces sin sonido y oídos sordos en una zona de silencio.  
El papel del intérprete Indígena en Oaxaca, México

Investigador Principal:

Allison Hargreaves  
Assistant Professor, North American Indigenous Literatures  
Faculty of Creative and Critical Studies  
The University of British Columbia, Okanagan Campus  
CCS 348, 1148 Research Road  
Kelowna, BC V1V 1V7  
T: 250.807.8446  
E: allison.hargreaves@ubc.ca

Co-solicitante:

Monica Morales-Good  
Ph.D. Candidate Faculty of Creative and Critical Studies

La investigación es parte del trabajo de campo del estudiante para ser incluido en su disertación. Los participantes serán informados del uso de la información recopilada. Sólo el Investigador Principal y el Estudiante tendrán acceso a toda la información recopilada durante el trabajo de campo.

¿Quién financia este estudio?

El estudio es realizado por Monica Good

Propósito del estudio:

Esta carta le proporcionará información sobre este estudio de investigación para que pueda tomar una decisión informada sobre si desea participar. Mi nombre es Monica Good. Soy estudiante de doctorado en la Universidad de British Columbia Okanagan. Mi proyecto de investigación aborda las dificultades indígenas al acceder al sistema legal y las posibles maneras de crear mejores programas de capacitación para intérpretes incluyendo el lenguaje y las prácticas indígenas en el ámbito legal. Esta investigación se lleva acabo como parte de mi disertación doctoral y el resultado final estará disponible en internet via cIRcle.

¿Qué se me pedirá hacer?

Se pedirá a los participantes que se reúnan individualmente con el co-investigador, o en un grupo de enfoque. En estas entrevistas se le invitará a participar en una discusión para compartir sus experiencias y opiniones. Estas entrevistas pueden durar entre una y dos horas.
¿Qué apoyo voy a recibir?

Es posible que algunas preguntas le hagan sentir triste o incómodo. Si esto sucediera, por favor dígaselo al entrevistador y ella puede discutir estos sentimientos con usted o detener la entrevista si así lo desea. El entrevistador también podría aconsejarle a los servicios apropiados que pueden proporcionarle el apoyo que necesita. También puede participar en reuniones de alcance si usted y otros compañeros participantes desean hacerlo. Estas reuniones proveerán una oportunidad para que usted provea retroalimentación sobre el proceso de investigación y, con otros participantes, reflexionar sobre los desafíos que ha enfrentado.

Este estudio puede ayudarle a sentirse apoyado proporcionándole un espacio donde usted puede hablar de sus experiencias libremente y tener la oportunidad para que otros escuchen sus pensamientos y opiniones. Estas conversaciones y reflexiones también pueden ayudarle a desarrollar una mayor comprensión de su comunidad.

¿Qué pasa si me siento en peligro?

Se tomarán muchas precauciones para asegurarse de que se sienta lo más seguro posible. En primer lugar, puede optar por participar en privado, ya sea teniendo una sesión de uno-a-uno con el investigador, o mediante la realización de entrevistas por teléfono. Puede retirarse del estudio en cualquier momento. Usted no está obligado a continuar participando si no desea hacerlo.

¿Tengo que participar?

No. La participación en este estudio es puramente voluntaria y sólo usted puede tomar esa decisión. Usted puede negarse a participar, rehusarse a contestar cualquier pregunta o retirarse del estudio en cualquier momento sin ningún efecto a su futuro (cuidado / estado académico / empleo, etc.).

¿Cómo será protegida mi privacidad?

Si se retira del estudio, cualquier información recolectada hasta el momento puede ser eliminada si así lo desea. De lo contrario, todos los datos de investigación recopilados se mantendrán en USB de datos codificado (dispositivos de almacenamiento de datos electrónicos) en un gabinete cerrado para proteger su privacidad. Estos datos serán destruidos cinco años después de su publicación. Cualquier publicación o presentación que surja de este estudio no incluirá su nombre o cualquier información de identificación a menos que usted dé su permiso explícito.

