

## Translating rights: the Peruvian Indigenous Languages Act in Quechua and Aymara<sup>1</sup>

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**Abstract:** New language rights legislation in Peru has triggered State training of indigenous translator-interpreters to work in public service and prior consultation settings. A spin-off of the training has been the translation of the text of the 2011 Indigenous Languages Act from Spanish into a range of indigenous languages. This article focuses on the challenges of the translating process to Quechua and Aymara. These challenges were presented by the structural differences between source and target languages, the divergent conceptual systems that embed the original text and its translations, and the different trade-offs between orality and literacy of the cultural systems involved. Finally, issues concerning the relationship between the translators' cultural identities and the translation process arose; these are also addressed.

**Keywords:** Quechua, Aymara, Peru, sociolinguistics, language policy, translating rights, Peruvian Language Act

### Introduction

Spanish colonisation of today's Latin American region set in train processes of interlingual translation that continue today. In early times, colonial administrators and priests led translation activity, largely for Christian indoctrination purposes (Durstun 2007; Hanks 2010). In the

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<sup>1</sup> The research was supported by an Innovation Grant from the Arts and Humanities Research Council (AHRC, UK) under their Translating Cultures theme (Award No. AH/M003566/1). It was also facilitated by Collaborative Agreements between Newcastle University, Heriot-Watt University, the *Pontificia Universidad Católica del Perú (PUCP)*, with our collaborators, the Peruvian Ministry of Culture, and Project Partners *Asociación Servicios Educativos Rurales (SER)*.

twentieth century, anthropologists, evangelical bible translators, and education practitioners took a hand. With some exceptions, translators were external to the indigenous cultures they sought to understand and interpret. Bilingual native people tended to be assistants in the process of translation, rather than agents translating in their own right, in order to bridge the communication gap in one direction or the other.

This article will focus on processes underway in twenty-first century Peru that reverse that historical tendency. In the context of new language rights legislation, and to raise public awareness of the need to counter language rights infringements, bilingual people, many of whom self-identify as indigenous, are becoming involved as translators and interpreters on their own terms, supported by a Ministry of Culture training initiative.

The aim of this paper is to explore the challenges posed by translating the text of a law – the 2011 Indigenous Languages Act– from Spanish into two indigenous languages of Peru, Quechua and Aymara. We will focus on the tensions arising in the translating process, due to the position of the translators at the interface between Spanish-speaking and Andean language-speaking cultural settings, with the linguistic and social hierarchies that these imply.<sup>1</sup>

Translation difficulties due to the significant structural differences between language pairs may be tackled by applying technical solutions, although never straightforward. Translation problems arising from the divergent conceptual systems within which the diverse tongues are embedded may be harder to overcome, particularly when it is a matter of legal language.

We can also expect the imbalanced sociolinguistic relationship between Spanish and the indigenous languages, with the latter's legacy of low social prestige and discrimination towards the communities of speakers, to impact upon translation. Such impact may affect the social processes in

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<sup>1</sup> As part of our project, we also examined translations of the Languages Act into Shipibo and Ashaninka. However, due to our particular linguistic specialisms, we restrict our textual analysis to the Andean languages. Some comparison with Amazonian language data will be made in what follows, where this is relevant and available to us.

which translation is embedded, the translation strategies adopted, and the formal features of the resultant texts.

Regarding the social processes, these are structured by the institutional context within which the translations are commissioned and conducted. They may also be shaped by the translators' complex sense of their own identities, for example, in the ways that they often feel they straddle at least two cultural and linguistic worlds.

The translations of the Indigenous Languages Act were not designed to become part of a textual universe of written legislation in their new settings; the codification of traditional justice among the indigenous peoples of Peru tends to be primarily oral and the principles of customary law that hold within the communities are not generally consigned to writing.<sup>2</sup> Thus, the function of these translations was purely informative and non-performative. A further objective will be to examine how the translators approached the transmission of information couched in legal language in a textual genre alien to their cultures.

As an additional point, in light of the minoritised status of the target languages under consideration here, we will ask whether such translating practice, supported by legislation, might have a positive impact not only on the exercise of language rights, but also on the language revitalisation demands of the communities of speakers.

## **1. The Peruvian Indigenous Languages Act**

Despite legal instruments such as the International Labour Organisation's Convention 169 on the Rights of Indigenous and Tribal Peoples (1989), of which Peru is a signatory, and despite the country's 1993 Constitutional reform, which formally recognises the pluricultural nature of the population and stipulates that indigenous language speakers have the right to an interpreter in a Court of Law, effective legislation based on the principle of linguistic human rights for indigenous peoples has been slow to appear.

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<sup>2</sup> However, see Salomon and Niño-Murcia (2011) for a critical perspective on stereotypes of 'Andean orality'.

The 2011 *Ley de Lenguas Indígenas* (*Ley No. 29735*) or ‘Indigenous Languages Act’ provides for language rights to be recognized and respected in a wide range of situations, and makes official the country’s estimated forty-seven indigenous languages ‘in the areas where they predominate’. Official status means that speakers have the right to use their own languages when accessing public services, and to be provided with an interpreter and/or translator to facilitate communication with Spanish speaking officials.

Responsibility for implementing the Act has fallen to the Ministry of Culture. One of their lines of action has been to deliver a series of training courses in translation and interpreting for bilingual speakers of indigenous languages.<sup>3</sup> As a spin-off from the courses, they also commissioned a number of trainees to undertake the translation of the text of the Act into their indigenous mother tongues.<sup>4</sup> For many, this was their first experience of professional translation. The task was designed to raise awareness of the Indigenous Languages Act across the country’s diverse regions. The translations were published in booklet form accompanied by an audio CD, and disseminated by the Ministry through a series of nationwide public events in 2014.<sup>5</sup>

In Part 2, we explore some of the issues arising in the translation of a legal text, from a theoretical point of view. We also comment in a comparative framework on the problems likely to arise in postcolonial and multicultural settings in Latin America, when translation involves both bridging conceptual gaps between cultures and making the leap from a

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<sup>3</sup> Nine courses were delivered between 2012-2016, training 307 translator-interpreters in a total of 36 languages. Successful trainees are registered in a national database of indigenous language translator-interpreters, administered by the Ministry. See Andrade, Howard and de Pedro (forthcoming) on the complex role of the translator as perceived by the trainees and the public servants.

<sup>4</sup> At the time of writing, the Act has been translated into seventeen of Peru’s estimated forty-seven indigenous languages – three spoken in the Andean highlands, the remainder in Amazonia – belonging to sixteen language families. A number of these translations can be found on-line at <http://www.cultura.gob.pe/es/interculturalidad/ley-indig-29735>.

<sup>5</sup> We are grateful to the Indigenous Languages Division of the Ministry of Culture for facilitating our access to the factual information discussed in this article. Citations from the Indigenous Languages Act come from *Ministerio de Cultura* (2014); information also came from Ministerial publicity on Facebook.

written to a primarily oral tradition.<sup>6</sup> In Part 3 we discuss translations of the Indigenous Languages Act into Aymara and two varieties of Quechua, based on retrospective Think Aloud Protocols (see note 9) and interviews conducted with the translators, in addition to our own text analysis. We also comment on aspects of the relationship between the translators' cultural identities and the translation process.

## **2. Translating legal language**

### **2.1. Theory of legal translation from a Western perspective**

Theorists of legal translation variously characterise the language of the law in the Western tradition (Morris 1995; Cao 2007). Law guides human behaviour and regulates human relations; its language is normative, prescriptive, and performative in that it directs action, 'setting out obligation, prohibition and permission' (Cao 2007: 13-14). Due to the fact that the language of law is specialised, and because legal translation 'can have legal impact and consequence' (Cao 2007: 3), legal translation is complex and requires special skills.

Despite its normative nature, the language of the law may be seen as indeterminate, even ambiguous or open-ended in its meanings. Cao (2007: 7) comments that legal language embeds 'tension between legal certainty and linguistic indeterminacy'. Joseph (1995) goes further, claiming that the intersecting fields of legal theory, language theory, and translation theory have all moved to a poststructuralist position aimed at laying bare the ideological foundations of their respective objects of study. From this view, he contends, all three fields are 'indeterminate' and lack fixed meanings (Joseph 1995: 14). On the basis of our analysis we will suggest that when indigenous translators of the law comment on difficulties arising from the abstract or ambivalent language of the source text, they are experiencing this indeterminacy at first hand.

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<sup>6</sup> We characterise Peru as a postcolonial country in so far as its history of colonisation continues to explain, in the sociolinguistic field as in others, deep structural imbalances of power, social justice, and equality. For the purposes of this article we do not engage with the well-elaborated theoretical debate on postcolonialism and postcoloniality in Latin America (see, for example, Langer, ed. (2000)).

With regard to the respective functions of the source and target texts in legal translation, Cao (2007: 9) points out how these may not be the same: '[...] importantly [...] the legal status and communicative purposes in the SL [source language] texts are not automatically transferred or carried over to the TL [target language] texts. They can be different' (Cao 2007: 10). As indicated above (see Introduction), this is the case with the translations of the Indigenous Languages Act into the indigenous languages of the country: their function is not performative and their value is, therefore, symbolic rather than legal. The translators of the Peruvian Indigenous Languages Act are generally explicit that their aim is to communicate the content rather than replicate the function of the original, in resonance with the distinction between legislative and informational functions of the legal text referred to by Cao.

## **2.2. Spanish-indigenous language translating in Latin America**

There are some other instances of translation of contemporary legal instruments from Spanish into Amerindian languages by bilingual indigenous agents, documented in the scholarship and with which comparison is useful. Their significance lies in the fact that they emerged in contexts characterised by the power imbalance between languages and their speakers, produced by a history of colonisation. Firstly, the experience of the indigenous linguists involved in translating Colombia's 1991 Constitution into seven Amerindian languages (Landaburu 1997a, 1997b; Jamioy Muchavisoy 1997; Zalabata Torres 1997): the greatest success of that project was felt to lie less in the production of the translations themselves than in the processes of reflection and empowerment it triggered among the communities of speakers. Initially, the very act of translating an instrument of State governance was questioned in some communities. The Kamëntsa people were concerned that translating the word of the State into their language could compromise the integrity of the latter (Jamioy 1997: 120). The Arhuaco worried that to translate State precepts into their tongue would have an acculturating effect on the community's youth (Zalabata 1997: 135). Yet speakers of Arhuaco (Ikūn), Nasa Yuwe, Kamëntsa, and other languages, engaged in discussions in their home communities about the structure and semantics of their languages, which engendered new understanding of the differences

between State political organization and legal precepts, and their own. The difficulty of translating key terms such as ‘law’, ‘rights’, ‘sovereignty’, ‘nation’ ‘culture’ and others cropped up repeatedly, in common with the Peruvian experience, as we will see (*cf.* Chirinos 1999).

Pitarch’s (2008) analysis of the Maya Tzeltal translation of the 1948 UN Universal Declaration of Human Rights highlights how translation is not just about finding lexical equivalents but, perhaps most importantly, about taking into account the discourse genre of both the source and the target texts. He shows how Tzeltal translators embedded the content of the Declaration in a genre (*mantalil*) recognizable to Tzeltal speakers. The *mantalil* has a perlocutionary effect in so far as it guides listeners on how to live their lives; it expresses the idea of ‘law’ in Tzeltal (Pitarch 2008). Significantly, Pitarch argues that the Tzeltal translators achieved this effect in the translation by dint of reading the original according to Tzeltal cultural criteria; for them, the Universal Declaration of Human Rights was in itself a form of *mantalil*. Pitarch also discusses the concept of ‘rights’ from a Tzeltal perspective, worthy of comparison with the Peruvian case: as will be shown below, the difficulty posed by the lack of terms in the indigenous languages of Peru that convey the semantic value that ‘derechos’ has in Spanish is compounded by the different conceptualization of rights by the native peoples (see section 3.6.1 for the translators’ reflections on this issue).

### 3. Translating Peru’s Indigenous Languages Act

#### 3.1. Research methods

This study is based on extensive research in Peru between November 2014 and March 2016, in a range of locations from Lima, to the Andean and Amazonian regions.<sup>7</sup> During the period, Ministry of Culture employees facilitated our access to the public and translation and interpreting training

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<sup>7</sup> Locations were: Lima, Huaraz (Áncash), Quillabamba (Cuzco), Puno, Pucallpa (Ucayali), and Tambopata (Madre de Dios). Events in which we participated included: a workshop on health interpreting (Pucallpa, December 2014), a national meeting of indigenous translators and interpreters (Lima, February 2015), an interpreters training workshop aimed at prior consultation (Madre de Dios, March 2015), and the 8th Translating and Interpreting for Indigenous Languages Course convened by the Ministry of Culture (Quillabamba, August, 2015). Please see Acknowledgements for details of our funders and collaborative agreements.

events they were coordinating. This enabled us to develop extensive contact with the trainees, and to conduct the interviews with them that yielded the data discussed here.