Las historias y la información que comparte no tendrán ninguna información de identificación ni su nombre a menos que desee que se documente de esta manera. Ninguna información compartida en las reuniones de investigación será compartida con nadie fuera del equipo de investigación sin su permiso explícito. Alentamos a los participantes a no discutir el contenido de la investigación con personas ajenas al grupo.
¿Cómo sabré que pasó con el estudio?

Se invitará a los participantes ya los miembros de la comunidad interesados a participar en reuniones públicas para recibir información actualizada sobre la marcha de la investigación. Un resumen escrito de los resultados de la investigación también se puede compartir con usted si lo desea.

¿Hay algún costo para participar?

Reconocemos que las necesidades de transporte a menudo representan una barrera para la participación de los individuos. Podemos ayudarle minimizar estos costos al ayudarle con los gastos de viaje. Por favor, háganos saber si necesita ayuda. También recibirá un pago de $50 MPX por cada entrevista o grupo de enfoque.

¿Tiene preguntas o inquietudes?

Si tiene alguna inquietud o queja sobre sus derechos como participante en la investigación y / o sus experiencias mientras participa en este estudio, comuníquese con la línea de quejas del participante de investigación en la Oficina de Servicios de Investigación de UBC al 1-877-822-8598 o en la Oficina de Servicios de Investigación UBC Okanagan al 250-807-8832. También es posible ponerse en contacto con la línea de quejas de los participantes de investigación por correo electrónico (RSIL@ors.ubc.ca). Si tiene alguna otra pregunta sobre este estudio, póngase en contacto con Monica (investigadora del estudio), m.good@alumni.ubc.ca

Guión de consentimiento con carta de información

Si los participantes desean, se les proporcionará una copia escrita de este guión para conservar
* Ésta carta de información se leerá en voz alta seguida de éste guión de consentimiento

Se le pide que participe en un estudio titulado: Voces sin sonido y oídos sordos en una zona de silencio. El papel del intérprete Indígena en Oaxaca, México

(1) ¿Se le ha dado suficiente información para sentirse cómodo participando en el estudio?

(2) ¿Se le ha explicado completamente el estudio?

(3) ¿Se han respondido todas las preguntas a su satisfacción?

¿Te gustaría participar? Indique "sí" o "no".

¿Podría indicar su nombre completo?

[Un miembro del equipo de investigación documentará la fecha en la grabación de audio en este momento. Si el individuo responde "no" a la pregunta inicial, no se les hará más preguntas. Si los participantes contestan "no" a alguna de las preguntas subsiguientes, el investigador proporcionará la elaboración o explicación necesaria.]
Appendix C: Focus Group Discussion Consent (English and Spanish versions)

Focus Group Discussion Consent Form

Research Project Title: Voiceless Tongues and Deaf Ears in a Silent Zone: The Role of the Indigenous Interpreter in Oaxaca, Mexico.

Study Team
The Principal Investigator is Dr. Allison Hargreaves from the Faculty of Creative and Critical Studies at The University of British Columbia Okanagan. Dr. Hargreaves can be reached at allison.hargreaves@ubc.ca. The Co-Investigator is Monica Morales-Good and she can be reached at m.good@alumni.ubc.ca

You are being asked to participate in a research study. Please take your time to review this consent form and discuss any questions you may have, or words you do not clearly understand, with the research study team. Take your time to make your decision about participating in this study and you may discuss it with your friends or family before you make your decision.

Purpose of the Study
This letter will provide you with information about this research study so you can make an informed decision as to whether you would like to participate. My name is Monica Morales-Good. I am a doctoral student at the University of British Columbia Okanagan. My research project addresses the difficulties Indigenous peoples face when accessing the legal system and will identify possible ways to create better training programs for interpreters. This research is being conducted as part of my dissertation and the final product will publically be available on the internet via cIRcLe.

Study Procedures
This study involves two ways of interviewing individuals. We will be interviewing individuals, on a one-on-one basis, and asking questions about your experiences providing interpretation in legal system in an Indigenous language. Another way we will be interviewing is by asking a group of people to come together into a focus group. In this group, we will also ask your experiences providing interpretation to Indigenous peoples. The interviews and focus groups will take place at a public location. You will be asked to participate in a one-on-one interview, in a focus group, or in both. All information you provide will be kept strictly confidential. The estimated duration of the interviews is between one and two hours.