We sought insight into the process of translating of the Indigenous Languages Act by several methods. Firstly, we conducted a review of the translations with the translators themselves or, where they were not available, with the translation revisers.<sup>8</sup> This review took the form of Think Aloud Protocols (TAP), a technique for analysing the cognitive process of translation, used in Translation Studies. TAP respondents were asked to read the translation, then comment on the difficulties they had encountered, the solutions they came up with, and to recall any discussion they had entered into before agreeing on these solutions. We followed up the translation analysis sessions with semi-structured interviews that allowed for freer flowing reflection on the subject. Thirdly, we conducted our own analysis of the translations, juxtaposing the source and target texts. We discuss findings in relation to Aymara, Chanka Quechua, and Ancash Quechua.<sup>9</sup>

### **3.2. Translators' approaches to the task**

As translators described to us in interview, there was typically a prolonged exchange between translator and reviser before a final version was agreed upon. It was common for this to be by mobile phone between Lima and the provincial locations where one or other of them might be based. The process of translation was assisted by an intra-lingual glossary of legal terminology, supplied by the Ministry, and supported by wide-ranging consultation with legal specialists to help decode the source text, and with other native speakers to help formulate the target text.

While consultation is common in tackling translation of specialized texts between any language pair, when it comes to translation from Spanish into Amerindian languages this is the more necessary due to the newness of the procedure: there is no existing body of texts from which

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<sup>8</sup> A translator and a reviser carried out each translation, and reached a consensus over the final versions. Our method was an adaptation of a Think Aloud Protocol (TAP). While De Pedro Ricoy designed the TAPs, Howard and Andrade conducted the TAP sessions.

<sup>9</sup> TAPs for Shipibo and Ashaninka are also discussed in De Pedro Ricoy *et al.* (forthcoming).



specialised lexical items might be sourced. Furthermore, due to the sociolinguistic pressures on bilinguals to relinquish use of their mother tongues in favour of Spanish in the course of their lives, a single speaker may not have sufficient indigenous language repertoire for the task. Thus, consultation ranges not only outwards to specialist people and texts, but also inwards to the translators' networks of fellow speakers (*cf.* Landaburu 1997a and b).

### 3.3. Translators' views of the task

The Peruvian indigenous translators were unanimous in recognising the inherent difficulty of translating legal language; this comment is typical:

*Es difícil para un castellanohablante a veces entender las leyes en este lenguaje tan formal, y más aún es más complicado traducir; es un dolor de cabeza traducir este lenguaje (Chanka Quechua TAP).<sup>10</sup>*

The Aymara respondent alone saw translation as an opportunity to try and reproduce the specialised register of the source text in the target text:

*Entonces, yo pensé y dije: “¿Pero cómo no se puede también hablar de un lenguaje jurídico en mi lengua, que sea un lenguaje directo, neutral, que diga que si hay ideología, por ejemplo, en un artículo, bueno, que también exprese eso; si no lo hay, también exprese eso? Entonces, lo que es pesado aquí es el lenguaje que se maneja en castellano; o sea, a lo mucho he procurado que el lenguaje jurídico manejado en castellano también se exprese en mi traducción y que sea posible también hacer (Aymara interview, 13 November 2014).*

With this comment, he expresses his attempt to recreate the text-producer v. text-receiver relationship that the state assumes in the Spanish source text, in the target text in the indigenous language (*cf.* De Pedro Ricoy *et al.* forthcoming).

### 3.4. Analytical premises

Our analysis of the translations of the *Ley de Lenguas Indígenas* from Spanish into Aymara, Chanka Quechua, and Ancash Quechua will attend to the difficulties of the task, and the solutions adopted. In Translation Studies terms, the typological divergences between Spanish and the Amerindian languages lead to obligatory shifts. For example, in the case of

<sup>10</sup> Dates of the TAP sessions were: Aymara, 3 November 2014, Chanka Quechua, 17 November 2014, Ancash Quechua, 26 November 2014.

Aymara and Quechua, favoured sentence structure shifts to Subject-Object-Verb, from the Subject-Verb-Object order of Spanish. By contrast, when divergences in the cultural systems of Spanish and Amerindian language speakers make it difficult to identify lexical and conceptual equivalences, we find evidence of optional shifts. There may be no obvious way to express the ideas of ‘law’, ‘rights’, and ‘culture,’ for example, and different translators come up with different solutions. Instances of both obligatory and optional shifts are to be found in the ways the title of the Act was translated, as illustrated below.

### 3.5. Obligatory and optional shifts in translating the title of the Indigenous Languages Act

All TAP respondents commented in some detail on how they translated the title of the Indigenous Languages Act. Their efforts highlight the contrast between use of obligatory and optional shifts across the three languages.

Table 1. Comparative translations of the title of the Indigenous Languages Act

<i>Title of the Act</i>	<i>Ley que regula el uso, preservación, desarrollo, recuperación, fomento y difusión de las lenguas originarias del Perú</i> (‘Act that regulates the use, preservation, development, recovery, promotion, and spread of the indigenous languages of Peru’)
<b>Aymara translation</b>	Pirü markana tunu arunakapa apnaqasiñapataki, jakayaskakiñataki, thurichañataki, chhaqanachipana kutitatayañataki, sarantayañataki, t’uqiyañataki Kamachi
Phrase breakdown	Pirü markana   tunu arunakapa   apnaqasiñapataki   jakayaskakiñataki   thurichañataki   chhaqanachipana kutitatayañataki   sarantayañataki   t’uqiyañataki   Kamachi
Gloss	In the Peru nation   of the originary languages   in order to use   in order to preserve   in order to reinforce   in order to recover   in order to push forward   in order to expand   Law
<b>Chanka Quechua translation</b>	Perú suyu llaqtapa siminkuna rimanapaq, waqaychanapaq, mastarinapaq, ñawpaqman puririchinapaq, tarikapunapaq, riqsichinapaqpas Ley
Phrase breakdown	Perú suyu llaqtapa   siminkuna   rimanapaq   waqaychanapaq   mastarinapaq   ñawpaqman puririchinapaq   tarikapunapaq   riqsichinapaqpas Ley
Gloss	Of the country of Peru   its languages   in order to speak   in order to preserve   in order to spread   in order to drive forward   in order to recover   in order to make known   Law
<b>Ancash</b>	Perú llaqta kikinpa unay shiminkunata parlanapaq, kawat

<i>Quechua translation</i>	miratsinapaq, inshinapaq, willakunapaq, imaynawpis parlanapaq/riri kaq Ley
Phrase breakdown	Perú llaqta   kikinpa unay shiminkunata   parlanapaq   kawatsinapaq   miratsinapaq   inshinapaq   willakunapaq   imaynawpis parlanapaq / rimanapaq kaq   Ley
Gloss	Of the Peru nation   its own ancient languages   in order to speak   in order to make live   in order to make increase   in order to use   in order to relate   in order to talk in whatever way   Law

All three respondents commented on the syntactic adjustment made to the structure of the title, placing the word for ‘law’ at the end of the long phrase, and positioning the nominal phrases as a sequence of adjectival clauses to the left of it. This is a clear example of an obligatory shift arising from structural differences between source and target languages. In addition, we observe an obligatory shift in the placing of the word ‘Peru’ at the start of the title. Beyond these syntactic changes, the remaining translation choices worthy of comparison can be classed as optional shifts.

For example, we observe that two terms pertaining to the administrative and legal framework of the nation – *Perú* and *Ley* – are variably treated. In all three languages the name of the country is constructed as a hybrid phrase, with a word that means country or territory (*marka*, *llaqta* or *suyu*) drawing the idea of the nation-state closer to an Andean conception of territorial division, giving the translation cultural resonance for the user group. The Aymara translator chose to adopt nativised orthography (*Pirü* rather than *Perú*), with its assimilatory effect. Both approaches can be seen as domesticating (Venuti 1992) at some level: the Quechua at that of lexicon and the Aymara at that of phonology.

All three translators drew attention to the translation of the term ‘law’. The word *kamachi* is a well-established gloss in both Aymara and Quechua, and the Aymara translation uses it in the name of the Act. However, in Chanka Quechua, as the respondent commented, they opted to keep *Ley* in the title of the Act, just using *kamachi* in the text of the Articles where generic reference is made to ‘the law’. This solution suggests a will to use a Quechua term for greater intelligibility where possible, while retaining the Hispanism in the title in recognition of the status of the document as a legal instrument of State. Ancash Quechua,

however, retains the Spanish term and makes no use of *kamachi*. This may be a reflection of the fact that Ancash Quechua is at a more recent stage of development of translation traditions based on its own lexical resources, by comparison with Chanka Quechua.

### 3.6. Translation strategies

We will now focus on a range of optional shifts as instantiated in translations of other parts of the Act. For the purposes of this paper, we hereafter refer to the optional shifts as ‘translation strategies’. Translation strategies reveal variability in translators’ choices. In so far as they may be explained in terms of the translators’ ideological or sociocultural positionings, they are of particular interest for addressing our stated aim. We have selected the following for discussion:

#### 1. Lexical strategies

- Use of hispanisms and neologisms

#### 2. Discursive strategies

- Changes from abstract noun phrase to interrogative mood
- Changes from 3rd person singular to 1st person plural

#### 3.6.1. Lexical strategies

- Use of hispanisms and neologisms

Language mixture with Spanish is a prominent feature of Quechua and Aymara. Spanish vocabulary has penetrated the Amerindian languages in lexical fields associated with the language of government, bureaucracy, education and the law, for example. Faced with developing written forms for the indigenous languages, divergent positions on how to deal with Spanish lexical influence emerge, from the puristic to the pragmatic. Purists argue for replacing hispanisms with neologisms when it comes to writing.<sup>11</sup> However, the unfamiliarity of newly coined terms is a potential hindrance to comprehension; the pragmatic view holds assimilation of the Spanish loan words into the indigenous languages to be preferable.

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<sup>11</sup> By neologism we refer to the coining of new words from existing lexical resources in the Amerindian languages.

Recourse to neologisms grew as a corpus planning strategy in the intercultural bilingual education sector in the 1990s and many of the new words coined for that field took root over the intervening decades, but neologisms for expressing the language of law and the language of rights lag behind the language of pedagogy. Today, the challenge of translating legal texts is giving new impetus to old debates around language purism and the coining of new words that goes along with it.

If the pragmatic approach is adopted, a decision has to be taken as to whether the written form of the loan word should retain Spanish orthography, or whether it should be adapted to fit the receiving language's spelling norms. For example, Spanish *escuela* came into Quechua as a borrowing. By convergence with the Quechua sound system it came to be pronounced *iskwila*. With the development of Quechua writing, one option was to use the Spanish-derived word and spell it as it sounds. This nativised orthography, or 'rephonologisation' as language planners in the Andean countries refer to it, has an assimilatory effect on the borrowed word. As education policy became more culturally sensitive, purism prevailed. The neologism *yachay wasi* ('learning house') was coined as a written alternative to *iskwila*. As with many successful neologisms, *yachay wasi* started life in the written language, then took hold and spread into speech.<sup>12</sup>

This corpus-planning context helps us appreciate the lexical strategies that translators of the Indigenous Languages Act adopted when it came to specialist vocabulary for which no equivalent existed in the target languages. According to the lexical field in question, there was variation in the strategies, and further variability from one target language to another. We will comment on the strategies for translating selected terms in two lexical fields: the political-administrative and the legal. We class these strategies as Hispanism with Spanish orthography, Hispanism with nativised orthography, and neologism. Tables 2 and 3 summarise the findings for each of the languages. Our comments draw on the TAPs sessions and our own text analysis as indicated.

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<sup>12</sup> This is worth considering as an example of a lettered modern tradition to which Quechua-speaking trainees have access (Salomon and Niño-Murcia 2011).