We will also ask if you would be willing to be contacted at a later date in case we need to clarify any of the responses given in the interview. This would involve providing your name, address, and phone number, and the name of another contact person in case you move or your phone number changes. All personal information you provide will be kept strictly confidential, separate from the interview data. At the conclusion of this research project we will destroy all computer and paper records containing your identifying information. Access to personal information will be restricted to the research team only and will be secured electronically and physically in a locked office away from public access. No staff from the University or community organizations will have direct access to your personal information. The interview will be approximately one to two hours long. You can stop participating at any time. However, if you decide to stop participating in the study, we encourage you to talk to the research study staff first. If you decide to withdraw from the study all data contributed to date...
will be kept confidential. It is not possible to remove individual information data from a focus group interview.

**Risks and Discomforts**
We will make every effort to make certain that there will be no way that people can identify you in the study. However, we cannot guarantee you absolute confidentiality. We encourage participants to keep the content of the focus group confidential.

**Costs**
The study procedures are conducted at no cost to you.

**Benefits**
It is possible that some questions may make you feel sad or uncomfortable. If this were to happen, please tell the interviewer and she can discuss these feelings with you or stop the interview if you would like. These meetings will provide an opportunity for you to provide feedback about the research process and, with other participants, to reflect on challenges that you have faced.

This study may help you feel supported by providing a space where you can talk about your experiences freely and have the opportunity for others to truly listen to your thoughts and opinions. These conversations and reflections may also help you develop a greater understanding of your community.

**Payments for Participation**
We recognize that transportation needs often pose a barrier to individuals’ participation. A stipend will be offered to help you with traveling expenses. Please let us know if you require assistance. A small stipend will be offered for each interview (100 MXP). The presence of an interpreter may be necessary during an interview with an Indigenous survivor. The interpreter will be offered a 100 MXP stipend.

**Confidentiality**
Information gathered in this research study may be published or presented in public forums; however, your name or other identifying information will not be used or revealed. Despite all efforts to keep information shared in the focus groups confidential, there is a chance that a focus group participant may share the information they have heard. We therefore cannot guarantee absolute confidentiality. Also, your personal information may be disclosed if required by law.

**Voluntary Participation/Withdrawal from the Study**
Your decision to take part in this study is voluntary. You may refuse to participate or you may withdraw from the study at any time with no effect on your future (care/academic status/employment etc.). If the research study team feels that it is in your best interest to withdraw you from the study, they will remove you without your consent.

**Questions**
If you have any concerns or complaints about your rights as a research participant and/or your experiences while participating in this study, contact the Research Participant Complaint Line in the UBC Office of Research Services at 1-877-822-8598 or the UBC Okanagan Research Services Office at 250-807-8832. It is also possible to contact the Research Participant Complaint Line by email (RSIL@ors.ubc.ca).

If you have any other questions about this study please contact Monica (study researcher), m.good@alumni.ubc.ca

**Statement of Consent**
*Letter of Information to be read aloud followed by this consent script:*
You are being asked to participate in a research study entitled: Voiceless Tongues and Deaf Ears in a Silent Zone: The Role of the Indigenous Interpreter in Oaxaca, Mexico.

Please state, “I agree” or “I do not agree” to the following

(1) Have you been given enough information to feel comfortable participating in the study?
(2) Has the study been fully explained to you?
(3) Have all questions been answered to your satisfaction?
(4) Do you want to use your name or do you prefer for your name to remain confidential?
(5) Would you like to participate in this research?

RE: Confidentiality

1. I have reviewed the information in this letter and have had any questions about the study answered to my satisfaction.
2. I am agreeing to have the focus group audio-recorded.
3. I agree to maintain confidentiality of information shared in this focus group.
4. I have received a copy of this information letter.
5. I agree to participate in the research study.

This focus group is being conducted on (date) of 2017
Could you please state your full name?

Do you agree to the recording? Please state “Yes” or “No”

[The research team member will document the date and the time in the audio-recording at this time. If the individual answers ‘no’ to the initial question, they will not be asked any more questions. If participants answer ‘no’ to any of the subsequent questions, the researcher will provide necessary elaboration or explanation.]
Formulario de Consentimiento de la Discusión de Grupo Focal

Título del proyecto de investigación: Lenguas sin voz y oídos sordos en una zona silenciosa:
El rol del intérprete indígena en Oaxaca, México.

Equipo de Estudio
La Investigadora Principal es la Dra. Allison Hargreaves de la Facultad de Estudios Creativos y Críticos de la Universidad de British Columbia Okanagan. La Dra. Hargreaves puede ser contactada a allison.hargreaves@ubc.ca. La Co-Investigadora es Monica Morales-Good y puede ser contactada a m.good@alumni.ubc.ca

Se le pide que participe en un estudio de investigación. Por favor, tómese su tiempo para revisar este formulario de consentimiento y discutir cualquier pregunta que pueda tener, o palabras que no entienda claramente, con el equipo del estudio de investigación. Tómese su tiempo para tomar su decisión sobre participar en este estudio y usted puede discutirllo con sus amigos o familia antes de tomar su decisión.

Propósito del estudio
Esta carta le proporcionará información sobre este estudio de investigación para que pueda tomar una decisión informada sobre si desea participar. Mi nombre es Monica Morales-Good. Soy estudiante de doctorado en la Universidad de British Columbia Okanagan. Mi proyecto de investigación aborda las dificultades que enfrentan los pueblos indígenas al acceder al sistema legal e identificará posibles formas de crear mejores programas de capacitación para los intérpretes. Esta investigación se lleva acabo como parte de mi disertación doctoral y el resultado final estará disponible en internet vía cIRcle.

Procedimientos del estudio
Este estudio involucra dos formas de entrevistar a individuos. Estaremos entrevistando a individuos, de manera individual, y haremos preguntas sobre sus experiencias de interpretación en el sistema legal en un idioma indígena. Otra forma en la que estaremos entrevistando es pidiendo a un grupo de personas que se reúnan en un grupo de enfoque. En este grupo, también preguntaremos sus experiencias de interpretación a los pueblos indígenas. Las entrevistas y los grupos de discusión tendrán lugar en un lugar público. Se le pedirá que participe en una entrevista individual, en un grupo de enfoque, o en ambos. Estas entrevistas pueden durar entre una y dos horas.

También le preguntaremos si estaría dispuesto a ser contactado en una fecha posterior en caso de que necesitemos aclarar alguna de las respuestas dadas en la entrevista. Esto implicaría proporcionar su nombre, dirección y número de teléfono, y el nombre de otra persona de contacto en caso de que se mude o su número de teléfono cambie. Toda la información personal que proporcione será mantenida estrictamente confidencial, separada de los datos de la entrevista. Al final de este proyecto de investigación destruiremos todos los registros informáticos y en papel que contengan su información de identificación.

El acceso a la información personal estará restringido al equipo de investigación solamente y será asegurado electrónicamente y físicamente en una oficina cerrada, lejos del acceso público. Ningún personal de la Universidad u organizaciones comunitarias tendrá acceso directo a su información personal. La entrevista será de aproximadamente una a dos horas de duración. Puede dejar de participar en cualquier momento. Sin embargo, si decide dejar de participar en el estudio, le animamos a hablar primero con el personal del estudio de investigación. Si decide
abandonar el grupo, toda la información recaudada hasta la fecha será mantenida confidencialmente. No es posible remover información individual de la entrevista en un grupo de enfoque.

**Riesgos e incomodidades**
Haremos todo lo posible para asegurarnos de que no haya manera de que la gente pueda identificarlo en el estudio. Sin embargo, no podemos garantizarle absoluta confidencialidad. Animamos a los participantes a mantener el contenido del grupo de enfoque confidencial.