With regard to the opening phrase of the Act – *El Presidente del Congreso de la República* –, we note that the Aymara translator kept it in Spanish but applied nativised orthography, reflecting the way it is pronounced in the indigenous language. By contrast, Chanka and Ancash Quechua adopt similar hybrid strategies. Like the Aymara, they introduce the word *Perú* but amplify it with a Quechua term that lends it a sense of territoriality in Andean cultural terms, as noted earlier: *suyu* (territory) and *llaqta* (town, nation). In the Chanka case the 1st person plural possessive suffix *-nchik* is added to *suyu* giving a sense of inclusiveness to a phrase that is impersonal in the original. Both Ancash and Chanka translators use metaphor (based on *uma* ‘head’ and *pushay* ‘to lead’) to express ‘President’. *Congreso* is retained as a borrowing, although the Ancash version contains a partially nativised spelling with the final *u*.

Table 2. Translation solutions for terms in the political-administrative field

	<i>Aymara</i>	<i>Chanka Quechua</i>	<i>Ancash Quechua</i>
<i>El Presidente del Congreso de la República</i> (‘The President of Congress of the Republic’)	<i>Pirü Ripuwlikana Kunrisupaxa</i>	<i>Perü Suyunchikpa Congreso Umalliqnin</i> (‘The head of the Congress of our Territory of Peru’)	<i>Perü Llaqtapa Congresunpa Pushaqnin</i> (‘The leader of the Congress of the nation of Peru’)
<i>distrito, provincia o región</i> (‘district, province or region’)	<i>ristritu ... pruwinsya ... rijyuna</i>	<i>llaqta ... ayllu ... region</i> (Article 6.1)/ <i>distritu ... provincia ... region</i>	<i>distritu ... provincia ... region (suyukuna, taksha suyukuna, ichik suyukunapis)</i> (Article 6.1)
<i>comunidades campesinas y nativas</i> (‘native and peasant communities’)	<i>patxa uraqi ayllunaka ... aynacha uraqi qhirwa ch’umi ayllunaka</i> (Article 5.2) / <i>Comunidades campesinas sata patxa ayllunaka ... comunidades nativas sata aynacha anti ch’umi ayllunaka</i> (Article 20.1)	<i>comunidad campesinakuna utaq nativakuna</i> (Article 5.2) / <i>comunidades campesinas utaq nativas</i> (Article 20.1)	<i>comunidad campesinakuna nativakunapis</i> (Articles 5.2 & 20.1)

Decisions about whether to use hispanisms or rather to coin neologisms were not straightforward, as translators’ responses during the TAP sessions revealed. In the Chanka Quechua case, the thinking behind the hybrid

formulation for ‘President of the Congress of the Republic’ was that: (i) *umalliq* for ‘President’ is a well-established term for people in high office and easily adaptable to this context; (ii) they preferred to use *Perú suyu* (‘territory of Peru’) rather than the hispanism *República* ‘so that people would understand what was being talked about’; and (iii) although a translation for *Congreso* was suggested it was thought that the proposed neologism was not yet well enough established. This latter was an important criterion for the Chanka Quechua translators. The TAP respondent repeatedly used the word *posicionado* (‘positioned’) to refer to how newly coined words gradually gain currency. She saw an overriding need to ensure understanding among the users of the translation, and hispanisms rather than less-established neologisms were preferred for this end (Chanka Quechua TAP).

The pragmatic function of the opening phrase is to designate the figure that promulgates the Act; it encapsulates the perlocutionary power of the Head of State. It is therefore interesting that in the Chanka Quechua translation a 1<sup>st</sup> person plural marker intervenes; as Table 2 shows, the phrase *Perú suyunchikpa* reads back as ‘of **our** territory of Perú’. The people’s voice is thus introduced into this most power-imbued and impersonal of rubrics; the State’s footing as emitter of the message is dislodged in the process of translation from Spanish to Quechua. A shift to first person plural marking is a common strategy in both the Chanka and Ancash translations, as further discussed below.

A recurrent phrase for referring to the country’s administrative subdivisions (*distrito, provincia o región*) presents another challenge. The Aymara translation again shows preference for preserving the Spanish in nativised orthography. However, as the TAP respondent explained, this was not without some dissent between the translator and himself as reviser. The translator had wanted to coin new terms based on the Aymara word *suyu*, but this would have led to a series of distinctions using qualifiers (big *suyu*, small *suyu*, etc), which the reviser found artificial. His reasoning was that these State-defined terms do not correspond to Aymara ways of organizing space (*son categorías también que no es nuestra...* ‘they are not our categories’), and he preferred to retain hispanisms that are already used by Aymara speakers in their language (Aymara TAP).

With regard to the Quechua translations of *distrito*, *provincia* o *región*, at its first occurrence, in Article 6.1, they both seek a domesticating solution. Chanka Quechua translates “district” as *llaqta* (‘town’; ‘nation’) and “provincia” as *ayllu* (‘extended family network’). Ancash Quechua opts for the solution that the Aymara reviser rejected, that is, to use the term *suyu* (also Quechua) with adjectival distinctions (*taksha suyu* ‘small territory’; *ichik suyu* ‘tiny territory’). Beyond Article 6.1, the domesticating option is abandoned and the phrase in question is retained in Spanish with Spanish orthography.

The binary phrase *comunidades campesinas y nativas* in the source text hides a tension at the level of State classification of the indigenous populations within its jurisdiction. The distinction reflects official thinking on the status of highland Andean peoples, officially classed as *campesino*, as opposed to Amazonian groups whose ethnicity is recognised in the term *nativo*.<sup>13</sup> Terminology that embeds such a discursive struggle in its source context of use has an effect on translation strategies. When the phrase occurs for the first time, in Article 5, the Aymara translation is domesticating: *comunidades campesinas* is rendered as *patxa uraqi ayllunaka* (‘highland extended family networks’) while *comunidades nativas* is glossed as *aynacha uraqi qhirwa ch’umi ayllunaka* (‘lowland jungle extended family networks’). However, in Article 20, where the content relates to the legal framework of prior consultation, while the Aymara gloss established in Article 5 is retained, the original Spanish term followed by the Aymara citative particle *sata* (‘so-called’) is added to it. The TAP respondent explained that, due to the legal status of the Spanish terms in this context, it was necessary to retain them, while at the same time expressing what they meant in Aymara cultural-geographical terms:

*De acuerdo con la Ley de Comunidades Campesinas: “comunidad campesina” es una categoría legal; por eso no hemos cambiado esa parte. [...] Entonces he usado ambas formas, una forma castellana y una forma, este, rebelde, aymara (Aymara TAP).*

<sup>13</sup> The distinction dates back to 1950s legislation and has repercussions for highlanders, who were initially denied the right to prior consultation before concessions are granted for exploitation of natural resources on their land, due to their not being officially recognised as ‘indígena’. Currently, the official database of indigenous peoples – on which prior consultation processes must be based – acknowledges the existence of eight Andean peoples (Ministerio de Cultura 2013).



His use of the term *rebelde* gives insight into the ideological struggle that goes on around some translation decisions. Here, to go for the dual option is to combine a domesticating and language revitalisation approach with a felt regard for legal prerogative. The Chanka and Ancash Quechua translators both retained the Spanish phrase in this respect, explaining that, in their view, the term *comunidad* was widely used and understood in Quechua. The Chanka TAP respondent was of the opinion that translations that made use of the term *ayllu* were ‘too broad’, and did not capture the legal sense of the original, necessary when translating a law (‘no atañen el tema legal’, Chanka Quechua TAP). This is indicative of the tension that pervades the act of translating a culturally alien text for informative purposes: on the one hand, the translator seeks to preserve the legal style of the source text and, on the other, to communicate its content in such a way that the readers can understand it and relate to it.

Table 3. Translation solutions for terms belonging to the legal field

	<i>Aymara</i>	<i>Chanka Quechua</i>	<i>Ancash Quechua</i>
<i>Mapa Etnolingüístico del Perú</i> (‘Ethnolinguistic Map of Peru’)	<i>Piriüna Itmulinwistikü Mapapa</i>	“ <i>Mapa Etnolingüístico del Perú</i> ” - <i>Perú suyupi tukuy rimasqan simikunata llaqtakunatawan qawachikuq mapa</i>	“ <i>Mapa Etnolingüístico del Perú</i> ” - <i>Perú llaqtapa tukuy parlayninkuna qawatsiq mapa</i>
<i>derechos de la persona</i> (‘rights of the person’)	<i>jaqina wakisirinakapa</i>	<i>runakunapa derechunkuna</i>	<i>llapan nunakunapa/ runakunapa derechunkuna</i>

There are many references in the Indigenous Languages Act to the policies and frameworks to be put place in order to ensure implementation of the principles of linguistic rights that the Act enshrines. A fundamental one is the *Mapa Etnolingüístico del Perú*, drawn up by the Ministry of Education as a tool for locating the indigenous language speaking populations across the country.

As with the majority of names of policy documents across the three translations, the Spanish word is retained. However, whereas the Aymara reproduces the Spanish in nativised orthography, the Quechua translators place the Spanish name in quotation marks, signaling, in our view, the borrowed status of the term and the fact that its meaning derives from its

source context of use. The quoted name is then followed by a hyphen and an explanation as to the purpose of the map, glossing in both cases as ‘map that shows all the languages of Peru’. Use of explanations is a common Quechua translation strategy, confirming that the indigenous language version of the law is seen as having an informative and communicative, rather than legislative, function. The Chanka TAP respondent said they adopted this strategy because, in her view, the document would always be referred to as *mapa*, in whichever language (Chanka Quechua TAP); we note that *mapa* is retained in the Quechua language explanation, as is the name *Perú*.

All TAP respondents commented on the difficulty of expressing the idea of ‘rights’ in a way that might correspond with the European concept (*cf.* Pitarch 2008 for speakers of Tzeltal). The Aymara and Quechua translators largely opted for incorporating the Spanish word ‘derecho’ into the translations on the grounds that it was in wide circulation among speakers of the indigenous languages, and, in their view, understood by them.

This premise did not satisfy the Aymara team, however. In relation to the translation of Article 4 *Derechos de la persona*, the TAP respondent commented that, although ‘derecho’ is a difficult term to translate literally and had been previously expressed in other contexts as *ririchu*, with nativised spelling, they decided on this occasion to look for a way of expressing the concept of ‘rights’ in Aymara. They had first to agree on what they understood by the Spanish term from an Aymara point of view, as he recounts:

*Estuvimos hablando: “¿Qué es ‘derecho’?”. Entonces ‘derecho’ lo conceptuamos como algo donde a nosotros nos corresponde estar, y beneficiarnos de tal situación. O sea [...] a mí me corresponde estar en tal lugar, yo soy digno de estar en tal lugar, como lo son todos. [...] Y ponemos como ejemplo bien concreto cómo los derechos [...] están cuando queremos participar en la repartición de una propiedad, que queremos heredar, y una persona que dice “a mí me corresponde estar allí”. O sea [...] significa: “Yo tengo derecho de estar allí”, “naruxa wakisituwa ukha kañaxa”. De allí viene la palabra wakisirinaka ‘derechos’, jaqina wakisirinakapa ‘derechos de la persona’ (Aymara TAP).*

They eventually agreed on *wakisiri* (pl. *wakisirinaka*) as a neologism to mean ‘rights’, based on the verb root *waki* meaning ‘to prepare’. Deza Galindo (1989) gives *wakisiri* (spelt *huaquisiri*) as an adjective meaning ‘appropriate, licit, necessary, opportune, reasonable’. Taken together with the respondent’s above explanation, from an Aymara perspective, the idea of rights is understood as something that is just and appropriate in a given context.

In neither of the Quechua translations did the translators neologise the term *derechos*, due to the fact that, as they explained, the Spanish loan had taken hold in Quechua. In the Chanka case the TAP respondent said that the verb root *ati* (‘to be able to’) was suggested for the purpose, but in her view it was not yet established (‘no está posicionado todavía’), while the Spanish word *derecho* was widely used in official discourse (Chanka Quechua TAP). In the case of Ancash Quechua, likewise, the respondent explained that *derecho* was used even by monolingual Quechua speakers, and commonly in judicial settings (Ancash Quechua TAP).