**Costos**
Los procedimientos del estudio se realizan sin costo para usted.

**Beneficios**
Es posible que algunas preguntas te hagan sentir triste o incómodo. Si esto sucediera, por favor digaselo al entrevistador y ella puede discutir estos sentimientos contigo o detener la entrevista si lo deseas. Estas reuniones proveerán una oportunidad para que usted provea retroalimentación sobre el proceso de investigación y, junto con otros participantes, para reflexionar sobre los desafíos que ha enfrentado.
Este estudio puede ayudarle a sentir apoyo, proporcionando un espacio donde pueda hablar de sus experiencias libremente y tener la oportunidad de que otros escuchen verdaderamente sus pensamientos y opiniones. Estas conversaciones y reflexiones también pueden ayudarle a desarrollar una mayor comprensión de su comunidad.

**Pagos por Participación**
Reconocemos que las necesidades de transporte a menudo representan un obstáculo para la participación de los individuos. Se ofrecerá un rembolso para ayudarle con los gastos de viaje. Por favor, háganos saber si necesita ayuda. Se ofrecerá un pequeño estipendio por cada entrevista (100 MXP). La presencia de un intérprete puede ser necesaria durante una entrevista con un superviviente indígena. El intérprete recibirá un pago de 100 MXP.

**Confidencialidad**
La información recogida en este estudio de investigación puede ser publicada o presentada en foros públicos; Sin embargo, su nombre u otra información de identificación no será usada o revelada. A pesar de todos los esfuerzos para mantener confidencial la información compartida en los grupos focales, existe la posibilidad de que un participante en un grupo focal pueda compartir la información que han escuchado. Por lo tanto, no podemos garantizar la confidencialidad absoluta. Además, su información personal puede ser revelada si la ley lo requiere.

**Participación voluntaria / retirada del estudio**
Su decisión de participar en este estudio es voluntaria. Usted puede negarse a participar o puede retirarse del estudio en cualquier momento sin ningún efecto en su futuro (cuidado / estado académico / empleo, etc.). Si el equipo del estudio de investigación considera que está en su mejor interés el ser retirado del estudio, lo removerán sin su consentimiento.

**Preguntas**
Si tiene alguna inquietud o queja sobre sus derechos como participante en la investigación y/o sus experiencias mientras participa en este estudio, comuníquese con la línea de quejas del participante de investigación en la Oficina de Servicios de Investigación de UBC al 1-877-822-8598 o en la UBC Okanagan Oficina de Servicios de Investigación al 250-807-8832. También es posible ponerse en contacto con la línea de quejas de los participantes de la investigación por correo electrónico (RSIL@ors.ubc.ca). Si tiene alguna otra pregunta sobre este estudio, póngase en contacto con Monica (investigadora del estudio), m.good@alumno.ubc.ca

Declaración de consentimiento

* La carta de información se leerá en voz alta seguida de esta escritura de consentimiento:

Se le pide participar en un estudio de investigación titulado: Lenguas sin voz y oídos sordos en una zona silenciosa: El papel del intérprete indígena en Oaxaca, México.

Por favor, indique "Estoy de acuerdo" o "No estoy de acuerdo" con lo siguiente

1. ¿Se le ha dado suficiente información para sentirse cómodo participando en el estudio?
2. ¿Se le ha explicado completamente el estudio?
3. ¿Se han respondido todas las preguntas a su satisfacción?
4. ¿Quiere usar su nombre o prefiere que su nombre permanezca confidencial?
5. ¿Quieres participar en esta investigación?

RE: Confidencialidad

1. He revisado la información en esta carta y he tenido algunas preguntas sobre el estudio contestado a mi satisfacción.
2. Estoy de acuerdo en que el grupo de enfoque grabado en audio.
3. Acepto mantener la confidencialidad de la información compartida en este grupo focal.
4. He recibido una copia de esta carta informativa.
5. Acepto participar en el estudio de investigación.

Este grupo de enfoque se lleva acabo el día (fecha) del 2017
¿Podría indicar su nombre completo?

[El miembro del equipo de investigación documentará la fecha y la hora en la grabación de audio en este momento. Si el individuo responde "no" a la pregunta inicial, no se les hará más preguntas. Si los participantes contestan "no" a alguna de las preguntas subsiguientes, el investigador proporcionará la elaboración o explicación necesaria.]