Further to this, the Chanka team dealt with the concept of rights as expressed in the source text in such a way as to reflect a position on their part. Article 1.1 specifies that the Act is designed to guarantee ‘individual and collective rights in linguistic matters’. The Chanka Quechua TAP respondent drew attention to the fact that in the translation they deliberately avoided expressing the idea of individual rights. With regard to language rights, she explains, they considered these to be necessarily collective, due to the very nature of language as a medium of communication between people:

*[...] no es un derecho lingüístico individual si, bueno, se persigue el tema de la ley, pero se materializa cuando la lengua lo utilizo para comunicarme con otra persona. Ya no es solo “yo”, somos “nosotros”. [...] Por lo tanto, son derechos nuestros, porque si yo no puedo comunicarme contigo, o tú no puedes comunicarte conmigo, tenemos afectado por ahí algo. No es solamente una de las partes, sino somos nosotros. Entonces, ese es el tema ahí; por eso es que decidimos no ponerlo (Chanka Quechua TAP).*

Following this principle, the Chanka Quechua translation of Article 1.1 begins: *Kay leymi lluqsimun kikin**chik**pa simin**chik**kunapi rimananchikpaq derechun**chik**kuna qawarichinapaq* (‘This Act is passed in order to make visible **our** rights to speak **our** own languages’). The inclusive 1st person

plural suffix *-nchik* marks the emitter of the phrase as ‘we all’, while the source text is unmarked for person. In the translation, no attempt is made to express the notion of language rights as anything other than collective. The Aymara and Ancash translators, by contrast, sought to convey the notions of individual and collective rights in their translations.

### 3.6.2. Discursive strategies

In this section we will discuss discursive strategies adopted by the translators in order to transmit the content of the law more effectively to the speakers of the languages into which the text is rendered. In terms of genre, unlike the case of the Tzeltal translators of the Declaration of Human Rights discussed by Pitarch (2008), there is little evidence that the source text was read as anything other than a legal edict of the Peruvian state. However, there are indications of transposition into a communicative mode of discourse that would be more familiar to users. We identified two such strategies: the use of interrogative mood and the use of 1st person plural marking.

- Use of interrogative mood

The titles of the Articles of the Act are typically constructed as abstract noun phrases: ‘Article 1. Object of the Act’, ‘Article 2. Declaration of National Interest’, ‘Article 3. Definition of Indigenous Languages,’ and so on. The translators consistently found these hard to render as abstract phrases in their languages, preferring to express the underlying concept through an interrogative phrase, an indication of the altered communicative purpose of the text (Cao 2007: 10). For example, in Chanka Quechua Article 1 is glossed as a question: *Imapaqmi kay Ley* (‘What is this Act for?’). In Aymara the title of Article 3 reads as *Kunasa tunu arunakanaxa* (‘What are indigenous languages?’) and the Ancash Quechua version (*¿Perupa unay parlayninkuta imanawtaq kayintsik?*) back translates as ‘What do we understand by Peru’s ancient languages?’. In the latter instance, as the TAP respondent notes, the text of the Article begins with a response to the question, also couched in the 1st person plural: *Kay Leywanqa Perú llaqtapa llapan unay parlayninkunatam kayintsik* (‘With this Act, by Peru’s ancient languages we understand the following...’) (Ancash Quechua TAP).

- Changes from 3rd person singular to 1st person plural

The Spanish text of the *Ley de Lenguas Indígenas*, as is characteristic of its genre, is devoid of person reference. The ‘speaking subject’ (Benveniste 1966) is an abstract one to be construed as ‘the State’ or ‘the Law,’ with which no personal interaction is invited or can be inferred (Cao 2007). Article 1.1 provides an example of this impersonal style: ‘The object of the present Act is to specify the reach of individual and collective language rights, as established in Article 48 of the Political Constitution of Perú’.

The transposition of this non-personalised register to a personalised one is a particular feature of the Quechua translations. By the introduction of the 1st personal plural, in both the Chanka and Ancash cases, a speaking subject is constituted that can be understood as positioned in the lived world of the potential receivers of the text, a ‘we’ whose referent is ‘we the speakers of the indigenous languages’. In relation to Table 3 above, we mentioned the Chanka Quechua translation of Article 1.1, in relation to the expression of collective language rights (‘**our** own languages’, ‘**our** rights’, ‘in order that **we** may speak’). The reformulation means that the message is directed straight at those groups with whose language rights the law is concerned. The TAP respondent explains the strategy:

*Aquí está en un sentido inclusivo, o sea el narrador está hablando de “nuestras,” mientras aquí en la Ley es una cosa más alejada, ¿no? Es más impersonal [...]. O sea es un poco complicado seguir una estructura donde además nada es personal, no hay una persona que dice “yo” o no hay un sujeto que está hablando, sino es la nada. Entonces, es bastante difícil traducir las leyes así, porque en el quechua tú te posicionas, ¿no? Somos “nosotros”, “tú”, “yo” o alguien, o es el otro que está diciendo algo, pero acá no es el otro [...]. Es un poco complejo (Chanka Quechua TAP).*

She then explains the motivation behind the switch to the 1st person plural: to encourage people to feel identified with the Act, and defend their rights:

*Y además [...] el objeto era comunicar y hacer que la gente también se apropie de la Ley, o sea esta es una ley que defiende nuestros derechos [...]. Por eso es que aquí la persona que habla es una persona que está adentro. Dice “nuestras lenguas,” “nuestras.” Entonces era más estratégico también (Chanka Quechua TAP).*

That she sees the choice of the 1st person plural as *estratégico* (‘strategic’) is revealing, in our analysis. In Quechua there are two ways of codifying

‘we’, one that includes the addressee, and another that excludes them. Here, the marker is the inclusive *-nchik* rather than the exclusive *-yku*. As the word of the law addressing the people, the exclusive ‘we’ would have made no sense. However, the inclusive ‘we’ has the effect of shifting the State’s footing as emitter of the message, including it with the speaking subject understood as ‘we the speakers of indigenous languages’. By moving from the impersonal register to a personalised one, the translators would appear to introduce a paradox into the translation, which Quechua grammar makes it hard to avoid. However, as the Chanka Quechua translation reviser explained (personal communication, email, September 2017), this was a conscious choice. She pointed out that Quechua necessarily requires the speaking subject to be present in the utterance, the subject in this case being the State. She also explained that the use of the inclusive rather than the exclusive ‘we’ (*ñuqanchik* rather than *ñuqayku*), positions the State together with the indigenous peoples and refers to all their languages (also see De Pedro *et al.* forthcoming on this point).

Nonetheless, the shift to 1st person plural is not consistently adopted through the Chanka Quechua translation. Commenting on Article 17, for example, the TAP respondent notes that, regrettably to her mind, this was not the case:

*En algunos aspectos de la Ley [...] se nota todavía una posición personal como ‘nuestras lenguas’, pero acá lo pusimos más neutral. No es bueno, porque si hubiese sido más desde adentro sería “mana usuchinawanchikpaq” ‘para que no nos discriminen,’ pero acá es más neutral, ‘para no discriminar’ dice en general (Chanka Quechua TAP).*

Her remark that the neutral approach is ‘not good’ is significant in our view. Again, we detect a tension between a desire to communicate a message in favour of ‘us’ and the need to respect the neutral discourse of the legislative text. The more communicative strategy is likened to translating ‘from inside’ (*desde adentro*), a phrase she reiterates (see the previous extract), and which we interpret as defining a locus of enunciation that serves the transformed pragmatic function of the Quechua translation.<sup>14</sup>

<sup>14</sup> It is worth noting that the Shipibo and Ashaninka translations also reveal consistent use of the first person plural marker, shifting the enunciative positioning of the text of the law in translation, in a similar way.

### 3.7. Translating and cultural identity

The fact that these translation practices take place in a postcolonial setting such as Peru means that the indigenous translators may come up against expressions of principle in the source text with which they are not in agreement, for reasons grounded in their cultural identities and political perspectives. The TAP respondents sometimes reacted when they perceived such dissonances. For example, Article 20.2, on prior consultation before natural resource extraction on community lands, states that information should be given to the communities both in Spanish and in the indigenous language ‘as long as it is feasible’. The Aymara respondent reacted as follows:

*O sea ¿qué significa eso de “siempre que sea factible”? ¿Por qué no puede ser factible? Tiene que ser factible. (ironic laughter) Y ¿qué he puesto? Ahora ¿cómo he hecho eso de “siempre que sea factible”? A mí... con el dolor de mi corazón seguramente he traducido esa parte [...]* (Aymara TAP).

The interviewee’s ironic reaction to the noncommittal phrase *siempre que sea factible*, we suggest, is an indication that he senses the linguistic indeterminacy that characterises legal language (Joseph 1995). He notes that he must have translated it ‘with a heavy heart’, and at another moment in the TAP session he commented that he found the wording ‘dangerous’, wanting to know if it was ‘unambiguous’ or not. Nonetheless, on reviewing the text, he found that he had translated the phrase into Aymara without allowing his indignation to intervene, back translating it as ‘that request [that documents be in our languages] should only be carried out if it is possible’.

In the context of her comment on the concepts of ‘individual and collective rights’, the Chanka Quechua respondent reflected on the Law’s distinction between the categories of ‘indigenous’ and ‘non-indigenous’ people. From her perspective, as a bilingual person of provincial origin, raised by her Quechua speaking grandmother, with higher education qualifications, and now a public servant, she feels uncomfortable with the dichotomy that the official terminology evokes. Here are her remarks in full:

*Cuando uno lee estas leyes a veces reniega un poco, ¿no?, o a veces se ríe un poco y dice: “¿Por qué lo ponen así?” [...] Nosotros en el sentido de lo occidental. Es un poco complicado posicionarme entre nosotros occidental y*

*nosotros indígenas. [...] O sea no eres indígena. Sí, pero es que si eres indígena, y a la vez estás inserto, tienes una parte de ti a este lado y otra parte de ti al otro lado. Y las personas somos, no somos solo blanco o negro ¿no? Tenemos matices. Entonces, hay todo ese tema de por medio. Y a veces, si has accedido a educación formal y te has metido en todo ese sistema, ya te sientes un poco parte de eso y también parte de sus errores ¿no? Igual al otro lado. O sea, son dimensiones que tiene la persona, y no necesariamente o es indígena o es occidental. Ese es mi punto de vista, también puede ser que no sea así (Chanka Quechua TAP).*

#### **4. Concluding remarks**

As we hope to have made clear, translation from Spanish into Peruvian Andean languages of the text of a law, even in the case of legislation designed to promote the language rights of those at whom the translations are aimed, is fraught with difficulties. Some of these difficulties arise from the imbalance between the societal status of the source and target languages. This imbalance impacts on translators' responses to their task in cultural and ideological ways. Difficulty also comes from the fact that the source text arises from a legislative culture, and is couched in a textual genre, that are alien to the cultural settings into which the target texts are to be introduced.

Andean language translators of the Peruvian *Ley de Lenguas Indígenas* had to deal with many instances of lack of lexical equivalence due both to the arcane nature of legal language and the incommensurable paradigms that the translation process brings together. Despite, or perhaps because of, this incommensurability (Leavitt 2014: 196; Hanks & Severi 2014: 5), we identified a number of strategies by means of which the translators tried to balance what they saw as the competing needs of (i) respecting the legislative status of the original, and thus its form, and (ii) communicating the content of the law to the receiver groups in terms that would have meaning for them.

One key strategy is the shift in footing, signalled by use of the interrogative mood and first person plural marking. Another is the struggle over how to deal with lexical gaps, whether through borrowing or neologisation. This dilemma resonates with Hanks's discussion of the



neologising effects on colonial Yucatec Maya that translation from Spanish brought about (Hanks 2014: 19).

Reflection on translating Peru's Indigenous Languages Act into three Andean languages brought about issues related to the complex identities that modern Andean citizens experience and perform. The trainees reacted emotionally both to the linguistic indeterminacies of legal language and to the simplification and stereotyping that legal discourse tends to display regarding ethnic identification. As for the latter point, it is worth stressing the sense of discomfort experienced by the Chanka Quechua translator towards the dichotomic options between indigenous and Western identities that the source text offered her. From a methodological point of view, these reactions illustrate the advantages of the TAP instrument as a means of bringing to the fore not only technical decisions regarding language mediation but also the nuanced political and ideological dimensions of the translators' task.

A final question concerns the benefit that might have accrued for the development of the languages and the status of their speakers, as a result of the translation experience. The translation of the *Ley de Lenguas Indígenas* should be viewed as one strand in a diverse and growing field of activity around demands for linguistic human rights in Peru at the current time. Due to the institutional context, this work was not conducted in consultation with indigenous organisations in a direct way, as in the Colombian and Mexican cases discussed earlier. However, the experience of translator-training and the practice of professional translation itself became important steps in raising the self-esteem of participants, triggering public reflection on language issues, and gradually building the self-empowerment of indigenous peoples that Peru has lacked in recent decades.

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